

LAKE WORTH DRAINAGE DISTRICT OPERATING POLICIES

Chapter 4: Restrictions & Requirements within Right-of-Way

4.2 Right-of-Way Encroachments & Removal Process

Encroachment: Any object, structural or non-structural, within existing LWDD right-of-way, above ground, below ground or at ground level, that does not constitute a LWDD facility or a LWDD permitted facility (i.e. outfall pipe, endwall, etc.), including but not limited to, canal channels and maintenance berms, canal control structures, LWDD gates, staff gauges, etc. Encroachments may be permitted, licensed, authorized under agreements, or exist as unauthorized encroachments as described above.

4.2.1 Right-of-Way Encroachments

4.2.1.1

LWDD does not allow encroachments within LWDD canal rights-of-way unless authorized and permitted through the requirements of other sections of this Operating Policies manual, including, but not limited to: bridges, culverts, docks, boat lifts, seawalls, gates, signs, utility lines and facilities.

4.2.1.2

LWDD reserves the right to deny any request for failure to meet any requirement contained in this or any other section of this Operating Policies manual, or if it is in conflict with the operations of LWDD.

4.2.1.3

The canal shall remain clear of all construction. There shall be no trees, shrubs, etc. within the right-of-way.

4.2.1.4

LWDD does not assume maintenance or replacement responsibility for any encroachment within LWDD's right-of-way.

4.2.1.5

The petitioner/applicant always has the right to appear before the LWDD Board of Supervisors to present their request for a variance to the established operating policies.

4.2.2 Right-of-Way Encroachment Removal Process

4.2.2.1

LWDD inspector verifies encroachment(s) and takes photographs of encroachment(s).

4.2.2.2

LWDD inspector notifies adjacent property owner in writing (sent via Priority Mail Flat Rate, postage prepaid, and/or hand delivery by LWDD) of encroachment violation, advising that encroachment(s) must be removed within sixty (60) calendar days from the date of the letter of notification; and provide a date certain for removal. Contact with adjacent property owner shall be made prior to removal of encroachment(s). Further, if personal

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contact is not made the encroachment(s) will be tagged and a door tag will be placed on the front door with the proper contact information.

4.2.2.3

Once the sixty (60) calendar days have elapsed, the LWDD Engineering Department shall conduct an inspection of the encroachment area.

4.2.2.4

LWDD inspector provides a copy of the written notice of encroachment violation for remaining encroachment(s) together with the Encroachment Removal Report to Operations for removal by LWDD field staff.

4.2.2.5

Encroachment(s) shall be removed by LWDD field staff; unless otherwise directed by the Manager of LWDD.

4.2.2.6

After removal of encroachment(s) by LWDD field staff, Operations will finalize the Encroachment Removal Report and forward to LWDD Records Department.

4.2.2.7

LWDD is primarily funded with taxpayer dollars. In order to make efficient use of LWDD resources the Notice of Violation (N.O.V.) will contain the following options:

a. Upon receipt of the N.O.V., if the adjacent property owner cannot remove the encroachment(s), the adjacent property owner may contact LWDD to remove the encroachment(s) as a service to the adjacent property owner and LWDD shall assess the adjacent property owner for the actual cost to LWDD for the removal.

b. If the adjacent property owner elects not to remove the violation(s) (encroachment(s)) within the ten (10) days LWDD will proceed to cause compliance. In order to cause compliance and efficient operation and maintenance of the canal rights-of-way, LWDD will assess the adjacent property owner for the actual cost to LWDD for clean up/removal of the violation(s) (encroachment(s)). If the adjacent property owner does not remit the clean up/removal costs for this matter, it will be turned over to the LWDD Legal Department for collection including, but not limited to attorney's fees, possible liens, court costs and administrative fees.

c. If the adjacent property owner removes the violation (encroachment(s)) within the ten (10) days of the N.O.V., and the right-of-way is restored to its original or better condition, LWDD will consider the matter closed.