

**ORDINANCE No. 2016-01 AMENDING ORDINANCE No. 2003-06
OF THE
CAMERON ESTATES COMMUNITY SERVICES DISTRICT
PURSUANT TO GOVERNMENT CODE SECTION 61105
ESTABLISHING REGULATIONS FOR THE USE AND ACCESS TO
THE ROADS WITHIN THE DISTRICT**

Section 1. Purpose

The purpose of this ordinance is to adopt and establish regulations pursuant to Government Code Section 61105 to restrict access and use of the roads within the boundaries of the District to the landowners and residents of the District and their invitees, to provide for use of the roads by the public with the permission of District residents and property owners, and to establish regulations for use of the roads by non-residents of the District.

Section 2. Findings

A. The formation of the Cameron Estates Community Services District was approved by the El Dorado County Local Agency Formation Commission and by the Board of Supervisors acting as the Conducting Authority for the formation. The Board of Supervisors approved resolution No. 309-69 forming the District on August 26, 1969 which was subsequently approved by a majority vote of the registered voters residing within the District. Resolution No. 309-69 provides for the following functions and powers of the District:

1. The maintenance and repair of road surfaces;
2. The maintenance and clean-up of access easements on either side of the paved roadway surfaces; and
3. The definition of riding trails within the District.

B. On July 15, 1997 the voters of the District approved Measure C to expand the authorized purposes of the District to include the "...constructing, opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the District, as authorized in subdivision (J) of Section 61600 of the Government Code, and the construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes set forth in said subdivision (J) as authorized in subdivision (K) of Section 61600 of the Government Code."

C. On May 9, 1989 the voters of the District re-approved by a two-thirds vote the levy and collection of a \$250.00 per parcel special tax to fund road improvements and maintenance by the District. Since its inception in 1969, the District has awarded numerous contracts to repair and maintain the roads within the District. No legal action has ever been filed against the District challenging the authority of the District to repair and maintain the roads in the District.

D. Roads within the District are private roads. The fee title to the real property underlying the roads within the District is owned by the individual owners of parcels of property abutting each road. This is demonstrated by the approved final subdivision maps for Cameron Park Unit No.'s 1, 2 and 3, as filed in the Office of the County Recorder of El Dorado County in Book "C", of Maps at pages 27, 37 and 38, respectively (hereinafter "the final subdivision maps"). The final subdivision maps demonstrate that the dimensions of all lots within the District extend to the center line of each road abutting that lot.

E. The roads within the District were intended by the developer of the property within the District to be private roads for the exclusive use of property owners and their invitees, and have been accepted by El Dorado County as such. The final subdivision maps designate all of the roads within the District as follows: "all roads shown hereon are private roads and are for the exclusive use of the owners of the lots shown, their guests, employees, and service personnel." The final subdivision maps contain dedications of property to public use for purposes such as water, gas, sewer, and overhead and underground wires and conduits for electrical and telephone service. However, the final subdivision maps contain no dedications of property for public roads. The final subdivision maps contain notations of approval by the Board of Supervisors of El Dorado County, including the designation on such maps that all District roads are private roads for the exclusive use of property owners within the District.

F. The easement rights of property owners within the District include a private right of access to and from the property of each such owner over all roads within the District that is an incident of ownership and a part of the title to the property conveyed from the developer to each property owner. This easement was created by the developer's declaration that all roads within the District be private roads as designated on the final subdivision maps and acceptance of such designation by the County's approval of such maps. Such a declaration amounted to an express reservation of an easement for private road purposes for all parcels of property appearing on the final subdivision maps by the developer, which easement rights were subsequently conveyed to each purchaser of such parcels of property from the developer. This easement includes the right of each property owner to use all portions of the roads within the District that are located on the private property of other property owners for access to his or her property, and for access and use by his or her invitees.

This easement right includes the right to restrict access to District roads in order to ensure that such roads are reserved for the exclusive use of property owners and their invitees, as specified in the final subdivision maps. The only reasonable means of enforcing an easement restricting the use of roads within the District to property owners and their invitees, is to permit property owners to restrict access to District roads.

G. Approval of the formation of the District, the expansion of its authorized powers, and the levying of an annual special tax for road improvement and maintenance purposes by the voters residing within the District together indicate an intent by property owners within the District, as owners of the road easements within the District, to grant an implied easement to the District to perform road maintenance and improvement services on behalf of the easement owners. This intent is also demonstrated by the fact that the roads within the District have been traditionally maintained by the District and used for the exclusive benefit of property owners of the District and their invitees. Historically members of the public have been allowed to use District roads with the permission of District residents and property owners, but access has been restricted by gates and security codes. District roads have never been formally kept open for general public use, and the District has consistently posted signs at the entrances to the District informing the public of the private nature of District roads.

