

NOTICE OF PROPOSED RULE

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RULE NOS.:	RULE TITLES:
40E-62.011	Policy and Purpose
40E-62.020	Scope of Part I
40E-62.021	Policy and Purpose
40E-62.023	C-18 Canal Right of Way Boundary
40E-62.041	Permits Required
40E-62.042	General Permit for Occupancy or Use of the C-18 Right of Way
40E-62.043	Application of Part
40E-62.051	Exemptions
40E-62.101	Content of Application
40E-62.301	Conditions for Issuance of Permits
40E-62.321	Duration of Permits
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40E-62.341	Revocation of Permits
40E-62.351	Transfer of Permits
40E-62.381	Limiting Conditions
40E-62.651	C-18 Use Zones

PURPOSE AND EFFECT: To repeal Chapter 40E-62 and merge relevant portions of Chapter 40E-62, F.A.C., into Chapter 40E-6, F.A.C. to address use of the District's C-18 Canal Right of Way in an effort to streamline and clarify the permitting process and correct inaccuracies and have all rules regarding the Right of Way Permitting Program contained within Chapter 40E-6, F.A.C.

SUMMARY: The Right of Way Permitting Program provides an evaluation process for requests to connect with and/or make use of Works and Land of the District in accordance with Sections 373.085 and 373.086, F.S. Chapter 40E-62, F.A.C., specifically addresses use of the District's C-18 Right of Way, which will now be included in Chapter 40E-6, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an adverse impact on small business or likely increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of these rules. A SERC has been prepared by the agency. Portions of this chapter are being repealed and the remainder are being merged into chapter 40E-6, F.A.C. Any relevant permitting fees have not been increased and regulations have been reduced. The rule revisions streamline and clarify the permitting process. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. Since regulatory costs will be reduced, legislative ratification pursuant to Section 120.541(3), F.S., is not required.

RULEMAKING AUTHORITY: 373.044, 373.113, F.S.

LAW IMPLEMENTED: 373.085, 373.086, 373.103, 373.129, F.S

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013 beginning at 9:00 a.m.

PLACE: South Florida Water Management District Headquarters Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk at 1(800)432-2945, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800) 955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jorge Patino, Section Administrator - Right Of Way, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6175 or (561) 682-6175 or by email to jpatino@sfwmd.gov. For procedural questions, please contact Juli Russell, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6268 or (561)682-6268 or by email to jrussel@sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-62.011 Policy and Purpose. (REPEALED)

~~The rules in this chapter establish additional conditions and criteria to ensure that uses of District lands and works are consistent with District management policies which have been developed on a site specific basis for designated lands and works of the District. The conditions and criteria delineated in this chapter are in addition to those specified in Chapter 40E-6, F.A.C.~~

~~Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed~~

40E-62.020 Scope of Part I. (REPEALED)

~~The rules in this Part shall apply to the occupancy and use of District lands and works located on the C-18 canal right of way downstream of the District's S-46 structure.~~

~~Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed~~

40E-62.021 Policy and Purpose. (REPEALED)

~~(1) In addition to the policies and purposes enumerated in Rule 40E-6.011, F.A.C., the rules in Part I implement a policy of revegetation for the C-18 canal right of way through the use of a small scale land use plan. The revegetation plan is intended to restore the natural river values of the northwest fork of the Loxahatchee River and Limestone Creek for the benefit of all canal right of way users. The purposes of the revegetation plan include maintenance of flood control protection, increasing diversity and desirability of wildlife habitat, providing filtering and water quality benefits, and considering the goals of adjacent landowners.~~

~~(2) The rules in Part I identify those uses of the C-18 right of way which are consistent and inconsistent with the revegetation plan. Part I sets forth the requirements for qualifying for a right of way occupancy permit for the C-18 canal right of way and the conditions under which it may be exercised.~~

~~Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed~~

40E-62.023 C-18 Canal Right of Way Boundary. (REPEALED)

