

# **CHAPTER 6**

## **EASEMENTS**

### **6.1 PURPOSE**

The purpose of this Chapter is to establish policies, standards and requirements for District Easements. (Ord. No. 2010-103)

### **6.2 EASEMENTS.**

**6.2.1** District Easements. In the event an easement is required for the extension of the District Wastewater System or the making of connections to it, the applicant shall procure and present for acceptance by the Board an easement or grant of right of way in favor of the District sufficient in law to provide a minimum width of fifteen (15) feet for the construction and maintenance of such extension or connection. The owner shall furnish and pay all expenses for procurement, including but not limited to agreements, legal descriptions, plats, legal, engineering, recordation fees and title reports required by this article and as otherwise required by the District Legal Counsel. (Ord. No. 93-68, Sec. 6.06) (Ord. No. 2013-111)

**6.2.2** Private Easements. The policy of the District is that each dwelling unit or non-residential building has a separate connection to the public sewer. However, when a Side Sewer crosses an adjacent property and it is not feasible, in the sole discretion of District Manager, to comply with this policy, it shall be the responsibility of the upstream property owner to obtain an easement of the required width, but in no case less than 5 feet from the downstream property owner. This private easement shall be appurtenant to the upstream property and shall convey all rights necessary for construction, alteration, replacement, repair, maintenance and operation of the Side Sewer. If the maintenance of the sewer over the downstream property is to be shared. The easement shall be in the form of an agreement which provides for maintenance. All new private easement(s) shall be recorded at the County Recorder's Office and a copy of the recorded document provided to the District. (Ord. No. 2013-111)

### **6.3 ABANDONMENT OF EASEMENTS**

**6.3.1** General. Upon recommendation of the District Engineer that a certain easement is surplus, the Board of Directors may authorize abandonment. The owner shall furnish and pay for all expenses of abandonment, including any agreements, legal descriptions, plats, and title reports required by the District Legal Counsel to complete the abandonment. (Ord. No. 93-68, Sec. 7.01, rev. Ord. No. 2013-111)

**6.3.2** Agreement Provisions. The written agreement to abandon an easement shall be reviewed and approved by District Legal Counsel and shall at a minimum include the following:

**6.3.2.1** It shall describe the easement to be abandoned and real property affected.

6.3.2.2 It shall provide that all sanitary sewers shall be removed or abandoned at no cost to the District.

6.3.2.3 The agreement shall be executed by the owner of the servient property and covenant to defend, indemnify and hold the District free, clear, and harmless from any claims or suits arising out of the District's previous ownership of the easement and installation and maintenance of all sanitary sewers located thereon.

6.3.2.4 The agreement shall be binding on the landowner, his/her heirs, successors, and assignees.

6.3.2.5 The agreement shall include a quitclaim by the District of its interest in the easement. (Ord. No. 93-68, Sec. 7. 02, rev. Ord. No. 2013-111)

6.3.3 Recording. Upon approval of the agreement by the parties, it shall be signed and acknowledged and recorded. (Ord. No. 93-68, Sec. 7.03, rev. Ord. No. 2013-111)

#### **6.4 DISTRICT POLICIES CONCERNING EASEMENTS**

6.4.1 District Facilities Located in Easements. Wherever feasible, District-owned Wastewater Facilities shall be located in and on lands owned by the District in fee, on public lands to which the District has largely unrestricted access or in public streets, roads, highways or other public rights of way in which, by law, the District is entitled to construct, install, operate and maintain its facilities. (Ord. No. 2010-103)

6.4.2 District Facilities on Private Property. District-owned Wastewater Facilities may be located and permanently installed on or in private property, but only if the District has acquired an Easement or Easements for the facilities in conformance with this Chapter. Temporary installations may be made pursuant to a license or other similar authorization approved by the District. (Ord. No. 2010-103)

6.4.3 District Easements Preference. The location of District Wastewater Facilities, as described in Section 6.4.1, is strongly preferred over the type of location described in Section 6.4.2. (Ord. No. 2010-103)

6.4.4 Private Property. In furtherance of the policy stated in Sec. 6.4.3, District Wastewater Facilities should not be installed in Easements over private property unless:

6.4.4.1 Installation on a property described in Section 6.4.1 is not possible or would be impracticable or unduly burdensome; and

6.4.4.2 The District's Easement rights will be sufficient to enable the District to operate and maintain its facilities without excessive cost or other undue difficulty. (Ord. No. 2010-103, rev. Ord. No. 2013-111))

6.4.5 Abandon or Relinquish Ownership. Subject to its right to abandon or relinquish ownership of any Wastewater Facilities which are no longer in use and which are not required for future District needs, it is the District's position that it has heretofore acquired and owns Easement rights for all District Wastewater Facilities which are located in or on private property, whether or not the District's Easement rights are evidenced by a recorded written instrument or other writing providing notice of the District's claimed Easement rights. Where the Wastewater Facilities are, in fact, not located in the public right of way or within the District's Easement, the District may enter onto and conduct an appropriate investigation to determine the location of the Wastewater Facilities and take any necessary action to secure its property rights for the Wastewater Facilities, or to relocate them within the public right of way or the District's Easement, whichever is, in the District's sole judgment, more practicable. (Ord. No. 2010-103, rev. Ord. No. 2013-111)

## **6.5 CREATION OF DISTRICT EASEMENTS**

District Easements. District Easements may be created in any manner allowed by law so long as the Easement has been approved and accepted by the District Board. (Ord. No. 2010-103)

6.5.1 Conditions of District Easements. Notwithstanding any provision to the contrary, Easements to be conveyed to the District should ordinarily be created by express grant or reservation in a written instrument eligible for recordation in official records of the County of Contra Costa. The form and content of the instrument shall be acceptable to the District but shall not be effective until the instrument has been duly delivered to, approved and accepted by the District. (Ord. No. 2010-103, rev. Ord. No. 2013-111)

## **6.6 MINIMUM STANDARDS FOR EASEMENTS**

6.6.1 District Requirements. Unless expressly waived by the District, an Easement conveyed to the District shall be subject to the following minimum standards:

6.6.1.1 For the purpose of exercising its principal Easement rights, the District shall be afforded the right of ingress and egress to, from, along, on, in, above and below the surface of the land encompassed by the Easement.

6.6.1.2 The Easement shall be subject to the provisions of this Code, and other rules and regulations promulgated by the District.

6.6.2 Exclusive or Non-Exclusive. Easements may be for the exclusive benefit of the District or they may be non-exclusive. If the Easement is nonexclusive, other users of the territory encompassed by the Easement shall be prohibited from interfering with the District's Easement rights.

6.6.3 Sanitary Sewers. In the case of Easements for Sanitary Sewers, the Easement shall have a horizontal width of not less than fifteen (15) feet. (Ord. No. 2010-103)

## **6.7 UNLAWFUL ACTS**

It is an unlawful violation of this code for any person to do the following:

6.7.1. Cause or allow an unauthorized Encroachment on a District Easement;

6.7.2 After notice, fail to apply for a Permit, abate or otherwise remove or discontinue any action or condition which results in an unauthorized Encroachment;

6.7.3 Abandon any items of property, including motor vehicles, on or within a District Easement;

6.7.4 Deposit any debris, garbage, trash, toxic substance, liquid or solid waste or other form of refuse on or within a District Easement;

6.7.5 Cause, permit or maintain any activity or condition of or outside the territory of the District Easement which causes directly or indirectly a significant interference with the District's Easement rights; or

6.7.6 Cause or allow any activity or condition on or within a District Easement which constitutes a Public or Private Nuisance. (Ord. No. 2010-103)(Ord. No. 2013-111)