



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RIGHT OF WAY

FREQUENTLY ASKED QUESTIONS

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What is District Right of Way?

For purposes of the South Florida Water Management District (the “District”), “right of way” is the collective term used to describe those properties or facilities that have been designated as “[Works of the District](#)” by the District’s Governing Board. The most common rights of way are those lands associated with canals and levees and in which the District has a fee (outright ownership) or easement (subject to someone else owning the property) interest. For homeowners, right of way typically exists as the publicly-owned land between the rear property line and the canal or as an easement over the homeowners’ property lying adjacent to a canal. Use of the right of way (whether it is fee or easement) is subject to the Right of Way Occupancy Permitting Program pursuant to [Chapter 40E-6, Florida Administrative Code](#).

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What is a Right of Way Occupancy Permit (“ROW Permit”)?

A ROW permit is a *revocable license* granted to a [permittee](#) to occupy or utilize a District right of way (regardless of whether the right of way is fee-owned or an easement). With exception of ROW Permits issued to governmental agencies and utility providers, the District can revoke a ROW Permit at any time, for any reason. So it is important for applicants to understand that any investment made in the right of way may be lost if the ROW Permit is revoked. The types of improvements installed or constructed in the right of way that require a ROW Permit include, but are not limited to, fences, docks, landscaping, sheds, gazebos, marinas, bridges, overhead and underground utility lines (i.e., water, sewer, electric, telephone, cable, gas, etc.).

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Who is the “Permittee”?

The permittee is the person or entity to whom the Right of Way Occupancy Permit (“ROW Permit”) is issued. Only the person(s) or entities named on the face of the ROW Permit are authorized to use the facilities or improvements that were constructed or installed in the right of way. For example, if you purchase a home with a dock in the canal, you cannot use the dock until you [transfer](#) the ROW Permit into your own name. The rights of the ROW Permit are personal and are not automatically transferred when a property is sold or transferred.

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Why is a Right of Way Occupancy Permit (“ROW Permit”) needed?

The District has a public duty to ensure that the canals and levees that make up the flood control system perform in an optimal manner. In particular, this means that the District needs to ensure that improvements constructed within the canal do not block the flow of water or create opportunities for storm debris to collect, causing the creation of a dam in the canal. For example, bridges or docks must be constructed at a certain elevation above the water so that water can run under them without obstruction, and so that District boat and maintenance equipment can travel safely under them. In the rights of way consisting of upland areas that run along the canals, the District requires permits to ensure that fences, sheds, landscaping and other improvements are installed in locations that do not interfere with or obstruct access for District vehicles. In addition, a ROW Permit ensures that such improvements are constructed or installed in a safe and secure manner (i.e., trees, sheds or fences can break free in a storm event and be blown into a canal where they can cause damming of the canal and, ultimately, flooding upstream). In short, the ROW Permit helps to ensure that a use or activity in the right of way does not impair the District’s ability to access, operate and maintain the flood control system to the best of its ability.

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How do I know if a Right of Way Occupancy Permit (“ROW Permit”) is needed?

If your property is adjacent to a District canal and you propose to install improvements near the canal, there is a likelihood that you may need to obtain a ROW Permit before doing any such work. To determine if a ROW Permit will be required, you are advised to call or e-mail the District’s Right of Way Section with your property address and a brief description of your request. (Contact information is available on the [Right of Way Section homepage](#).)

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Which waterways or canals require a Right of Way Occupancy Permit from the District?

A Right of Way Occupancy Permit is required to perform work along canals, levees, lakes, structures and water conservation areas designated as “[Works of the District](#)”. While the District maintains and operates over 2,600 miles of canals and levees, many water bodies are not “Works of the District”, such as local drainage district canals, the Intracoastal Waterway (ICW) and associated tidal finger canals. Your recent property survey should identify if the District has a right of way (easement or fee-owned) within or adjacent to your property. If you have any questions, please feel free to contact the Right of Way Section using the contact information on the [Right of Way Section homepage](#).

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How do I apply for a Right of Way Occupancy Permit?

