

**CHAPTER 4 – EXTENSIONS, ANNEXATIONS, IMPROVEMENTS AND ALTERATIONS TO EXISTING DISTRICT ROADS**

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**4.000 - Purpose**

The provisions of this chapter are adopted to:

- A. Carry out the goals of GSHCSD regarding the extension, construction, improvement or alteration of existing District roads by persons other than District operation and maintenance staff;
- B. Provide regulations and standards over District roads pursuant to Government Code Sections 61060(b) and 61103;
- C. Provide notice of District regulations and standards.

**4.010 - Scope and Applicability**

The provisions of this chapter apply to all roads, easements, right-of-ways and appurtenances thereto under the authority, ownership, and/or jurisdiction of GSHCSD. The provisions of this chapter apply in addition to any applicable requirements of the County of San Luis Obispo.

All New Development, encroachments, construction and/or alterations of existing District roads as defined herein shall satisfy all applicable provisions of this chapter, including obtaining any permits and payment of any fees as required by this chapter. Determination of same shall be made only by the District Manager or designee by same, subject only to the GSHCSD Board of Directors.

#### **4.100 – Definitions**

This section defines the terms and phrases as they are used in this chapter.

Annexation Fee. The fee imposed as a condition of annexing areas outside present District boundaries, to pay any and all of the District's costs of annexing the property to the District. Such costs include, but are not limited to, professional fees (engineering, legal, accounting, financial consultants, agencies, etc.), and the District's administrative costs and overhead.

Applicant. Owners (or their authorized Agent) of property petitioning the District for a permit for a lot, parcel, subdivision or other land designation that is contiguous to a District Road.

County. The County of San Luis Obispo.

Developer. A person having the right under the applicable laws and regulations governing land use within the area served by the District to apply for governmental approvals to change the use of, or to create improvements on, real property potentially served by the District.

Development Plan. A development plan as that term is used and defined in the land use ordinance of the County of San Luis Obispo.

Development Project. A development project as that term is used and defined in the Planning and Zoning Law, and shall include a development plan, plot plan, site plan, tentative map and final map where the Project gains access or partially gains access by District Road.

District. The Ground Squirrel Hollow Community Services District.

District Fees and Charges. Those fees and charges that the GSHCSD is obligated to pay by contract to its General Manager, General Manager's administrative staff, engineers, consultants, and lawyers including but not limited to the processing of Permits and copies of agendas, reports and other documents.

District Road. All roads, easements, right-of-ways and appurtenances thereto under the authority, ownership, and/or jurisdiction of GSHCSD.

District Road Commissioner or Road Commissioner. District Road Commissioner appointed by the District who shall be a registered engineer. The District Road Commissioner includes the appointed Road Commissioner's designee so long as the designee is a registered civil engineer.

Encroachment. Includes any opening or excavation for any purpose in a District road. Including but not limited to any tower, pole, deadman, plot line, pipe, pipe line, cable, wire, conduit, driveway, ditch, flora, private road, fence, sign, billboard, stand or building, or any structure of object of any kind or character which is placed in, under or over any portion of a District road.

New Development. Any new construction, development and land uses on parcels of land in the District that gains access or partially gains access by District Roads.

Parcel. Any unit of land which qualifies as a parcel or lot under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other parcel (or are separated only by a road or easement), and (2) for which there is unity of ownership, and (3) which have an identical present use. The term "parcel" shall be given the same meaning as the term "site".

Permit. District's final written approval.

Plot Plan. A plot plan as that term is used and defined in the land use ordinance of the County.

Site Plan. A site plan as that term is used and defined in the land use ordinance of the County.

Tentative Map. A tentative map as that term is used and defined in the California Subdivision Map Act and the subdivision ordinance of the County, and shall include a vesting tentative map as that term is used and defined in such Act and ordinance.

Tract. Any parcel of land authorized for development by the County.

#### **4.200 – District Approval Required**

Written approval of the District, in the form of a Permit is required for the following:

- A. Applications for New Development that is adjacent to or gains access by District Roads;
- B. Any encroachment into a District Road;
- C. The extension of any District Road;
- D. Annexations; and/or
- E. Relocation of District Roads.

