

SECTION 14

PHYSICAL ENCROACHMENTS TO DISTRICT FACILITIES

14.01 SUPPLEMENTAL DEFINITIONS

14.01.01 Encroachments

Encroachments include, but are not limited to, buildings, bridges, culverts, fences, underground or overhead utilities, roadways, landscaping, docks, grading, and any other fixtures or appurtenances which may cross a District facility, reservoir, or right of way, which are in such proximity to District property or right of way as to interfere or potentially interfere with the District's performance of its responsibilities, including without limitation, the District's operation of its facilities, with necessary improvements or reconstruction of its facilities or which may cause unreasonable interference with District easement rights.

eff. 2/26/86; rev. 8/09/17; 7/22/20

14.01.02 Authorization

Written approval from the District, or an executed agreement with the District, authorizing the construction, installation, and existence of an encroachment, customarily in the form of an Encroachment Permit.

eff. 6/11/03; rev. 8/09/17; 7/22/20

14.01.03 Encroachment Permit

A permit issued by the District, authorizing the construction, installation, and existence of an encroachment, subject to the terms and provisions of the Encroachment Permit.

eff. 6/11/03; rev. 8/09/17; 7/22/20

14.01.04 Permittee

Any person issued an Encroachment Permit by the District, and any successors, assigns, heirs, and beneficiaries of that property benefitted by the authorized encroachment.

eff. 6/11/03; rev. 8/09/17; 7/22/20

14.01.05 Unauthorized Encroachment

An encroachment which is not authorized by a valid Encroachment Permit or written agreement.

eff. 6/11/03; rev. 8/09/17; 7/22/20

14.02 ENCROACHMENT AUTHORIZATION

14.02.01 Application for Encroachment

Prior to the construction or installation of a new encroachment, or replacement of an existing encroachment, the property owner(s) shall submit the Encroachment Application (Form 14-A) to the District for review and approval.

rev. 8/09/17; 7/22/20

14.02.02 Review of Encroachment Application

The District shall review the Encroachment Application for completeness. The District, in its sole discretion, may issue an Encroachment Permit subject to the terms and conditions which it deems necessary to protect its facility, easement, or right of way. The District may deny issuance of an Encroachment Permit if the encroachment would interfere or potentially interfere with the District's performance of its responsibilities and would restrict the District's abilities during an emergency situation.

eff. 6/11/03; rev 8/09/17; 7/22/20

14.02.03 Issuance of Encroachment Permit

An Encroachment Permit (Form 14-B) shall provide for the construction, installation, or replacement of an encroachment, and existence of an encroachment, as the case may be, all in conformance with the terms and provisions of the authorization. The existence of an encroachment is subject to the conditions, terms, and provisions set forth in the Encroachment Permit, and the Regulations of the District. An approved Encroachment Permit shall be signed by each of the property owner(s) and the District's General Manager.

Upon full execution, the Encroachment Permit will be recorded with the office of the County Recorder for the County in which the encroachment is to be located. Upon recording of the Encroachment Permit, the District will issue a construction authorization letter detailing any additional District requirements for construction or installation of the encroachment addressed in the Encroachment Permit. Encroachments shall follow the District's standard details or an approved design submitted to the District by the property owner(s).

Encroachment Permits shall be considered “covenants that run with the land,” and the terms and conditions thereof, together with the District policies contained in this Section 14, shall be binding on all successors, assigns, heirs, and beneficiaries of the property benefitted by the authorized encroachment.

eff. 6/11/03; rev. 8/09/17; 7/22/20

14.02.04 Construction Work

Construction or installation of any encroachment shall be performed only after the District's issuance of an Encroachment Permit and authorized by the District to begin construction per the construction authorization letter. The construction authorization letter shall provide for construction in accordance with District approved plans, standard details, and specifications. The Permittee shall assume and pay all costs and expenses of constructing, inspecting, and installing the encroachment, and shall remove all debris in the area or ground in which the encroachment exists, in a manner satisfactory to the District. If the Permittee fails to complete construction or installation of the encroachment to the District's specifications, requirements, and satisfaction within established time frames, the District may, at its discretion, either complete construction or

installation of the encroachment or stop the installation and cause the removal of the proposed encroachment. Should the District be required to complete construction, installation, or removal of the encroachment, the Permittee shall bear all costs and expenses for labor, materials, and equipment associated with such work.

