

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT
POLICY MANUAL

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POLICY MANUAL

Table of Contents

<u>SECTION</u>	<u>TITLE</u>	<u>SECTION – PART</u>
SECTION I ORGANIZATION OF THE DISTRICT		
	Introduction	Section 1 Part 1
	District Board of Directors	Section 1 Part 2
	Miscellaneous Board Rules	Section 1 Part 3
SECTION II COMMUNITY SERVICE DISTRICT		
	Mission and Functions	Section 2 Part 1
	Authority	Section 2 Part 2
	Legal Reference	Section 2 Part 3
	Administrational Chain of Command	Section 2 Part 4
SECTION III DISTRICT OPERATIONS		
	Overview of Community Service District	Section 3 Part 1
	Code of Ethics	Section 3 Part 2
	Goals	Section 3 Part 3
	Revenue	Section 3 Part 4
	Permit Procedure	Section 3 Part 5
	Collection of Repair Reimbursement	Section 3 Part 6
	Mailboxes	Section 3 Part 7
SECTION IV REGULATIONS REGARDING PAID EMPLOYEES		
	Positions	Section 4 Part 1
	Compensation	Section 4 Part 2

SECTION V PURCHASING

Purchasing Policy	Section 5 Part 1
-------------------	------------------

SECTION VI OCCUPATIONAL SAFETY AND HEALTH

Injury and Illness Prevention Plan	Section 6 Part 1
------------------------------------	------------------

SECTION VII STANDARD DISTRICT FORMS

Permit Policy	Section 7 Part 1
Permit Information and Instruction	Section 7 Part 2
Application for Permit	Section 7 Part 3
Permit	Section 7 Part 4
Work Order	Section 7 Part 5
Equipment Log	Section 7 Part 6

Section I

Organization of the District

Part 1 -- Introduction

Part 2 -- District Board of Directors

Part 3 -- Miscellaneous Board Rules

SECTION 1 ORGANIZATION OF THE DISTRICT

Part 1 Introduction

The Copper Cove Rocky Road Community Service District was established in 1984 for the purpose of constructing and maintaining the roadways within the District. The District was established by a vote of the registered residents of the District. The District formation was according to State of California guidelines and was approved and accepted by the Board of Supervisors of Calaveras County.

Part 2 Board of Directors

The Board of Directors of the Copper Cove Rocky Road Community Service District, hereinafter referred to as the Board, consists of five (5) Directors elected at large by the electors (registered voters) of the District.

The Board elects from among its' five members, a President, and a Vice President. The remaining three Directors shall hold the title of Director of the Board.

Part 3 Miscellaneous Board Rules

3.1 Guidelines for Board of Directors / Public Meetings

The public shall conduct themselves according to the following guidelines when attending a meeting of this Community Service District.

- 1) Zero tolerance policy for disruptive behavior at the meetings or in the office at any time.
- 2) Five minutes limit for a guest to speak unless prior arrangement has been made with the President of the Board.
- 3) Disruptions will be handled following these three steps to the extent needed to regain appropriate atmosphere of the meeting;
 - a) Ask the disruptive person to leave,
 - b) Stop the meeting,
 - c) Call the authorities to have the person removed.
- 4) All guests are expected to conduct themselves appropriately to the meeting setting.

3.2 Meetings

There will be a regularly scheduled meeting of the Board of Directors which will be held at the designated time each month and shall be open to the public.

Executive Sessions or Closed Sessions may be held by the Board of Directors in accordance with the law. The public will not attend these sessions other than individuals specifically invited there by the Board.

Special meetings of the Board may be called at any time by the President of the Board or any other member of the Board.

All meetings of the Board of Directors will be held at the office location unless attendance is expected to be such that more space is needed at which time arrangements will be made for a more suitable location for the meeting to be held.

Regarding the length of meetings, no meeting will continue longer than three hours. If all business is not completed within three hours, the meeting will be adjourned with a time set for the unresolved subjects to be continued.

3.3 Minutes of the meetings

The minutes of the Board of Directors' meetings, or summary thereof, will be prepared by the Secretary and delivered to the Board Members at the next scheduled meeting. Such minutes or summary need not include the text of ordinances, resolutions adopted, or correspondence sent or received. These documents may be kept in separate files.

Monthly staff reports will be presented at the regularly scheduled Board of Directors meetings.

3.4 The Brown Act.

The Brown Act governs the meetings of this Community Service District, as it does all local "legislative bodies," that is, all multi-member councils, boards, commissions, committees, school districts, and the like of a local government agency. All governing bodies of local government agencies, local bodies created by state or federal statute, and any board, commission, committee or other body are covered by the Brown Act. These bodies may exercise management, policy-making, advisory, legislative or adjudicatory functions, or some combination of those duties.

A copy of the summary of the Ralph M. Brown Act as it pertains to this District is kept in the District files. The Board of Directors of this District are familiar with the Brown Act and how it pertains to this District.

3.5 Board Agenda

It is the intent of the Copper Cove Rocky Road Community Service District to prepare and follow the meeting agenda according to the provisions for public meeting agendas as set forth in the Ralph M. Brown Act, Sections 54950 through 54962 of the California Government Code.

3.6 Appearances Before the Board and/or Committees

Persons desiring to appear before the Board shall make their request in writing or orally to the President of the Board stating the purpose of their appearance and shall be referred by the President to the appropriate committee unless the President determines that referral is not appropriate in which case the President shall place the matter on the agenda and at his/her discretion shall determine whether the matter shall be presented orally or by written communication or both.

3.7 Committees

The President of the Board may appoint committees as necessary for purpose of review and recommendation to the Board.

3.8 Public Record Requests

All information and records deemed "public" will be provided when requested.

Agencies may charge the direct cost of producing a copy of a record.

The direct cost of duplication includes the pro-rata (proportionate cost) of copying equipment as well as the pro-rata cost of the person running the equipment (a proportion of their salary and benefits, for example).

The direct costs of duplication do not include costs affiliated with the research, retrieval, or redaction of a record. An agency cannot charge a person requesting copies of records for these costs. The theory is that these costs must be born by the agency as part of its duty to serve the public.

All cost must be pre-paid to receiving the copy/copies.

Requests will be honored in a timely manner.

All requests for written information or record must be submitted in writing.

The cost shall be \$.50 per page.

Copper Cove Rocky Road Community Service District

Policy Manual

SECTION I

Part 3 Miscellaneous Board Rules

Updated

3.8 Public Record Request

All information and records deemed "public" will be provided when requested.

Cost of providing said records is as follows:

1. One dollar per page
2. \$ 8.25 per hour with a minimum of one hour.
3. If mailing is request, additional charge for postage will be paid by requestor.

All cost must be pre-paid.

Requests will be honored in a timely manner.

All requests for written information or record must be submitted in writing.

Section II

Community Service District

Part 1 -- Mission and Functions

Part 2 -- Authority

Part 3 -- Legal Reference

Part 4 -- Administrative Chain of Command

PART 5 - THE BROWN ACT

Section II

Part 1 Mission and Functions Statement

It is the mission of the Board of Directors of the Copper Cove Rocky Road Community Service District to have constructed and to maintain all of the sixteen miles of roadways of the District to the best of their ability and to the highest quality standards feasible with the revenues available to the District.

SECTION II

Part 2 Authority

The following are the sources of authority bestowed upon the community service district. The District's powers are within the following identified documents but are not limited to only the following documents but does include amendments to any of these documents.

- 2.1 California Government Code – Community Service District 61000
- 2.2 Board of Supervisors County of Calaveras Resolution 84-19 (MISSING)
- 2.3 Copper Cove Rocky Road Community Service District Ordinance 12.08.010 – 12.08.330
- 2.4 Copper Cove Rocky Road C S D Resolution 05-02-89
- 2.5 Copper Cove Rocky Road C S D Resolution 11-16-91
- 2.6 Copper Cove Rocky Road C S D Resolution 925-87
- 2.7 Copper Cove Rocky Road C S D Resolution 4-23-09 TeeterPlan (MISSING)

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Justia > Law > California Law > California Code > California Government Code > CHAPTER 5 GENERAL POWERS - Sections 61060-61070

California Government Code Sections 61060-61070**CHAPTER 5. GENERAL POWERS**

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California Code

All US State Codes

**GOVERNMENT CODE
SECTION 61060-61070**

61060. A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:

(a) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3.

(b) To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100).

(c) To sue and be sued in its own name.

(d) To acquire any real or personal property within or outside the district, by contract or otherwise, to hold, manage, occupy, dispose of, convey, and encumber the property, and to create a leasehold interest in the property for the benefit of the district.

(e) To acquire by eminent domain any real or personal property within or outside the district. If a district acquires real or personal property of a public utility by eminent domain, the district shall also pay for the cost of the removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles that must be moved to a new location.

(f) To appoint employees, to define their qualifications and duties, and to provide a schedule of compensation for performance of their duties.

(g) To engage counsel and other professional services.

(h) To enter into and perform all contracts, including, but not limited to, contracts pursuant to Article 43 (commencing with Section 20680) of Chapter 1 of Part 3 of the Public Contract Code.

(i) To adopt a seal and alter it.

(j) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

(k) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1.

(l) To provide training that will assist the members of the board of directors in the governance of the district.

(m) To construct any works along, under, or across any street, road, or highway, subject to the consent of the governing body in charge, and along, under, or across any other property devoted to a public use.

(b) To take any and all actions necessary for, or incidental to, the powers expressed or implied by this division.

61061. (a) A district shall have perpetual succession.

(b) A board of directors may, by resolution, change the name of the district. The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 1. Notwithstanding Section 7530, any district formed on and after January 1, 2006, and any district that changes its name on or after January 1, 2006, shall have the words "community services district" within its name. Within 10 days of its adoption, the board of directors shall file a copy of its resolution with the Secretary of State, the county clerk, the board of supervisors, and the local agency formation commission of each county in which the district is located.

(c) A district may destroy a record pursuant to Chapter 7 (commencing with Section 60200) of Division 1.

61062. (a) When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5, and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7.

(b) When disposing of surplus land, a district shall comply with Article 7 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

61063. (a) Each district shall adopt policies and procedures, including bidding regulations, governing the purchasing of supplies and equipment not governed by Article 43 (commencing with Section 20680) of Chapter 1 of Part 3 of the Public Contract Code. Each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5.

(b) A district may request the State Department of General Services to make purchases of materials, equipment, or supplies on its behalf pursuant to Section 10298 of the Public Contract Code.

(c) A district may request the purchasing agent of the principal county to make purchases of materials, equipment, or supplies on its behalf pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3.

(d) A district may request the purchasing agent of the principal county to contract with persons to provide projects, services, and programs authorized by this division pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3.

61064. (a) Violation of any rule, regulation, or ordinance adopted by a board of directors is a misdemeanor punishable pursuant to Section 19 of the Penal Code.

(b) Any citation issued by a district for violation of a rule, regulation, or ordinance adopted by a board of directors may be processed as an infraction pursuant to subdivision (d) of Section 17 of the Penal Code.

(c) To protect property and to preserve the peace at facilities

owned or managed by a district, a board of directors may confer on designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or district rules, regulations, or ordinances when the violation is committed within a facility and in the presence of the employee issuing the citation. District employees shall issue citations pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

61065. (a) The Meyers-Millias-Brown Act, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 applies to all districts.

(b) A board of directors may establish an employee relations system that may include, but is not limited to, a civil service system or a merit system.

61066. A board of directors may require any employee or officer to be bonded. The district shall pay the cost of the bonds.

61067. A board of directors may provide for any program for the benefit of its employees and members of the board of directors pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5.

61068. A board of directors may authorize its members and the employees of the district to attend professional or vocational meetings and conferences. A board of directors may reimburse its members and the employees of the district for their documented, actual, and necessary traveling and incidental expenses while on official business.

61069. (a) A district may request an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. The warrant shall state the location which it covers and shall state its purposes. A warrant may authorize district employees to enter property only to do one or more of the following:

(1) Inspect to determine the presence of public nuisances that the district has the authority to abate.

(2) Abate public nuisances, either directly or by giving notice to the property owner to abate the public nuisance.

(3) Determine if a notice to abate a public nuisance has been complied with.

(b) Where there is no reasonable expectation of privacy and subject to the limitations of the United States Constitution and the California Constitution, employees of a district may enter any property within the district for any of the following purposes:

(1) Inspect the property to determine the presence of public nuisances that the district has the authority to abate.

(2) Abate public nuisances, either directly or by giving notice to the property owner to abate the public nuisance.

(3) Determine if a notice to abate a public nuisance has been complied with.

61070. A district may contract with any local agency, state department or agency, federal department or agency, or any tribal government for the provision by or to the district of any facilities, services, or programs authorized by this division, within or without the district, subject to compliance with Section 56133.

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ENCROACHMENT COPPER COVE ROCKY ROAD COMMUNITY SERVICE
DISTRICT ROADS

Sections:

12.08.010	Short title
12.08.020	Construction
12.08.030	Definitions
12.08.040	Permit-Required for designates acts
12.08.050	Permit-Non acceptable applications
12.08.060	Permit-Emergency maintenance
12.08.070	Permit-Not to annul right of lawful use
12.08.080	Exemptions-District Officers - Permit-
12.08.090	application-Form-Permit-Issuance Permit-
12.08.100	Noncompliance
12.08.110	Permit-application-Consent of Public Bodies
12.08.120	Permit-Right to Refuse Encroachment Permit
12.08.130	Permit-Deadline to begin work-Term Permit-
12.08.140	Deadline to complete work
12.08.150	Display
12.08.160	Permit-Nontransferable
12.08.170	Permit-Changes

For statutory provisions on care and protection of District roads, see Streets and Highways Code 51450 et seq.; for provisions on issuance of permits, see Streets and Highways Code 51460 et seq.; for provisions on the relocation or removal of encroachments, see Streets and Highways Code 51463; for provisions on obstructions and injuries to District Roads, see Streets and Highways Code 51480 et seq.

Sections: (Continued)

12.08.180	Conformance to specifications and standards
12.08.190	Notice to District's designated agent-start of work
12.08.200	Notice to District's designated agent completion of work
12.08.210	Interference with use
12.08.220	warning signs, lights and safety devices
12.08.230	Restoration of. Right-of-way
12.08.240	Relocation or removal
12.08.250	Drainage
12.08.260	Minimum cover
12.08.270	Backfilling
12.08.280	Poles, transmission line carriers and guy wires
12.08.290	Aids to visibility
12.08.300	Movement of vehicles
12.08.310	Mailboxes
12.08.320	Appeal procedure
12.08.330	Penalty for violation

12.08,010 Short Title. The short title of this ordinance is "Copper Cove Rocky Road Community Service District Encroachment Ordinance"

12,08,020 Construction. Unless the context otherwise requires, the definitions and general provisions set forth in Sections 12.08.010 through 12.08.080 shall govern the construction of this chapter. (Ord. 280 S1, 1963).

12.08.030 Definitions. As used in this chapter;

A. "Encroach" includes going upon, over, under or using any right-of-way in such a manner as to prevent, obstruct or interfere with the normal use of that way. Including the performance, thereon of any of the following acts:

1. Excavating or disturbing the right-of-way;
2. Erecting or maintaining any post, sign, pole, fence, guard rail, wall, loading platform or other structure on or over or under the right-of-way;
3. Planting any tree, shrub, grass or other structure on or over or under the right-of-way;
4. Placing or leaving on the right-of-way any rubbish, brush, earth or other material of any nature whatever;

5. Constructing, placing or maintaining on, over, under or within the right-of-way of any pathway, sidewalk, driveway or other surfacing any culvert or other surface drainage or subsurface drainage facility, any pipe, conduit or cable;

6. Traveling on the right-of-way by any vehicle or combination of vehicles or object of dimension, weight or other characteristic prohibited by law without a permit;

7. Lighting or building a fire;

8. Constructing, placing, planting or maintaining any structure, embankment, excavation, tree or other object adjacent to the right-of-way which causes or will cause an encroachment.