#### **4.300 – Powers and Authority of District**

In addition to District's general authority as authorized by Community Services District law, the regulations adopted herein, the prohibitions, restrictions, powers, procedures and authority referenced in Streets and Highways Code Sections 1460 through 1470 and 1480 through 1496 are incorporated herein by this reference and as amended from time to time.

#### **4.400 – Permit Process**

The following procedures apply to New Development, extensions of any existing District Road, annexations, and relocation of District Roads.

##### **4.410 - Phase 1: Preliminary Approval**

The purpose of this phase is to determine "preliminary approval" of a proposed project while attempting to minimize costs to all parties. This phase follows the issuance of a Conceptual Letter for approval. Preliminary approval may include conditions.

Any person desiring preliminary approval from the District to serve a proposed New Development Project ("Preliminary Approval Letter") must apply in writing to the District Manager. The application shall be in a form and content as determined by the Manager and shall include, at a minimum, the date of the application; name, address and telephone number of the Applicant; name, address and telephone number of the property owner, if different from the Applicant; a description of the property proposed to be served; explanation of the proposed development project, including number of lots and types, at least a preliminary road design, a traffic study by a registered traffic engineer, proposed zoning; and any other information as the District Manager may require.

A deposit will be required of the Applicant at the time of application in order to offset all costs and expenses incurred by the District to review and process to completion the approval or rejection of the application, the deposit amount to be commensurate with the scope of the project as determined by the District Manager based in part on a District Engineering Report. A record of all such costs shall be provided to the Applicant on an ongoing monthly basis and any remaining deposit shall be refunded within 90 days of the District's final decision to issue a Permit. If, during the application process, it is determined that previous deposits collected will not or do not offset said costs, the applicant is required to submit additional funds as determined by the District Manager. Non-payment of any deposits will result in immediate suspension of the application process until such time payment is received.

The District Board of Directors shall consider the application and supporting documents at one or more of its meetings and shall conduct at least one notice public hearing which may be continued before making a decision to grant preliminary approval or denial of the application.

A Preliminary Approval Letter for a proposed New Development project shall not be issued by the District unless the Board finds that all of the following conditions are satisfied.

- A. The Applicant has submitted a full and complete application and all District fees and charges have been paid or advanced.
- B. The property to be served is within the geographical boundaries of the District.
- C. The Applicant has executed an agreement, in a form acceptable to the District, to indemnify, defend and hold the District harmless from and against any and all loss or liability arising from out of, or in relation to, the processing or approval of the application or the construction of improvements that will be authorized if the application is approved.

A preliminary approval letter shall expire in one year after the date of issuance. Time extensions of 90-days each may be granted by the Board upon written request by the Applicant. A maximum of two such time extensions for a total of 180 days may be granted. If a preliminary approval letter expires, there shall be no refund of fees paid for the issuance of said letter.

#### **4.420 - Phase 2: Improvement Plans Approval**

The purpose of this phase is to facilitate District review and approval of plans and specifications for Permits.

Any person seeking Improvement Plan approval from the District for a proposed New Development project must apply in writing to the District Manager. The application shall be in a form and content as determined by the Manager and shall include, at a minimum, the date of the application; name, address and telephone number of the Applicant; name, address and telephone number of the property owner, if different from the Applicant; a description of the property proposed to be served; explanation of the proposed development project, including number of lots and types, proposed road design, connections to existing District and/or County roads, an EIR/EIS if required by the County, an updated traffic study (if required) by a registered traffic engineer, zoning; and any other information as the District Manager may require. The number of copies of each required document will be determined by the District Manager.

A deposit will be required from the Developer at the time of application in order to offset District fees and charges incurred by the District to review and process to completion the approval or rejection of the Improvement Plans, the deposit amount to be commensurate with the scope of the project as determined by the District Manager based in part on a District Engineering Report. This includes any preliminary planning and/or engineering. A record of all such costs shall be provided to the Applicant on an ongoing monthly basis and any remaining deposit shall be refunded within 90 days of the District approval of the Improvement Plans pending known outstanding invoices. If, during the application process, it is determined that previous deposits collected will not or do not offset said costs, the Developer is required to submit additional funds as determined by the District Manager. Non-payment of any deposits will result in immediate suspension of the process until such time payment is received.