~~The boundary of the C-18 canal right of way which is the subject of this rule lies east of District Structure S-46 to the easterly limit of the Canal right of way. The boundary is generally depicted on the map in Figure 62-1. The map is for illustrative purposes only and should not be relied upon for conveyances of title to real property. The C-18 boundary which is the subject of this rule is more specifically described to include the area within the boundaries in Palm Beach County, Florida, as follows:~~

~~A parcel of land situate in Section 3, Township 41 South, Range 42 East, and Sections 34 and 35, Township 40 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:~~

~~Commence at the Southwest corner of the Northwest quarter (NW1/4) of said Section 3; thence, South 89° 24' 55" East, along the South line of said Northwest quarter (NW1/4), a distance of 25.00 feet to the POINT OF BEGINNING; thence, North 00° 36' 20" East, a distance of 291.64 feet; thence, North 32° 06' 07" East, a distance of 101.20 feet to the beginning of a curve from which the radius point bears South 57° 53' 53" East, a distance of 1893.47 feet; thence, Northeasterly, along the arc of said curve, a distance of 1372.64 feet through a central angle of 41° 32' 08"; thence, North 73° 38' 15" East, a distance of 451.14 feet; thence, South 89° 20' 07" East, along the South line of the North half (N1/2) of the Northwest quarter (NW1/4) of said Section 3, a distance of 409.75 feet; thence, North 01° 36' 14" East, a distance of 81.38 feet; thence, North 61° 32' 34" East, a distance of 1621.45 feet to the beginning of a curve from which the radius point bears North 28° 27' 26" West, a distance of 440.50 feet; thence,~~

Northeasterly along the arc of said curve, a distance of 318.53 feet through a central angle of $41^{\circ}25'50''$; thence, North $20^{\circ}06'44''$ East, a distance of 58.36 feet to the beginning of a curve from which the radius point bears South $69^{\circ}53'16''$ East, a distance of 1425.00 feet; thence, Northeasterly, along the arc of said curve, a distance of 1517.13 feet, through a central angle of $61^{\circ}00'00''$; thence, North $81^{\circ}06'44''$ East, a distance of 567.41 feet to the East line of said Section 34; thence, South $00^{\circ}01'39''$ East, along said East line of Section 34, a distance of 25.30 feet; thence, North $84^{\circ}06'33''$ East, a distance of 1355.34 feet to a point on the East right of way line of Loxahatchee River Road; thence, North $85^{\circ}44'25''$ East, a distance of 991.00 feet; thence, South $06^{\circ}53'27''$ East, a distance of 503.49 feet; thence, South $83^{\circ}08'23''$ West, a distance of 1086.65 feet to a point on the center line of Loxahatchee River Road; thence, South $84^{\circ}06'33''$ West, a distance of 1324.72 feet to the East line of said Section 34; thence, South $00^{\circ}01'39''$ East, along said East line of Section 34, a distance of 29.05 feet; thence, South $81^{\circ}06'44''$ West, a distance of 473.87 feet to the beginning of a curve from which the radius point bears South $08^{\circ}53'16''$ East, a distance of 825.00 feet; thence, Southwesterly along the arc of said curve, a distance of 878.34 feet through a central angle of $61^{\circ}00'00''$; thence, South $20^{\circ}06'44''$ West, a distance of 58.36 feet to the beginning of a curve from which the radius point bears North $69^{\circ}53'16''$ West, a distance of 1040.50 feet; thence, Southwesterly, along the arc of said curve, a distance of 752.39 feet through a central angle of $41^{\circ}25'50''$; thence, South $61^{\circ}32'34''$ West, a distance of 1201.30 feet to a point on the East line of said Northwest quarter (NW1/4) of Section 3 and the West right of way line of Central Boulevard Extension; thence, South $01^{\circ}54'07''$ West a distance of 57.94 feet along said West right of way line and said East line of the Northwest quarter (NW1/4) of said Section 3; thence, South $61^{\circ}32'34''$ West, a distance of 495.21 feet; thence, South $73^{\circ}38'15''$ West, a distance of 15.11 feet; thence, North $88^{\circ}15'37''$ West, a distance of 307.41 feet; thence, South $01^{\circ}44'23''$ West, a distance of 50.00 feet; thence, North $88^{\circ}15'37''$ West, a distance of 300.00 feet; thence, South $01^{\circ}44'23''$ West, a distance of 95.95 feet; thence, South $73^{\circ}38'15''$ West, a distance of 264.78 feet to the beginning of a curve from which the radius point bears South $16^{\circ}21'45''$ East, a distance of 1243.47 feet; thence, Southwesterly, along the arc of said curve, a distance of 345.17 feet through a central angle of $15^{\circ}54'16''$; thence, South $01^{\circ}37'49''$ East, non tangent to the preceding curve, a distance of 58.69 feet to a point on a non tangent curve from which the radius point bears South $33^{\circ}43'14''$ East, a distance of 1193.47 feet; thence, Southwesterly, along the arc of said curve, a distance of 503.62 feet through a central angle of $24^{\circ}10'39''$; thence, South $32^{\circ}06'07''$ West, a distance of 14.05 feet to the South line of the Northwest quarter (NW1/4) of said Section 3; thence, North $89^{\circ}24'55''$ West, a distance of 642.39 feet along said South line of the Northwest quarter (NW1/4) of said Section 3 to the POINT OF BEGINNING. The above described parcel of land contains 117.84 acres, more or less. The bearings recited herein are based on the Florida State Plane Coordinate System, East Zone.

