

ORDINANCE NO. 2015- 06

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE SAN DIEGO COUNTY WATER AUTHORITY MAKING CLEAN-UP AMENDMENTS TO CHAPTER 7.00 OF THE ADMINISTRATIVE CODE

The Board of Directors of the San Diego County Water Authority does ordain as follows:

1. Article 7, chapter 7.00 of the Administrative Code is amended by the amendment of section 7.00.040, subdivision (b), paragraph 11 to read as follows:

11. Corrals or pens for animals except as allowed under section 7.00.050 (b) ~~11~~.

2. Article 7, chapter 7.00 of the Administrative Code is amended by the amendment of section 7.00.050 to read as follows:

Section 7.00.050 Uses Allowed Without a Permit – Notice to Authority

(a) The Board finds and declares that underlying owners of land may have reserved rights to use Authority right of way under the deed or final order of condemnation pursuant to which the Authority holds title to its right of way. The purpose of this section is to provide owners having reserved rights with guidelines, terms, and conditions for the exercise of reserved rights in a manner that will not be incompatible with or detrimental to the Authority's property or property rights. Subject to the provisions of this section, an underlying owner may exercise a reserved right for a use without obtaining a permit from the Authority, except that owner shall give Authority a minimum of 10 calendar days' notice before exercising any reserved right. The notice shall be in writing and filed with the Director of Engineering.

(b) The following is a list of uses and structures generally allowed as an exercise of a reserved right subject to the provisions of this section:

1. Vegetable and flower gardens, lawns and ground cover (such as low growing vegetation, mulch, bark or crushed rock).
2. Bushes and shrubs, but not trees. Bushes and shrubs must be maintained so as not to obstruct visual inspection of the right of way. Hedges shall be trimmed to a height of thirty-six inches (36") or less.
3. ~~Fences thirty-six inches (36") or less in height with posts no deeper than 12 inches. Securing posts in concrete is prohibited.~~
34. Mortarless unreinforced walls thirty-six inches (36") or less in height for landscape purposes.

45. Low voltage/decorative lighting (12 volt / 75 watt maximum).
56. Storage or parking of operational vehicles, trailers, or mobile equipment authorized for travel on public streets subject to the following weight and spacing limits. Single vehicles not exceeding sixteen thousand pounds or a combination of adjacent vehicles within a thirty-foot square having a combined weight that does not exceed sixteen thousand pounds. Vehicles weighing more than fourteen thousand pounds shall be spaced not less than sixty feet (60') apart.
67. Moveable garden or storage sheds constructed of wood, sheet-metal or plastic, with a maximum size of eight feet wide by ten feet long by eight feet high (8' x 10' x 8') with no electrical, gas or water utilities. Such sheds shall be set back at least ten feet from the closest edge of any Authority pipeline.
78. Playground equipment and wooden gazebos, trellises and similar yard or landscape structures, provided that support posts do not extend beyond twelve inches deep and are not secured by concrete or other permanent method.
89. Asphalt paving or unreinforced concrete driveways, walkways, and pads six inches (6") or less in thickness and requiring no grade modifications.
940. Water lines to provide potable or non-potable water service (except reclaimed sewage or sewer water) to the property to which the reserved right is attached provided the lines are two inches (2") or less in diameter, have a minimum depth of twenty-four inches (24") at crossings under patrol or access roads, are installed above the Authority's pipeline and have a minimum vertical separation of eighteen inches (18") from bottom of line to top of the Authority's pipeline, and are installed such that crossings of the Authority's pipelines are at right angles or as close to a right angles as possible. If pipelines will be installed below ground, the notice required by subdivision (a) shall be accompanied by a plan showing the proposed location of all subsurface facilities. The notice required by subdivision (a) shall be accompanied by a plan showing the location of all shut-off valves. The owner shall file a written update plan showing any changes in location of subsurface facilities or shut-off valves. Shut-off valves shall be located at the edge of the Authority's right of way.
1044. Pipes, conduit, wires and cables to provide electric, gas, sewer, and communications service ("utility facilities") to the property to which the reserved right is attached. Subsurface utility facilities shall be installed above the Authority's pipelines and shall have a minimum vertical separation of eighteen inches (18") from bottom of utility to top of the

