

EXEMPTIONS

Utilization of the District's rights of way for certain uses and facilities, in conformance with the District's criteria, are considered "exempt" from the issuance of a Notice General Permit or Standard Right of Way Occupancy Permit from this District. However, sole responsibility for ensuring that the use of or installation placed on the District's rights of way meet District criteria is borne by the users of the District's rights of way. Should you desire the District will provide you with a Letter Of Exemption, please contact us to discuss your proposed use or installation. Please contact the Right of Way Division of the Construction and Land Management Department, South Florida Water Management District.

UNDERSTANDING EXEMPTIONS

UNDER THE DISTRICT'S RIGHT OF WAY PERMITTING RULES

(40E-6, F.A.C.)

Owners of facilities and users of the District's rights of way seeking to qualify exemption under District Rule acknowledge that: A. The owner of the proposed encroachment or use of the right of way/user must be the owner or lessee of the property (except those covered in Items E. and F.), lying adjacent to the District's Works, where improvement/use is proposed.

B. An exemption, pursuant to District Rules, does not relieve the owner/user from compliance with other District permitting requirements and any applicable permit/zoning requirements of federal, state and local governmental entities.

C. The District is not responsible for repair of any improvements which may incur damage resulting from the District's utilization of its rights of way/or use by third parties. Improvements placed within the right of way are at the sole risk of the owner.

D. Uses/facilities placed within the District's rights of way not meeting the District's criteria are subject to **removal, modification or alteration** at the District's discretion at the sole expense of the owner/user without notice and with no guarantee of salvageability.

EXEMPT FACILITIES AND USES

A. DRAIN LINES (Pool, Roof, Air-Condition):

The installation and maintenance of pool or roof drain lines, AC heat exchanger, withdrawal and water return lines is exempt from permitting under this chapter when:

1. That portion of the line crossing the right of way is buried to provide a minimum of 18 inches of cover as measured from the existing ground elevation.
2. That portion of the line located within the sideslope of the canal bank is buried in the sideslope a minimum of 12 inches and stabilized with grass/sod.

3. The line projecting into the channel is a minimum of 36 inches below the normal water surface of the canal.
4. The line does not extend more than 24 inches into the channel.
5. The drain line is not for discharge of chemically contaminated or bio-hazardous substances. (The discharge of chlorinated swimming pool water is acceptable).
6. The proposed use does not adversely affect a previously-authorized use(s) of the right of way.
7. The proposed use is not located within an environmentally sensitive area.*
8. The proposed use will not encroach within a Water Control Structure site or compound.

B. GRASS/SOD:

The planting and maintenance of grass/sod is exempt from permitting under this chapter when:

1. The grass/sod does not involve the re-shaping or alteration of levees, banks, berms or other ground surfaces lying within the District's Lands.
2. Grass species are limited to bahia or other drought-tolerant species only.
3. The proposed use does not adversely affect a previously-authorized use(s) of the right of way.
4. The proposal is not located within an environmentally sensitive area.*
5. The proposed use will not encroach within a Water Control Structure site or compound.

C. LOW-LYING GROUNDCOVER:

[Exhibit 1 provides a list of acceptable, native species of groundcover]

The planting/maintenance of low-lying groundcovers is exempt from permitting under this chapter when:

1. The proposal does not involve the re-shaping or alteration of banks, berms or other ground surfaces lying within the District's Lands.
2. The proposed landscape plan of low-lying groundcover is comprised of native species that is 2' or lower in height or maintained to a maximum height of 2'.
3. The proposed use does not adversely affect a previously-authorized use(s) of the right of way.
4. The proposal is not located within an environmentally sensitive area.*
5. The proposed use will not encroach within a Water Control Structure site or compound.

D. IRRIGATION LINES, SPRINKLERS, FIRE FIGHTING DRAFT LINES: (Residential and Non-Residential)

The installation and maintenance of irrigation lines and associated sprinkler systems are exempt from permitting under this chapter when:

1. That portion of the line crossing the right of way is buried to allow a minimum of 18 inches as measured from the existing ground elevation.
2. That portion of the line located within the sideslope of the canal bank is buried in the sideslope a minimum of 12 inches and stabilized with grass/sod.

3. The line projecting into the channel is a minimum of 36 inches below the normal water surface of the canal.
4. The line does not extend more than 24 inches into the channel.
5. No portion of a pump or a pumphouse is located within the District's rights of way.
6. If used, sprinkler heads must be set flush with ground or be of the pop-up variety.
7. Concrete doughnuts, edging or similar materials are not placed around the sprinklers.
8. Sprinklers are not placed at or near the top of the canal bank (to preclude wash-outs or erosion of the bank and sideslope of the canal).
9. A rain sensor, soil moisture sensor, soil moisture controller, tensionometer or similar switch device is installed, which will over-ride the irrigation cycle of the sprinkler system when an adequate rainfall has occurred.
10. The system is operated in compliance with water use restrictions during water emergencies or declared water shortages. The line does not leak or otherwise waste water.
11. The irrigation system is properly designed, operated and maintained to preclude leaks or ponding that could lead to erosion.
12. Proposed use does not adversely affect a previously-authorized use(s) of the right of way.
13. Proposed use is not located within an environmentally sensitive area.*
14. If not exempt from the District's Water Use Permit Permitting Rules, a Water Use Permit has been obtained. (Certain types of water withdrawals require permits under the provisions of Rule 40E-20, F.A.C. For this reason, it is recommended that you contact the Water Use Division of the District's Regulation Department).
15. The proposed use will not encroach within a Water Control Structure site or compound.

E. NON-PROFIT, ORGANIZED RECREATIONAL EVENTS:

Boat races, regattas, sponsored walks or runs and other similar recreational activities are exempt from permitting under this chapter when:

1. The proposed use is a non-profit activity, or is a benefit for a charity.
2. The proposed use does not include the placement of permanent or semi-permanent above-ground structures within the District's right of way.
3. The proposed use does not interfere with District operations and maintenance activities.
4. The proposed activity does not impede or interfere with canal flows.
5. The proposed activity does not preclude the public's access to the District's rights of way.
6. The proposed use does not adversely affect a previously-authorized use(s) of the right of way.
7. The proposed use is not located within an environmentally sensitive area.*
8. The proposed use does not involve access to a Water Control Structure site or compound.

NOTICE: In those areas where the right of way is not solely owned by the SFWMD, be advised that the owner of the land (underlying fee owner) has the right to prohibit or limit use of that land for recreational activities.

F. PASSIVE RECREATION:

Fishing, hiking, bicycling, equestrian and other similar passive recreational activities are exempt from this chapter when:

1. The proposed use does not include the use of motorized vehicles within District rights of way.
2. The proposed use does not adversely affect a previously-authorized use(s) of the right of way.
3. The proposed use is not located within an environmentally sensitive area.*
4. The use is proposed by an established Not-For-Profit (501(c)(3)) organization.

NOTICE: In those areas where the right of way is not solely owned by the SFWMD, be advised that the owner of the land (underlying fee owner) has the right to prohibit or limit use of that land for passive recreational activities.

* Environmentally sensitive areas are defined as wetlands, areas dominated by native vegetation, mitigation areas, environmental restoration or enhancement areas, gopher tortoise preserves, areas utilized by protected or listed species, and the reach of Canal 18 downstream of Water Control Structure 46.