You may fill out an [application \(Form 0122\)](#) and mail the application along with your drawings and appropriate application fee to:

South Florida Water Management District (SFWMD)
Right of Way Section MS 5550
3301 Gun Club Road
West Palm Beach, FL 33406

Please note that applications cannot be submitted at any of the District’s field stations and must be submitted by mail or in person at the address above.

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Can I apply for a Right of Way Occupancy Permit online?

No. At this time, electronic filing of an application through the District’s ePermitting portal is not available.

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What is the application fee?

Application fees vary depending on the type of work proposed. In most cases, there is no fee for improvements proposed by single-family homeowners. Application processing fees can be found [here](#).

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Are local governments exempt from paying a permit application fee?

No. Certain local governments may qualify for a fee waiver if they provide a [Certification of Waiver of Permit Application Processing Fees \(Form 889\)](#).

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What methods of fee payment are acceptable?

At this time, the Right of Way Section can only accept cash or check. The most common method is a check made payable to the South Florida Water Management District.

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Are application fees refundable?

No. Once the application is received and processing has been initiated, the application fee becomes a non-refundable payment.

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What are the basic drawing requirements?

Your application must be accompanied by three (3) sets of drawings showing the work you propose in the District's right of way. Drawings may be 8.5 x 11 inches (smallest size) to 11 x 17 inches (largest size) and must include plan and profile views, be drawn to scale and fully dimensioned, include a north arrow and depict the District's right of way lines. The drawings must be fully legible and provide a level of detail equivalent to what would be required for obtaining a building permit. Also, a location map referencing a nearby road or intersection must be included. More detailed information about drawing requirements can be found [here](#).

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Do drawings need to be in color?

No. Drawings should be in black and white. If drawings are in color they must provide all required information (i.e., not be color-coded) when scanned into black and white for record keeping.

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Can I draw the plans myself? When are engineered drawings required?

Yes, but they must contain adequate information to meet the basic drawing requirements and demonstrate that permitting criteria are being met. Certain kinds of projects, such as bridges, bulkheads, major utility installations and culverts, require drawings that are sealed by a professional engineer registered in the State of Florida. More detailed information about drawing requirements can be found [here](#).

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What is the difference between a Notice General Permit and a Standard Permit?

Notice General Permits (NGPs) are issued at the staff level for projects that meet all criteria for a given project type. There are four (4) categories of NGPs (NGP-1, NGP-2, NGP-3 and NGP-4) depending on the type of project or use that is proposed. Standard Permits (SPs) require approval from the District's Governing Board, and are for projects that are of a more complex nature, or projects that may require a waiver of criteria. There are four (4) categories of SPs (SP-1, SP-2, SP-3 and SP-4) depending on the project or use that is proposed. More detailed information about NGPs and SPs can be found [here](#).

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How long does it take to obtain a Right of Way Occupancy Permit?

From the time an application is received, staff has up to 30 days to review the request for completeness, and 90 days to issue a permit once the application has been deemed complete. This "30-90 day time clock" is based on statutory requirements. If additional information is needed, then staff will contact the applicant in writing within the first 30 days with a request for additional information. Upon receipt of additional information that completes an application, staff then has 90 days to issue (or, in some cases, to recommend that the Governing Board deny) a permit.

Some permits can be issued within relatively short time frames. Certain uses (such as those typically associated with a single-family home – i.e., dock, fence, landscaping, shed, etc.) may be issued in as little as two weeks once a complete application is received. Other permits, like those that require Governing Board approval (Standard Permits) or for complex projects and uses, the time to issue will be longer (2-3 months or greater). To ensure an efficient and timely application review and permit issuance, applicants are encouraged to review the [Right of Way Criteria Manual](#) and to make certain that their proposed project complies with District regulations. District staff is available to assist applicants with any questions they may have about the process, regulations or timing by contacting the Right of Way Section using the contact information on the [Right of Way Section homepage](#).

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Is a building permit also required?