H. The District is serving a public purpose on behalf of the residents and property owners of the District who own the land upon which District roads are located and who have right-of-way easements over District roads for their exclusive use, by maintaining and improving such private roads and restricting access to such private roads to property owners and their invitees. The purpose of restricting access to District private roads is to preserve the private nature of such roads and the properties served by such roads, and to limit wear-and-tear and deterioration of such roads from excessive public use thereby reducing prospective road maintenance costs for the benefit of District property owners and residents.

Section 3. Legal Authority for Ordinance

The District has the legal authority to adopt the provisions contained in this Ordinance as follows:

A. Government Code section 61100 (l) lists among the public services a community services district is authorized to provide the power to acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works.

B. Government Code section 61103 (a) provides that a community services district exercising such powers shall have all the powers of a County in providing such

services including the power to regulate traffic, parking, and the restriction of various types of vehicles from usage of District roads.

C. Government Code section 61105 (g) specifies that this District, together with six other community services districts containing roads not formally dedicated to or kept open for public use, has the power, by ordinance, to limit access to and use of roads within the District to landowners and residents of the District. The legislative intent behind section 61105 includes the written findings of the SB 135 Working Group in 2005 which indicate that the purpose of this section is to extend the existing power provided by Government Code section 61621.8 to limit access and use of roads within these seven Districts to property owners and residents within such Districts to those same Districts currently exercising such powers which either own the real property underlying the roads, or possess easements to the roads within their Districts. This District is specifically listed in Government Code section 61621.8, and its successor section 61105 (g), as having been granted these powers, and has been exercising such powers continuously since its formation in 1969.

D. Government Code section 66439 (b) provides as follows: "In the event any street shown on the final map is not offered for dedication, the statement may contain a declaration to this effect. If the statement appears on the final map and if the map is approved by the legislative body, the use of the street or streets by the public shall be **permissive only**."

E. Civil Code sections 801, 806 and 1104 provide for creation of road and right-of-way easements by implication. Whether an easement arises by implication depends on the intent of the parties and prior use of the property. Courts will examine the nature of the rights granted to 3rd parties such as the District across the property of the property owners granting the easement by evaluating the prior use of the property and the relationship between the District and its residents and property owners.

Section 4. Adoption of Regulations

Through the adoption of this ordinance the Board intends to enact rules and regulations for the benefit of the property owners and residents of the District pertaining to the access to and use of the roads within the District. Pursuant to Government Code section 61105, the Board of Directors hereby finds, declares and ordains as follows:

A. The unauthorized public use of the private roads within the District results in increased traffic, safety issues, littering, vandalism, noise, liability to the District for traffic accidents, more extensive and rapid deterioration of road surfaces and additional road maintenance responsibilities and costs for the District.

B. In order to restrict the unauthorized public use of and access to the private roads within the District, the District may install signs and access control measures, including but not limited to locking security gates accessible by computerized code entry, or similar devices.

C. All property owners and residents of the District shall be provided an access code to be input on the security gate computer screen or a remote control device in order to gain access to all roads within the District. Property owners and residents of the District shall not distribute the access code to security gates within the District to members of the general public without prior notice to and permission from the District. However, property owners and residents may distribute the access code to expected guests, utilities and expected vendors such as gardeners, pool services, housekeepers, appliance delivery, furniture delivery, transit providers, newspaper delivery and other similar services without violating this ordinance.

D. All security gates shall be equipped with a Telephone Entry System that will provide communication for invitees of property owners from each gated entrance to each property owner's home by use of the local telephone network. The last name of each property owner and resident will be programmed into the Telephone Entry System at each security gate. The computer display panel at each gate is equipped with a CALL button. Each invitee may establish communication with a property owner by scrolling on the computer display screen to locate the name of the property owner or resident each invitee wishes to visit. When the desired property owner or resident name is displayed on the screen, the invitee can press the CALL button and the system will connect to the property owner's telephone. The property owner or resident may then answer the phone, identify the invitee, and choose to grant or deny access by pressing the designated number on their touch-tone telephone.

E. The District shall provide private access codes or a key lock entry system by which certain enumerated public agencies and private companies may gain access to District roads through the locked security gates when permission of District residents cannot be obtained. Such public agencies and private companies include police agencies; fire suppression and emergency medical and rescue agencies; the U.S. Postal Service; ambulance companies; public agencies providing public utility services such as water, sewer, mosquito and vector control, and garbage and recycling services; parcel delivery companies; phone and telecommunication providers; and County agents performing inspection duties such as building inspectors and animal control officers. Such access to such public agencies and private companies shall not be considered a formal dedication of District roads to public use. The District shall provide signs stating that use of the roads by non-residents is allowed with the permission of the District and its residents and property owners. However, the District reserves the right to revoke this permission and amend this section of the ordinance to further

restrict and limit the use of the roads by individuals who are not residents or landowners within the District or their invitees.