B. "Permittee" means any person(s), firm, company, corporation, association, public agency or organization that proposes to do work or encroach upon a public highway, as defined in this section, and has been issued a permit for said encroachment by the District Designated Agent. All obligations, responsibilities and other requirements of the permittee, as described in this subsection, shall be binding on subsequent owners of the encroachment.

C. "Public highway" means the full width of the surfaced or traveled portion, including shoulders and ditches, slopes of cuts and fills of any road, street, path, lane or alley dedicated to, reserved for or used by or for the general public, when those roads, streets, paths, lanes and alleys have been accepted as and declared to be part of the District's system of public highways, except highways forming a part of the state highway system, county road system, or of an incorporated city street system.

D. "Right-of-way" means all land or interest therein which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the use of the general public, including "public highways" as defined in this section. (Ord. 280 SS2--6, 1963).

12.08.040 Permit--Required for designated acts. It is unlawful for any person, firm, corporation, or association, without first obtaining a written permit, to encroach or to make or cause to be made any encroachment of any nature whatever within, upon, over or under the limits of any right-of-way within the boundaries of the District or to make or cause to be made any alteration of any nature--within, upon, over or under such right-of-way; or to construct, put upon, maintain or leave thereon, or cause to be constructed, put upon, maintained or left thereon, any obstruction or impediment of any nature whatever; or to remove, cut or trim trees thereon; or to set a fire thereon; or to place on, over or under such right-of-way any pipeline, conduit or other fixtures; or to move over or cause to be moved over the surface of any right-of-way or over any bridge, viaduct or other structure maintained by the District any vehicle or combination of vehicles or other object of dimension or weight prohibited by law or having other characteristics capable of damaging the right-of-way, or to place any structure, wall, culvert or similar encroachment, or to make any excavation or embankment in such a way as to endanger the normal usage or the right-of-way. (Ord. 280 S10, 1963).

12.08.050 Permit--Nonacceptable applications. No application will be accepted nor permit issued for construction or maintaining a loading platform upon a right-of-way, or for erecting using or maintaining therein or thereon a post, pole, column or structure for support for advertising signs. Any such installation is an illegal encroachment. (Ord. 280 S11, 1963).

12.08.060 Permit--Emergency maintenance. This chapter shall not prevent any person, association, firm or corporation from performing emergency maintenance on any pipe or conduit lawfully on or under any public highway, or from making an emergency use or encroachment as may be necessary for the preservation of life or property when an urgent necessity therefor arises.

12.08.070 Permit--Not to annul right of lawful use. Any permit granted under this chapter shall not annul the right of the District or any person, firm, corporation, district or association entitled to use that part of the public right-of-way for any purpose for which it may be lawfully used, and no part of the public highway shall be unduly obstructed at any time. (Ord. 280 S7, 1963).

12.08.080 Exemptions-District officers. This chapter does not apply to any officer or employee of the District in the discharge of his official duties. (Ord. 280 S8, 1963).

12.08.090 Permit application--Form--Permit issuance.

A. The written permits required by this chapter shall be issued by the District's Designated Agent for any lawful use, subject to conditions set forth in the chapter and required by law.

B. The District's Designated Agent shall prescribe and provide a regular form of application for a permit required by this chapter. The application form shall contain space for the applicant's name, address, and contractor's name, license number and primary place of business, if the applicant proposes to employ a contractor, together with such detail as in the judgment of the District's Designated Agent is necessary to establish the purpose and use, the location, dimensions, estimated date of commencement and completion of encroachment. . The application form shall be completed and signed by the applicant and filed with the District. (Ord. 280 S20, 1963).

C. The District's Designated Agent may require the applicant to provide policy of liability insurance and a bond or security as the District Designated Agent deems adequate to protect the District. The applicant may also be required to name the District as additional insured.

12.08.100 Noncompliance. If upon acceptance of this Ordinance the District has within its boundaries any established encroachments which do not comply with county standards, the District does hereby adopt the Calaveras County standards. The District may inform the property owner(s) by written notice that they must obtain an encroachment permit within ninety (90) days of said notice. If a permit is not obtained within ninety (90) days of notice they will be charged with non-compliance.

12.08.110 Permit application-Consent of public bodies. The applicant shall also enclose with, attach to or add to the application copies of the written order or consent to any work thereunder, required by law, the public utilities commission, sanitary district, water districts or any other public body having jurisdiction. A permit shall not be issued until and unless such order or consent, if required is first obtained and evidence thereof filed with the District's Designated Agent. The permittee shall keep himself/herself adequately informed of all state and federal laws and local ordinances and regulations which in any manner affect the permit. The applicant shall at all times apply with and shall cause all his agents and employees to comply with all such laws, ordinances, regulations, decisions, court and similar authoritative orders; and shall protect and indemnify the District and all of its officers, agents and employees against any claims of liability proximately

caused by the violation of any such law, ordinance, regulations or order issued under police power and in accordance with law, whether by himself or by his agents or employees.

12.08.120 Right to refuse encroachment permit.

A. The Copper Cove Rocky Road Community Service District reserves the right to refuse issuance of encroachment permits for the purpose of connecting any district road to any property not in the District.

i.e., Any firm, company, corporation, association, public agency or organization wanting to encroach, (as defined in this ordinance), with any past, present, or future roads, - highways, streets, paths, lanes, trails or alleys to the District roads.

B. The District also reserves the right to refuse issuance of encroachment permits for the purpose of connecting any District roads to any property in the District. i.e., Limiting the number of driveway encroachments for any property in the District.

C. The District reserves the right to refuse issuance of encroachment permit, or cause removal of existing encroachment to properties in the District being used or planned for future use in the District to be used for accessing property not in the District.

i.e., Constructing any roads, highways, streets, paths, lanes, trails, or alleys to run from any property out of the District through any property in the District for encroachment to any District right-of-way.

D. If any parcel within the District is subdivided, each individual parcel created within that subdivision will become an individual parcel within the District and will be

E. Required to pay the annual fee as is required of all parcels within the District

In addition, the new sub division will be required to mitigate impact in the sphere of influence.

12.08.130 Permit-Deadline to begin work-Term. The permittee shall begin the work or use authorized by a permit issued pursuant to this chapter within ninety (90) days from date of issuance, unless a different period is stated in the permit. If the work or use is not commenced within ninety (90) days, or within the time stated in the permit, then the permit shall become void, unless prior to its expiration the time for commencement has been extended in writing by the District's Designated Agent.

12.08.140 Permit-Deadline to complete work. The permittee shall complete the work or use authorized by a permit within the time specified in the permit. If, at any time, the District's Designated Agent finds that delay in the commencing, prosecuting or completing of the work or use authorized is due to lack of diligence on the part of the permittee, he may cancel the permit and restore the right-of-way to its former condition. The permittee shall reimburse the District for all expenses incurred by the

District Designated Agent in restoring the right-of-way.

12.08.150 Permit-Display.

A. The permittee shall keep any permit issued pursuant to this chapter at the site of work, or in the cab of a

vehicle, when movement thereof in a public highway is involved, and the permit must be shown to any authorized representative of the District's Designated Agent or law enforcement officer on demand.

B. A permit issued for continuing use or maintenance of an encroachment may be kept at the place of business of the permittee or otherwise safeguarded during the term of validity, but shall be made available to an authorized representative of the District's Designated Agent or law enforcement officer within a reasonable time after demand therefor is made. (Ord. 280 S27, 1963).

12.08.160 Permit-Nontransferable. No permit issued pursuant to this chapter is transferable. The person or persons, public agency, firm or corporation actually making and/or maintaining the encroachment shall obtain the permit. (Ord. 280 S26 1963).

12.08.170 Permit-Changes. No changes may be made in the location, dimensions, character or duration of the encroachment or use as granted by the permit except on written authorization by the District's Designated Agent, except that no permit shall be required for the continuing use or maintenance of encroachments installed by public utilities, or for changes therein or thereto where such changes or additions require no excavation of the right-of-way. (Ord. 280 S28, 1963).

12.08.180 Conformance to specifications and standards. All encroachment repair work done under a permit issued pursuant to this chapter shall conform to specifications established by the District's Designated Agent or, in the absence of established specifications, to recognized standards of construction and approved practices in connection with such work. All encroachment repair work shall be done subject to approval of the District's Designated Agent. (Ord. 280 S57, 1963).

12.08.190 Notice to District's Designated Agent-Start of work. Before beginning any work which includes excavation, construction of concrete sidewalks, curbs, gutters or driveway approaches, planting, trimming or removing trees, or making, placing or causing an obstruction in the right-of-way, the permittee shall notify the District's Designated Agent of the time of beginning work, unless otherwise exempt in the permit. (Ord. 280 S51, 1963).

12.08.200 Notice to District's Designated Agent Completion of work. Unless this section is waived in the permit, the permittee, upon completion of all work, shall notify the District's Designated Agent. No work shall be deemed to be completed until notice of completion is given pursuant to this section. (Ord. 280 S52, 1963).

12.08.210 Interference with use. All work or use shall be planned and executed in a manner that will cause least interference with the safe and convenient travel of the general public at the place where the work or use is authorized; and at no time shall a public highway be closed, or the use thereof denied the general public, without the written permission of the District's Designated Agent, nor shall use of private property be interfered with unreasonably without the consent of the owner. (Ord. 280 S54, 1963).

12.08.220 Warning signs, lights and safety devices.

A. The permittee in the conduct of the work, use or maintenance of an encroachment authorized by a permit issued pursuant to this chapter, shall provide, erect and/or maintain such lights, barriers, warning signs, patrols, watchmen and other safeguards as are necessary to protect the traveling public.

B. Any omission on the part of the District's Designated Agent to specify in the permit what light, barriers or other protective measures or devices shall be provided, erected or maintained by the permittee, or the fact that the District's Designated Agent may not specify sufficient lights, barriers, or other protective measures or devices, shall not excuse the permittee from complying with all requirements of law and appropriate regulations and ordinances for adequately protecting the safety of those using public highways. If, at any time, the District's Designated Agent finds that suitable safeguards are not being provided, the District may provide, erect, maintain, relocate or remove such safeguards as are deemed necessary or may cancel the permit and restore the right-of-way to its former condition, all at the expense of the permittee.

C. A permittee making any excavation or erecting or leaving any obstruction within, under or upon the right-of-way, or causing the same to be made, erected or left, shall place and maintain lights at each end of the excavation or obstruction, at not more than fifty-foot intervals along the excavation or obstruction, from one-half hour before sunset of each day to one-half hour after sunrise of the next day, until the excavation is entirely refilled or the obstruction removed and the right-of-way made safe for use. In addition, reflectorized warning signs conforming to the requirements of the California Division of Highways shall be placed two-hundred and four-hundred feet from each excavation or obstruction, in such a position as to adequately warn public traffic.

D. The warning signs, lights and other safety devices shall conform to the requirements of Section 21406 of the Vehicle Code and of any sign manual issued by the Department of Public Works of the state. (Ord. 280 S50, 1963).

1,08.230 Restoration of right-of-way.

A. Upon completion of the work, acts or things for which a maintenance of encroachment permit was issued, or when required by the District, the permittee shall replace, repair or restore the right-of-way as provided by this chapter and adopted specifications, or as directed by the District's Designated Agent, within the limits of the specification. The permittee shall remove all obstructions, impediments, material or rubbish caused or placed upon the right-of-way and shall do any other work or perform any act necessary to restore the right-of-way to a safe and usable condition, as directed by the District's Designated Agent.

B. After completion of all work, the permittee shall exercise reasonable care in inspecting and maintaining the area affected by the encroachment. The permittee shall, upon notice from the District's Designated Agent, immediately repair any injury, damage or nuisance, in any portion of the right-of-way resulting from the work done under the permit. In the event that the permittee fails to act promptly, or should the exigencies of the injury or damage require repairs or replacement to be made before the permittee can be notified or can respond to notification, the District may, at its option, make the necessary repairs or replacements or perform the necessary work, and the permittee shall be charged with actual costs of labor and materials.

C. By acceptance of the permit, the permittee agrees to comply with the provisions of this section. (Ord. 280 S55, 1963).

12.08.240 Relocation or removal.

A. If any future construction, reconstruction or maintenance work on a public right-of-way requires the relocation or removal of installations or encroachments in, on or under the public right-of-way, the permittee owning, controlling or maintaining such installations or encroachments shall relocate or remove the same at his sole expense; provided, however, that this provision shall apply to and remain in force and effect only so long as the right-of-way upon which such installations or structures are located is used for usual highway purposes and not as a freeway; and this provision shall cease to apply when such highway becomes a freeway.

B. When removal or relocation is required, the District's Designated Agent shall give the permittee a written demand specifying the place of relocation, or that the installations or encroachment must be removed from the right-of-way, and specifying a reasonable time within which the encroachment must be removed or relocated. If the permittee fails to comply with said instructions, the District may cause the removal or relocation of the

encroachment at the expense of the permittee. (Ord. 280 S56, 1963).

12.08.250 Drainage. If the work, use or encroachment authorized in a permit issued pursuant to this chapter interferes with the established drainage, the permittee shall provide for proper drainage as approved by the District's Designated Agent. (Ord. 280 S53, 1963).

12.08.260 Minimum cover.

A. The minimum cover over any and all pipes or conduits larger than two and one-half inches installed within the right-of-way shall be three feet of earth or imported material, unless otherwise specified in the permit. Within the public highway, the minimum cover of three feet shall be measured from the surface, existing or planned.

B. The District's Designated Agent is authorized to permit installation of pipes or conduits where three feet of cover cannot be provided because of topography, structures or other engineering necessity. (Ord. 280 S58, 1963).

12.08.270 Backfilling. Backfilling and compaction of an excavation shall be in accordance with specifications established by the District's Designated Agent and adopted by Resolution No. 62-183 of the Board of Supervisors, both as to material and method. (Ord. 280 S59, 1963).

12.08.280 Poles, transmission line carriers and guy wires.

A. Clearances and types in the construction of poles and transmission line carriers shall be in accordance with rules, regulations and orders of the public utilities commission and other public agencies having jurisdiction.

B. No guy wires are to be attached to trees without specific authorization to do so in the permit, and in no event shall guy wires be so attached as to girdle the tree or interfere with its growth. Guy wires shall not be below the minimum elevation above the ground, prescribed in the rules, orders and regulations of the public utilities commission. (Ord. 380 S60, 1963).

12.08.290 Aids to visibility. When the location or position of a pole or other obstruction makes accentuation of its visibility to vehicular traffic necessary, the District's Designated Agent may require that the pole or other obstruction be painted or equipped with reflectors or other aids to visibility prescribed or authorized by the Public Utilities Commission or the Department of Public Works of the state at the expense of the permittee. (Ord. 280 S61, 1963).

12.08.300 Movement of vehicles. When authorized to move a vehicle or combination of vehicles or load of dimension or weight or other characteristic as generally

prohibited by law, the permittee shall comply with the general law regulating travel over a public highway, including posted signs or notices which limit speed or direction of travel, or weight which may be placed upon a structure, or the width or height that may be moved thereon or thereover, or otherwise restrict or control travel on a public highway, unless otherwise exempt by special permit. The permittee, at all times shall conform to and abide by the practice and procedure necessary to make safe and convenient the travel of the general public, and to keep safe and preserve the public highway over and on which movement is being made. Any violation of this section shall automatically cancel the permit issued to the permittee, (Ord. 280 S62, 1963).

12.08.310 Mailboxes. All mailboxes must be placed in accordance with the rules and regulations of the United States Post Office Department, but no box shall be placed within the road right-of-way so as to endanger the life or safety of the traveling public. A permit is not required for the placing of mailboxes. (Ord. 280 S63, 1963).

12.08.320 Appeal procedure.

A. Any person aggrieved by the refusal of a permit or by decisions made by the District's Designated Agent may appeal to the Directors of Copper Cove Rocky Road Community Service District.