Yes. If the jurisdiction within which your property lies requires a building permit, then a building permit is required for you to perform work in a District right of way. Typically, building permits are required for fences, sheds, gazebos, docks, electric and water service, lighting, walls and other types of improvements. Before filing an application, you are encouraged to contact your local building department to determine if a building permit can be issued for the proposed work. The District does not require that a building permit be submitted with the application for a Right of Way Occupancy Permit; however, you will be required to present the building permit to District staff following issuance of the Right of Way Occupancy Permit and prior to start of any work in the right of way. Utility companies and governmental entities are not subject to this requirement.

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Are any activities exempt from a Right of Way Occupancy Permit?

Yes. Certain activities are exempt and do not require a Right of Way Occupancy Permit. You can find a list of exempt activities [here](#).

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What is a Section 408 review, and how do I know if one is needed?

A large portion of the District's flood control system was constructed by the U.S. Army Corps of Engineers ("USACE"), and the South Florida Water Management District is the local sponsor charged with safeguarding this federal project. If the canal or levee adjacent to your property was part of the system constructed by the USACE (the project known as the "Central and South Florida Flood Control Project"), it is highly likely that a Section 408 review by the USACE will be required for your proposed work. Section 408 review is an engineering review conducted by the USACE to confirm that a proposed work will not adversely affect the canals, levees and structures that constitute the Central and South Florida Flood Control Project. When an application is received by the District, it is reviewed to determine if a Section 408 review will be required. If a Section 408 review is required, the applicant will be advised of the information that will be required by the USACE to perform the review.

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How long does it take to obtain a Section 408 approval?

Once an application for a Right of Way Occupancy Permit has been deemed complete, including submission of any information required for the USACE to perform the Section 408 review, the District will submit a copy of the application and supporting documents to the USACE. The Section 408 review typically requires 2-3 months to complete. When the approval is granted or if additional information is required, the applicant will be contacted by the District in writing. Work within the District's right of way may not begin until the Section 408 approval has been obtained and provided to the applicant, regardless of whether the actual Right of Way Occupancy Permit has been issued by the District.

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Who do I contact for questions concerning the Section 408 review?

If you have questions about the Section 408 review process, you should contact the Right of Way Section using the contact information on the [Right of Way Section homepage](#). The Right of Way Section coordinates review activities with the District's USACE liaison who handles all communications between the District and the USACE. When an application is received by the District, it is reviewed to determine if a Section 408 review will be required. If a Section 408 review is required for the proposed work, the applicant will be advised of the information that will be required by the USACE to perform the review.

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Is a pre-application or site meeting necessary? How should I request such a meeting?

No. In certain cases, an applicant may wish to contact the District's permitting section to schedule a pre-application or site meeting. Pre-application meetings are useful for complex or controversial projects when guidance from Right of Way permitting staff is desired. These may be scheduled in the form of a teleconference, formal meeting at the District's headquarters in West Palm Beach, or at a project site. To inquire about a pre-application or site meeting, please contact the Right of Way Section using the contact information on the [Right of Way Section homepage](#).

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Is there a fee for a pre-application or a site meeting?

No.

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How do I apply for a transfer of a Right of Way Occupancy Permit (“ROW Permit”)?

To transfer a ROW Permit, mail a completed [Transfer Request \(Form 1039\)](#) together with payment of the \$50.00 fee to:

South Florida Water Management District (SFWMD)
Right of Way Section MS 5550
3301 Gun Club Road
West Palm Beach, FL 33406

Please note that upon completion of the transfer, you will become responsible for maintenance of the work or improvements authorized by the ROW Permit. In addition, you must comply with all conditions set forth in the ROW Permit.

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How do I apply for an extension of a Right of Way Occupancy Permit (“ROW Permit”)?

To request an extension of your Right of Way Occupancy Permit, please submit a written request to the address below or an email request to the Section Administrator identified on the Right of Way Section homepage.

South Florida Water Management District (SFWMD)
Right of Way Section MS 5550
3301 Gun Club Road
West Palm Beach, FL 33406

The request should include the ROW Permit number, the reason for the extension request and the length of time for which the extension is needed. There is no fee required for processing a ROW Permit extension.

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