eff. 6/11/03; rev. 8/09/17; 7/22/20

14.02.05 Water Outage Necessary for Construction

Prior to commencing construction and installation of an encroachment which shall lie within, or cross any District facility, reservoir, or right of way, which may cause a muddy water condition, fluctuation, or interference in any manner with the flow of District water, the Permittee shall submit a written request to the District with at least 14 calendar days advance notice of the need for an interruption in the flow of water, commonly referred to as a "water outage." The District may arrange with the Permittee to provide a water outage at such time convenient to the District so that the District may plan for and notify affected customers. If the District determines the outage may have a significant impact on its operations, the District may, at its discretion, delay an outage until after irrigation season. If in the District's opinion, the outage will cause a significant cost to the District, the Permittee will be required to pay such costs.

rev. 8/09/17; 7/22/20

14.02.06 Maintenance of Encroachment

Permittee shall be obligated to maintain, repair, operate, and replace the encroachment in accordance with the provisions of the Encroachment Permit, at all times, at said Permittee's sole cost and expense. All maintenance, operation, repairs, and replacement work performed upon the encroachment shall be conducted in a manner and to a condition satisfactory to the District. The District may require Permittee, at Permittee's sole expense, to perform maintenance, repair, reconstruction, or replacement of the encroachment necessary to ensure conformity with the Encroachment Permit.

eff.. 2/26/86; rev. 8/09/17; 7/22/20

14.02.07 District Repair or Replacement of Encroachment

The District shall notify a Permittee in writing of any deficiency in the operation, maintenance, or repair of an encroachment, describe the measures to be performed to cure the deficiency, and the timeline for repair. Should a Permittee fail or refuse to cure the deficiency within the specified time frame, the District may, at its option, either: 1) commence proceedings to revoke the Encroachment Permit; or 2) cure the deficiency using District labor and materials at the Permittee's sole cost and expense.

eff. 2/26/86; rev 7/22/20

14.02.08 Revocation

The District may revoke an Encroachment Permit after giving notice to the Permittee of the District's intent to revoke the Encroachment Permit and providing the Permittee with an opportunity to be heard concerning the proposed revocation. Should the Permittee fail to deliver to the District a written request for reconsideration within ten (10) calendar days from the date of the District's notice of intent to revoke, the Encroachment Permit shall be revoked by operation of this Rule and Regulation, and have no further force or effect.

Should the Permittee submit a timely, written request for reconsideration, the Engineering Manager will review the request for reconsideration. Should the Engineering Manager concur that the revocation is warranted, the Permittee can request that the matter be taken to the General Manager. If the General Manager upholds the revocation, the Permittee can petition their Director to have the matter considered before the full Board of Directors. The Permittee must make the petition to their Director within thirty (30) calendar days from the initial date of the District's notice of intent to revoke.

In conclusion of the request for reconsideration, the District may, in its discretion, either uphold revocation of the Encroachment Permit or impose terms and conditions for restoring the encroachment to an acceptable condition. The District shall issue its decision concerning the Encroachment Permit and provide notice of the decision to the property owner within ten (10) calendar days after the conclusion of the request for reconsideration. The District's decision shall be final and binding. A District decision to revoke an Encroachment Permit shall result in the

encroachment at issue being designated as an “Unauthorized Physical Encroachment” subject to immediate removal at the property owner's expense.

rev. 8/09/17; 7/22/20

14.03 UNAUTHORIZED ENCROACHMENTS

14.03.01 Notification and Penalty for District Removal or Replacement

The District shall exercise due diligence to determine the owner(s) of an unauthorized encroachment. Upon such determination, the District shall notify the owner(s) in writing, by registered mail, of the District requirements and to submit an application for the issuance of an Encroachment Permit. If, after 14 calendar days from the date the District issued written notification to the owner(s), the owner(s) have not submitted the proper application to the District, then the District may remove or replace the Unauthorized Encroachment at the owner's sole cost and expense. The District shall bill the owner(s) for all costs incurred to remove or replace any Unauthorized Encroachment, including staff time. This bill is to be paid within 30 calendar days of the invoice date. If the bill is not paid within the 30 calendar days or a payment plan has not been agreed upon with the District, the District will submit to the appropriate County to have a lien placed within property tax collections.