B. If the Board of Directors, after a hearing, finds all of the following to be true, the permit shall be granted:

1. That the applicant will be substantially damaged by the refusal to grant the permit as requested;

2. That no other reasonable method of obtaining the desired results is available except as proposed by the applicant;

3. That the granting of the permit will not be materially detrimental to the public interest, safety, health and welfare or injurious to other property. (Ord. 280 SS65, 66, 1963).

12.08.330 Penalty for violation.

A. Any person, firm, corporation or other body or association of persons who violates this chapter is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than one hundred eighty days, or by both.

B. Each day's violation of this chapter is a separate offense. (Ord. 280 S64, 1963).

II PART # 2.4

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT

RESOLUTION 05-02-89

WHEREAS, the Board of Directors of the Copper Cove Rocky Road Community Service District deemed it necessary to prevent further deterioration and damage to the roadways of said District:

THEREFORE, be it resolved that:

(1) NO off road vehicles shall be permitted on Copper Cove Rocky Road Community Service District roads or right of ways.

(2) This is to include all unlicensed motorcycles and/or motorcycles without licensed operators.

(3) Off road vehicles include but are not limited to quads, three wheelers, and all two wheel off road vehicles.

(4) All vehicles using the Copper Cove Rocky Road Community Service District roads and right of ways must agree with provisions set by the California Vehicle Code Division 16.5.

WHEREAS, on a motion by Director Norman Troche, seconded by Director George Jay, the foregoing resolution was duly passed and adopted this second day of May 1989 by the following vote:

AYES: Directors, Norman Troche, Elizabeth Withers,
George Jay, Laura Nelson, and Barbara Cheney
NOES: None
ABSENT: None

Barbara L. Cheney
Barbara Cheney, President

Elizabeth C. Withers
Elizabeth Withers, Treas.

Norman Troche
Norman Troche, Director

George Jay
George Jay, Director

Laura A. Nelson
Laura Nelson, Director

ATTEST:

Belva Bristol
Belva Bristol, Secretary
to Board of Directors
Copper Cove Rocky Road
Community Service District

SEE ATTACHED
LETTER PAGE 2

Meanwhile it is very important that we all work together to prevent damage to the roads. There are several ways in which we can accomplish this:

(1) Individual property owners can have needed encroachment work done.

(2) Preserve the oil spray on the shoulders of the roadways by not driving on it.

(3) Always observe safe driving speed and use due caution.

(4) Do not ride and/or drive off road vehicles on the roads, shoulders, or right of ways as they damage the pavement, shoulders and embankments of the roads.

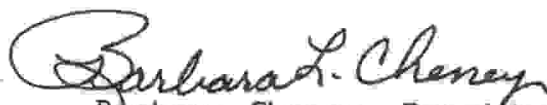
The Board of Directors has recently passed a resolution prohibiting the use of off road vehicles on the roads and right of ways within the District. A copy of this resolution is enclosed for your reference.

If your property is presently rented or leased by others, please share this information with them.

If we can prevent further damage to the roads we have it will hasten the completion of all the roads by allowing the funds to be spent on paving and completion rather than maintenance and repairs.

The Board of Directors encourages and appreciates your co-operation.

Sincerely,



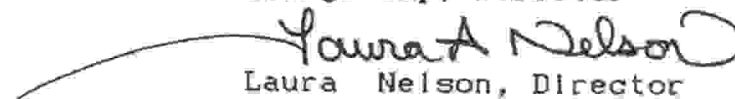
Barbara Cheney, President



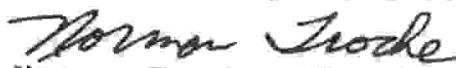
Elizabeth Withers, Treasurer



George Jay, Director



Laura Nelson, Director



Norman Troche, Director



Leo Grooms, Manager

CCRRCSDB/bb

PAGE 2

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT
RESOLUTION 11-16-91

WHEREAS, The Board of Directors of the Copper Cove Rocky Road Community Service District deemed it necessary to post speed limits on the roads within it's District in order to prevent damage to life and property, and,

WHEREAS, The Board of Directors did obtain the services of the Calaveras County Public Works Department to conduct a speed analysis on said roads of the Copper Cove Community Service District, and did accept their findings as reasonable and appropriate, and,

WHEREAS, California Vehicle Code Section 22358 authorizes decrease of local limits and,

WHEREAS, the Calaveras County Public Works did suggest from their findings that said speed limit on the roads surveyed within the Copper Cove Rocky Road Community Service District should be 40 miles per hour,

THEREFORE BE IT RESOLVED, it is the decision of the Board of Directors of the Copper Cove Rocky Road Community Service District that the speed limit of 40 miles per hour shall be posted and enforced on the surveyed roads within the District,

PASSED BY MOTION of Director **Elizabeth Withers** and,

ADOPTED by the Board of Directors upon the twentieth day of November, 1991 by the following vote:

AYES: Directors **Cheney, Jay, Olsson, and Withers.**

NOES: **None**

ABSENT: **Nelson**

Laura Nelson, President
Copper Cove Rocky Road
Community Service District

Belva Bristol, Secretary

Resolution of Board of Directors of
Copper Cove Rocky Road Community Services District

RESOLVED, that the Board of Directors empowers the President of this District to enter into an agreement with the Calaveras County Unified School District by the terms of which this District will indemnify and hold harmless the School District from any damage to the roadways subject to the authority of this Community Services District resulting from the use by school buses of said roadways. This Board is satisfied that the roads have been constructed in compliance with county specifications by the paving contractor, George Reed Co., and that use thereof by school buses will not cause any significant damage.

CERTIFICATE OF SECRETARY

I certify that I am the duly qualified and acting Secretary of Copper Cove Rocky Road Community Services District, a Community Service District organized and existing under the laws of the State of California. The foregoing is a true copy of a resolution duly adopted by the Board of Directors at a meeting held on September 25, 1987, and entered in the minutes of such meeting in the District's minute book. The resolution is in accordance with the Articles of Incorporation of this District and is now in full force and effect.

Dated: September 25, 1987

Corporate Seal

Belva A. Bristol
Secretary

Section II

Part 3 Legal Reference

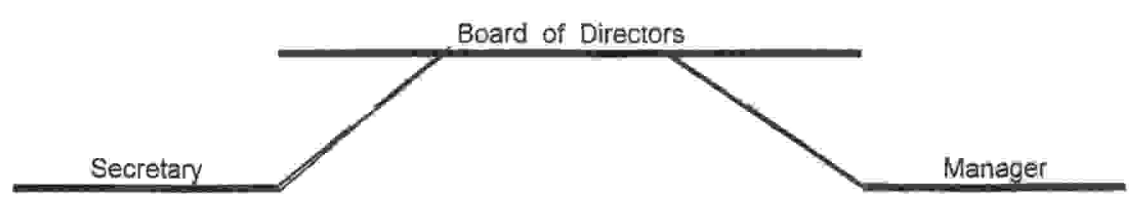
The District must adhere to The Brown Act at all times.

Calaveras County Counsel is the legal counsel and representative for the Copper Cove Rocky Road Community Service District unless the dispute is between the District and the County in which case the District may obtain their own private counsel.

The District's insurance policy and the attorney for the insurance company shall be the legal reference when appropriate.

Section II

Administrational Chain of Command



Copper Cove Rocky Road Community Service District

Board of Directors

The Brown Act

Summary of the Law

Chapter 20

Access to Public Meetings and Records

Access to Public Agency Meetings and Records

Chapter 20

The Brown Act

SUMMARY OF THE LAW

THE GENERAL RULE

The Ralph M. Brown Act¹ ("Brown Act") includes a deceptively simple rule:

"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body."²

This simplicity is superficial. The rule can be misapplied unless the specially defined terms (e.g. "meetings," "legislative body," and "local agency") are properly understood. Often this will require legal analysis and interpretation of case law. There are also narrow exceptions to the rule the application of which is not necessarily intuitive.

As important as the terms and exceptions affecting the rule are, a thorough understanding of the Brown Act starts with the underlying legislative intent. The Brown Act was enacted more than half a century ago in response to a series of stories in the San Francisco Chronicle detailing how local governmental agencies were conducting secret meetings or caucuses. The opening line of the Brown Act is one of the most powerful declarations of legislative intent in all of California law:

"In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."³

Because the Brown Act characterizes the work of each local agency as "the people's business," it is not surprising that it favors public access and generally requires each local agency to make its meetings open and public.⁴ Although the Brown Act does recognize the need of local agencies for

confidential candor, debate, and information gathering, it balances that need against the public's right to access to meetings and information.⁵

In 2004, California voters added a provision to the California Constitution which further underscores the public's right of access to information and the deliberations of local agencies.⁶ This constitutional provision mandates that laws and court decisions affecting the people's right to access must be broadly construed if they further the right, but narrowly construed if they limit that right.⁷

Both appellate courts and the Attorney General, though, have opined that the constitutional requirement that statutes be "narrowly construed" if they limit the public's "right of access" concerning the conduct of the people's business reflects the same principle of statutory construction previously applied by the courts and the Attorney General.⁸

COVERAGE

The Brown Act applies to a local agency's "legislative body." A local agency is a city, county, municipal corporation, district, political subdivision, or any of those entities' boards, commissions, or agencies. The Brown Act covers any governmental agency that is essentially local in character. If the agency is a state body, the Bagley-Keene Open Meeting Act imposes similar open meeting requirements.⁹ "Legislative body" includes a local government agency's governing body, such as a county board of supervisors, a city council, a school district or community college district governing board, or a joint powers authority board of directors.¹⁰ The Brown Act specifically covers local bodies created by state or federal statute.¹¹

A legislative body is also any multi-member body to which a governing body has formally delegated either advisory or decision-making authority.¹² This includes standing committees, which are committees with continuing responsibility for a particular subject or a fixed meeting schedule. Standing committees are covered even if they are composed of less than a quorum. On the other hand, an advisory committee composed solely of less than a quorum of members of the legislative body, having a specified limited duration, is not a legislative body under the Brown Act.¹³ Private entities, such as a business improvement district¹⁴ or non-profit corporations are covered by the Brown Act if they are created by a legislative body to exercise some authority that a public agency has lawfully delegated or the entity receives funds from a local public agency and a member of the funding agency has been appointed as a full voting member of the entity's board.¹⁵

"MEETING"

Defined

Under the Brown Act, a "meeting" occurs when a majority of the legislative body gathers to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.¹⁶ This definition is broad in application, but the Legislature has identified a number of specific exclusions from the meaning of "meeting."

A meeting does not occur when less than a majority of members of the legislative body have individual conversations with members of the public, or when they attend conferences, open public meetings, or social functions, as long as they do not discuss the legislative body's business except as part of a scheduled program. A majority of the legislative body's members may attend an open and noticed meeting of another local agency's legislative body, without triggering the Brown Act's requirements, if they do not discuss agency business among themselves except as part of the scheduled meeting they are attending.¹⁷ For example, as long as they do not discuss agency business among themselves except as part of the public meeting, all of a school board's members can attend a public city council's meeting or an entire city council can attend a county board of supervisors' meeting, without triggering Brown Act coverage.

In addition, no meeting occurs under the Brown Act if a majority of a legislative body's members attend an open and noticed meeting of that body's standing committee, as long as the legislative body's members who are not standing committee members attend and act only as observers.¹⁸ A legislative body member attending as an observer may not speak at the meeting or enjoy special seating; the member may watch and listen, no more.¹⁹

Serial Meetings

Communication between members of a legislative body through the use of direct communication, personal intermediaries, or technological devices creates circumstances in which a member may unintentionally violate the Brown Act by conducting a serial meeting. This occurs where a majority of members – although acting in a seemingly independent manner – through a series of separate communications involving other persons or electronic media – discuss, deliberate, or take action on an item within the jurisdiction of the legislative body. Use of e-mail or chat rooms by a majority of members can readily constitute a violation of the Brown Act.²⁰ For example, a majority of the board members of a community college district may not send e-mail messages to each other to discuss an item of district business without violating the Brown Act, even if the e-mail messages are also sent to the district's administration, the messages are posted on the district's Web site, and a printed version of each message is reported at the board's next public meeting.²¹ Although sending copies to other agency representatives, posting the exchanged messages on the Internet, and reporting the messages' contents publicly at the next public meeting allow the board's deliberations some public exposure, they do not meet the Brown Act's standards for public deliberation.²²

In *Wolfe v. City of Fremont*,²³ a citizen alleged that sequential meetings among the city manager, police chief and individual city council members violated the Brown Act. The court extensively discussed the meaning of "meeting" and "serial meeting" under the Brown Act and focused narrowly on the result of the serial meetings rather than the use of serial communications as the Brown Act violation. The court that said Government Code § 54952.2, the serial meeting prohibition, "prohibits a legislative body from using virtually any means – whether 'direct communication, personal intermediaries, or technological devices' – to reach a 'collective

concurrence' outside the public forum."²⁴ The court footnoted that statement with the following dicta that alarmed media representatives because it appeared to condone many serial meetings:

"Accordingly, serial individual meetings that do not result in a 'collective concurrence' do not violate the Brown Act. This is in contrast to nonpublic 'meetings,' as that term is defined in section 54952.2, subdivision (a), which are unconditionally prohibited. (§ 54953.)"²⁵

The *Wolfe* footnote arguably suggested that serial meetings to discuss or deliberate about agency business do not violate the Brown Act unless they result in a "collective concurrence." In response to the *Wolf* footnote, the Legislature passed and the Governor signed Senate Bill 1732 (Romero),²⁶ revising the serial meeting prohibition in Government Code § 54952.2(b)(1) to read:

"A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."²⁷

This strengthened serial meeting prohibition, effective January 1, 2009, is much broader than prior law, which barred serial meetings "to develop a collective concurrence as to action to be taken on an item by the members of the legislative body . . ."²⁸ Now the rule includes not only communications in which a collective concurrence is reached, but also those in which members, through intermediaries, "discuss" or "deliberate" on any item of business, even if they do not ultimately reach a concurrence. Further, the new expansive language includes all means of communication including correspondence, telephone conversations, e-mail correspondence, teleconferences, and any other electronic means of communication between and among legislative body members and between and among legislative body members and their staff.

On the other hand, the addition of a new provision, Government Code § 54952.2(b)(2) now clarifies that informational exchanges between legislative body members and staff do not violate the Brown Act as long as a staff member does not act as an intermediary to communicate the views of one legislative body member to another:

"Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."²⁹

Senate Bill 1732 also included the Legislature's specific disapproval of the *Wolfe* case to the extent that the decision interpreted the Brown Act's serial meeting prohibition to require that the

serial meetings actually result in a collective concurrence in order to violate the Brown Act and declaration that the bill's Brown Act amendments supersede the *Wolfe* decision.

Location

A local agency must conduct its meetings within its own jurisdiction unless it qualifies for a specific exemption.³⁰ Also, meetings may not be held in a facility that: (1) prohibits admittance based on race, religion, color, national origin, ancestry, or sex; or (2) is inaccessible to disabled individuals.