Together with:

That part of the following described lands lying South of the South right of way for Canal 18; Commencing at the Northeast corner of the West half of the Southwest quarter of Section 35, Township 40 South, Range 42 East, and proceed Southerly along the Eastern boundary of said West half of the Southwest quarter of said Section a distance of 1006 feet to a point on said line, said point beginning the POINT OF BEGINNING; thence, proceed at right angles to said Eastern boundary line in a Westerly direction a distance of 817 feet to a point; thence at right angles in a Southerly direction and parallel to said Eastern boundary line a distance of 234 feet to a point; thence at right angles to said Eastern boundary line in a Westerly direction a distance of 492 feet to a point on the Western boundary line of said West half of the Southwest quarter of said Section; thence in a Southerly direction along said West line of Section 35, a distance of 972.00 feet more or less to a point on said line where the center line of Limestone Creek intersects said line; thence following the meandering center line of said Limestone Creek in an Easterly direction to a point on the Eastern boundary line of said West half of the Southwest quarter of Section 35 where the center line of said Creek intersects; thence in a Northerly direction along said Eastern boundary of said West half of the Southwest quarter of Section 35 to the POINT OF BEGINNING; LESS the right of way of the C-18 Canal, as described in Official Record Book 152, page 569, Public Records of Palm Beach County, Florida, and LESS the right of way of the Loxahatchee River Road. Area = 2.62 acres ±

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.041 Permits Required. (REPEALED)

(1) In addition to the requirements of Section 40E-6.041(1), F.A.C., an occupancy permit must be obtained prior to constructing, planting, maintaining, pruning, mooring boats, and placing other items on, across, under, or upon District lands and works along the C-18 canal right of way.

(2) The provisions of Rule 40E-6.041, F.A.C., are incorporated by reference into this Part.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.042 General Permit for Occupancy or Use of the C-18 Right of Way. (REPEALED)

~~(1) The rules in this Part grant general permits for occupancy or uses of the C-18 right of way which are consistent with the use zones provided for in Rule 40E-62.651, F.A.C.~~

~~(a) General permits authorized by this Part shall be processed in accordance with the time frames, application forms, and application fees established pursuant to Chapters 40E-1 and 40E-6, F.A.C.~~

~~(b) The District shall require an individual permit pursuant to Chapter 40E-6, F.A.C., for any occupancy or use of the C-18 right of way which does not comply with this Part, is harmful to the water and related land resources of the District, is inconsistent with the C-18 use zones contained in Rule 40E-62.651, F.A.C., is inconsistent with the overall objectives of the District, or is otherwise contrary to the public interest.~~

~~(2) Occupancy or uses of the C-18 right of way which are inconsistent with the use zones provided for in Rule 40E-62.651, F.A.C., will not be eligible for a general permit under this Part.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.043 Application of Part. (REPEALED)