eff..2/26/86; rev. 8/09/17; 7/22/20

14.03.02 Immediate Threat to District Facilities, Reservoirs, or Right of Way

If the District determines that any encroachment or the condition thereof, poses an immediate threat to a District facility, reservoir, or right of way, the District shall notify the Permittee of measures necessary to cure the immediate threat. If the Permittee refuses or is unable for any reason to undertake the measures prescribed by the District within the indicated timeline, the District may take all actions necessary to cure the immediate threat, at the sole cost and expense of the Permittee.

rev. 8/09/17; 7/22/20

14.04 RESERVOIRS

14.04.01 Supplement to General Encroachment Regulations

The provisions within Section 14.04 supplement the general provisions of Section 14 to provide specialized requirements with respect to encroachments upon and in the vicinity of District reservoirs. In the event of a conflict between the rules and regulations set forth in this Section 14.04 and any other provision of Section 14, the rules set forth in this Section 14.04 shall control.

eff. 8/13/03; 7/22/2020

14.04.02 Scope

Section 14.04 applies to but is not limited to the construction, operation, and maintenance of authorized encroachments. The issuance of an Encroachment Permit shall not confer any right to conduct commercial activity on District property. Permittees shall comply with all District, federal, state, and local laws, regulations, and ordinances. No structures shall be permitted to be affixed or temporarily placed upon an encroachment including but not limited to gazebos, slides, decks, boathouses, and temporary or permanent fire pits.

eff. 8/13/03; 7/22/20

14.04.03 Projection of Adjoining Parcel, Defined

Only property owner(s) who have parcels adjoining a District Reservoir may be issued an Encroachment Permit to install an encroachment on a District Reservoir. Where convergence or divergence of sidelines results in conflicting areas of use, direction shall be given by the District, which may include a near perpendicular extension to the average shoreline that accommodates the interests of property owners as equitable as possible.

eff. 4/14/04; 7/22/20

14.04.04 Requirements for Dock Location, Design, and Installation

Docks will be permitted only for those parcels in existence at the time this section went into effect. If subsequent parcel split occurs, the permit will reside with the original parcel, and no additional permit will be allowed for the newly formed parcel. Docks will be permitted only adjoining the

District's lakeside property and shall be located adjacent to the parcel served. Only one (1) dock will be permitted for each such parcel. Upon approval of the District, combined docks may be constructed to serve multiple parcels. The docks shall be designed, constructed, and operated to accommodate no more than two (2) watercraft for each parcel served. See District Standard Details for Docks design and construction details. The Board of Directors may specify supplemental dock criteria when adopting a resolution authorizing docks on a particular reservoir.

eff. 8/13/03; rev. 4/14/04; 7/22/20

14.04.05 Application for Encroachment on District Reservoir

Prior to the construction or installation of a new encroachment, or replacement of an existing encroachment, the property owner(s) shall submit the Encroachment Application (Form 14-A) to the District for review and approval. The Encroachment application shall include a plot plan and dimensioned drawing of the encroachment to be installed.

14.04.06 Insurance

Each Encroachment Permit holder shall at all times maintain liability insurance coverage covering any permitted encroachment. Such insurance shall contain the following coverage:

- (a) Minimum \$1,000,000 for individual Dock and Gangway serving individual parcels.
- (b) Minimum \$1,000,000 for each parcel under separate ownership for joint use Dock and Gangway serving separately owned parcels.

Permittees shall, as a condition precedent to the issuance of an Encroachment Permit, provide a Certificate of Insurance to District verifying the required coverage and naming District as Additional Insured.

eff. 08/13/03; rev. 04/14/04; 7/22/20

14.04.07 Fees

The District has established annual fees for permitted Docks. Permittees shall promptly pay all applicable fees invoiced by the District; all docks associated with a parcel with unpaid annual fees may be subject to the immediate removal of the dock from the District's facility.

eff. 08/13/03

14.04.08 Water Quality Degradation

District and applicable agencies shall prosecute anyone contributing to the degradation of water quality on any District waters. Inspections shall be made to ensure that sewage and drainage systems are properly located in compliance with governmental regulations. Septic systems shall be installed and operated so that the effluent never reaches District waters. Any spills shall be reported to the District immediately.

No unattended fuel, oil, or chemical containers shall be located in the vicinity of District waters. Violation of this Section shall constitute grounds for revocation of Encroachment Permit with the removal of facilities and reference of the offending party to appropriate authorities for prosecution.

eff. 7/22/20