

ORDINANCE NO. 22

ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MONTECITO SANITARY DISTRICT
ESTABLISHING POLICIES AND STANDARDS
FOR DISTRICT EASEMENTS AND REGULATING
EASEMENT ENCROACHMENTS

WHEREAS, the Montecito Sanitary District ("District") is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq;

WHEREAS, under Health and Safety Code section 6514, the District may acquire "such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the board are necessary or proper to the exercise of its powers, and particularly for the purpose of permitting ingress to and egress from such real or personal property, ...";

WHEREAS, Health and Safety Code sections 6521 and 6491.3 authorize the Board of the District to make and enforce all necessary and proper regulations and ordinances for all other sanitary purposes not in conflict with the laws of the state of California; and

WHEREAS, the Board of the District desires to adopt regulations to protect its easements.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Definitions. For purposes of this Ordinance, the following terms have the meaning specified below:

2.1 "District facilities" means pipelines, pump stations, or any other structures, equipment and machinery, including appurtenances to them, which are used to collect, convey, treat, dispose of and reuse wastewater.

2.2. "Easement" means a property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; "easement" includes, "reserve," "right of way," "sewer reserve," and "utility reserve."

2.3. "Property Owner" means the fee owner or leaseholder of the servient tenement to the District's easement.

2.4. "Significant interference" means, with respect to encroachments on District easements, a use or condition that does or has the potential to damage or to inhibit access to District facilities or that does or has the potential to negatively impact the District's use of the easement for its intended purposes. Some uses and conditions that ~~do not~~ ^{may} pose a significant interference include lawns, flowerbeds, loose paving stones, and similar landscaping features. Some uses or conditions that do pose a significant interference include swimming pools, permanent decks, retaining walls, trees, heavy brush and vegetation, gates, fences, and paving. The determination regarding whether ~~an~~ ^{any} activity or condition constitutes a significant interference shall be made by the General Manager, ~~which shall be consistent with this Ordinance.~~

SECTION 3. Unauthorized Encroachments. It is unlawful for any person to:

3.1. Cause, permit, or maintain an unauthorized encroachment on a District easement that results

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Re: Easements and Easement Encroachments

in a significant interference with the District's easement rights or District's facilities;

3.2. Cause, permit, or maintain any activity or condition off or outside a District easement that causes, whether directly or indirectly, a significant interference with the District's easement rights.

SECTION 4. Authorized Encroachments. A property owner may make use of the land over which the District has an easement if the use or condition does not violate Section 3 of this Ordinance.

SECTION 5. Removal & Restoration of Improvements Disturbed by District Activities. Whenever the District's reasonable use of the easement to construct, reconstruct, renew, alter, operate, maintain, inspect, repair, or replace District facilities results in the need for the property owner's improvements to the real property to be removed or disturbed, the unauthorized encroachments shall be removed by the property owner at his or her expense and shall not be restored by the District. Removal shall be performed promptly after notice from the District. If the encroachment has not been removed with a reasonable time after notice, or if the urgency of the District's easement activities requires, the District may remove the encroachment itself, and the removal costs will be charged to the property owner.

SECTION 6. District Remedies. The remedies granted to the District in this Ordinance are in addition to any other rights and remedies that are available under prior regulations or otherwise afforded by law, and the District is entitled to exercise any and all such rights and to charge property owners for the costs of such remedies either serially or cumulatively, as determined by the District.

SECTION 7. CEQA. This action is not a project for purposes of 15 CCR 15378(b)(5) in that It is an administrative activity that will not result in direct or indirect physical changes in the environment.

SECTION 8. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

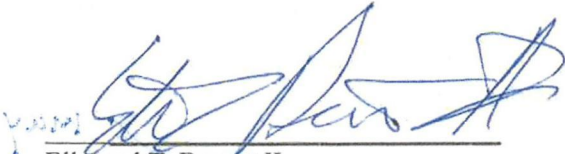
SECTION 9. Severability. If any section of this Ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether any particular section is held invalid or unconstitutional.

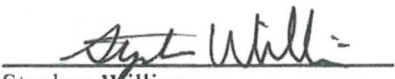
PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this 13th day of July, 2023, by the following vote:

AYES: Directors Hogan, Johnson, Martin, Ohlmann, and Barrett
NAYS: None
ABSTAIN: None
ABSENT: None



ATTEST:


Ellwood T. Barrett II
President of the Board of Directors of the
MONTECITO SANITARY DISTRICT


Stephen Williams
Clerk of the Board of Directors of the
MONTECITO SANITARY DISTRICT