

# LAKE WORTH DRAINAGE DISTRICT OPERATING POLICIES

## Chapter 5: Right-of-Way Ownership & Interests

### 5.7 Conveyance of Right-of-Way to LWDD

#### Introduction

Once a project comes into LWDD for review, part of staff's review is to make sure that there is adequate right-of-way for canal maintenance. The amount of right-of-way is determined by staff based on review of signed and sealed canal cross-sections of canals adjacent to the subject property. Staff also refers to the Required Right-of-Way Maps recorded in Official Record Book 1732, Page 612 (aka: Mock-Roos Study). These maps are a Notice to the Public and did not convey ownership or interest to LWDD. Once staff determines the amount of right-of-way needed based upon the above information, a letter is sent to the appropriate governmental agency. The property owner can then either convey this right-of-way in fee simple or as an exclusive easement to LWDD. LWDD will require a minimum of 35 feet of dry ground on the heavy maintenance side and 15 feet of dry ground on the light maintenance side for canals with existing top-of-bank to top-of-bank channel widths less than 50 feet. LWDD will require a minimum of 45 feet of dry ground on both sides for canals with existing top-of-bank to top-of-bank channel widths of 50 feet or more. Dry ground is defined as the area between the canal top-of-bank and the right-of-way line, to be used for canal maintenance operations.

#### 5.7.1 Requirements

**It is strongly recommended that prior to canal cross-sections, certification of title, and/or sketch of description being submitted to LWDD, the applicant or petitioner meet with the appropriate LWDD personnel to discuss and understand all requirements relative to LWDD canals and rights-of-way regarding the proposed project or subject property.**

##### 5.7.1.1 Canal Cross-Sections

LWDD may require additional right-of-way adjacent to existing right-of-way, based on the actual location of the canals. LWDD can only determine the need for additional right-of-way by reviewing signed and sealed cross-sections of the canals. Conveyances to LWDD shall be by Warranty Deed or Exclusive Perpetual Easement.

For each applicable existing LWDD canal, the applicant or petitioner must provide two sets of current cross-sections that have been signed and sealed by a professional surveyor and mapper licensed in the State of Florida. The cross-sections will be used to determine if LWDD will require the applicant or petitioner to convey an exclusive easement to LWDD. Cross-sections at 300 foot intervals are to be provided for each canal, including at each end of the portion of the project that fronts the canal. A minimum of three cross-sections for each canal are to be provided. The cross-sections are to show, label and dimension at least the following:

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- (a) channel bottom elevation and width;
- (b) location and elevation of each toe-of-slope and each top-of-bank;
- (c) existing canal right-of-way lines;
- (d) existing land lines (such as section lines, quarter-section lines, or platted block lines and tract lines within platted subdivisions, e.g., THE PALM BEACH FARMS CO. PLAT NO. 3);
- (e) property lines of subject parcel;
- (f) all easements within the limits of the cross-section;
- (g) existing ground elevations to a point 50 feet beyond the existing top-of-banks on each side of the channel or to a point 25 feet outside of the existing canal right-of-way lines on each side of the channel, whichever is greater, including all features that may be relevant (e.g., buildings, edges of pavement, curbs, sidewalks, guardrails and ground grade breaks).

**Note: Each cross-section is to include a sufficient number of surveyed points such that the existing canal is accurately depicted.**

Canal cross-sections are also to be provided at each end of every culvert that exists within the limits of the project for each applicable LWDD canal, with the existing culvert shown in cross-sectional view depicted on the appropriate canal cross-section.

The canal cross-sections are to be shown at a scale of 1 inch equals 10 feet, both horizontal and vertical, for canals with a total of 80 feet (or less) of required right-of-way width (including both heavy and light canal maintenance berms), or 1 inch equals 20 feet, both horizontal and vertical, for canals with a total of more than 80 feet of required right-of-way width (including both heavy and light canal maintenance berms). A statement must be included on the canal cross-sections that the vertical datum used for the canal cross-sections is either the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Vertical Datum of 1988 (NAVD 88), and if the NAVD 88 vertical datum has been used, a conversion factor between the NGVD 29 vertical datum and the NAVD 88 vertical datum for the locations where the canal cross-sections were taken, must be provided. A plan view must be provided that shows how the canal cross-sections are oriented. The canal cross-sections must be shown, in cross-sectional view, looking from west to east or from south to north, with the north or west right-of-way respectively being on the left side of each canal cross-section shown.

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The requested information must be submitted to LWDD in both hardcopy format and CAD drawing files. The CAD drawing files must be in the form of AutoDesk DWG format (current and all prior versions accepted) or alternatively, in DXF format. The CAD drawing files can be submitted on either CD or DVD optical media.

**NOTE:** Canal cross-sections are valid for a two year period. After that time, current canal cross-sections will be required for review by LWDD. Based upon review of current canal cross-sections, the applicant or petitioner may be required to reconstruct or reshape the existing canal, in addition to conveying right-of-way to LWDD.

### 5.7.1.2 Certification of Title

A certification of title signed by a Florida licensed attorney or the President or Vice President of a title company authorized to do business in the State of Florida must be provided, and this certification of title must be provided on the letterhead of the applicable attorney firm or title company. The certification of title shall include a legal description of the subject property and the owner's name(s) of the subject property, as it appears in the public records. The certification of title must be dated within six (6) months of the date of receipt by LWDD. See the sample certification of title at the end of this section.