~~All projects located within the C-18 canal right of way which require permits pursuant to Rules 40E-6.041 and 40E-62.041, F.A.C., shall be constructed, altered, operated, and maintained in accordance with the standards and criteria specified in Rules 40E-6.091, 40E-6.301, and 40E-62.651, F.A.C. The most restrictive criteria will apply unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the policy and purpose of this Part will be fulfilled using alternate criteria.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.051 Exemptions. (REPEALED)

~~(1) No permit is required under this Part for the improved boat docks in existence as of September 3, 1981, which include, but may not be limited to the following existing uses of the C-18 right of way:~~

~~(a) The existing boat dock located on lot 25.4, Figure 62-1, on the south side of the C-18 canal approximately 1800 feet west of Loxahatchee River Road (the Olsen dock).~~

~~(b) The existing boat dock located on lot 25.2, Figure 62-1, on the south side of the C-18 canal approximately 1900 feet west of Loxahatchee River Road (the Moore dock).~~

~~(2) The exemptions provided in section (1) above shall be in effect for as long as the property owner on the effective date of this rule owns and occupies the premises. A change in ownership or occupancy of the designated lots shall subject the boat docks to the requirements of this Part.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.101 Content of Application. (REPEALED)

~~Applications for permits under this Part shall be filed with the District in accordance with the provisions of Rule 40E-6.101, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.301 Conditions for Issuance of Permits. (REPEALED)

~~In determining whether an occupancy permit should be issued the District shall consider whether the proposed activity:~~

~~(1) Is consistent with the use zones established pursuant to Rule 40E-62.651, F.A.C.~~

~~(2) Meets the conditions of Rule 40E-6.301, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.321 Duration of Permits. (REPEALED)

~~The duration of occupancy permits issued in accordance with this Part shall be as specified in Rule 40E-6.321, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.331 Modification of Permits. (REPEALED)

~~Applications for modification to permitted uses shall be made in the same manner and reviewed using the same criteria and standards as new uses pursuant to Rules 40E-62.101, 40E-62.301, and 40E-62.321, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.341 Revocation of Permits. (REPEALED)

~~(1) An occupancy permit issued pursuant to this Part may be revoked if the permitted use or maintenance practices are no longer consistent with the use zones specified in Rule 40E-62.651, F.A.C.~~

~~(2) Permits issued pursuant to this Part may be revoked pursuant to Rule 40E-6.341, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.351 Transfer of Permits. (REPEALED)

~~Permits issued pursuant to this Part may be transferred in accordance with the provisions of Rule 40E-6.351, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

40E-62.381 Limiting Conditions. (REPEALED)

~~All projects which have been permitted pursuant to this Part shall be subject to the following limiting conditions:~~

~~(1) Maintenance practices or other activities not authorized by an occupancy permit which result in clearing or destruction of plant materials or modification of ground slopes or elevations shall be corrected by the permittee. Should the correction not be performed in a timely manner, the District may pursue corrective action against the permittee. In the event the permittee does not pursue the necessary corrective action, District forces may perform the work. In the event District forces perform the restorative work, the permittee shall be liable for the restoration costs.~~

~~(2) The District may install access control fences on District property on the C-18 right of way at locations to be determined by the District. Access control fences may obstruct or eliminate the view corridor overlay zones associated with said fence.~~

~~(3) The District may modify the vegetation on District property on the C-18 right of way at locations to be determined by the District.~~

~~(4) The permittee shall not engage in any activity in the area associated with the permit which interferes with the District's construction, alteration, maintenance or operation of the C-18 canal right of way, and shall be responsible for any costs incurred by the District resulting from any such interference including, but not limited to:~~

~~(a) Discharging debris or aquatic weeds into the C-18 canal, including the renovated portions of Limestone Creek;~~

~~(b) Causing erosion or shoaling within the C-18 canal right of way;~~

~~(c) Mooring watercraft or other floating objects;~~

~~(d) Planting plants which are not included in the District's authorized plant list, Figure 62-4, or which are not authorized by the permit;~~

~~(e) Placing plants in undesirable locations or locations not authorized by the permit.~~