PUBLIC RIGHTS, PUBLIC TESTIMONY, AND ATTENDANCE

At least one general public comment period must be provided on each agenda.³¹ In addition, the public must be given an opportunity to comment on each specific agenda item before or while a legislative body considers an item. It is a violation of the Brown Act to deny a member of the public the opportunity to speak on a specific agenda item, even if that person previously has addressed the agency on other topics during that same meeting.³² Generally, the members of the legislative body may not take action upon a non-agenda item arising during public comments, but the body's members may respond briefly to such public questions or comments or refer them to staff for an informational or subsequent response.³³

Every special meeting agenda also must provide an opportunity for public comment, but only on items described on the special meeting agenda.³⁴

The Brown Act does not specify a particular time limit for public comments and does not prohibit public agencies from limiting public comment in a reasonable exercise of their discretion.³⁵ Public comment is not required on the issue of whether to place an item on the meeting agenda.³⁶ The body cannot, however, prohibit public criticism of its policies, procedures, programs, or services,³⁷ but the legislative body is able to adopt rules of decorum to keep comments germane to the entity and from being disruptive to the deliberations of the body.³⁸ The public may not be required to register, identify themselves, or pay fees in order to attend a public meeting.³⁹ Without any exception for public agency employees, the Brown Act permits all persons to attend any open session of a local legislative body's public meetings. Consequently, a public agency may not prohibit an employee from attending a public board meeting during the employee's personal, off-duty time or from speaking during the public comment period about an agenda item.⁴⁰

Taping or Broadcasting

The public may video record, photograph, or broadcast meetings as long as the practice does not disrupt the meeting.⁴¹

Public Access to Agenda Materials

The agendas and materials related to open session agenda items that are distributed to all or a majority of the legislative body members must be made available to the public on request and without delay.⁴²

Government Code § 54957.5(b) requires that open session agenda materials that are distributed less than 72 hours before the meeting must be made available for public inspection at the time the materials are distributed to all, or a majority of the legislative body members. The agency must designate the location that the materials will be available and list this location on all legislative body meeting agendas.⁴³ The agency also may post the materials on the agency's Internet website in a manner that clearly relates it to the upcoming meeting agenda.⁴⁴

Agenda notices and public records distributed at open public agency meetings must be available to persons with a disability and published agendas must include information on the availability of disability-related aids or services.⁴⁵

The Brown Act requires public agencies to provide copies of the meeting agenda, or a copy of the entire agenda packet, to any person who requests the information in writing. Written requests for agendas or agenda packets are valid for the calendar year in which they are filed and renewable following January 1 of each year.⁴⁶ Copies of the agenda materials must be mailed to persons who have previously requested such advance copies at the time the agenda is posted or when it is distributed to all or a majority of the legislative body's members, whichever occurs first.⁴⁷ Public agencies may establish a mailing fee for the agenda or agenda packet that cannot exceed the cost of providing the service.⁴⁸ If a requesting person fails to receive the agenda or agenda packet, any actions that the legislative body takes at the meeting for which the requested agenda information was not received will not be invalidated.⁴⁹

Secret Ballots

The Brown Act prohibits any action by secret ballot.⁵⁰

AGENDA REQUIREMENTS

Regular Meetings

A regular meeting agenda must:

- state the meeting time and location;
- briefly describe each business item to be considered or discussed; and
- be posted at least 72 hours before a regular meeting in a location accessible to the public.⁵¹

The Attorney General has opined that, in lieu of posting a paper copy of the agenda on a bulletin board, a city may post a city council meeting agenda on a touch-screen electronic kiosk accessible without charge to the public 24 hours a day, seven days a week.⁵² The Bagley-Keene Open Meeting Act requires state agencies to post meeting notices on the Internet.⁵³

If an item does not appear on the agenda, the legislative body may not discuss or act on the item unless:⁵⁴

- a majority of the legislative body determine that an emergency has arisen; or

- the legislative body, by two-thirds vote of its membership (or unanimous if less than two-thirds are present), determines that the need to act arose after the agenda was posted and immediate action is required; or
- within the previous five days, the item was posted and the earlier meeting was continued.

The most typical such exemptions are items that arise after the posting of the agenda. The legislative body should bear in mind, though, that the item must not have been known to the agency – not just to the members of the legislative body – after the agenda was posted.⁵⁵ Also, the need to act must be immediate and not just convenient. This generally means that the body must take action before its next regular meeting or that a special meeting is not practicable.

Special Meetings

A legislative body's presiding officer or majority may call a special meeting. At least 24 hours before the meeting, all legislative body members must receive a special meeting notice. Members may waive the notice requirement. Newspapers and radio or television stations must also receive a 24-hour notice if they filed a written request for special meeting notices.⁵⁶

A special meeting notice must:

- state the meeting time and location;
- briefly describe each business item to be considered or discussed; and
- describe the public's right to comment on a special meeting item before or while the legislative body considers the item.⁵⁷

The legislative body may not consider any item not included in the notice.

Emergency Meetings

The Brown Act recognizes two categories of emergency situations, an "emergency" and a "dire emergency." The type of emergency will govern the amount and type of notice the agency must provide of its meeting.

An "emergency" is defined as "a work stoppage, crippling activity, or other activity that severely impairs public safety, or both, as determined by a majority of the members of the legislative body."⁵⁸ In such circumstances the agency must provide one-hour prior notice to the media, but may dispense with the posting and other requirements.

A "dire emergency" is:

"...a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section

may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body."⁵⁹

In such extreme circumstances, the agency need only notify the media at or near the time that the presiding officer notifies members of the legislative body of the emergency meeting.

Local agencies have the authority to meet in closed session during an "emergency meeting" if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of those members present.

The legislative body may meet in closed session with the sheriff, chief of police, or security consultant on "matters posing a threat to the security of public buildings or essential public services or public rights of access to public services or facilities."⁶⁰ Clearly, agencies should consider whether the emergency requiring the meeting also falls within this provision and determine whether the meeting, or some portion, should be held in closed session.

CLOSED SESSION AGENDAS

A closed session meeting requires three notice obligations. First, the agenda must briefly describe each closed session item.⁶¹ The Brown Act provides a model format for closed session agendas. Substantial compliance with the model format ensures that legislative bodies will not violate the agenda requirements.⁶² Second, before each closed session, the legislative body must disclose the items to be discussed in closed session. The disclosure may be a reference to the items as they are listed on the closed session agenda.⁶³ Third, in most instances, if the body takes final action in closed session, it must publicly report the action at the closed session's conclusion.⁶⁴ If the closed session action involves a personnel issue, generally only actions that immediately affect the employment status of a public employee are to be reported the same day.⁶⁵

Each item considered in the closed session must be specifically exempt under the Brown Act from the open meeting requirement. Each closed session category that the Brown Act addresses and a model agenda format for each category are set forth below.

Labor Relations

The labor relations exemption permits a legislative body to meet in closed session with its designated representatives to review its position and to instruct its designated representatives about represented and unrepresented employees.⁶⁶ This discussion may include availability of funds to the agency and funding priorities.⁶⁷ The agency must hold an open and public session prior to the closed session at which it identifies its designated labor negotiator.⁶⁸ The Brown Act limits discussions about represented employees to salaries, salary schedules, fringe benefits, and any other matters within the scope of representation. The Brown Act limits discussions about unrepresented employees to salaries, salary schedules, and fringe benefits.

Model agenda format:

CONFERENCE WITH LABOR NEGOTIATOR (Government Code § 54957.6)

Agency Negotiator: (Specify names of designated representatives who are attending the closed session);

Employee Organization: (Specify name of organization representing employee or employees in question); or

Unrepresented Employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

Personnel

The "personnel" exception to the Brown Act's open public meetings requirement authorizes legislative bodies of local agencies⁶⁹ to meet in closed session: "to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session."⁷⁰ An agency may consider the performance evaluation of an independent contractor in closed session if the contractor acts like an employee such as by performing day-to-day business of the agency.⁷¹

The Brown Act's "evaluation of performance" closed session exception encompasses a review of specific instances of job performance as well as a comprehensive review of job performance, consideration of evaluation criteria, the process for conducting an evaluation, and other preliminary evaluation matters, to the extent that the legislative body has discretion over these matters. In addition, because "feedback" is a traditional part of a formal performance evaluation, "taking action to find the evaluation satisfactory" is part of "evaluation" and does not require a separate closed session agenda listing.⁷²

The Brown Act also requires:

*"As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, . . . at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void."*⁷³

The 24-hour notice requirement does not apply to a closed session review of an employee's performance evaluation, or to an administrative recommendation to non-reelect or dismiss the employee.⁷⁴ Specifically, a school district governing board's non-reelection of a probationary teacher does not require a 24-hour notice.⁷⁵ Further, performance evaluations, including negative comments

in an evaluation, are not "specific complaints or charges brought against an employee by another person or employee" under the Brown Act.⁷⁶

Even a closed session review of a hearing officer's factual findings and decision following an open hearing on "specific complaints or charges brought against an employee" will not require the 24-hour notice if the sole purpose of the closed session is to consider or deliberate whether complaints or charges brought against an employee justify dismissal or disciplinary action. A school board is not required to give a teacher 24-hour written notice to request consideration in open session when the board does not conduct an evidentiary hearing on the charges, but rather, considers whether those charges justify the initiation of dismissed proceedings under Education Code § 44944.⁷⁷ On the other hand, a closed session held to conduct an evidentiary hearing on the complaints or charges clearly requires the 24-hour statutory notice to the affected employee.⁷⁸ In employee discipline cases, if a public agency governing board rejects its hearing officer's findings of fact and engages in its own fact-finding by reviewing the record, it is conducting a "hearing" on the charges against the employee for Brown Act purposes, and the employee must be given notice of the right to have the hearing conducted in open session.⁷⁹ Courts may nullify a public agency's personnel action if they find that the circumstances required, and the agency did not provide, the 24-hour notice.⁸⁰

The Attorney General has concluded that a county retirement board is determining whether an applicant's employment should continue or be terminated as a result of a claimed disability when it reviews a disability retirement application. Consequently, the board's decision is an "action taken to . . . affect the employment status" of the applicant, and thus, may be conducted in a closed session authorized by the "personnel exemption" of Government Code § 54957.⁸¹

In *Kaye v. Board of Trustees of San Diego County Public Law Library*, a terminated law librarian claimed that the Board violated the Brown Act when it used the same attorney from County Counsel's office to advise the Board in closed session on the termination, and also allegedly used that same attorney to advocate on behalf of the library. The court ruled that the personnel exception to the open meeting requirements does not limit whom the Board may choose to advise it when it conducts closed session meetings regarding employment matters. The court noted that there may be due process concerns when an attorney from one office acts as an advocate for a party and another attorney from the same office acts as an advisor to the decision-maker in the same matter. However, there was no evidence that the attorney from County Counsel's office who advised the Board ever acted as an advocate adverse to the terminated law librarian.⁸²

Model agenda formats:

PUBLIC EMPLOYEE APPOINTMENT (Government Code § 54957)

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code § 54957)

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (Government Code § 54957)

(No additional information is required in connection with a closed session to consider a public employee's discipline, dismissal, or release. Discipline includes a potential compensation reduction.)

Both the public employee appointment agenda listing and the public employee discipline/dismissal/release agenda listing are appropriate to describe a closed session that may result in an employee's dismissal.⁸³

Litigation

The litigation exemptions permit a legislative body to confer with or receive advice from legal counsel regarding pending litigation to which the local agency is a party if discussing these matters in open session would prejudice the legislative body's position in the litigation.⁸⁴ The exemptions apply to: existing litigation, a significant exposure to litigation, and initiating litigation. The Brown Act's litigation closed session exemption, however, does not authorize a public agency to adopt a settlement agreement in closed session when the settlement includes an agency authorization action that by law requires public decision-making. For example, a city council's closed session adoption of a settlement agreement with a developer violated the Brown Act because the settlement agreement granted a zoning variance, and zoning variances are required by law to be made after public hearings.⁸⁵

Existing litigation. Existing litigation means formally initiated litigation to which the legislative body is a party.

Model agenda format:⁸⁶

<p>CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION (Government Code § 54956.9(a))</p> <p>Name of Case: (Specify by referring to claimant's name, parties' names, case or claim numbers); or</p> <p>Case Name Unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)</p>

Significant exposure to litigation.

Significant exposure to litigation (often called "anticipated" or "threatened" litigation) means:

- The legislative body concludes that the agency is significantly exposed to litigation. The legislative body's conclusion is based on legal counsel's advice, and on existing "facts and circumstances."
- or
- Based on existing "facts and circumstances," the legislative body meets only to decide whether a closed session is authorized because the body is significantly exposed to litigation (under the paragraph above).

Existing "facts and circumstances" means only:

- Facts and circumstances that might result in litigation against the public agency, but that the agency believes a potential plaintiff does not yet know about. These facts do not have to be disclosed on the agenda.
- Facts and circumstances that might result in litigation against the agency and that a potential plaintiff knows about. Examples include accidents, disasters, incidents, or transactional occurrences. These facts or circumstances must be included on the agenda or announced in public session.
- The agency has received a claim against a public entity or some other written communication from a potential plaintiff threatening litigation. The written claim or communication must be available to the public.
- A statement a person makes in an open and public meeting threatening litigation on a matter within the legislative body's responsibility.
- A statement a person makes outside of an open and public meeting threatening litigation on a matter within the legislative body's responsibility, as long as the employee/official who learns about the threat makes a record of the statement before the body's meeting. The threatening statement must be available to the public. The statement recording the

threat does not have to identify an alleged victim of unlawful sexual conduct or child abuse, anyone making a threat against a victim of unlawful sexual conduct, or any employee who has allegedly engaged in the unlawful conduct that is the basis of the threat, unless the person's identity has been publicly disclosed.

In *Page v. Miracosta Community College District*, a community college district allowed its superintendent/president – who had threatened to sue the district – and her legal counsel into a closed session meeting of the Board of Trustees to discuss the potential litigation. The district also allowed a private mediator to facilitate the discussion during the closed sessions proceedings. The court ruled that the potential litigation exception does not allow an agency to meet in closed session to discuss and negotiate with an adversary and his or her attorney. The court further decided that using a private mediator during the closed session discussions would violate the Brown Act's prohibition on using intermediaries to discuss, deliberate, or take action on agency business outside of a public meeting.⁸⁷

Model agenda format:⁸⁸

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code § 54956.9(b))

Significant Exposure to Litigation: (Specify number of potential cases)

(State: Facts and circumstances that might result in litigation against the legislative body and that a potential plaintiff knows about); or

(State: Written claim or written communication is available to the public); or

(State: The written statement recording the threat to sue the agency is available to the public)

Initiating litigation. Initiating litigation means that based on existing facts and circumstances, the legislative body has decided to initiate or is deciding whether to initiate litigation.

Model agenda format:⁸⁹

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code § 54956.9(c))

Initiation of Litigation: (State number of potential cases)

Real Property

The real property exemptions permit a legislative body to grant its negotiator authority regarding price and terms of payment for the purchase, sale, exchange, or lease of real property before the legislative body purchases, sells, exchanges, or leases (renewal or renegotiation) real

property. Before the closed session, the legislative body must in open session identify the real property and the person(s) with whom its negotiator may negotiate. The negotiator may be a legislative body member. The courts have very narrowly construed the real property closed session authorization to cover only a discussion of price and terms and to exclude other topics that, although reasonably related to a real estate transaction, exceed the scope of the specific statutory language.⁹⁰

The Attorney General has ruled that a redevelopment agency cannot discuss in closed session the terms of a rehabilitation loan agreement, even if the loan agreement is related to the use of land that the agency is subleasing and also includes the agency's acquisition of use and operating covenants. The discussion of the loan agreement's terms did not involve negotiations of price and terms prior to the purchase, sale, exchange, or lease of real property to qualify for closed session.⁹¹

Model agenda format:⁹²

CONFERENCE WITH REAL PROPERTY NEGOTIATOR: (Government Code § 54956.8)

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency Negotiators: (Specify names of agency negotiators attending the closed session)

Negotiating Parties: (Specify party's name (not agent's name))

Under Negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

Threat to Public Services or Facilities

This exemption allows a legislative body to meet with the Attorney General, district attorney, sheriff, or police chief, or their respective deputies, on matters posing a threat to public buildings' security or a threat to the public's access to public services or public facilities.

Model agenda format:⁹³

THREAT TO PUBLIC SERVICES OR FACILITIES (Government Code § 54957)

Consultation With: (Specify name of law enforcement agency and officer's title)

Liability Claims

This exemption allows a joint powers agency formed for insurance pooling purposes or a local agency member of a joint powers agency to hold a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability.

