

Muir Beach Community Services District

Policy on Uses and Encroachments on MBCSD Property

Policy Statement	This policy addresses requirements and procedures relating to the use of MBCSD / Public Parklands, easements and right of ways.
Application	This policy applies to lands dedicated to Public uses, including parklands, walking trails, utility easements, right of ways and all MBCSD owned properties and structures.
Definition	<p>Encroachment can take many forms, but generally is defined as any situation where an individual homeowner has created, or allowed to be created, a private use of MBCSD parkland or easement that is not consistent with the dedicated Public uses.</p> <p>Encroachment specifically includes, but is not limited to, barricading of access whether physical or placing of private property/no trespassing signage, allowing damage to occur as a result of uses on private property, dumping in the public areas, private development on Public lands, and propagation of non-native and/or invasive species of plantings from individual lots into Public areas.</p>
Policy	<p>Encroachment into MBCSD easements, right of ways and parklands areas from individual lots is not allowed. Any instances of new encroachment, of any type, must be reversed. Existing encroachments shall be remediated at a pace consistent with the guidelines below and shall be done in cooperation with the current homeowners involved. Rights of Public uses of such dedicated spaces shall be preserved and not infringed upon.</p> <p>Encroachments may be identified in various ways, including but not limited to land surveys, visual inspection by MBCSD Staff and reports or complaints from the Public.</p>

Implementation and Authority:

The MBCSD District Manager, in consultation with the Parks and Trails Committee and the Garden Club, is responsible for implementing this policy, which shall be applied consistently throughout the MBCSD. A homeowner may appeal the implementation of this policy to the MBCSD Board, whose ruling on the matter is final. If the homeowner does not cooperate with the remediation, any costs incurred by the MBCSD in remediating the encroachment may be assessed against the homeowner.

Remediation Guidelines: Homeowners will be individually notified of the cases of encroachment observed at the property boundary with the MBCSD property and specific remedial action and timing will be requested. Encroachment that is damaging to the Public spaces or is easily resolved shall be requested to be done in a shorter time, with the requested timing consistent throughout MBCSD for each type of encroachment.

Review and Permitting of Variances:

1. A landowner may request a variance from this policy with a written request to the District Manager.
2. A variance for encroachment may be considered only where MBCSD Staff and the Board of Directors agree that there exists a demonstrable net increase in Public benefit for the allowance of the encroachment and no deed or other restrictions disallows this option.
3. Variance requests will be reviewed by the MBCSD Staff, applicable Ad Hoc Committees and the Board of Directors. Only the Board of Directors can authorize such encroachment variances.
4. If an encroachment variance is approved, an agreement between the MBCSD and property owner will be entered into and recorded.

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