

ORDINANCE NO. 163

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT ESTABLISHING AN EASEMENT POLICY

BE IT ORDAINED by the Board of Directors of the Vallecitos Water District (District) as follows:

This Ordinance is for the purpose of defining and establishing the policy of the District with respect to minimum easement requirements generally associated with water and sewer facilities within the District.

Section 1: General Purpose. This Ordinance defines and establishes the policy of the District with respect to easement requirements for water and sewer facilities, standard easement form, general terms and conditions, surface access requirements, joint use of and encroachment within District easements when allowed.

The District's facilities and easement rights must be protected and preserved against unauthorized use and any use of the easement must not interfere, hinder, delay or obstruct the District's safe access or ability to repair, construct, reconstruct, install, maintain, inspect, replace, relocate or operate its facilities.

Section 2: District Determination. The District shall have the sole discretion to determine the following:

- 2.1. Whether a proposed extension or enlargement of water and/or sewer facilities (facility) will be permitted.
- 2.2. Whether the proposed facility will be constructed in the public right of way or within a District easement.
- 2.3. In the event the District determines that the proposed facility is to be constructed within a District easement, the easement shall be in compliance with all conditions of this Ordinance.

Section 3: Easement Form and Minimum Width. The District has adopted a standard easement document that shall be used for the conveyance of all easements to the District for existing or new facilities. This form is attached to the Ordinance as Exhibit "A". The General Manager, at his sole discretion, may make minor changes to the standard easement form without modification of this Ordinance.

- 3.1 **Minimum Easement Width.** The minimum easement width shall be twenty-feet (20') with the existing or proposed facilities generally located within the center of the proposed easement. If water and sewer facilities are to be co-located within the easement they shall be separated in accordance with the applicable design standards, but in no case shall either facility be within five feet of the edge of the easement. At the sole discretion of the District, and relative to project specific circumstances, additional easement width, or ingress/egress easements may be required.

Easements shall be wholly contained or completely within one property. Easements which are parallel to property lines shall not be split between properties.

The attached Exhibit "B" depicts the general location of facilities, gates, access road location and surface material within the easement.

Section 4: Easement Acceptance Method. The District shall have the sole discretion in determining acceptance of the easement on a standard District easement document or acceptance on a Subdivision Map.

4.1 Standard Easement Document Conveyance. The following items shall be provided for all easements conveyed on the standard District easement document:

4.1.1 Title Report. A current Title Report issued by a California Land Title Company for the property the easement is to be located within. Documentation referenced in the Title Report shall be provided upon request by District staff.

4.1.2 Legal Description. A metes and bounds legal description with all supporting calculations and maps shall be provided for the proposed easement. The legal description shall be signed and stamped by a Civil Engineer or Land Surveyor licensed to perform land surveying in the State of California.

4.1.3 Plat Map. A plat map depicting the easement with adequate information to clearly identify and locate the easement shall be provided. The plat map shall be signed and stamped by a Civil Engineer or Land Surveyor licensed to perform land surveying in the State of California.

4.1.4 Subordination Agreements. Subordination agreements may be required at the sole discretion of the District.

4.2 Subdivision Map Easement Conveyance. Items 4.1.1, and 4.1.4 above, and the information contained in items 4.1.2 and 4.1.3 above shall be provided and shown for all easements, approved by the District, to be conveyed on a Subdivision Map:

4.2.1 Certificate of Acceptance. The title sheet of the Subdivision Map shall include a Certificate of Acceptance and notary acknowledgment of District acceptance of the easement on the Subdivision Map. The Certificate of Acceptance shall include reference, by number, of this Ordinance that acceptance on the Subdivision Map conveys all rights associated with the District's standard easement form and is not a general utility easement shared with other public agencies or public utilities.

Section 5: Adjacent/Overlapping Easements. The District finds and determines that easements, conveyed adjacent to and parallel with District easements, to be utilized by other public agencies, public utilities and owners of adjacent or underlying property may be compatible under certain conditions and subject to certain conditions.