Model agenda format:⁹⁴

LIABILITY CLAIMS (Government Code § 54956.95)

Claimant: (Specify name unless a victim or alleged victim of alleged sexual conduct or child abuse; see § 54961(b))

Agency Claimed Against: (Specify name)

Deferred Compensation Plan

Government Code § 54957.1 permits a local agency's legislative body to hold a closed session "to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan."⁹⁵ No model agenda format is provided in the statute.

Joint Powers Authority

Government Code § 54956.96 permits a joint powers authority ("JPA") to adopt a policy or bylaw or include in its joint powers agreement provisions that authorize either or both of the following:

- (1) Any member of the JPA governing body who is also a member of the governing body of a local agency that is a JPA member may disclose information to the agency's legal counsel or to other governing body members in a closed session of the member local agency when the information was obtained in a closed session of the JPA and has direct financial or liability implications for the local agency;
- (2) Any member of a local agency who is the designated alternate member of the JPA may attend JPA closed sessions.

If a JPA makes these changes to its bylaws, policies, or joint powers agreement, then upon the advice of its legal counsel the legislative body of a member local agency may conduct a closed session to receive, discuss, and take action concerning information obtained in a closed session of the JPA. This statute does not expand the subjects that may be lawfully discussed in closed session and allows the local agency to discuss in closed session only the same information discussed in the JPA closed session.

Model agenda format:⁹⁶

CONFERENCE INVOLVING A JOINT POWERS AGENCY

(Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives)

Draft Audit Report

Government Code § 54956.75 permits a legislative body to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. After the public release of an audit report by the Bureau of State Audits, any legislative body discussion of the audit report must occur in open session, unless a closed session discussion is authorized by some other provision of law.

CLOSED SESSIONS

Closed sessions may not be semi-closed. "As a general rule, closed sessions may involve only the membership of the body in question plus any additional support staff which may be required (e.g., attorney required to provide legal advice; supervisor may be required in connection with disciplinary proceeding; labor negotiator required for consultation). Persons without an official role in the meeting should not be present."⁹⁷ For example, an alternate member of a local agency formation commission may not attend a closed session unless sitting in the place of an absent disqualified member.⁹⁸ On the other hand, the Attorney General has concluded that a retirement board may permit a disability applicant and the applicant's attorney to participate in a closed session if the board concludes that their closed session attendance, "would be essential for a determination on the merits of the disability retirement application." In this circumstance, the applicant and representative would not be participating as members of the public.⁹⁹

PUBLIC REPORTS FROM CLOSED SESSION

Government Code § 54957.1 prescribes in detail the timing and content of publicly reporting local agency actions taken in closed session. When the body has taken an action in closed session that is required under the Brown Act to be reported to the public, legal counsel must publically report the vote or abstention of every member present in the closed session.¹⁰⁰ Reports of closed session actions required by the Brown Act may be made orally or in writing.¹⁰¹

The chart illustrates the Brown Act's reporting requirements for selected types of closed session actions; local agencies should refer to the Brown Act for the detailed requirements for additional types of closed session actions, particularly closed sessions related to litigation that are authorized by § 54956.9.

Government Code § 54957.1 – Reporting Out Closed Session Actions		
Type of Closed Session	Content	Timing
Personnel § 54957 <i>Note: § 54957.1(e) states: "No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section."</i>	<ul style="list-style-type: none"> position title; and the action taken to affect a public employee's employment status. 	At the public meeting during which the closed session is held, <i>except</i> the report of a dismissal or employment contract nonrenewal, shall be deferred until the first public meeting following the employee's exhaustion of any administrative remedies.
Labor Relations § 54957.6	<ul style="list-style-type: none"> item approved, e.g., MOU; and other party to negotiations. 	After the agreement is final and has been accepted or ratified by the other party.
Real Estate Negotiations § 54956.8	<p>If the agency's approval renders the agreement final, must report its approval and substance of the agreement in open session.</p> <p>If final approval rests with the other party, disclose fact of that approval and substance of the agreement.</p>	<p>After the agreement is final:</p> <ul style="list-style-type: none"> at the public meeting during which the closed session is held; and upon inquiry by any person, as soon as the other party has informed the agency of its approval.
Disposition of claims § 54956.95	<p>The agency's disposition of the claim, including:</p> <ul style="list-style-type: none"> name of claimant; name of local agency claimed against; substance of the claim; and 	As soon as disposition reached.

Government Code § 54957.1 – Reporting Out Closed Session Actions		
Type of Closed Session	Content	Timing
	<ul style="list-style-type: none"> any monetary amount approved by local agency and agreed upon by claimant. 	

Government Code § 54957.1 also includes detailed requirements for providing copies of any contracts, settlement agreements, or other documents finally approved or adopted in closed session. If a person who has made a standing request for copies of agenda packet materials, including a newspaper, television or radio station,¹⁰² or anyone who has submitted a written request for agenda materials within 24 hours of the posting of the meeting agenda is present at the time the closed session ends, the local agency must provide the requestor with copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the agency's action resulted in substantive amendments to the documents that require retyping, the copies may be provided during normal regular business hours when the final document preparation is completed, provided however, that the agency's presiding officer or designee summarizes the substance of the amendments for the document requestor or any other person present and requesting the information.

DULY CONSTITUTED COMMITTEES MAY MEET IN CLOSED SESSION

Closed "personnel" sessions under Government Code § 54957 are permitted to interview public employment candidates, review resumes, discuss qualifications, and make a decision before actually appointing a candidate. The Attorney General has opined that a committee of eight community representatives, seven school district employees, and one student, appointed by a school district governing board to interview candidates for district superintendent and to make a recommendation to the board, may lawfully meet in closed session.

The governing board, as the body appointing the committee, would be entitled to meet in closed session under Government Code § 54957 to interview candidates and to reach a decision when appointing a district superintendent. As long as the purposes of Government Code § 54957 are served, its closed session authorization extends to committees that are duly constituted and performing properly delegated duties that would otherwise be covered by Government Code § 54957.¹⁰³

The Attorney General previously has concluded that when an advisory committee confers with legal counsel in the proper course of its duties, it may lawfully meet in closed session under the Brown Act's pending litigation exception.¹⁰⁴

CONFIDENTIALITY OF INFORMATION RECEIVED IN CLOSED SESSION

The law does not permit members of local agency legislative bodies and other closed session participants to individually disclose documents or information received or discussed during closed sessions unless the law specifically requires that the information be disclosed or the legislative body authorizes disclosure.¹⁰⁵ Disclosing closed session discussions violates the confidentiality that the Brown Act and the Public Records Act¹⁰⁶ confer on permitted closed session minutes and recordings.¹⁰⁷ Similarly, the Brown Act shields closed session discussions from public disclosure. A court cannot compel local agency legislative body members to respond to discovery questions seeking the members' personal recollections of closed session proceedings.¹⁰⁸

Board members who violate closed session confidences can be barred from future closed sessions,¹⁰⁹ enjoined from making further disclosures,¹¹⁰ or prosecuted for "willful or corrupt misconduct in office."¹¹¹ Local agency governing bodies may also censure members who publicly disclose confidential information.¹¹²

A public board member does not violate the Brown Act by making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law; expressing an opinion about the propriety or legality of public agency closed session actions, including disclosing the nature and extent of the illegal or potentially illegal action; or disclosing information acquired by being present in a closed session that is not confidential information. For the purpose of the Brown Act confidentiality provision, "confidential information" means a closed session communication that is specifically related to the basis for meeting in closed session.¹¹³

TELECONFERENCING PERMITTED

Legislative bodies may use teleconferencing to benefit the public and a local agency's legislative body for "all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body." "Teleconference" is broadly defined to mean "a meeting of individuals in different locations, connected by electronic means, through either audio or video, or both."¹¹⁴ The rules for using teleconferencing are straightforward and consistent with the rest of the Brown Act:

- meeting agendas must be posted at all teleconference locations;
- each teleconference location must be identified in the meeting or proceeding notice and agenda, and each teleconference location shall be accessible to the public;¹¹⁵
- the agenda shall provide an opportunity for members of the public to address the legislative body at each teleconference location;
- at least a quorum of the members of the legislative body shall participate in the teleconference from locations within the local agency's territorial boundaries;

- in conducting teleconference meetings, the legislative body must protect the statutory and constitutional rights of the parties and members of the public appearing before the agency; and
- all votes taken during a teleconferenced meeting shall be by roll call.

REMEDIES

Civil Remedies

The district attorney or "any interested person" may file civil lawsuits for injunctive, mandatory, or declaratory relief, or to void acts violating the Brown Act.¹¹⁶ Any citizen of the State of California, regardless of residence within the public agency's jurisdiction, is an "interested person" for Brown Act purposes.¹¹⁷ Individual city council members, however, do not have standing to sue their own city council under the Brown Act.¹¹⁸

Not all actual violations of the Brown Act, however, will support a lawsuit. For example, a public agency board violates the Brown Act when it confers with and gives directions to staff about a topic that is not on the special meeting agenda, but an appellate court has concluded that "conferring" and "directing" is not "an action taken" as defined by the Brown Act that could be voided.¹¹⁹ In addition, if a court determines that an alleged violation of the Brown Act has been cured or corrected, any legal action must be dismissed with prejudice.¹²⁰

One appellate court has rejected a public agency's argument that a plaintiff is required to allege and prove a pattern of past Brown Act violations in order to obtain declaratory relief, and concluded that a plaintiff must only allege that an actual controversy existed over whether a past violation of law occurred.¹²¹

A local agency board member aggrieved by a district attorney's allegations that the board member violated the Brown Act cannot sue the district attorney based on the district attorney's official actions under the Brown Act, including press releases concerning the board member's alleged violations of the Brown Act.¹²²

Plaintiffs may recover attorneys' fees.¹²³ The Brown Act's attorneys' fees provision, Government Code § 54960.5, states in relevant part, "A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to § 54960 or § 54960.1 where it is found that a legislative body of the local agency has violated this chapter."¹²⁴ However, the public entity will not be entitled to recover its attorney's fees unless the plaintiff's lawsuit is determined to be "clearly frivolous and totally lacking in merit."¹²⁵ Before deciding to litigate a Brown Act dispute through trial and judgment, public agencies should take note of the *Los Angeles Times v. Los Angeles County Board of Supervisors*¹²⁶ decision regarding attorneys' fees. To encourage private enforcement of the Brown Act, the court ruled that, "fees are 'presumptively appropriate' and a successful plaintiff 'should ordinarily recover attorney's fees unless special circumstances would render such an award unjust.'"¹²⁷

Criminal Remedies

The district attorney may seek misdemeanor penalties against a legislative body member if the member attended a meeting where the body violated the Brown Act, and intended to deprive the public of information that the member knew or had reason to know the public was entitled to receive.¹²⁸

NEW DEVELOPMENTS 2011

LEGISLATION

Public Agencies Must Announce Additional Compensation for Back-To-Back or Simultaneous Meetings if Compensation is Higher Than Allowed by Statute.

The legislature amended the Brown Act relative to certain notice requirements when public agencies have back-to-back or simultaneous meetings of different bodies and members receive compensation for each meeting. This amendment requires a member of the legislative body, or the clerk, to announce, prior to the simultaneous or back-to-back meetings of different bodies, the amount of compensation the members will receive for the extra meetings. However, no announcement is required if the compensation for the serial or simultaneous meeting is the same that is allowed under a state statute. The compensation must only be announced if it is above what is already allowed by state statute.¹²⁹ This statute is effective January 1, 2012.

Public Agencies May not Hold Special Meetings to Discuss Salaries or Benefits of Executives.

The legislature also amended the Brown Act to provide that a public agency may not call a special meeting regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive. However, this statute does not affect the ability of a public agency to hold a special meeting to discuss the agency's budget. Further, public agency agendas for public meetings must be placed on the agency's internet web site, if the agency has one.¹³⁰ This statute also is effective January 1, 2012.

COURT CASES

Attorney General Rules Majority of City Council May Not Attend Private Tour of Water District Facilities.

The Attorney General ruled that the Brown Act prohibits a majority of the members of a city council from attending a private tour of a water district's facilities. The only way a majority of city council members could comply with the Brown Act and attend a tour of the water district's facilities outside city boundaries is if:

- The tour is properly noticed in accordance with the Brown Act.
- The tour is open for the public to attend.

- The tour is conducted for the purpose of touring the water district's facilities.
- The topics discussed during the tour are limited to items directly related to the facilities being inspected.¹⁹¹

IMPACT OF NEW DEVELOPMENTS

- If agencies hold simultaneous or back-to-back meetings, any additional compensation must be announced. However, the additional compensation only has to be announced if it is higher than what is allowed by state statute.
- Agencies cannot hold special meetings to discuss salaries, salary schedules or compensation as fringe benefits of agency executives. These types of discussions may only take place at regular meetings.
- Agency agendas must be placed on the agency's internet web site, if the agency has one.
- A majority of city council members cannot attend a private tour of a water district's facilities, but may attend a tour if it is properly noticed, open to the public and the only items discussed directly relate to the facilities.

¹ Gov. Code §§ 54950 et seq.

² Gov. Code § 54953(a).

³ Gov. Code § 54950.

⁴ Gov. Code § 54950.

⁵ Gov. Code § 54962.

⁶ Cal. Const. art. I § 3(b)(1).

⁷ Cal. Const. art. I § 3(b)(2).

⁸ 88 Ops. Cal. Atty. Gen. 16 (2005).

⁹ Gov. Code §§ 11120 et seq.

¹⁰ See, e.g., *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354, 36 Cal.Rptr.3d 47 (a multijurisdictional crime task force created by participating cities is a local agency subject to the Brown Act).

¹¹ Gov. Code § 54952(a).

¹² Gov. Code § 54952(b). See, e.g., *International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456; reh'g. den. by, mod. by (1999) 69 Cal.App.4th 1219c, review den. 1999. See also, 87 Ops.Cal.Atty.Gen. 19 (2004) (a joint labor-management committee created pursuant to a collective bargaining agreement is not a "legislative body" under the Brown Act).

¹³ *Taxpayers For Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 24 Cal.Rptr.3d 493, review den. (2005) 2005 CalLEXIS 5316.

¹⁴ *Epstein v. Hollywood Entertainment Dist. II Business Improvement Dist., et al.* (2001) 87 Cal.App.4th 862, 104 Cal.Rptr.2d 857, rev. denied (2001) 2001 Cal. LEXIS 3868, 85 Ops.Cal.Atty.Gen. 55 (2002).

¹⁵ Gov. Code § 549952(c); see also Attorney General Opinion No. 01-401 (March 14, 2002); and *International Longshoreman's & Warehouseman's Union v. L.A. Export Terminal, Inc.* (1999) 69 Cal.App.4th 287.

¹⁶ Gov. Code § 54952.2(a).

¹⁷ Gov. Code § 54952.2(c)(4).

¹⁸ Gov. Code § 54952.2(c)(6).

¹⁹ 81 Ops.Cal.Atty.Gen. 156 (1998).

²⁰ Gov. Code § 54953.

²¹ 84 Ops.Cal.Atty.Gen. 30 (2001).

²² *Ibid.*

²³ *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533, 50 Cal.Rptr.3d 524.

²⁴ *Id.* at pp. 545, 531.

²⁵ *Id.* at pp. 545, 531 fn. 6.

²⁶ Sen.Bill 1732 (Romero), Stats. 2008, Ch. 63.

²⁷ Gov. Code § 54952.2, amended by Sen.Bill 1732 (Romero), Stats. 2008, Ch. 63.

²⁸ Gov. Code § 54952.2(b).

²⁹ Gov. Code § 54952.2(b)(1)(2), added by Sen.Bill 1732 (Romero), Stats. 2008, Ch. 63.

³⁰ Gov. Code § 54954.

³¹ Only one general public comment period is required when a meeting is properly adjourned and continued to another day. *Chaffee v. San Francisco Library Comm'n.* (2004) 115 Cal.App.4th 461, 9 Cal.Rptr.3d 336.