Section 5. Prohibited Conduct

A property owner or resident of the District shall not provide the computerized access entry codes to the District's security gates to members of the general public without prior notice to and consent of the District. Property owners and residents may distribute the access entry code to expected guests, expected vendors listed in Section 3C, and those public agencies and private companies listed in Section 3E without prior notice to and consent of the District.

Members of the public who are not residents or property owners within the District shall not gain access to or use the roads within the District without the express permission of a property owner or resident of the District. Prohibited conduct includes, but is not limited to, driving through or around security access gates; tampering with security access gates in order to gain entry to District roads; using verbal threats or intimidation to obtain access entry codes from property owners, residents or their invitees for the purpose of gaining access to District roads; or any other conduct that results in a member of the public gaining access to and use of District roads without the express permission of the District, or a property owner or resident within the District.

Section 6. Exhaustion of Administrative Remedies

Any individual who is not a resident or a landowner of the District and who claims a right to use the roads of the District shall first make an application to the District for a determination of whether such individual has a right to use the roads of the District prior to attempting to assert such a right in court or before any other tribunal. Any such application shall include the following information: (1) The individual's name, address and phone number; (2) The factual basis for the claim of right to use the roads of the District, including facts of historical usage, if any; (3) A description of the property to which the right of use runs, if any; (4) Any other information deemed pertinent by the applicant. The District shall schedule a public hearing before the Board of Directors to receive evidence and determine whether such individual has a right to use the roads as soon as reasonably possible after receipt of the application. Until the hearing is held, the individual shall be allowed access to use the roads, unless the District determines that the individual's use presents a threat to the health and safety of the residents. The District may schedule one or more applications to be heard at the same hearing.

Section 7. Violations

The owner or occupant of any parcel of property within the District, or any member of the public who violates this Ordinance or permits a violation of this Ordinance shall be guilty of an infraction. Violation of this Ordinance shall consist of participation in any of the activities described as Prohibited Conduct in Section 4 of this Ordinance by members of the public, or owners and residents of property within the District.

Section 8. Penalty – Infraction

Violation of any of the provisions of this ordinance, or failure to comply with any of the regulations specified herein is an infraction.

Every violation of this ordinance is punishable by:

1. A fine not exceeding \$100 for the first violation;
2. A fine not exceeding \$200 for a second violation; and
3. A fine not exceeding \$500 for each additional violation.

The District shall issue a citation to any person determined to have violated the provisions of this Ordinance. The citation will be served by certified mail to such person's last known mailing address.

Imposition of penalties for violations of this ordinance may be initiated by the District by notifying the El Dorado County District Attorney of the violations of this Ordinance, submitting a copy of the citation issued, and requesting prosecution of such violation as an infraction.

Section 9. Severability

If any provision, clause, phrase or section of this Ordinance, or any application thereof, is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance, which can be given effect without the invalid portions and therefore, such invalid portions are declared to be severable. The District hereby declares that it would have enacted this Ordinance and each of its sections, subsections, provisions, clauses and phrases irrespective of the fact that one or more of them is declared invalid.

Section 10. Effective Date and Publication

This Ordinance shall take effect 30 days after its adoption. The District Secretary is directed to publish this Ordinance in a newspaper of general circulation in the District. In lieu of publication of the full text of this Ordinance, a summary of this ordinance may be published at least 5 days prior to and 15 days after adoption by the District Board of Directors and a certified copy of this Ordinance, as adopted, shall be posted in the offices of the District pursuant to Government Code sections 25120 through 25132.

Passed and adopted this 15 day of September, 2016 by a majority vote of the members of the Board.

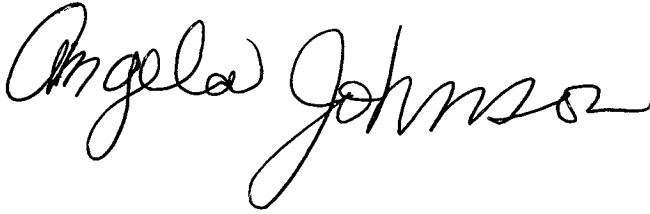
AYES: 4 - Miller, Proft, Shall, Moonitz
NOES: none
ABSTAIN: none
ABSENT: -1 Robertson

By: Alus Shall
President, Board of Directors
Cameron Estates Community
Services District

Attest:

Angela Johnson
General Manager and Secretary of the Board of Directors
Cameron Estates Community Service District

The foregoing ordinance is a true and correct copy of the Ordinance No. 2016-01 adopted by the Board of Directors of the Cameron Estates Community Services District on September 15, 2016, which Ordinance remains in full force and effect.

A handwritten signature in black ink that reads "Angela Johnson". The signature is written in a cursive, flowing style.

Board Secretary