Authority's pipeline and be installed such that crossings of the Authority's pipelines are at right angles or as close to a right angles as possible. Conductor clearances for overhead electrical and telephone lines shall conform to California Public Utilities Commission General Order 95 for Overhead Electrical Line Construction or at a greater clearance if required by the Authority. The clearance shall not be less than thirty-five feet (35'). Overhead lines shall be located a minimum of thirty feet (30'), measured laterally, away from all aboveground facilities on the pipelines. When underground electric lines provide service at 120 volts or greater, conduits shall be encased in a minimum of three inches (3") of red concrete. Aboveground warning signs shall be placed at the right of way lines where subsurface utility facilities enter and exit the right of way. Non-metallic gas lines shall be placed with a twelve-gauge (12 gauge) tracer wire a minimum of twelve inches (12") above the buried utility, terminating in an Authority-approved junction box. If utility facilities will be installed below ground, the notice required by subdivision (a) shall be accompanied by a plan showing the proposed location of all subsurface facilities. The notice required by subdivision (a) shall be accompanied by a plan showing the location of all shut-off switches or valves. The owner shall file a written update plan showing any changes in location of subsurface facilities or shut-off switches or valves. Shut-off switches or valves shall be located to provide easy access by Authority personnel using the Authority's right of way. Septic systems and leach fields are not permitted. Utility poles are not permitted except pursuant to a major encroachment permit or joint use agreement.

- ~~12. Fences greater than thirty-six inches in height constructed entirely of wood, plastic or metal may be permitted no closer than ten feet (10') from the centerline of a pipeline or access or patrol road, and twenty feet (20') from the edge of any surface or above-ground facility. Fence posts may be secured in concrete or similar material that is poured into the post hole. Concrete, stone or similar materials are not permitted. When a fence is located in a manner that obstructs direct access to an Authority pipeline or other structure, or between an Authority pipeline or other structure and the Authority's regular patrol road, the Director shall require that a fence be constructed and maintained in a manner that permits visibility through the fence at a height of thirty-six inches (36"), and may require installation of a gate. The Director may permit a fence that crosses a pipeline if the fence (i) meets the requirements of paragraph 13 of this subdivision, and (ii) has posts that are constructed to minimize interference with the Authority's works and have a minimum of eighteen inches (18") of vertical separation from bottom of the post hole to the top of pipe. Fences include, without limitation, prefabricated portable corrals.~~
- ~~13. Any fence that crosses the Authority's right of way shall include a gate within the right of way as specified by the Director of Engineering.~~

~~Gateposts shall be installed in accordance with the provisions of this chapter governing fence posts. Gates must not swing to the open or closed position uncontrollably, unless constructed with a latching mechanism to control undesired movement of the gate. Gates shall have reflective caution signs or markings easily visible from a distance of one hundred (100) yards. Gate attachment/locking device shall provide space for an Authority lock that works independently of any lock installed by the permittee. Chains may be used as a locking mechanism for gates. If a gate is located adjacent to a public or private roadway that crosses the right of way, then the gate shall be setback, whenever feasible, as follows: (i) if the gate opens towards the roadway, the setback shall be a minimum of forty feet (40') from the closest edge of the roadway, (ii) if the gate opens away from the roadway, the setback shall be a minimum of thirty (30') feet from the closest edge of the roadway. Subject to the provisions of this chapter, fencing or other material to deter access around the gate may be placed in the right of way as specified by the Director of Engineering.~~

1144. Any other use or structure not otherwise prohibited by Section 7.00.040 that the Director of Engineering determines in writing not to be incompatible with or detrimental to the Authority's property or property rights. The Director of Engineering shall keep a log of written determinations made pursuant to this paragraph on file in the Engineering Department and with the Clerk of the Board. The log shall be a public record.

(c) Fences are authorized in accordance with this subdivision and subject to the provisions of subdivision (d).