³² *Galbisio v. Orosi Public Utility Com.* (2009) 167 Cal.App.4th 1063, 84 Cal.Rptr.3d 788.

³³ Gov. Code § 54954.2(a)(2).

- ³⁴ Gov. Code § 54954.3.
- ³⁵ *Chaffee v. San Francisco Public Library Comm'n.* (2005) 134 Cal.App.4th 109, 36 Cal.Rptr.3d 1.
- ³⁶ *Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors* (2005) 129 Cal.App.4th 205, 28 Cal.Rptr.3d 198, review den. (2005) 2005 Cal.LEXIS 7994.
- ³⁷ Gov. Code § 54954.3.
- ³⁸ Gov. Code § 54954.3(b); Penal Code § 403.
- ³⁹ Gov. Code §§ 54953.3, 54953.6.
- ⁴⁰ 90 Ops.Cal.Atty.Gen. 47 (2007).
- ⁴¹ Gov. Code §§ 54953.5, 54953.6.
- ⁴² Gov. Code § 54957.5(a). See also Gov. Code § 6255.
- ⁴³ Gov. Code § 54957.5(b)(1).
- ⁴⁴ *Id.*
- ⁴⁵ Gov. Code §§ 11123.1, 11125, 11125.1, 11135, 54953.2, 54954.1, 54954.2, and 54957.5.
- ⁴⁶ Gov. Code § 54954.1.
- ⁴⁷ *Ibid.*
- ⁴⁸ *Ibid.*
- ⁴⁹ *Ibid.*
- ⁵⁰ Gov. Code § 54953.
- ⁵¹ Gov. Code § 54954.2. Note: Advisory committees and standing committees are exempt from the requirement that each local agency's legislative body formally adopt a regular meeting schedule; but if an agenda for an advisory or standing committee meeting is posted at least 72 hours before the meeting, the meeting shall be considered a "regular" meeting of a legislative body under the Brown Act. § 54954(a).
- ⁵² 88 Ops.Cal.Atty.Gen. 218 (2005).
- ⁵³ Gov. Code §§ 11125, 11125.4, and 1125.5.
- ⁵⁴ Gov. Code § 54954.2(b).
- ⁵⁵ Gov. Code § 54954.2(b)(2).
- ⁵⁶ Gov. Code § 54956.
- ⁵⁷ Gov. Code § 54954.3.
- ⁵⁸ Gov. Code § 54956.5(a)(1).
- ⁵⁹ Gov. Code § 54956.5(a)(2).
- ⁶⁰ Gov. Code § 54957(a).

- ⁶¹ Gov. Code § 54954.2(a).
- ⁶² *Roberto Moreno v. City of King* (2005) 127 Cal.App.4th 17, 25 Cal.Rptr.3d 29.
- ⁶³ Gov. Code § 54957.7(a).
- ⁶⁴ Gov. Code § 54957.1.
- ⁶⁵ *Gillespie v. San Francisco Public Library Commission* (1999) 67 Cal.App.4th 1165, 79 Cal.Rptr.2d 649. See, however, 89 Ops.Cal.Atty.Gen. 110 (2006) (the Brown Act's reporting requirements do not apply to a legislative body's closed session rejection of a motion or other proposal to dismiss an employee).
- ⁶⁶ Gov. Code § 54957.6; A county board of education may not meet in a "labor negotiations" closed session to consider the salaries or compensation of certificated or classified employees of the county superintendent of schools. 85 Ops.Cal.Atty.Gen. 77 (2002).
- ⁶⁷ Gov. Code § 54957.6.
- ⁶⁸ Gov. Code § 54957.6.
- ⁶⁹ A county board of education, which by statute is not the employer of the county superintendent's employees, may not meet in closed session under the "personnel exception" of the Brown Act to consider the appointment, employment, evaluation of performance, discipline, or dismissal of certificated or classified employees of the county superintendent of schools. 85 Ops.Cal.Atty.Gen. 77 (2002).
- ⁷⁰ Gov. Code § 54957.
- ⁷¹ *Hofman Ranch v. Yuba County Local Agency Formation Com.* (2009) 172 Cal.App.4th 805, 91 Cal.Rptr.3d 458.
- ⁷² *Duval v. Coalinga-Huron Unified School Dist.* (2001) 93 Cal.App.4th 902, 113 Cal.Rptr.2d 517.
- ⁷³ *Ibid.*
- ⁷⁴ *Fischer v. Los Angeles Unified School Dist.* (1999) 70 Cal.App.4th 87, 82 Cal.Rptr.2d 452; rev. denied (1999).
- ⁷⁵ *Ibid.*
- ⁷⁶ *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876, 80 Cal.Rptr.2d 589; 78 Ops.Cal.Atty.Gen. 218 (1995).
- ⁷⁷ *Kolter v. Commission on Professional Competence of the Los Angeles Unified School Dist.* (2009) 170 Cal.App.4th 1346, 88 Cal.Rptr.3d 620.
- ⁷⁸ *Bollinger v. San Diego Civil Service Com.* (1999) 71 Cal.App.4th 568, 84 Cal.Rptr.2d 27.
- ⁷⁹ *Morrison v. Housing Authority of the City of Los Angeles Bd. of Comrs.* (2003) 107 Cal.App.4th 860, 132 Cal.Rptr.2d 453.
- ⁸⁰ See, e.g., *Bell v. Vista Unified School Dist.* (2000) 82 Cal.App.4th 672, 98 Cal.Rptr.2d 263, review den. (September 20, 2000); *Benitez v. Rio School Dist.* (2006) 2006 Cal.App.Unpub.LEXIS 674.
- ⁸¹ 88 Ops.Cal.Atty.Gen. 16 (2005).
- ⁸² (2009) 179 Cal.App.4th 48, 101 Cal.Rptr.3d 456.

⁸³ *Furtado v. Sierra Community College*, *supra*.

⁸⁴ Gov. Code § 54956.9(a); see, e.g., *Shapiro v. Board of Directors of the Centre City Development Corp.* (2005) 134 Cal.App.4th 170, 186, 35 Cal.Rptr.3d 826, 837, reh'g. den. (2006) 2006 Cal.LEXIS 3210 (the Brown Act does not authorize one local agency to delegate to another agency the authority to meet in closed session with the first agency's legal counsel).

⁸⁵ *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172, 42 Cal.Rptr.3d 200.

⁸⁶ Gov. Code § 54954.5(c).

⁸⁷ (2009) 180 Cal.App.4th 471, 102 Cal.Rptr.3d 902.

⁸⁸ Gov. Code § 54954.5(c).

⁸⁹ Gov. Code § 54954.5(c).

⁹⁰ *Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904, 117 Cal.Rptr.2d 631.

⁹¹ 93 Ops.Cal.Atty.Gen. 51 (2010)

⁹² Gov. Code § 54954.5(b).

⁹³ Gov. Code § 54954.5(e).

⁹⁴ Gov. Code § 54954.5(d).

⁹⁵ Sen. Bill 671 (Poochigian), Stats. 2001, Ch. 45.

⁹⁶ Gov. Code § 54956.96(b).

⁹⁷ 46 Ops.Cal.Atty.Gen. 34 (1965).

⁹⁸ See 82 Ops.Cal.Atty.Gen. 29 (1999). See also 84 Ops.Cal.Atty.Gen. 30 (2000): The mayor of a charter city may not attend a closed session of the city's redevelopment agency, the members of which are appointed by the mayor with the approval of the city council, when the purpose of the closed session is to conduct a conference with the agency's real property negotiators who are negotiating the disposition and development of property, a portion of which is owned by the city, for construction of a publicly financed and publicly owned city conference center and privately financed and developed hotel complex.

⁹⁹ *Ibid.*

¹⁰⁰ Gov. Code § 54957.1(a).

¹⁰¹ Gov. Code § 54957.1(b).

¹⁰² See Gov. Code §§ 54954.1 and 54956.

¹⁰³ 80 Ops.Cal.Atty.Gen. 308 (1998).

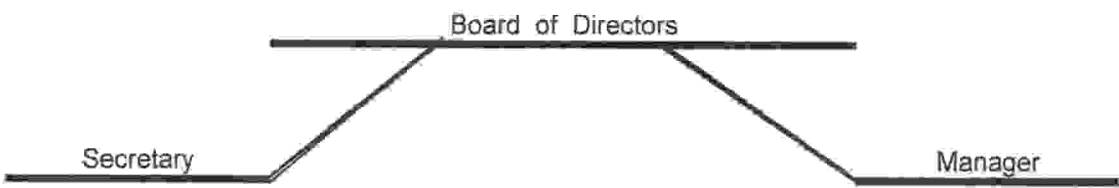
¹⁰⁴ 67 Ops.Cal.Atty.Gen. 112, 115-117 (1984).

¹⁰⁵ 80 Ops.Cal.Atty.Gen. 231 (1997).

¹⁰⁶ Gov. Code §§ 6250 et seq.

¹⁰⁷ Gov. Code § 54957.2(a).

- ¹⁰⁸ *Kleitman v Superior Court* (1999) 74 Cal.App.4th 324, 87 Cal.Rptr.2d 813, reh'g. den. (1999) 74 Cal.App.4th 1231b; review den. (November 10, 1999).
- ¹⁰⁹ Gov. Code § 54963; *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050, 1054, 261 Cal.Rptr. 888, 889.
- ¹¹⁰ Gov. Code § 54963; *Sacramento Newspaper Guild v. Sacramento County Bd. of Supervisors* (1968) 263 Cal.App.2d 41, 47, 69 Cal.Rptr. 480, 484.
- ¹¹¹ Gov. Code § 54963; *People v. Tice* (1956) 144 Cal.App.2d 750, 754, 301 P.2d 588, 591.
- ¹¹² Gov. Code § 54963; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 201 Cal.Rptr. 654.
- ¹¹³ Gov. Code § 54963.
- ¹¹⁴ Gov. Code § 54953(b)(4).
- ¹¹⁵ See 84 Ops.Cal.Atty.Gen. 181 (2001). The Attorney General concluded that the ability to attend scheduled meetings that are accessible to the public is an essential function of the job of an elected official. Consequently, a city council was not required under the ADA to provide a teleconferencing connection at a site inaccessible to the public for a city council member or city advisory board member who is unable to attend a public board meeting due to a disability.
- ¹¹⁶ Gov. Code §§ 54960, 54960.1.
- ¹¹⁷ *McKee v. Orange Unified School Dist.* (2003) 110 Cal.App.4th 1310, 2 Cal.Rptr.3d 774.
- ¹¹⁸ *Holbrook v. City of Santa Monica* (2006) 144 Cal.App.4th 1242, 51 Cal.Rptr.3d 181.
- ¹¹⁹ *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 83 Cal.Rptr.2d 164.
- ¹²⁰ *Id.*, at p. 1119; § 54960.1.
- ¹²¹ *California Alliance for Utility etc. Education v. City of San Diego* (1997) 56 Cal.App.4th 1024, 65 Cal.Rptr.2d 833, review den. (1997) 1997 Cal.LEXIS 7599.
- ¹²² *Ingram v. Flippo* (1999) 74 Cal.App.4th 1280, 89 Cal.Rptr.2d 60, review den. (1999).
- ¹²³ Gov. Code § 54960.5.
- ¹²⁴ Gov. Code § 54960.5.
- ¹²⁵ Code Civ. Proc. § 425.16(c), citing Gov. Code § 54960.5.
- ¹²⁶ *Los Angeles Times Communications v. Los Angeles County Bd. of Supervisors* (2003) 112 Cal.App.4th 1313, 5 Cal.Rptr.3d 776.
- ¹²⁷ *Ibid.* (citations omitted).
- ¹²⁸ Gov. Code § 54959.
- ¹²⁹ Gov. Code § 54952.3.
- ¹³⁰ Gov. Code §§ 54954.2 and 54956.
- ¹³¹ 2011 WL 3863022 (Cal.A.G.) August 26, 2011



SECTION III

DISTRICT OPERATIONS

Part 1 -- Overview of Community Service District

Part 2 -- Code of Ethics

Part 3 -- Goals

Part 4 -- Revenue

Part 5 -- Permit Procedure

Part 6 -- Collection of Repair / Reimbursement

Part 7 -- Mailbox Location / Clusters

Section III

Part 1 Overview of Community Service District

- ❖ Size of District and names of roads
- ❖ Definition Policy
- ❖ Construction, Appeal and Violation Regulations
- ❖ Erosion and Sedimentation Control
- ❖ Policy for Property Owners Repairs to Their Encroachments
- ❖ Removal of Animals From District Roadways

Copper Cove Rocky Road Community Service District

P. O. Box 357
Copperopolis, CA 95228
(209) 7852405

The District has sixteen (16) miles of roads.

The following are the roads are included in the Copper Cove Rocky Road Community Service District:

Acorn St	Mohawk Ct
Basket Ln	Mono Ct
Basket Ct	Nabo Ct
Bearclaw Way	Pamo Ct
Beaver Rd	Papoose Dr
Beaver Ct	Pinion Ct
Black Creek Dr	Pinon Dr
Brave St	Quill Rd
Buffalo Way	Quail Hill Ct
Canoe St	Quail Hill Rd
Cheyenne Rd	Quiver Rd
Chief Rd	Salmon Rd
Choctaw RD	Salmon Ct
Feather Dr	Sawmill Rd
Fox Ct	Squaw Dr
Hoko Ct	Sugar Loaf Ct
Hoyo Ct	Yana Ct
Inya Ct	Yolo Ct

DEFINITION POLICY

III PART 1

Definitions. As used in this policy;

1. "Encroach" includes going upon, over, under or using any right-of-way in such a manner as to prevent, obstruct or interfere with the normal use of that way, including the performance, thereon of any of the following acts:

A. Excavating or disturbing the right-of-way;

B. Erecting or maintaining any post, sign, pole, fence, guardrail, wall, mailbox, loading platform or other structure on or over or under the right-of-way;

C. Planting any tree, shrub, grass or structure on or over or under the right-of-way;

D. Placing or leaving on the right-of-way any rubbish, brush, earth or other material of any nature whatever;

E. Constructing, placing or maintaining on, over, under or within the right-of-way of any pathway, sidewalk, curbs, driveway or other surfacing any culvert or other surface drainage or subsurface drainage facility, any pipe, conduit or cable;

F. Traveling or parking on the right-of-way by any vehicle or combination of the vehicles or object of dimension, weight or other characteristic prohibited by law without a permit;

G. Lighting or building a fire;

H. Constructing, placing, planting or maintaining any structure, embankment, excavation, tree or other object adjacent to the right-of-way which causes or will cause an encroachment.

I. Parking of any vehicle, whether permanent or temporary.

2. "Permittee" means any person(s), firm, company corporation, association, public agency or organization that proposes to do work or encroach upon a Copper Cove Rocky Road Community Service District road, as defined in this section, and has been issued a permit for said encroachment by the District Designated Agent. All obligations, responsibilities and other requirements of the permittee, as described in this subsection, shall be binding on subsequent owners of the encroachment.

3. "Copper Cove Rocky Road Community Service District road" means the full width of the surfaced or traveled portion, including shoulders and ditches, slopes of cuts and fill of any road, street, drive, or lane accepted by The Copper Cove Rocky Road Community Service which is privately maintained, and dedicated for public use. This does not include the state highway system, county road system, or of an incorporated city street system.

4. "Right-of-way" means all land or interest therein which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public, including "Copper Cove Rocky Road Community Service District" as defined in this section.

CONSTRUCTION, APPEAL AND VIOLATION REGULATIONS

Section:

1. Conformance to Specifications and Standards.
2. Notice to District's Designated Agent - Start of work.
3. Notice to District's Designated Agent Completion of work.
4. Interference with use.
5. Warning signs, lights and safety devices.
6. Restoration of right-of-way.
7. Relocation or removal.
8. Drainage.
9. Minimum cover.
10. Backfilling.
11. Poles, transmission line carriers and guy wires.
12. Aids to visibility.
13. Mail Boxes.
14. Appeal procedure.
15. Violation of Policy

CONSTRUCTION, APPEAL AND VIOLATION REGULATIONS

1. Conformance to specifications and standards. All construction or encroachment work done under a permit issued by this District shall conform to specifications established by the District's Designated Agent or, in the absence of established specifications, to recognized standards of construction and approved practices in connection with such work. All construction or encroachment work shall be done subject to approval of the District's Designated Agent.