The District may, at its sole discretion and with conditions, allow parallel easements to partially overlap existing and proposed District easements; however, no facilities may encroach within the District's easement or in any way interfere with the District's right to utilize or maintain facilities within its easement in accordance with this Ordinance and the specific easement. See **Section 8** regarding Encroachment Permits/Joint Use Agreements

Section 6: Easement Encumbrances. Easements shall be conveyed free of cost to the District and clear of any liens or encumbrances that may limit or prevent full use by the District in accordance with this Ordinance and the rights conveyed by the easement.

Section 7: Easement Surface Access. Minimum access road requirements for District vehicles along and over all easements shall be provided in accordance with the following general criteria and shall be accessible at all times by the District for inspection, maintenance and required repairs. Access road location and easement width shall be in accordance with **Section 3** of this Ordinance.

7.1 Minimum Access Requirement. Access roads shall be a minimum 12-foot wide disintegrated granite surface with the structural section determined and recommended by the project geotechnical engineer and site specific geotechnical report. Disintegrated granite surfaces may be used when slopes are less than 15%.

7.2 Additional Requirements. Project specific design requirements and conditions for access roads may be required and, at the sole discretion of the District, alternate surfaces such as concrete or asphalt pavement may be required.

7.3 Other. Access roads and surfaces within District easements are subject to loads of up to 40,000 lbs and all roads and surfaces shall be designed to accommodate this load. Adequate surface and underground drainage facilities and adjacent grading shall be designed and constructed to ensure safe access at all times and reduce potential erosion of the access road.

Easements located on residential lots may be exempted, at the sole discretion of the District, from the minimum access road requirements if the District has reasonable access to facilities such as manholes, valves, blow-offs, etc. In which case, surface use of the easement shall be in accordance with all provisions of this Ordinance.

Section 8: Encroachment/Joint Use. The District finds and determines that certain uses by other public agencies, public utilities and owners of adjacent or underlying property may be compatible under certain conditions and subject to certain conditions.

Encroachments or Joint Uses shall only be allowed upon review and determination, at the sole discretion of the District, that the proposed encroachment or joint use will not interfere with the safe access or operation and maintenance of the District's facilities. An Encroachment Permit or Joint Use Agreement will be required in accordance with the applicable District Ordinance and policy.

An encroachment means a physical occupation in, over, across, under, or upon the District easement.

A joint use means an agreement between the District and one or more public agency or public utility for use of the District's easement for access, or installation of facilities, including but not limited to cables, electric or gas utilities, trails, etc

Section 9: Prohibited Uses. Prohibited uses include but are not limited to the following:

- 9.1 Telecommunication towers or antennas
- 9.2 Any above ground or below ground structure that restricts access to the easement or facility and is incompatible with and detrimental to the District's operation and maintenance of the facility.
- 9.3 Private entrance facilities, such as guard facilities for gated communities
- 9.4 Trees, fruit trees, etc.
- 9.5 Swimming pools or ponds, spas or hot tubs or similar structures
- 9.6 Utility pole anchors
- 9.7 Any other facility deemed, by the District, to be detrimental or interfere with the safe access, maintenance and operation of the facilities within the easement.

Section 10: Allowable uses with Permit. The District finds and determines that certain uses by the owners of the underlying property may be compatible, at the District's sole discretion, under certain conditions and subject to certain conditions. Examples of allowable uses are:

- 10.1 General landscaping including vegetable gardens, lawns, ground cover, and bushes and shrubs no taller than 36-inches, but no trees.
- 10.2 Low voltage decorative lighting
- 10.3 Irrigation lines and conduits for electrical and low voltage power for the benefit of and use on the property
- 10.4 Playground equipment that is not installed or secured with concrete or other permanent method and can be easily and quickly removed

Section 11: Administrative Costs and Deposits. Applicant shall deposit estimated District administrative charges for the preparation and review of each easement document. Additional deposit amounts may be required to complete the easement review process and balances shall be due and payable prior to Board approval of the project or acceptance of the easement.