~~(5) The permittee shall not engage in any activity which interferes with the environmental preservation and enhancement of the C-18 canal right of way, including, but not limited to:~~

~~(a) Trimming or removing existing natural mangroves unless in strict accordance with current permits;~~

~~(b) Trimming or removing vegetation along the C-18 canal right of way.~~

~~(6) The limiting conditions provided by Rule 40E-6.381, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.085, 373.086, 373.103, 373.129 FS. History—New 1-23-90, Repealed

40E-62.651 C-18 Use Zones. (REPEALED)

~~(1) The following sections identify and describe the eight use zones that have been established within the C-18 canal right-of-way. Three of the use zones are identified as overlay zones. The overlay zones occupy lands in common with the other use zones and further define the use regulations in the underlying zone area. The eight use zones are:~~

- ~~(a) Canal Flood Zone;~~
- ~~(b) General Wildlife Area Zone;~~
- ~~(c) Limestone Creek Shallow Zone;~~
- ~~(d) Limestone Creek Zone;~~
- ~~(e) Fire Control Zone;~~
- ~~(f) Intertidal Wet Area Overlay Zone;~~
- ~~(g) Canal Flood Overlay Zone; and~~
- ~~(h) View Corridor Overlay Zone.~~

~~The use zones are generally depicted in Figure 62-2. The overlay zones are generally depicted in Figure 62-3. The following provisions identify uses which are consistent and inconsistent with each use zone.~~

~~(2) The District has identified water skiing, jet skiing, and any other boating activity that produces boat wakes as inconsistent with the Canal Flood Zone, the Limestone Creek Shallow Zone, and the Limestone Creek Zone. Although the District does not have jurisdiction to regulate such activities, the District encourages users of the C-18 canal to observe no wake speeds. The district will also cooperate with the appropriate regulatory authorities to establish and maintain no wake zones in the above specified zones.~~

~~(3) There may be locations in the Limestone Creek Shallow Zone and the Limestone Creek Zone where boat docks and access platforms are proposed for installation on private property. The District views such boat docks and access platforms as inconsistent with the initial phases of the revegetation plan and discourages, but cannot and does not prohibit, construction of such boat docks and access platforms until the revegetation plan succeeds and until no wake speeds are established.~~

~~(4) Canal Flood Zone~~

~~(a) Description: This zone consists of the primary canal cross section designed for flood control. Said zone is defined as the area consisting of the canal, including 105' bottom width, 1 on 2 side slopes from elevation -6.0 to -3.0, 1 on 5 side slopes from elevation -3.0 to 3.0, or the channel as it currently exists. This zone shall be free of floating or submerged obstructions.~~

~~(b) Consistent uses include the following:~~

- ~~1. Fishing;~~
- ~~2. Public watercraft sightseeing and cruising;~~
- ~~3. Environmental study and appreciation;~~
- ~~4. Swimming;~~
- ~~5. Maintenance activities conducted by the District and the permittee; and~~
- ~~6. Navigation signs.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Mooring boats or other floating items;~~
- ~~2. Docks of any kind; and~~
- ~~3. Any activity which blocks, impedes or creates turbulence in the flow of water from flood control discharges.~~

~~(5) General Wildlife Area Zone~~

~~(a) Description: This zone consists of lands from above elevation 3.0 to the edge of the C-18 canal right of way. The area within this zone is intended for the primary use of wildlife and therefore is designed to provide food, cover and resting places for wildlife.~~

~~(b) Consistent uses include the following:~~

- ~~1. Typical and normal activities of wildlife residing in or visiting the area;~~
- ~~2. Environmental study and appreciation;~~
- ~~3. Public passage from upland, off-site areas to the C-18 canal right of way, including Limestone Creek;~~
- ~~4. Maintenance activities conducted by the District and the permittee;~~
- ~~5. Paths which meet the requirements of subsection 40E-62.651(5)(e), F.A.C.;~~
- ~~6. Permitted utility uses; and~~
- ~~7. Small group picnicking.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Clearing or substantial thinning of vegetation;~~
- ~~2. Capturing, trapping, hunting or otherwise taking, harassing or destroying wildlife, not including fishing and~~