### 5.7.1.3 Sketch of Description

The sketch of description shall be prepared by a professional surveyor and mapper, licensed in the State of Florida, in compliance with Chapter 5J-17.05, Minimum Technical Standards, pursuant to Florida Statutes Chapter 472 F.A.C. The sketch of description must also meet the following LWDD requirements:

- (a) Provide definitive identification of boundary lines by a metes and bounds description of the perimeter of the subject parcel to be conveyed on the first sheet with a location sketch (vicinity map), with the section, township and range shown.
- (b) Show the square footage and/or acreage at the end of the description;
- (c) Cite the basis of bearings.
- (d) Include a note stating this is not a boundary survey.
- (e) The sketch shall be scaled no smaller than 1"=60'.
- (f) Must delineate and label all LWDD right-of-way interest(s).

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- (g) Show existing easements and encroachments which may encumber the parcel to be conveyed.
- (h) Provide bold outline of the area, and the area's acreage to be conveyed.
- (i) Do not label the easements as proposed but call for its size (i.e.: 15' Easement).
- (j) Provide the property control number (PCN) of the parcel.
- (k) All text shall be at least 0.10" in height.
- (l) The sketch of description must be submitted on 8 ½" x 11" media.
- (m) Provide two signed and sealed prints of the sketch of description.
- (n) Provide point of commencement (POC).

**5.7.2 Conveyance**

Based on existing canal cross-sections the adjacent property owner may be required to convey right-of-way to LWDD. The property owner can convey the right-of-way to LWDD either in fee simple or as an exclusive easement. Alternatively, upon LWDD approval, the property owner has the option of filling the canal to the ultimate design section identified for a specific area of a LWDD canal, and stabilizing the canal bank. The construction method for stabilization of the canal bank will need prior approval from LWDD's engineering department. The property owner must notify LWDD, in writing, which option they choose, either conveyance of the necessary right-of-way to LWDD or filling the canal channel to the ultimate design section and stabilizing the canal banks, as approved by LWDD. Note: in some situations a combination of filling (and stabilizing) the existing canal channel and conveying additional right-of-way may be required.

When an adjacent property owner is required to convey right-of-way to LWDD by either a warranty deed or an exclusive easement and there are existing easements on, over, and/or across (overlapping) the proposed right-of-way, the existing easements may be required to be extinguished prior to conveyance.

If at any time during review LWDD staff determines an easement(s) overlaps existing LWDD right-of-way, whether fee or easement, the overlapping easement may be required to be extinguished.

**SAMPLE CERTIFICATION OF TITLE**

**THE CERTIFICATION OF TITLE MUST BE PROVIDED ON THE TITLE COMPANY'S LETTERHEAD OR THE ATTORNEY'S LETTERHEAD**

Lake Worth Drainage District (LWDD) requires a Certification of Title in conjunction with conveyances to and from LWDD, agreements, releases, and annexation within the boundaries of LWDD. A Certification of Title must be addressed to:

LAKE WORTH DRAINAGE DISTRICT  
Attn: Legal Department  
13081 Military Trail  
Delray Beach, FL 33484-1105

I hereby certify that I have examined the Public Records of Palm Beach County, Florida regarding the following described property:

**Provide Full Legal Description and  
Property Control Number**

and as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, find the last owner of record to be \_\_\_\_\_

\_\_\_\_\_ whose  
mailing

address is \_\_\_\_\_.

Please identify any encumbrances, mortgages and any petroleum, phosphate, minerals and/or metals affecting the property.

**(Name of Law Firm or Name of Title Company)**

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney's Name if prepared by Law Firm

Name of President/Vice-President if prepared by Title Company

## **SAMPLE CERTIFICATION OF TITLE**

### **Additional Requirements**

If you are required to **convey right-of-way** to Lake Worth Drainage District, you must provide the following information:

**Existing Easements:** If there are existing easements or agreements that affect the parcel to be conveyed to LWDD, please identify them on the sketch of description required by LWDD for the proposed conveyance document. If there are no existing easements or agreements, **please confirm that in the certification of title.**

**Mortgage Holder:** If the parcel to be conveyed to LWDD is encumbered, it will be necessary to provide a Consent and Subordination of Mortgage. A sample form is provided herewith. Please provide the mortgage information in the certification.

If you are requesting a **release of reservations** from LWDD, you must provide the following information:

**Existing Easements:** If there are existing easements and or agreements that affect the parcel to be released by LWDD, **please provide a boundary survey with all easements and/or agreements plotted thereon. In addition, please provide copies of the corresponding documents.**

**SAMPLE FORM – THIS MUST BE PREPARED ON LENDER STATIONERY**

**CONSENT AND SUBORDINATION OF MORTGAGE**

\_\_\_\_\_, whose address is \_\_\_\_\_  
\_\_\_\_\_, pursuant to that Mortgage dated \_\_\_\_  
\_\_\_\_\_ and recorded in Official Record Book \_\_\_\_\_, Page \_\_\_\_\_, of the  
Public Records of Palm Beach County, Florida, (the "Mortgage"), which Mortgage  
encumbers the property described on Exhibit "A" attached hereto, consents to the Easement  
Deed dated \_\_\_\_\_ from \_\_\_\_\_  
\_\_\_\_\_, to LAKE WORTH DRAINAGE DISTRICT, to which this Consent and  
Subordination is attached (the "Easement), and subordinates the lien of the Mortgage to  
the Easement.

IN WITNESS WHEREOF, the Mortgagee has executed this Consent and Subordination as  
of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Name of Mortgagee

By: \_\_\_\_\_  
President

\_\_\_\_\_  
Address

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as President of \_\_\_\_\_  
\_\_\_\_\_. He/She (\_\_\_\_) is personally known  
to me or (\_\_\_\_) produced \_\_\_\_\_ as  
identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Stamp or Seal