The District Board of Directors shall consider the approval of the Improvement Plans and any associated documents at one or more of its meetings and shall conduct at least one noticed public hearing, which may be continued, before making a decision to grant approval of said Plans.

Approval of Plans for a proposed New Development project shall not be issued by the District unless the Board finds that all of the following conditions are satisfied:

- A. Applicant has provided District with an irrevocable offer of dedication for easements and, if applicable, the appropriate subordination agreement;

- B. The Applicant has submitted all requested information and documentation and all District fees and charges have been paid or advanced;
- C. The property to be served is within the geographical boundaries of the District; and
- D. The Applicant has complied with all other applicable sections of the District Code and other District ordinances, resolutions, rule and regulations.

Approval shall expire two years after the date of issuance. Time extensions of 90-days each may be granted by the Board upon written request by the Applicant. A maximum of two such time extensions for a total of 180 days may be granted. If Approval expires, there shall be no refund of fees paid for the issuance of said Approval.

#### **4.430 - Phase 3: Construction of Improvements**

The purpose of this phase is to facilitate District construction management of road improvements and appurtenances thereto.

Construction by the Applicant shall be subject to each of the following conditions:

- A. Prior to commencement of construction the Applicant shall execute a plan check, inspection and reimbursement agreement with the District;
- B. All work shall be performed by a competent and experienced contractor licensed for road and drainage construction and with experienced laborers;
- C. All work shall be performed in a good, workmanlike and safe manner and in accordance with the plans and specifications approved by the District, under its inspection, and to the satisfaction of the District Engineer. Risk of loss or damage to materials shall be borne by the Applicant until the facilities constructed are accepted by the District;
- D. All facilities shall be maintained by the contractor that installed the same for one year, or such longer period as shall be specified by the District, following the acceptance thereof by the District; pursuant to a warranty in the aforementioned agreement between the District and the Applicant which expressly benefits the District and
- E. The Applicant shall indemnify and hold the District, its officers, employees and agents harmless from any liability arising out of or in any way connected with such work done by or on behalf of the Applicant, his employees, agents or contractors.

#### **4.440 - Expiration of Agreement**

If work under the plan check, inspection and reimbursement agreement is not commenced within six months from the date of issuance thereof, or if after partial completion the work is discontinued for a period of one year, the permit shall thereupon expire and become void, and no further work shall be done until a new agreement is secured. A new fee shall be paid upon the issuance of the Agreement. The Applicant's abandonment of work will not extinguish Applicant's responsibility to reimburse the District for their expenses.

#### **4.450 - Repair and Replacement**

If, within a period of one year after completion of any improvement work authorized by a plan check, inspection and reimbursement agreement fails to fulfill any of the District's requirements or the specifications approved by the District, Applicant shall, without delay and without any cost to the District, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. If Applicant fails to act promptly or if the exigencies of the case require repairs or replacements to be made before Applicant can be notified, the District may, at its option, make the necessary repairs or replacements or perform the necessary work, and require the Applicant to reimburse the District for the actual cost of those repairs, plus fifteen percent.

#### **4.460 – Bonds**

Applicant shall furnish the District, or if requested by the District, the County, with a labor and materials bond and a bond for faithful performance executed by a surety company permitted to do business in California. These bonds shall be for one hundred percent (100%) of the construction costs and any other costs that are called for in the project plans approved by the District. These bonds shall remain in force throughout the period required to complete the work. After final acceptance of the work, the Applicant shall provide the District with a warranty bond equal to ten percent (10%) of the construction costs for a period of one year to cover any defects in workmanship, materials or equipment which develop in that time. For purposes of these bonds, construction costs are defined as actual, not estimated.

#### **4.500 - Construction by District**

The District, as an alternate to Section 4.400, may construct when, in its sole discretion, the District determines it is in its best interest to do so. Such work may be performed by the District's personnel or by private contract, as determined by the District. Such work shall commence only after the Applicant has executed an Agreement and has advanced the total estimated cost of all facilities, paid all charges, and provided all easements as required by these regulations.