~~shellfishing activities or removing dangerous wildlife, such as poisonous snakes and rats;~~

~~3. Camping; and~~

~~4. Large group picnicking.~~

~~(d) Public passage areas shall not interfere with areas designed for food, cover, resting and passageways for wildlife. Users of the C-18 canal right of way are advised to dress properly for passage through native vegetation and are further advised that wildlife may be encountered.~~

~~(e) A general permit is in effect pursuant to this Part for paths which are designed and maintained for access by residents adjacent to the C-18 canal right of way subject to the following requirements:~~

~~1. Paths shall meet District design standards, generally following an irregular alignment in order to minimize interruption to wildlife areas, to minimize opening direct viewing corridors from the C-18 canal, and to discourage passage of the general public from the right of way onto private property;~~

~~2. Paths shall be a maximum of six feet in width;~~

~~3. Path design shall include a landscape plan, a maintenance plan and details necessary to illustrate proposed construction. Sod and regular intervals of mowing will not be considered an acceptable path;~~

~~4. Paths located within the C-18 right of way shall be open to the public; the District will consider alternative designs for paths which would allow access to the handicapped; and~~

~~5. The District recognizes that adjacent property owners may erect signs or other barriers on their own property in order to limit public access to private property from the C-18 right of way.~~

~~(6) Limestone Creek Shallow Zone~~

~~(a) Description: This zone consists of the portions of Limestone Creek that are specified and designed to be one to two feet deep. This zone includes the portions of Limestone Creek depicted in Figure 62-1 and further described as follows:~~

~~1. Adjacent to River Oaks: Lots 17-21.~~

~~2. Adjacent to Jupiter Landings: 10' east of the westerly line of the boat storage area extending 56' east of the Central Blvd. bridge.~~

~~3. Adjacent to Riverwalk: 75' east of the Central Blvd. bridge extending to 500' east of the Central Blvd. bridge.~~

~~4. Adjacent to the remaining single family uses along the South of the Canal: 3000' east of the Central Blvd. bridge to 1100' west of the Loxahatchee River Road bridge.~~

~~(b) Consistent uses include the following:~~

~~1. Fishing;~~

~~2. Boating by low speed, low noise watercraft;~~

~~3. Environmental appreciation; and~~

~~4. Permitted maintenance activities.~~

~~(c) Inconsistent uses include the following:~~

~~1. Recreational or other activities that damage or remove plant or bank material.~~

~~(7) Limestone Creek Zone~~

~~(a) Description: This zone consists of the portions of Limestone Creek that are designed to be greater than two feet in depth and are not a part of the Limestone Creek Shallow Zone.~~

~~(b) Consistent uses include the following:~~

~~1. Fishing;~~

~~2. Environmental appreciation;~~

~~3. Sightseeing by water; and~~

~~4. Limited subdivision access, subject to zone requirements.~~

~~(c) Zone requirements for the Limestone Creek Zone include the following:~~

~~1. The adjacent residents have indicated interest in access to the water by subdivision. During the period that revegetation is proceeding, the District will allow limited subdivision access consisting of one access area per subdivision for the purpose of canoe access and pedestrian access. Conditions will be specified per subdivision and will include, but not be limited to:~~

~~a. The revegetation is proceeding without delay and with success;~~

~~b. Subdivisions shall agree to design, construct and maintain access areas according to the provisions of Section 40E-62.651(7)(c)2., F.A.C.~~

~~2. Limited subdivision access areas shall meet the following requirements:~~

~~a. Design of all facilities which connect with the C-18 canal right of way or Limestone Creek shall be approved by the District through the permit process established by this Part;~~

