

SECTION 1.5 EASEMENTS AND ENCROACHMENTS

1.5.1 PURPOSE

This section addresses the different types of easements and encroachments for water, sewer and recycled water systems. This section is intended for use with Capital Improvement Projects (CIP) and private development projects and provides guidelines to “standardize” easement acquisition and encroachment permits. The District Engineer has final decision over any project on a case-by-case basis.

The District maintains and operates pipelines and appurtenant structures necessary to produce, transport and distribute water, recycled water, and to transport and store sewage waste. In connection therewith, District owns interest in real property, including easements and interests in fee. From time to time, various public utilities, governmental agencies and private property owners/developers request to jointly use the District’s interest in real property.

Every attempt has been made to cover all the needs associated with the development and upgrades of properties; but also realize there will be special circumstances that fall outside of these guidelines and will be looked at on an individual basis by the District.

1.5.2 STANDARD TERMS AND DEFINITIONS

The following technical terms and definitions as found in this section shall have the following meanings, which may vary slightly from the Standard Terms and Definitions.

- A. District Interests: Recorded legal rights owned by the District in District’s real property.
- B. Boundary or Jurisdiction: Area included within the boundaries of the District as established (and from time to time amended) by the Board of Directors (and LAFCO) and all property served by the District.
- C. Easement: A non-possessory interest in real property that permits the easement holder to do specific actions (i.e. construct, install, operate and maintain a pipeline). Fee title interest to the property remains with the party from whom the easement is acquired. Easements are usually granted in perpetuity, may restrict future use within the easement, and prevent the current or any future owner from granting other use of the easement without written consent of the District. (Note: Temporary easement, such as a temporary construction easement, is an easement that is acquired for such necessities as access, storage space for materials and having a limited term, is not perpetual.)
- D. Encroachment Permit/Encroachment Agreement: A document that conveys conditional permission to work or to place improvements within the District’s right-of-way, easement or fee property.
- E. Person: Individual, association, private or public entity given legal status by the laws of the State of California.
- F. Fees: Payment of fees for processing and filing of documents may be charged. Obtain further information from the District of jurisdiction.

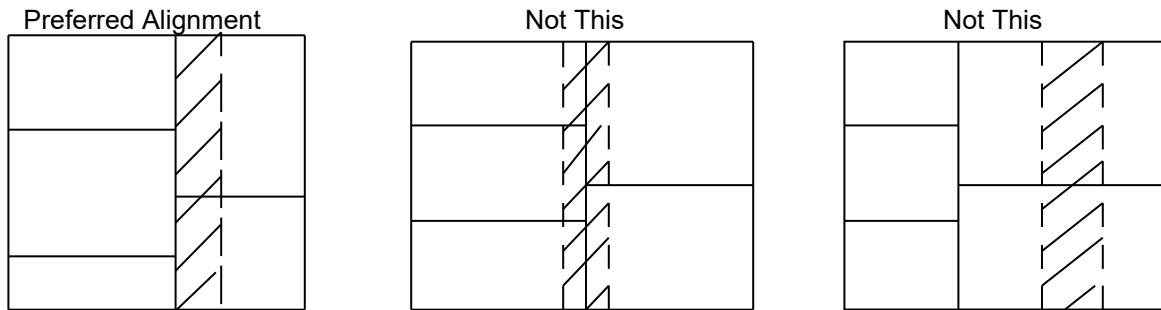
1.5.3 WATER, RECYCLED WATER, & SEWER EASEMENTS

- A. Easement Location: Where the Engineer has the choice of locating the water, recycled water, and/or sewer mains in a public dedicated street or in an easement, the main(s)

shall be located in the street. The Engineer must satisfactorily demonstrate that no other reasonable alternate alignment exists prior to requesting permission to locate a water or sewer main within an easement.

Easements shall be located entirely along one lot or parcel and, where possible, adjacent to the property line so that the pipeline alignment does not straddle between two properties, as shown in Figure 1 below, unless the easement lies within the boundaries of a private road easement. Easements should impact the fewest parcels as possible.

Figure 1
Easement Location



- B. Easement Widths: A minimum twenty-foot (20') wide easement (or width of private road or drive lanes) shall be required for mains less than thirty-six inches (36") in diameter and a minimum twenty-five foot (25') wide easement for thirty-six inch (36") diameter and larger mains.

Easement widths other than the minimum described above shall be determined based on specifics to the project on a case-by-case basis by District for which the easement is intended to serve. Project specifics may include but are not limited to the following:

1. Questionable alignments as determined by the District.
2. Depth of pipe in excess of requirements indicated in Section 5.1 and/or 6.1.
3. A minimum of five feet (5') of additional easement width (beyond that described above) will be required for water and/or sewer mains that are located in areas such as canyons, "open space" areas, and other hard to access areas. Sewer mains deeper than twelve feet (12') will also require an additional five feet (5') easement width. Additional width easements will also be required when more than one main is installed within the easement.
4. Additional 10 feet width for slopes in excess of 10%.

The above requirements are minimum requirements. Wider easements may be required based on the specifics to the project and the determination of the District.

1.5.4 MULTIPLE USE / JOINT USE EASEMENTS

The District agrees that when possible it is in the best interests of the District and other public utility providers to share easements in order to lessen the impacts to private property. The District will determine on a case by case bases whether an individual easement can support other public utilities and retain right of approval for other utilities to use its easement space. The entity requesting the use of the District easement must still acquire approval from the fee title

owner and recordation of its own easement subject to the approval and prior rights of the District. The above-described process only applies to an initial non-exclusive easement grant. If the original easement grant were “exclusive”, joint use of the area by the other District would not be allowed. Also refer to Easement Encroachments in this Section.