11.1 Review Deposit. Per Easement **\$250.00**

The above amounts apply to easements to be reviewed with development projects and will be included within the project review costs to be deposited.

Deposit amounts are subject to annual review and modification at the discretion of the General Manager without modification of this Ordinance.

Requested by and when
recorded, mail to the:

**Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069**

(No Recording fee per Government Code 6103)

Documentary Transfer Tax \$ -0-

(Space above for Recorder's Use)

A.P.N. _____

GRANT OF RIGHT-OF-WAY

_____, as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt whereof is hereby acknowledged, does hereby grant to said VALLECITOS WATER DISTRICT, its successors and assigns, a right-of-way easement ___ feet in width in, upon, over, under and across the lands hereinafter described. Together with the right to erect, construct, reconstruct, replace, repair, maintain and use a pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits, cables, poles and antennas for power transmission and communication purposes, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of unobstructed ingress and egress to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep said right-of-way clear from buildings, structures, improvements and landscaping, trees, and fences of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

BEING A PORTION OF LOT ___ OF TRACT NO. _____, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. _____, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, _____, ___ OF OFFICIAL RECORDS.

The ___-foot-wide easement of right-of-way in the aforesaid lands is more particularly described on the attached **Exhibit "A"** and shown on the attached **Exhibit "B" Plat Map**.

Grantor and their successors and assigns shall not erect or construct, or permit to be erected or constructed, any buildings, fences, or other structures, including patios, swimming pools or spas (above and below ground), or concrete or asphalt paved roads, or utilities of any type, or trees, or wells within the limits of said right-of-way, without prior written consent and issuance of an encroachment permit by the Grantee.

Grantee shall have the right to use any existing gates and install and maintain new gates in all fences which now cross or hereafter cross said route or routes, and to trim and cut and clear away any trees and brush within the easement or encroaching within the easement, whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby granted.

Grantor agrees that no other easement shall be granted on, under or over said easement by Grantor, without the prior written consent of the Grantee.

Grantee shall have the right to transfer and assign this easement in whole or in part.

It is understood and agreed by the parties hereto that the Grantor and their successors or assigns, shall not increase or decrease, or permit to be increased or decreased, the existing ground elevations of the above described right-of-way, existing at the time this document is executed or after the construction of District water and sewer facilities without the prior written consent of the Grantee.

It is also understood and agreed by the parties hereto that the Grantee shall have the right to make any and all excavations, and the right to alter the existing ground elevations within the easement right-of-way, now and in the future as may be deemed necessary for the convenient operation, maintenance and repair or replacement of the improvements, and within the lands of the Grantor adjoining said easement right-of-way, together with the use thereof, as may be necessary for the initial construction of the improvements.

Together with the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

In Witness Whereof, the Grantor executed this _____ day of _____, 2009.

“GRANTOR”

Company: _____

Company: _____

Name*: _____

Name*: _____

Title: _____

Title: _____

Signature: _____

Signature: _____

* Name of Authorized Representative of Developer.

Acknowledgment of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgment to this page.

(Seal if Corporation)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from **(Grantor's Name)**, to the VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1110, adopted on May 17, 2000, and Ordinance No. ____ adopted on April, ____ 2009, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____

Date: _____, 2009

William W. Rucker, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos de Oro

San Marcos, CA 92069

Section 12: Public Notice.

This Ordinance shall become effective immediately upon passage.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District at a Regular meeting this 27th day of May, 2009, by the following roll call vote:

AYES: FERGUSON, GENTRY, POLTL, SHELL, HANNAN

NOES:

ABSTAIN:

ABSENT:



Trish Hannan, President
Board of Directors
Vallecitos Water District

ATTEST:



William W. Rucker, Secretary
Board of Directors
Vallecitos Water District