~~b. The C-18 canal right of way shall remain open to the public;~~

~~c. Water access facilities placed upon the C-18 right of way shall be open to the general public and shall contain~~

a permanent sign so stating; the sign shall be visible and legible from the center of the adjacent water area;

d. Access areas shall be available to the District for inspection, maintenance and other activities associated with District functions;

e. Access areas shall be kept in good repair, free of litter and provide minimum interruption to the view from the C-18 canal right of way; access areas will be landscaped to maximize the use of plant materials to blend the access area into the river character; uses related to the access point, such as parking, picnic, fish cleaning and similar uses will be screened from view; the design of access areas shall include a swale or other suitable system extending the entire length of the lot, including the access ramp, intended to divert overland water flows from paved areas into vegetated areas; such systems and vegetated areas are to provide detention of runoff to encourage percolation of water through earth and vegetation; and

f. Electrical and water facilities may be included on subdivision access facilities; facilities shall be designed to meet applicable county and city safety and building requirements; lighting equipment should be designed so as to minimize glare on the surface of or across the C-18 canal; water facilities shall be designed and maintained to function with no erosion or discharge of waste into the C-18 canal or Limestone Creek; said facilities shall not be for the purpose of providing service to live aboard boats or boat repair facilities.

~~(8) Fire Control Zone~~

~~(a) Description: This zone is intended to provide a buffer safety area to help prevent the spread of wildfire from the C-18 canal right of way onto private property. This zone shall consist of a fifteen foot wide area containing low native ground covers or grasses and mature native trees.~~

~~(b) Shrubs and trees that invade this zone may be removed to maintain the low character and protection; provided however, that mature trees must not be removed without a permit from the District.~~

~~(9) Intertidal Wet Area Overlay Zone~~

~~(a) Description: This zone includes lands that are inundated during periods of high tide, during parts or all of the year, and generally exposed during periods of low tide.~~

~~(b) Consistent uses include the following:~~

- ~~1. Maintenance and monitoring activities; and~~
- ~~2. Permitted utility uses, provided disturbed vegetation is replaced.~~

~~(c) Zone requirements for the Intertidal Wet Area Overlay Zone include the following:~~

~~1. Plants in this zone, especially mangroves, are not to be removed or pruned unless there is a current permit approved by Palm Beach County; a District permit issued pursuant to this Part, and any other permits required by law; pruning must be performed in strict accordance with the terms of all applicable permits.~~

~~(10) Canal Flood Overlay Zone~~

~~(a) Description: This zone consists of an overlay of the Canal Flood Zone including both sides of the canal from elevation -1.5, as measured from the edge of the water at low tide, to the top of the canal bank, as measured from the edge of the canal.~~

~~(b) Consistent uses include the following:~~

- ~~1. Fishing;~~
- ~~2. Environmental study and appreciation;~~
- ~~3. Temporary, not to exceed approximately four hours, stopping and anchoring of watercraft for permitted public recreational purposes;~~
- ~~4. Permitted maintenance activities; and~~
- ~~5. Swimming.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Recreational or other activities which damage or remove plant material or soil;~~
- ~~2. Camping; and~~
- ~~3. Mooring watercraft to mangroves.~~

~~(11) View Corridor Overlay Zone~~

~~(a) Description: This zone is intended to provide for a view of the canal from adjacent residential buildings. The District's intent is to allow vegetation on these areas with ground cover plant materials that remain low enough to allow view over the top, and trees that, when mature, allow view under the canopy.~~

~~(b) Consistent uses include the following:~~

- ~~1. Uses allowed in the underlying zones; and~~
- ~~2. Scenic viewing of the canal from residences.~~

~~(c) Inconsistent uses include the following:~~

~~1. Uses that substantially obstruct the intended view, unless the obstruction is caused by immature vegetation; and~~

~~2. Uses that are not consistent with underlying zones.~~

~~(d) Zone regulations for the View Corridor Overlay Zone:~~

~~1. Maintenance will be limited to minimal care of plant materials;~~

~~2. Ground covers will be left at their natural height with no mowing or clearing;~~

~~3. Pathways shall conform to regulations in the General Wildlife Zone;~~

~~4. Tree pruning shall require a current District permit issued pursuant to this Part, prior written notification, and District approval each time a permittee proposes to prune. Said notification shall include photographs of the trees(s) to be pruned;~~

~~5. Permit applications shall include photographs of the tree prior to work being accomplished.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Jorge Patino

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the South Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 03/14/2013

DATE THE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2012