2. Notice to District's Designated Agent – Start of work. Before beginning any work which includes excavation, construction of concrete sidewalks, curbs, gutters, culverts or driveway approaches, planting, trimming or removing trees, or making, placing or causing an obstruction in the right-of-way, the permittee shall notify the District's Designated Agent of the time of the beginning work unless otherwise exempt in the permit.

3. Notice to District's Designated Agent Completion of work. Unless this section is waived in the permit, the permittee, upon completion of all work, shall notify the District's Designated Agent. No work shall be deemed to be completed until notice of completion is given to the District's Agent.

4. Interference with use. All work or use shall be planned and executed in a manner that will cause least interference with the safe and convenient travel of the general public at the place where the work or use is authorized; and at no time shall the Districts' roads be closed, or the use thereof denied the general public, without the written permission of the District's Designated Agent, nor shall use of the private property be interfered with unreasonably without the consent of the owner.

5. Warning signs, lights and safety devices.

A. The permittee in the conduct of the work, use or maintenance of an encroachment authorized by a permit issued pursuant to this policy, shall provide, erect and/or maintain such lights, barriers, warning signs, patrols, watchmen and other safeguards as are necessary to protect the traveling public.

B. The permittee shall comply with all requirements of law and appropriate regulations and ordinances for adequately protecting the safety of those using the Districts roads. If, at any time, the District's Designated Agent finds that suitable safeguards are not being provided, the District may provide, erect, maintain, relocate or remove such safeguards as are deemed necessary or may cancel the permit and restore the right-of-way to its former condition, all at the expense of the permittee.

C. A permittee making any excavation or erecting or leaving any obstruction within, under or upon the right-of-way, or causing the same to be made, erected or left, shall place and maintain lights at each end of the

excavation or obstruction, at not more than fifty-foot intervals along the excavation or obstruction, from one-half hour before sunset of each day to one-half hour after sunrise of the next day, until the excavation is entirely refilled or the obstruction removed and the right-of-way made safe for use. In addition, reflector warning signs conforming to the requirements of the California Division of Highways shall be placed two-hundred and four-hundred feet from each excavation or obstruction, in such a position as to adequately warn public traffic.

D. The warning signs, lights and other safety devices shall conform to the requirements of Section 21406 of the Vehicle Code and of any sign manual issued by the Department of Public Works of the state.

6. Restoration of right-of-way.

A. Upon completion of the work, acts or things for which a maintenance of encroachment permit was issued, or when required by the District, the permittee shall replace, repair or restore the right-of-way to proper functional condition or as directed by the Districts Designated Agent. The permittee shall remove all obstructions, impediments; material or rubbish caused or placed upon the right-of-way and shall do any other work or perform any act necessary to restore the right-of-way to a safe and usable condition, as directed by the Districts Designated Agent.

B. After completion of all work, the permittee shall exercise reasonable care in inspecting and maintaining the area affected by the encroachment. The permittee shall, upon notice from the Districts Designated Agent, immediately repair any injury, damage, or nuisance, in any portion of the right-of-way. In the event that the permittee fails to act promptly, or should the exigencies of the injury or damage require repairs or replacement to be made before the permittee can be notified or can respond to notification, the District may, at its option, make the necessary repairs or replacements or perform the necessary work, and the permittee shall be charged with actual costs of labor and materials.

7. Relocation or removal.

A. If any future construction, reconstruction or maintenance work on the District's right-of-way requires the relocation or removal of installations or encroachments in, on or under the District's right-of-way, the permittee owning, controlling or maintaining such installations or encroachments shall relocate or remove the same at this sole expense.

B. When removal or relocation is required, the District's Designated Agent shall give the permittee a written demand specifying the place of relocation, or that the installations or encroachment must be removed from the right-of-way and specifying a reasonable time within which the encroachment must be removed or relocated. If the permittee fails to comply with said instructions, the District may cause the removal or relocation of the encroachment at the expense of the permittee.

8. Drainage. If the work, use or encroachment authorized in a permit issued pursuant to this District interferes with the established drainage, the

permittee shall provide for proper drainage as approved by the District's Designated agent.

9. Minimum cover.

A. The minimum cover over any and all pipes or conduits larger than two and one-half inches installed within the right-of-way shall be three feet of earth or imported material, unless otherwise specified in the permit. Within the District's roads the minimum cover of three feet shall be measured from the surface existing or planned.

B. The District's Designated Agent is authorized to permit installation of pipes or conduits where three feet or cover cannot be provided because of the topography, structures or other engineering necessity.

10. Backfilling. Backfilling and compaction of an excavation shall be in accordance with specifications established by the Resolution No. 62-183 of the Board of Supervisors, both as to material and method.

11. Poles, transmission line carriers and guy wires.

A. Clearances and types in the construction of poles and transmission line carriers shall be in accordance with rules, regulations and orders of the public utilities commission and other public agencies having jurisdiction.

B. No guy wires are to be attached to trees without specific authorization to do so in the permit, and in no event shall guy wires be so attached as to girdle the tree or interfere with its growth. Guy wires shall not be below the minimum elevation above the ground, prescribed in the rules, orders and regulations of the public utilities commission.

12. Aids to visibility. When the location or position of a pole or other obstruction makes accentuation of its visibility to vehicular traffic necessary, the District's Designated Agent may require that the pole or other obstruction be painted or equipped with reflectors or other aids to visibility prescribed or authorized by the Public Utilities Commission or the Department of Public Works of the state or county at the expense of the permittee.

13. Mail Boxes. All mailboxes must be placed in accordance with the rules and regulations of the United States Post Office Department and the District, but no box shall be placed within the road right-of-way so as to endanger the life or safety of the traveling public. A permit is not required for the placing of mailboxes.

14. Appeal procedure.

A. Any person aggrieved by the refusal of a permit or by decisions made by the District's Designated Agent may appeal to the Directors of Copper Cove Rocky Road Community Service District.

B. If the Board of Directors, after a hearing, finds all of the following to be true, the permit shall be granted:

1. That the applicant will be substantially damaged by the refusal to grant the permit as requested;

2. That no other reasonable method of obtaining the desired results is available except as proposed by the applicant;

3. That the granting of the permit will not be materially detrimental to the public interest, safety, health and welfare or injurious to other property.

15. Violation of Policy. Any person, firm, corporation or other body or association of persons who violates this policy is subject to law suit by the District. Non compliance of proper installation of approved encroachments may result in the installation of an approved encroachment by the District, resulting in a lien against the property for the cost of installation of said encroachment.

EROSION AND SEDIMENTATION CONTROL

Erosion control facilities and measures are to be installed and operable on or before October 15 and shall continue in effect until May 15 or until installation of the permanent project landscaping.

As soon as practicable following each storm, the property owner shall remove any accumulation of silt or debris from the erosion control basin and shall clear the outlet pipe(s) of any blockage.

All soil disturbed by grading, spraying, any type of vegetation removal, etc. shall be reseeded and mulched or hydro mulched as soon as possible, by the property owner, but no later October 15 of the same year said disturbance occurred.

Emergency erosion control measures shall be utilized as determined by the District Board of Directors or their representative.

SAMPLE OF EROSION REPAIR

Check with County Agriculture Department for native grass reseeding.

Broadcast annual rye grass and blanket area with clean rice straw blankets. Install jute netting. Use straw waddle as necessary.

Policy for Property Owners Repairs to Their Encroachments

It is the responsibility of the property owner to maintain their encroachments. This includes, keeping the culvert cleared and free of blocking debris, repairing or replacing crushed culvert pipe, repair of asphalt or concrete, etc.

The District will inform property owners of necessary repairs to their encroachments or property that is causing damage to the District roadway/right-of-way. The necessary repair(s) will be determined by the District.

The property owner should have adequate time (**adequate time will be determined by the District**) to make required repairs unless said repairs are determined to be an emergency and/or necessary to prevent a hazardous situation or a situation that by lack of immediate repair causes more or continuing damage (including but not restricted to ditching, draining, asphalt breakage, etc.) to the District roadways.

A hazardous or emergency situation will be determined by the District.

If the property owner(s) can not or will not make required repairs, the District reserves the right to make immediate emergency repairs. The cost of emergency repairs may be passed on to the property owner(s).

SECTION III
DISTRICT OPERATIONS

Removal of Animals From District Roads

It is NOT the responsibility of the Copper Cove Rocky Road Community Service District to remove any live, dead, or dying animals from the District roadways and/or property.

Furthermore, it is not within their authority to do so, and therefore the District does include in their policy that they shall NOT be involved in the removal of any such animals from the District roadways or property.

SECTION III

Part 2 Code of Ethics

The District Board of Directors will be in compliance with AB 1234 as required by State of California law. AB 1234 requires the individual Directors of the Board of Directors to receive at least two hours of training, every two years, in the general ethics principles and ethics laws relevant to their public service.

The individual Directors may choose to take this required training on-line or from a live presenter.

The Board as a whole will review the District's Conflict of Interest Code each two years as directed by the County of Calaveras.

Each individual Director will be responsible for complying with the Conflict of Interest Code by filing the Form 700 as required.

SECTION III

Part 3 Goals

The goals of this District are;

- 3.1 Maintain the roadways to a high level condition for safe travel.
- 3.2 Maintain safe environment and driving condition by implementing speed control and installing safety features, (i.e.) guard rails, signs, etc., do repairs, shoulder work, inspections of encroachments as needed, and trimming vegetation to maintain clear visibility.
- 3.3 See that proper encroachments are installed to preserve our roadways. Ensure proper permits are obtained and proper procedures are followed. Property owners may be required to re-do or improve their encroachment if it is no longer providing proper function.
- 3.4 Continuously evaluate condition to ensure future good quality of roadways.
- 3.5 Continuously maintain and improve the aesthetics of our roads in the District by: trimming trees, brush, etc. encourage anti-litter, and doing a courtesy weed spray when possible on shoulders of the roads.

Part 4 Collection of Fee

The annual District fees are billed on your property tax statement which is issued from the Tax Collector's Office of Calaveras County.

4.1 Revenue

In the event that Copper Cove Owners Association allows a division of property, allowing a multiple family dwelling (s), each living unit will pay the annual road fee.

Even if a parcel already has access, obtained a permit, and / or has an encroachment, they cannot impact Copper Cove Rocky Road CSD by opening that encroachment to thru traffic from outside the District boundary.

4.4 Over Payment of District Fee

If a property owner finds a discrepancy on the tax billing, they have six months from the date of the billing to bring this discrepancy to the attention of the Board of Directors for appropriate action.

At that time, the Board may decide to refund the disputed amount for the current year only. All actions are at the discretion of the Board of Directors.

Part 5 Permit Procedure

5.1 Obtaining a Permit

A permit must be obtained before beginning construction of an encroachment to any property with the Copper Cove Rocky Road Community Service District. The permit may be obtained by contacting the District Manager. It is also, necessary for the property owner to obtain a new permit when making any changes in an existing encroachment.

5.2 Permit Fee

Effective January 1, 2005; the cost of obtaining an encroachment permit will be \$ 25.00. This is a non-refundable fee. All expired permits will have to be renewed and must pay the permit fee of \$ 25.00 for renewal. If an extension is requested before the expiration date of the permit, it may be renewed without paying the additional fee.

Part 6 Collection of Repair Reimbursement

6.1 Repair Responsibility

The District may charge for repairing any damage caused by anyone (property owner, resident, visitor, worker, etc.) whether that damage is caused directly or indirectly.

The minimum charge for damage repair will be two hours labor cost, plus any other resulting cost for material and/or supplies, etc... The labor rate is established by the District.

6.2 Policy for Repairs

The District will inform property owners of necessary repairs to their encroachments or property that is causing damage to the District roadways. The necessary repair (s) will be determined by the District.

The property owner should have adequate time (adequate time will be determined by the District) to make required repairs unless said repairs are determined to be an emergency and/or necessary to prevent a hazardous situation or a situation that by lack of immediate

repair causes more or continuing damage (including but not restricted to ditching, draining asphalt breakage, etc.) to the District roadways.

A hazardous or emergency situation will be determined by the District. If the property owner (s) can not or will not make required repairs, the District reserves the right to make immediate emergency repairs. The cost of emergency repairs may be passed on to the property owner (s). The District has the right to put a lien against the property owner to recoup the cost of repairs.

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT POLICY MANUAL

SECTION III DISTRICT OPERATIONS

Part 7 Mailboxes

The Copper Cove Rocky Road CSD has the authority to choose location, relocate or cause to relocate the U.S. Postal Service mailboxes. This includes requesting and causing Clustering of the U.S. Postal Services mailboxes. This may be done to insure safety and/or reduce damage to District roads.

Repair of any damage caused by not getting approval of mail box placement is the responsibility of the property/homeowner.

632.524 Location

Curbside mailboxes must be placed so that they may be safely and conveniently served by carriers without leaving their conveyances. They must be reasonably and safely accessed by customers. Boxes must also be on the right-hand side of the road and in the carrier's direction of travel in all cases where driving on the left-hand side of the road to reach the boxes would pose a traffic hazard or violates traffic laws and regulations. On new rural or highway contract routes, all boxes must be on the right side of the road in the carrier's direction of travel. Boxes must be placed to conform to state laws and highway regulations. Carriers are subject to the same traffic laws and regulations as are other motorists. Customers must remove obstructions, including vehicles, trash can, and snow that make delivery difficult. Generally, mailboxes are installed at a height of 41 to 45 inches from the road surface to the bottom of the mailbox or point of mail entry. Mailboxes are set back 6 to 8 inches from the front face of the curb or road edge to the mailbox door. Because of varying road and curb conditions and other factors, the Postal Service recommends the customers contact the postmaster carrier before erecting or replacing their mailboxes and supports.

632.525 Grouping

Boxes should be grouped wherever possible, especially at or near crossroads, service turnouts, or other places where a considerable number of boxes are presently located.

Part 7 Mailboxes

The Copper Cove Rocky Road CSD has the authority to choose location, relocate or cause to relocate the U.S. Postal Service mailboxes. This includes requesting and causing clustering of the U.S. Postal Service mailboxes. This maybe done to insure safety and / or reduce damage to District roads.

Section IV

Regulations Regarding Paid Employees

Part 1 -- Positions

Part 2 -- Compensation

SECTION IV REGULATIONS REGARDING PAID EMPLOYEES

Part 1 Hired Positions

In accordance with the State of California, Title 6, Division 3, Chapter 2, Other Officers and Employees, Section 61240; Appointment of Manager and Secretary:

The Board of Directors of the Copper Cove Rocky Road Community Service District did, at its first meeting or as soon thereafter as was practicable, appoint by majority vote of the Board;

- (a) A general manager;
- (b) A secretary who shall also act as treasurer.

SECTION IV REGULATIONS REGARDING PAID EMPLOYEES

Part 2 Compensation

2.1 Annual Cost of Living Allowance (COLA)

The paid staff of the Copper Cove Rocky Road Community Service District shall be considered for and may be given a Cost of Living Allowance on July 1st of each fiscal year. If a COLA is given it shall be no less than the national average COLA for that year.

2.2 Payroll Dates

The regular payroll dates for the employees of the Copper Cove Rocky Road Community Service District shall be the fifteenth (15th), and the last day of each month.

Section V

Purchasing

Part 1 -- Purchasing Policy

SECTION V PURCHASING

Part 1 Purchasing Policy

1.1 Purchase limits.

The District Manager has the authority to spend a ceiling amount of \$ 2,000.00 for maintenance and / or materials without submitting to the Board of Directors for a prior authorization.