Note: Unless the fee owner of the property allows or permits grantee to be able to grant easement rights to other Agencies through a recorded document, the District never grants easements to another District. Only the fee owner of the property can grant multiple easements. However, it may be required to obtain approval from existing easement owners prior to granting additional overlapping easements on the same land.

1.5.5 ACCESS EASEMENTS

- A. Access easements must be provided to all water, recycled water and sewer facilities (reservoirs, pump stations, etc.) including main appurtenances (blow-offs, air valves, system valves, manholes, water meters, water meter readers, fire protection equipment, etc.). Access easements shall be a minimum of twenty feet (20') wide.
- B. Easements secured by private fencing shall have a locked vehicular access gate(s) a minimum of twelve feet (12') in width or as required by fire department. Provisions must be made for either a District lock or a Knox Lock type system. The District will not accept private locks and keys.

1.5.6 POP-OUT EASEMENTS

Those facilities, such as fire hydrants, air valves, meters and vaults that cannot be located within the right of way and require additional area adjacent to the right of way. Required fire hydrant retaining walls, bollards, etc. associated with the fire hydrant shall be included within the easement.

Location and access to fire hydrants shall be approved by the Fire Department in accordance with Section 5.4.

Contact the District of Jurisdiction to obtain information and requirements regarding easement areas required for these facilities.

1.5.7 ACQUISITION OF EASEMENTS/RIGHTS-OF-WAY

Right-of-Way requirements will be determined by the District for CIP and private development projects. Developer shall provide the District with a legal description and an eight and one half inch by eleven inch (8½" x 11") plat showing the necessary right-of-way to be acquired together with a title report three (3) months current for each affected parcel, and a closure tape of easement.

The District will review and approve the right-of-way documents and transmit the documents to the Engineer and/or Developer for signature. All right-of-way requirements shall be met prior to construction including recording of easement documents.

1.5.8 PLAT DEDICATION

Developer/Engineers need to contact the District to determine which dedication process is most appropriate to use. Easements may be granted on Parcel or Subdivision Maps, or by separate grant deed.

- A. A typical subdivision will dedicate easements on the Map, using District standard language and established templates. Covenants, Conditions, and Restrictions (CC&Rs) stipulating the terms of the easement shall be recorded on the property prior to the Map recordation. The Map shall reference the CC&R document.
- B. Some projects are more suited to dedicate easements through a separate document.
- C. District Engineer will determine appropriate means on a case by case basis.

1.5.9 EASEMENT ENCROACHMENTS

Encroachment Permits are written approvals for use of easement by the fee title-holder for uses other than those typically allowed such as lawn or asphalt.

The District Easement policy is described in Article 200 of the Administrative Code.

The District Encroachment policy is described in Article 270 of the Administrative Code.

An encroachment permit may either be requested by the fee title owner or, upon discovery that an encroachment exists, required by the District. Removal will be required of any encroachment found to be in violation of the easement unless a permit is granted.

Encroachment Permits only apply to the types of encroachments listed on the permit document and/or shown in an exhibit attached to the permit.

All applicable fees shall be paid prior to issuing the encroachment permit or agreement. The encroachment permit will also set forth any special terms that must be complied with in order to keep/maintain the permit (i.e. an access gate must be provided for a fence encroachment, area must be kept free of debris, etc.).

Applications for Encroachment Permits/Agreements shall be made in accordance with the District's policies and procedures and accompanied by detailed plans, specifications, schedules and estimates as may be required to determine the nature and extent of the encroachment and applicable fees. Plans shall show, at a minimum, boundaries of the proposed development, lot lines, public and private right of way lines, District facilities, and an indication of the intended use of the property. The extent and nature of the encroachment shall be clearly shown.

Permanent structures within an easement are rarely allowed and must be approved in writing by the Engineer or appropriate authority according to the District's policies and procedures. Conditions and restrictions for such a permit may include (but are not limited to) relocating existing mains to acceptable locations, placing the main in casing acceptable to the District with proper load calculations to prove that the casing will withstand all transmitted loads, hold harmless provisions in the agreement in the event of damage or destruction to the structure, or prevent structures from being located on a manhole or other appurtenance.

District may terminate unauthorized encroachments by all appropriate legal means. Encroachment Permit or Agreement may be cancelled under the following situations:

- A. Upon request of the Permittee.
- B. When the site conditions or operative facts were not accurately presented in application.
- C. When the encroachment creates a hazard to public health, safety or general welfare.
- D. When permit violates District policy or provisions of federal, state or local law.
- E. When the District's repair or installation of public improvements requires cancellation.

Within ten (10) days after receipt of a decision to deny, suspend, cancel, revoke or terminate the encroachment permit, the Permittee may file a written request for reconsideration. After ten (10) days, reconsideration will not be granted (unless specific language of the permit states differently).

1.5.10 QUITCLAIM OF EASEMENTS

Quitclaim of easements shall be accomplished in accordance with the District requirements.

1.5.11 REFERENCE

Should the reader have any suggestions or questions concerning the material in this section, contact the District.

The publications listed below form a part of this section to the extent referenced and are referred to in the text by the basic designation only. Reference shall be made to the latest edition of said publications unless otherwise called for. The following list of publications, as directly referenced within the body of this document, has been provided for the user's convenience. It is the responsibility of the user of these documents to make reference to and/or utilize industry standards not otherwise directly referenced within this document.

1. Valley Center Municipal Water District Standards:

- A. Design Guidelines

- i. Standard Terms and Definitions
 - ii. Section 5.1, Pressure Pipeline Design
 - iii. Section 5.4, Fire Hydrants, Fire Services, Backflow Prevention
 - iv. Section 6.1, Gravity Sewer Pipeline Design

END OF SECTION