

V 6.0

3/8/24

Ventura Land Trust

Policy Statement on Property Encroachments

March 2024

RECITALS

1. Ventura Land Trust (VLT), a community-based nonprofit organization, believes that preserving open space and providing public access enhances the economy, quality of life, and public well-being of Ventura and surrounding communities.
2. VLT envisions a community with more trails, more hiking, more cycling, and more opportunity to enjoy natural areas.
3. VLT envisions more preserved open space that ensures the protection of wildlife and the natural environment.
4. VLT accomplishes its goals through land acquisition and stewardship, acquiring connected and stand-alone parcels of both large and modest size with the belief that all of these parcels, when aggregated, combine to provide beneficial natural spaces, enhancing the general community environment.

REFERENCE

The Land Trust Alliance is a national organization representing the greater land trust community. As the national leader in policy, standards, education and training, Land Trust Alliance supports land trusts so they can save and secure more lands now and for future generations. The Land Trust Alliance Standards and Practices describe a land trust's responsibilities in their publication **Caring for Land Trust Properties**. The following practice is referenced:

Practice 12D: Monitoring Land Trust Properties

The land trust marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse or overuse, vandalism or safety hazards) and takes action to rectify such problems. A land trust that holds property also takes on a responsibility to the public and has certain legal liabilities for injuries that

occur on the land. Thus, at a minimum, a land trust needs to monitor each property to ensure it is not damaged by malicious or negligent acts, that people are not endangered by safety hazards and that continuous encroachment or unauthorized use do not cause the land trust to lose the property or parts of it altogether. Such problems usually can be prevented if the land trust marks and maintains its boundaries and regularly monitors its properties.

A prudent land trust will pay attention to activities on neighboring properties as well as its own so that the organization can guard against disturbances that cross the land trust's boundaries, such as logging, bulldozing, or other activities that can diminish conservation values. If a violation is observed, the land trust should be prepared to respond quickly and effectively to limit damage. The monitoring policy should identify who in the organization is responsible for contacting the offending party (if the perpetrator is known) or for reporting the issue to police or other appropriate office.

FINDINGS

1. Encroachments onto VLT property reduce the general value of the property to the public and should be eliminated to the greatest extent practical.
2. Even small encroachments, when aggregated, can have a negative impact on the VLT goal of protecting the natural and recreational benefits of the land.
3. Encroachments have the potential to pose hazards from fire, flooding, soil instability, and improper construction to VLT property and adjacent properties.
4. Managing encroachments draws staff away from their regular duties.
5. Encroachments managed by neighboring landowners tend to include non-native species, including invasive plants that provide threats to the conservation value of VLT preserves.
6. Encroachments create liability for VLT.
7. Encroachments are in violation of property law, and encroaching property owners are deriving a private benefit at the expense of a nonprofit organization and the rest of the community at large.
8. Encroachments are frequently a violation of funding agreements that VLT has entered into, and are therefore disallowed.

9. Encroachments present inequitable conditions among neighbors, creating a divide between those who respect mutual boundaries and those who do not, and create a false sense of property land area, improvements and property value in land transactions.

Now, therefore, the Ventura Land Trust Board of Trustees establishes the following policy statements.

1. It shall be the policy of VLT to eliminate encroachments onto Ventura Land Trust parcels to the greatest extent possible.

2. The trustees want VLT to be a good neighbor and work cooperatively to achieve its goals.

3. On newly acquired parcels with existing encroachments, VLT will establish reasonable timeframes to remove the encroachments.

a. Within those time frames all encroachments must be removed.

b. All existing encroachments must be removed before the encroaching property is sold or transferred;

c. Encroachments may not be expanded or enhanced.

d. There may be circumstances where the removal of an encroachment increases the danger to life or property or presents an extreme economic hardship without corresponding benefit. In each of these cases if the Board determines, in its sole discretion, that allowing the encroachment to continue is in Ventura Land Trust's best interests, then the Board should adopt specific findings to justify the continued encroachment and determine the method under which it is allowed (easement, temporary easement, license agreement), for how long the encroachment is allowed, and the remuneration to VLT for the use of its land.

4. Encroachments that are removed for any reason (including natural disaster, fire, or other reason) may not be replaced.

5. VLT will take all steps necessary to prevent adverse possession of VLT property.

6. An encroachment granted extra time for removal shall be subject to a fee that covers, at a minimum, the cost of VLT management of the encroachment.

7. The Operational Standards for managing encroachments are described in Attachment 1.

ATTACHMENT 1

Operational Standards for Encroachments

The VLT Board of Trustees delegates the authority to manage encroachments to the Executive Director, with the exception of any permanent adjustments or land transactions which shall be approved by the Board of Trustees.

VLT will maintain an ongoing database on encroachments and prepare a file on each encroachment that includes: the property address and assessor's parcel number, the property owner name and contact information, a property map, description of the encroachment, and any steps taken to cure each encroachment, including all written correspondence concerning the encroachment and summaries of oral communications. The encroachments shall be categorized by type, such as un-authorized entries and trails, deposit of waste or debris, construction of structures (fences, walls, tree-houses, decks, homes, stairways, etc.), planting of vegetation, use of insecticides, herbicides and rodenticides, placing or storing of personal property, and alterations to the land surface such as grading or changes to drainage patterns.

Notice Letter: Upon discovery of an encroachment VLT will send a Notice Letter by certified mail to the property owner signed by the Executive Director or their designee. If the property owner's address is not the same as the site address, a copy of the notice letter also will be sent by regular mail to the property address, addressed to "Resident." The Notice Letter shall contain the following information:

- a. Notice to the property owner of the encroachment, including a description of the encroachment and its specific location (including a photo, map or drawing);
- b. A request for the property owner to contact the designated staff within 10 days to schedule a site visit to review the encroachment for purposes of discussing development of site-specific encroachment correction plan;
- c. Advice to the property owner that they will be required to pay all expenses related to correction of the encroachment, potentially including costs incurred by VLT

Restoration Requests: In the event the property owner does not respond to the Notice Letter within 30 days, VLT will send a second certified letter to the property owner requiring correction/restoration of the encroachment within a specified time frame. In the event the property owner does not respond to this letter within 30 days or refuses to correct the encroachment, VLT will provide another certified letter advising the property owner that VLT will undertake the restoration itself and will seek reimbursement from the owner.

Boundary Dispute: If the current land ownership boundary has not been surveyed and there is a dispute as to the boundary location, VLT will request that property owner hire a Licensed Professional Land Surveyor or Professional Engineer to survey their property boundaries. It may be necessary for VLT to undertake a survey if the encroaching party will not comply, and if other identifying features, such as survey markers, adjacent property lines or utility poles, are not available. In this case, VLT may seek reimbursement from the property owner of the survey cost.

5. Restoration Plan Approval: The Executive Director or their designee shall be responsible for the review and approval of all encroachment correction plans. Upon approval of a correction plan, the Executive Director or their designee shall notify the property owner in writing.

6. Confirmation of Restoration Plan Implementation: VLT staff shall undertake follow-up site visits to review site activities and confirm that the encroachment has been corrected per the approved plan, including review of permanent boundary installation/location. Restoration will be documented with photographs of the site.

7. Closing Out the File: Stewardship staff shall enter information into the VLT encroachment database, closing out the incident.