1.2 Use of District checking account.

All checks paid out require the signatures of two Board Members.

However, one signature checks will be obtained for authorized payments to be made in the interim of the following regular meeting. These one signature checks will be listed on the check register report presented to the Board at each regular board meeting.

The secretary will make payment of payroll, and all accounts payable as they are due to be paid and will report all payments on the check register report at the regular monthly meeting with the Board of Directors.

Section VI

Occupational Safety and Health

Part 1 – Injury and Illness Prevention Plan

Section VII

Standard District Forms

Part 1 – Permit Policy

Part 2 – Permit Information and Instructions

Part 3 – Application for Permit

Part 4 – Permit

Part 5 – Work Order

Part 6 – Equipment Log (MISSING)

PERMIT POLICY

PART #1

Section:

1. Permit—Required for designated acts.
2. Permit—Non-acceptable applications.
3. Permit—Emergency maintenance.
4. Permit—Not to annul right of lawful use.
5. Exemptions—District Officers.
6. Permit application—Form—Permit Issuance.
7. Permit application—Consent of Public Bodies.
8. Right to Refuse Encroachment Permit.
9. Permit—Deadline to Begin Work-Term.
10. Permit—Deadline to Complete Work.
11. Permit—Nontransferable.
12. Permit—Changes.

PERMIT POLICY

The Copper Cove Rocky Road Community Service District has adopted the Calaveras County Encroachment Standards.

1. Permit—Required for designated acts. Any person, firm, corporation, or association is required to obtain a written permit to encroach or to make or cause to be made any encroachment of any nature whatever within, upon, over or under the limits of any right-of-way within the boundaries of the District or to make or cause to be made any alteration of any nature within, upon, over or under such right-of-way; or to remove, cut or trim trees thereon; or to set a fire thereon; or to place on, over or under such right-of-way any pipeline, conduit or other fixtures; or to move over or cause to be moved over the surface of any right-of-way or over any bridge, viaduct or other structure maintained by the District any vehicle or combination of vehicles or other object of dimension or weight prohibited by law or having other characteristics capable of damaging the right-of-way, or to place any structure, wall, culvert or similar encroachment, or to make any excavation or embankment in such a way as endanger the normal usage or the right-of-way; or to make any excavation causing a change to the Districts normal usage such as ditches, culverts, grading, etc.

2. Permit—Non-acceptable applications. No application will be accepted nor permit issued for construction or maintaining a loading platform upon a right-of-way, or for erecting using or maintaining therein or thereon a post, pole, column or structure for support for advertising signs. Any such installation is an illegal encroachment.

3. Permit—Emergency maintenance. This section shall not prevent any person, association, firm or corporation from performing emergency maintenance on any pipe or conduit lawfully on or under any District road, or from making an emergency use or encroachment as may be necessary for the preservation of life or property when an urgent necessity therefore arises.

4. Permit—Not to annul right of lawful use. Any permit granted under this chapter shall not annul the right of the District or any person, firm, corporation, District or association entitled to use that part of the right-of-way for any purpose for which it may be lawfully used, and no part of the District roads shall be unduly obstruct at any time.

5. Exemptions—District Officers. This policy does not apply to any officer or employee of the District in the discharge of his official duties.

6. Permit application—Form—Permit Issuance.

A. The written permits required by this policy shall be issued by the District's Designated Agent for any use, subject to conditions set forth in the policy.

B. The District's Designated Agent shall prescribe and provide a regular form of application for a permit required by this policy. The application form shall be completed and signed by the applicant and filed with the District.

C. The District's Designated Agent may require the applicant to provide policy of liability insurance and a bond or security as the District's Designated Agent deems adequate to protect the District. The applicant may also be required to name the District as additional insured.

7. Permit application—Consent of Public Bodies.

The applicant shall also enclose with, attach to or add to the application copies of the written order or consent to any work there under, required by law, the public utilities commission, sanitary district, water district or any other public body having jurisdiction. A permit shall not be issued until and unless such order or consent, if required is first obtained and evidence thereof filed with the District's Designated Agent.

The permittee shall keep him/her self adequately informed of all state and federal laws and local ordinances and regulations which in any manner affect the permit. The applicant shall at all times apply with and shall cause all his agents and employees to comply with all such laws, ordinances, regulations, decisions, court and similar authoritative orders; and shall protect and indemnify the District and all of the officers, agents and employees against any claims of liability proximately caused by the violation of any such law, ordinance, regulations or order issued under police power and in accordance with law, whether by himself or by his agents or employees.

8. Right to Refuse Encroachment Permit.

A. The Copper Cove Rocky Road Community Service District reserves the right to refuse issuance of encroachment permits for the purpose of connecting any district road to any property in or not in the District, i.e., any private property, firm, company, corporation, association, public agency, organization, etc. wanting to encroach, (as defined in this policy), with any past, present or future roads, highway streets, paths, lanes, trails, alleys, etc. to the District roads.

B. The District also reserves the right to limit the number of driveway encroachments for any property in the District.

C. The District reserves the right to refuse issuance or encroachment permit, or cause removal of existing encroachment to properties in the District being used or planned for future use in the District to be used for accessing property not in the District, i.e., constructing any roads, highways, streets, paths, lanes, trails, or alleys to run from any property out of the District through any property in the District for encroachment to any District right-of-way.

9. Permit—Deadline to Begin Work-Term.

The permittee shall begin the work or use authorized by a permit issued pursuant to this Policy within ninety (90) days from date of issuance, unless a different period is stated in the permit, then the permit shall become void, unless prior to its expiration the time for commencement has been extended in writing by the District's Designated Agent.

10. Permit—Deadline to Complete Work.

The permittee shall complete the work or use authorized by a permit within the time specified in the permit. If, at any time, the District's Designated Agent

finds that delay in the commencing, prosecuting or completing of the work or use authorized is due to lack of diligence on the part of the permittee, he/she may cancel the permit and restore the right-of-way to its former condition. The permittee shall reimburse the District for all expenses incurred by the District in restoring the right-of-way.

11. Permit—Nontransferable.

No permit issued pursuant to this policy is transferable. The person or persons, public agency, firm or corporation actually making and/or maintaining the encroachment shall obtain the permit.

12. Permit—Changes.

No changes may be made in the location, dimensions, character or duration of the encroachment or use as granted by the permit except on written authorization by the District's Designated Agent, except that no permit shall be required for the continuing use or maintenance of encroachments installed by public utilities, or for changes therein or there to where such changes or additions require no excavation of the right-of-way.

ENCROACHMENT PERMITS: Information and Instructions

PART #2

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT - (209) 785-2405

Your Driveway (Encroachment) Permit

If you live in the Copper Cove Rocky Road Community Service District (most of Units 2, 3, & 4 of Copper Cove Village), you will need a driveway encroachment permit if you want to build a house or in anyway add to the use of your driveway. The permit allows you to build a driveway to the District road in the District's right of way. Any work done within the District's right of way without a permit could result in a fine.

Who needs a Permit?

Any person, corporation or association will be required to obtain a permit to encroach or to make or cause to make any encroachment of any nature whatever within, over, upon, or under the limits of any right of way within the boundaries of the District, any Pertinence to Encroachment Ordinance.

How Do You Get an Encroachment Permit?

Call the Copper Cove Rocky Road Community Service District at (209) 785-2405 or 785-2406. You may also write requesting a permit at CCRRCSD, P.O. Box 357, Copperopolis, CA 95228. You will be sent a packet with instructions including an application for a permit.

When you return your request for permit with your \$25.00 fee, be sure your parcel number, unit number and lot number are on the permit along with other pertinent information. You may need flags to mark where you want to put your driveway.

Call Copper Cove Rocky Road Community Service District when you have indicated where you want your encroachment. This will be inspected for safety and to determine the type of encroachment you need. You may then proceed with construction of your encroachment. Important reminder: It is necessary to get all inspections.

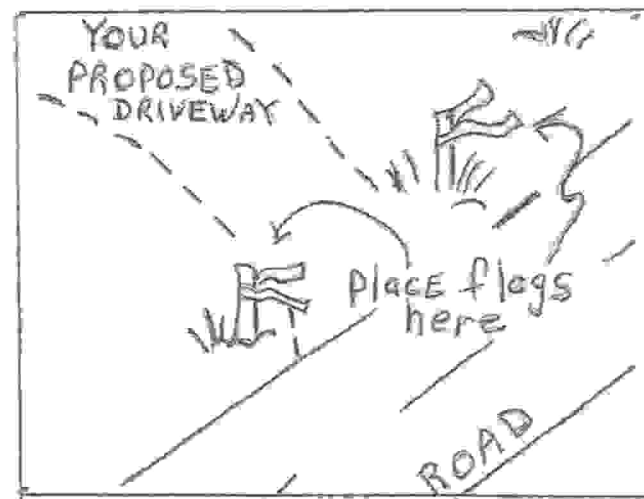
If you are putting in an Asphalt Driveway Encroachment, you will need a grade inspection before laying your asphalt paving.

If you are putting in a Concrete Driveway Encroachment, you will need a grade and concrete forms inspection before pouring your concrete.

Please allow ample time in calling to request inspections.

When your driveway encroachment is finished:

Call Copper Cove Rocky Road Community Service District for a final inspection. If the work is not completed by the permits expiration date the District may levy a non-compliance fee.



COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT

P.O. Box 357 Copperopolis, CA 95228 (209) 785-2405

APPLICATION FOR PERMIT

THIS PERMIT VOID IN 90 DAYS

Date _____

Description or type of construction (asphalt or concrete)

The undersigned hereby applies for permission to construct upon: _____
(Street Name)

(Cross street, unit #, lot #, or further descriptions)

The undersigned hereby agrees to perform all work and furnish all materials as specified herewith, and work shall be in accordance with the rules and regulations as set forth by the Designated District Agent. Section 08.12.120 states, "The applicant shall at all times comply with and shall cause all his agents and employees to comply with all such laws, ordinances, regulations, decisions, court and similar authoritative orders; and shall protect and indemnify the District and all of its officers, agents and employees against any claims of liability proximately caused by the violations of any such law, ordinance, regulations, or order issued under policy power and in accordance with law, whether by him or by his agents or employees." I further agree to call for inspection of the work as noted in the requested permit.

Call (209) 785-2405 FOR INSPECTIONS (48 HOUR NOTICE IS REQUIRED)

(Contractor/Company's Name)_____
(Owner's Name)_____
(Contractor's mailing address)_____
(Owner's Address)_____
(City, State and ZIP)_____
(City, State and ZIP)_____
(Contact person and phone number) Please print or type_____
(Signature)

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT

P.O. Box 357

Copperopolis, CA 95228

Phone (209) 785 2405 - Fax (209) 785 2405

Application for Encroachment Permit II
Street Opening, Utility, Commercial, and Individual

Fee: \$_____ App. Date_____ Lot(s) Nr._____

The undersigned hereby applies for permission to encroach upon:

Roadname(s):_____

Other description: _____

To do the following work:_____

Estimated START date:_____Estimated COMPLETION date:_____

The undersigned hereby agrees: **1.** To perform all work and furnish all materials as specified herewith; **2.** To notify the Copper Cove Rocky Road Community Service District at least 48 hours prior to the start of any work done under this permit;

3. To call for all inspections required in the permit and such other inspections as may be deemed necessary by the inspector; **4.** It is understood that the permit applied for shall not take effect for the purpose of performing the actual work until: a) the Contractor is fully identified and has signed this application; b) The responsible party for payment of the fee has been identified and signed this application; c) A Fee, where required, has been made with the CCRRCSD.

5. It is further agreed that any special conditions set forth at preliminary issue of this permit may be subject to change if work is not started within 90 days of preliminary issue.

6. Failure to submit detailed plans or complete this application may delay approval of this permit. **7.** The permittee is responsible for repair and is held responsible for that repair for a period of one year after completion of project. Forty (48)

hour notice required for final inspection.

DESIGNATED CONTRACTOR

PERMITTEE

Firm Name_____ Utility or Individual_____

Signature_____ Signature_____

Print Name_____ Print Name_____

Address_____ Address_____

Phone_____ Phone_____

Contractor Lic. No._____ ☐ Work to be done by Utility forces

Responsible for Performance and one-year Guarantee Fee: ☐ Contractor ☐ Permittee

Office Information:

COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT

ENCROACHMENT PERMIT

This permit is validated by the Copper Cove Rocky Road Community Service District's designated agent's signature on the permit application and permission is thereby granted to the owner/contractor named below to perform all work necessary to complete the below encroachment in compliance with Calaveras County Code Chapter 12.08. Permanent parking on the right-of-way is not allowed. This issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for or approval of any violation of any of the provisions of the laws and ordinances of the State or County. This permit shall not prevent the District official from thereafter, requiring the correction of errors in said plans and specification or construction. For inspections call the district at (209) 785-2405.

FOR OFFICE USE ONLY:

ISSUE DATE _____ EXPIRATION DATE _____

TYPE OF CONSTRUCTION _____ **Forty Eight (48) hour
notice is required
for inspection**

INITIAL INSPECTION (date) _____ Initials _____
(Flags placed at desired encroachment)

SECOND INSPECTION (date) _____ Initials _____
(Required before pouring concrete or applying asphalt)

FINAL INSPECTION (date) _____ Initials _____
(Failure to obtain final inspection may result in homeowner paying a higher annual fee)

Owner's and/or contractor's name _____

Phone _____

Part 5 Permit Procedure

5.1 Obtaining a Permit

A permit must be obtained before beginning construction of an encroachment to any property with the Copper Cove Rocky Road Community Service District. The permit may be obtained by contacting the District Manager. It is also, necessary for the property owner to obtain a new permit when making any changes in an existing encroachment.

5.2 Permit Fee

Effective January 2019; the cost of obtaining an encroachment permit will be \$ 50.00. This is a non-refundable fee. All expired permits will have to be renewed and must pay the permit fee of \$ 50.00 for renewal. If an extension is requested before the expiration date of the permit, it may be renewed without paying the additional fee. The cost of a permit for other than a residence, such as commercial will be \$ 100.

Part 6 Collection of Repair Reimbursement

6.1 Repair Responsibility

The District may charge for repairing any damage caused by anyone (property owner, resident, visitor, worker, etc.) whether that damage is caused directly or indirectly.

The minimum charge for damage repair will be two hours labor cost, plus any other resulting cost for material and/or supplies, etc... The labor rate is established by the District.

6.2 Policy for Repairs

The District will inform property owners of necessary repairs to their encroachments or property that is causing damage to the District roadways. The necessary repair (s) will be determined by the District.

The property owner should have adequate time (adequate time will be determined by the District) to make required repairs unless said repairs are determined to be an emergency and/or necessary to prevent a hazardous situation or a situation that by lack of immediate

repair causes more or continuing damage (including but not restricted to ditching, draining asphalt breakage, etc.) to the District roadways.

A hazardous or emergency situation will be determined by the District. If the property owner (s) can not or will not make required repairs, the District reserves the right to make immediate emergency repairs. The cost of emergency repairs may be passed on to the

PART #5

Copper Cove Rocky Road Community Service District

Work Order

Order number _____
year, month, day and #

Date: _____

Work ordered by: _____

Work to Be Done:

Name and Number of Vender to Be Called:

USA Alert at #811 called by:

Approved: _____

CONSTRUCTION, APPEAL AND VIOLATION REGULATIONS

Section:

1. Conformance to Specifications and Standards.
2. Notice to District's Designated Agent – Start of work.
3. Notice to District's Designated Agent Completion of work.
4. Interference with use.
5. Warning signs, lights and safety devices.
6. Restoration of right-of-way.
7. Relocation or removal.
8. Drainage.
9. Minimum cover.
10. Backfilling.
11. Poles, transmission line carriers and guy wires.
12. Aids to visibility.
13. Mail Boxes.
14. Appeal procedure.
15. Violation of Policy