



Maricopa County

Planning & Development Department

Department Directive

Department Directive:
DD-2011-05
Supersedes:

Effective: Immediately

Initiator: Darren Gerard

Director: *Joy Rich*

PURPOSE: To ensure consistent treatment of Patent Easements in unincorporated Maricopa County.

REFERENCE: Small Tract Act of 1938 Patent

POLICY/PROCEDURE:

Federal Patent Easements - Information and Overview:

There are many land parcels within Maricopa County that were originally conveyed by the United States to private landowners pursuant to the Small Tract Act, passed June 1, 1938. Generally speaking, these conveyances transferred fee title to the land to the new owner, subject to easements (referred to as "patent easements") for the benefit of the public for access and utilities. Many legal questions arise concerning the rights of the owner, of neighboring landowners, and of the public to use the land that is subject to a patent easement. Below is a brief summary of some basic information concerning these patent easements as they pertain to unincorporated Maricopa County.

Patent easements were created to provide a corridor for access and utilities to the small tracts that were conveyed to private ownership. A patent easement provides a local government or public utility the right to build a road or to install utilities within the patent easement area without the need to purchase or condemn the land. The owner takes the small tract subject to the access and utility rights reserved in the easement.

Patent easements also provide rights of ingress and egress to property owners in the surrounding area. These rights are subordinate to the public's right to use and develop the easement area for physical and utility access.

Any structures placed within a patent easement by the fee owner are subject to removal or destruction. In such a situation, the fee owner is not entitled to compensation for the loss of the improvements.

The county has no responsibility for improving or maintaining patent easements. Neighboring owners or public utilities may have rights to use a patent easement roadway system. The county does not involve itself in disputes between private landowners concerning contested uses or other contested issues concerning a patent easement area.

Maricopa County requires structures to maintain setbacks from public easements reserved for ingress and egress, including patent easements. Yard area zoning requirements are measured from the easement line.

Maricopa County does not have statutory authority to abandon a patent easement or a portion of a patent easement.