The District shall determine its actual costs incurred in any improvement, alteration, or extensions. Costs shall include labor, material, overhead, engineering, legal costs, administrative expenses, overhead allocable to such work, and any other cost attributable to Applicant's petition and construction. If the actual cost of such work exceeds the amount paid to the District, the District will invoice the Applicant for the excess. If such invoice is not paid promptly, the District may refuse its final acceptance of the improvements and/or Developer's Fees for improvements for individual parcels. In the event the actual cost of such facilities is less than the amount advanced to the District, the District will promptly refund such difference.

#### **4.600 – Relocation**

The District may, at its sole discretion, permit the relocation or reconstruction of existing District Roads and/or facilities to accommodate construction widening or relocation of streets and roadways and will release easements no longer considered useful to the District on the following conditions:

- A. The entire cost of the relocation or reconstruction, including but not limited to requirements associated with any owners of property involved and utilities, shall be paid by the requesting party;
- B. The new location is such that it will not, in the opinion of the District, be subject to future relocation;
- C. There shall be conveyed to the District without cost, such easements or rights of way for new facilities locations as the District determines beneficial; and
- D. The procedures of Section 4.400 shall apply.

#### **4.700 - Annexations**

The District may, at its sole discretion, permit annexations to the District on the following conditions.

- A. The Applicant enters into an annexation agreement with the District;
- B. The Applicant agrees to all of the terms and conditions imposed by the District;
- C. The Applicant pays all District's costs related to the annexation; and
- D. The provisions of Section 4.400 apply to road improvements and/or extensions related to annexations.

#### **4.800 - Encroachments**

- A. It is unlawful for any person to construct encroachments in a District Road without a permit.
- B. The Road Commissioner or his/her designate is authorized to remove or abate encroachments constructed without a permit pursuant to the procedures of Sections 1480 through 1496 of the Streets and Highways Code.
- A. The District Road Commissioner or his/her designate is authorized to issue encroachment permits for all encroachments not included in the procedures referenced in Section 4.400, above. Said encroachment permits may include conditions.
- D. A property owner affected by the Road Commissioner's decision to issue, deny or condition an encroachment permit may appeal such decision to the Board of Directors as provided herein.
  - (1) The appeal shall be filed in writing with the District General Manager by the owner or his/her authorized agent, such as an owner's engineer or architect. Appeals shall set forth and state fully the name and address of the person to receive notice of the hearing referenced below and the reasons and grounds for the appeal and shall contain such other information as the General Manager or his/her designee shall prescribe.
  - (2) The fee for processing an appeal is \$400.00 (four hundred dollars) and shall be paid at the time the appeal is filed with the General Manager.
  - (3) Upon receipt of the appeal in proper form, the General Manager shall place the item on the Board of Directors Agenda for public hearing within a reasonable period of time.
  - (4) Notice of the hearing shall be given through the U.S. Mail with postage prepaid using the address identified in the appeal.
  - (5) The Board of Directors shall, on the date set, hold a public hearing on the appeal.
  - (6) The Board of Directors may grant the appeal in whole or in part, with or without conditions.
  - (7) The General Manager shall, within ten days of the Board of Directors' decision, mail a notice of the District's decision to the person designated on the appeal or any other person who has requested notice.

#### **4.900 – Enforcement**

It is unlawful for any person to violate any provision or to fail to comply with any of the Permit requirements of this chapter. In addition to the enforcement actions authorized by Community Services District Law and the Streets and Highways Code, violations of this chapter may be enforced as follows.

#### **4.910 – Public Nuisance: Enforcement by Civil Action**

In addition to the penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be abated as such, and every day such condition continues shall be regarded as a new and separate offense.

#### **4.920 – Injunctive Relief**

This chapter may also be enforced by injunction issued out of the superior court upon the suit of the District or the owner or occupant of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof.

**4.930 – Remedies Cumulative**

The remedies prescribed by this section shall be cumulative, and the District's use of any one of the remedies and/or legal actions prescribed herein shall not bar the use of any other remedy provided by this chapter or by law for the purpose of enforcing the provisions hereof.

**4.940 – Attorneys' Fees**

In any civil action commenced by the District to abate a public nuisance, to enjoin a violation of any provision of this chapter, or to collect a civil debt owing to the District, the District shall be entitled to recover from the defendant in any such action reasonable attorneys' fees and costs of suit.