



March 24, 2009

Board of Directors  
Marin County Open Space District  
3501 Civic Center Drive  
San Rafael, California 94903

**SUBJECT: REQUEST TO APPROVE NEW OPEN SPACE DISTRICT  
ENCROACHMENT POLICIES**

Dear Board Members:

**RECOMMENDATION:**

1. Approve the attached policies related to the resolution of encroachments on Open Space District lands.

**SUMMARY:** As part of its stewardship responsibilities, the Open Space District has the obligation to protect its real property interests from encroachments. The District's real property interests are associated with its ownership of land, trail easements and conservation easements. Encroachments are unauthorized private uses of open space and trails. They are usually associated with adjoining private property, and often take the form of improvements such as fences, landscaping, irrigation systems, built-in barbecues, decks and patios, and in rare circumstances, even portions of homes. Encroachments not associated with improvements most often involve tree cutting and other vegetation removal. Encroachments may be intentional or unintentional. Regardless of their nature or cause, encroachments can adversely affect habitat and scenic values, create hazards, and, in the case of blocked trail easements, prevent public access to open space lands.

The recent discovery of two substantial encroachments on District and County lands managed for open space purposes has prompted staff to review the scope of the encroachment problem and the District's policies, ordinances and practices that address them. With regard to policies and ordinances, staff has found that:

- Existing policies for resolving encroachments, created in 1974 and last amended in 1985, do not give sufficient guidance to staff. Existing policies also contain procedural statements that do not belong in policies.

- Existing policies and procedures related to encroachments are contained in several documents, making errors possible in the encroachment resolution process.
- Existing ordinances related to encroachments in the Open Space District Code are serving the District well and do not require amendment.

Consequently, staff has developed the new encroachment policies set forth in Exhibit A.

As part of an overall “Encroachment Initiative” to address existing and minimize future encroachments, staff is also in the process of:

- Updating its internal procedures for resolving encroachments
- Updating the practices of field staff so that encroachments can be discovered in a more timely manner
- Developing a plan to reduce the number of new encroachments through education and outreach
- Addressing the backlog of unresolved encroachments in staff work plans

The Parks and Open Space Commission recommends your Board’s approval of the attached policies.

**FISCAL IMPACT:** None.

<b>REVIEWED BY:</b>	<input type="checkbox"/> Auditor Controller	<input checked="" type="checkbox"/> N/A
	<input checked="" type="checkbox"/> County Counsel	<input checked="" type="checkbox"/> N/A
	<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

Respectfully submitted,

Ronald Miska  
Deputy Director

attachment  
RM:kbl

cc: Matt Bronson  
Terry Toner  
Eric Lueder  
Parks and Open Space Commission  
Press