12. ~~Fences greater than thirty-six inches in height constructed entirely of wood, plastic or metal may be permitted no closer than ten feet (10') from the centerline of a pipeline or access or patrol road, and twenty feet (20') from the edge of any surface or above-ground facility; however, the setback from the centerline of a pipeline may be reduced upon approval by the Director of Engineering to allow a fence on a property line or right-of-way boundary that is within the ten foot setback area.~~ Fence posts may be secured in concrete or similar material that is poured into the post hole. Fences of concrete, stone or similar materials are considered walls and not permitted under this subdivision. When a fence is located in a manner that obstructs direct access to an Authority pipeline or other structure, or between an Authority pipeline or other structure and the Authority's regular patrol road, the Director shall require that a fence be constructed and maintained in a manner that permits visibility through the fence at a height of thirty-six inches (36"), and may require installation of a gate. The Director may permit a fence that crosses a pipeline if the fence (i) meets the requirements of paragraph 243 of this subdivision, and (ii) has posts that are constructed to minimize interference with the Authority's

works and have a minimum of eighteen inches (18") of vertical separation from bottom of the post hole to the top of pipe. Fences include, without limitation, prefabricated portable corrals.

- ~~243.~~ Any fence that crosses the Authority's right of way shall include a gate within the right of way as specified by the Director of Engineering. Gateposts shall be installed in accordance with the provisions of this chapter governing fence posts. Gates must not swing to the open or closed position uncontrollably, unless constructed with a latching mechanism to control undesired movement of the gate. Gates shall have reflective caution signs or markings easily visible from a distance of one hundred (100) yards. Gate attachment/locking device shall provide space for an Authority lock that works independently of any lock installed by the permittee. Chains may be used as a locking mechanism for gates. If a gate is located adjacent to a public or private roadway that crosses the right of way, then the gate shall be setback, whenever feasible, as follows: (i) if the gate opens towards the roadway, the setback shall be a minimum of forty feet (40') from the closest edge of the roadway, (ii) if the gate opens away from the roadway, the setback shall be a minimum of thirty (30') feet from the closest edge of the roadway. Subject to the provisions of this chapter, fencing or other material to deter access around the gate may be placed in the right of way as specified by the Director of Engineering.

(de) The exercise of any reserved right within an Authority right of way as authorized by this section is subject to the following:

1. Any structure or use shall be set back a minimum of twenty (20) feet from the edge of any Authority facility, unless otherwise provided in subdivisions (b) or (c). In the case of buried facilities the setback shall be measured at the surface from the vertical extension of the edge of the facility. The setback from rights of way used for access or patrol road purposes shall be 10 feet from the centerline of the road.
2. The Authority shall not be liable for any damage or injury caused by or attributable to the exercise of a reserved right.
3. Any exercise of a reserved right shall at all times be subject to the paramount right of the Authority to use its property and property rights as necessary or convenient to the full exercise of the Authority's powers according to the terms of the Authority's document of title.
4. No person shall exercise a reserved right in a manner that creates a nuisance or causes a dangerous condition of property.
5. Any structures or uses placed are maintained pursuant to this section are subject to immediate removal by the Authority as may be necessary or

convenient for the Authority's purposes. The Authority shall not be liable for costs of damage to or replacement of structures or uses it removes. The Authority may require the owner to remove or relocate a structure or use at the owner's expense.

6. Excavation over the Authority's pipelines shall be done with hand tools only.
7. The owner shall be responsible for compliance with all applicable zoning, building, grading and other laws relating to the use of property.
8. Before performing any excavation in the Authority's right of way the owner shall contact the Director of Engineering for a determination whether a Pothole License Agreement is required pursuant to Section 7.00.150.

3. The General Counsel shall incorporate these changes into the Administrative Code. The highlighting of text in this ordinance is for convenience and will not be incorporated into the codified text.

4. This ordinance shall be effective upon adoption.

5. The Clerk of the Board shall cause this ordinance to be posted in full in a prominent location on the Water Authority's website pursuant to Section 1.00.040 of the Administrative Code.

ADOPTED this 22nd day of October, 2015.

AYES: Unless noted below all Directors voted aye.

NOES: None

ABSTAIN: None

ABSENT: Boyle, Hall, Tu, Watkins



Mark Weston, Chair

ATTEST:



Jim Madaffer, Secretary

I, Melinda Cogle, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Ordinance No. 2015-06 was duly adopted at the meeting of the Board of Directors on the date stated above.



Melinda Cogle, Clerk of the Board