

OLIVENHAIN MUNICIPAL WATER DISTRICT ADMINISTRATIVE AND ETHICS CODE	Article No. 10	Page 1 of 4
	Title ENCROACHMENT PERMITS	
	Latest Revision Date October 18, 2023	Ordinance No. 511

ARTICLE 10. ENCROACHMENT PERMITS

Sec. 10.1. revised via Ordinance No. 495/ October 13, 2021

Sec. 10.1. **Requests for Encroachment Permits.** All requests for encroachment permits upon Olivenhain Municipal Water District fee sites and rights-of-way shall be reviewed and approved by the Board of Directors.

The approved encroachment permits shall be recorded with the County of San Diego and become a record running with the property and part of the District's permanent records.

Sec. 10.2. revised via Ordinance No. 495/ October 13, 2021

Sec. 10.2.H. was added via Ordinance No. 305/ October 22, 2003

Sec. 10.2. **Criteria Controlling Granting.** The following criteria shall control the granting of encroachment permits:

- A. Permittee must acknowledge the prior right, title and interest of the District with respect to the fee site or easement and the facilities of the District in the easement.

- B. A change in existing ground elevation over the District's underground facilities is not permitted except when reviewed by the Engineering Manager and as required in the judgement of the General Manager when adequate precautions are employed to protect the District's facilities. Under no condition or circumstance shall less than three (3) feet of cover be maintained over the District's underground facilities or more than six (6) feet of fill placed over the District's underground facilities. Protection of the District's facilities shall include, but not be limited to, provision for adequate clearance between the permittee's installation and the District's existing or proposed facilities, non -interference with District facilities, non-interference with access of the District to the District's facilities over driveways and patrol roads during the permittee's construction, and finish grading to provide acceptable access across the encroachment.

- C. Facilities such as pipelines, conduits, wires, ditches and comparable installations of the permittee shall cross the District's right-of-way at a 90 degree angle; any exceptions to this standard shall be submitted to the Engineering Manager of the District for action to ensure adequate protection for the District's facilities; and all costs for plan checking by the District shall be borne by the permittee.

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- D. Permittee's proposed encroaching facilities shown to be parallel to District facilities are typically not permitted; however they may be permitted only after review by the Engineering Manager and as required in the judgement of the General Manager when adequate precautions are employed to protect the District facilities. If approved, parallel encroaching facilities shall not be less than five (5) feet from the District's facilities, shall not involve any unusual uses (including, but not limited to, gaseous or liquid hydrocarbons and underground electric lines), and must meet the requirements of the California Department of Health Services.

- E. All permits for use or access to the land in which the District holds an easement must be approved by the fee holder of the property involved.

- F. The permittee shall indemnify and hold harmless to the fullest extent authorized by law the fee holder, if different from Permittee, and the District from any and all claims, demands, actions resulting from the construction and maintenance of the permittee's facilities for any damage to the facilities of the permittee constructed in the area of the permit resulting from the District's operation of existing facilities or the installation of additional facilities. The permittee shall be responsible for any damage or injury occurring to District's facilities or right-of-way by reason of permittee's construction, location or maintenance of permittee's facilities as well as for the cost of any relocation or replacement of the facilities of the District or the permittee installed within the right-of-way in the event such relocation or replacement becomes necessary by reason of operations or construction by the District for additional facilities.

- G. Prior to initiating an encroachment permit, the Permittee shall provide the District with detailed plans and specifications prepared in accordance with accepted engineering practice and shall not initiate such work until the District has approved the plans and specifications. Any costs in connection with such approval shall be borne by the permittee. In all cases, the Permittee shall provide As-Built drawings to the District.

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H. The permittee will be required to adhere to all requirements contained in the District’s encroachment permit agreement, as modified from time to time by the Board of Directors of the District.

Sec. 10.3. revised via Ordinance No. 495/ October 13, 2021

Sec. 10.3. **Execution of Encroachment Permit Agreement.** The Permittee shall not be granted an encroachment permit until Permittee has completed all forms required by the District, submitted all plans and specifications, paid all required deposits, and the Board of Directors has approved the encroachment permit.

Sec. 10.4. revised via Ordinance No. 495/ October 13, 2021

Sec. 10.4 was added via Ordinance No. 311 / September 22, 2004

Sec. 10.4. **Right of Way Guidelines.** All encroachments shall be in compliance with the most current Board adopted Right of Way Guidelines on file at the District Engineering office. Copies of these Right of Way Guidelines can be obtained on line at www.omwd.com.

Sec. 10.5, revised via Ordinance No. 511 / October 18, 2023

Sec. 10.5. revised via Ordinance No. 495 / October 13, 2021

Sec. 10.5 was added via Ordinance No. 318 / May 25, 2005

Sec. 10.5. **Encroachment Permit Deposit.** All persons or parties desiring an encroachment permit from the District must deposit a minimum of \$1,200 with the District. Complex encroachments may require an additional deposit. Upon receipt of the Encroachment Permit application, the District’s Engineering Manager will review the level of effort anticipated to process that Encroachment Permit and will request the deposit. The District will charge all actual costs to process the encroachment permit against the deposit, including but not limited to staff time, surveying costs, design costs, plan checking, administrative costs, recorder’s fees, and overhead rates. The District’s Engineering Manager is authorized by the Board of Directors to charge and recover the actual costs to process the encroachment permit above and beyond the initial deposit from the permittee. If the cost of processing the encroachment permit is less than the deposit, the District will refund the balance (if more than

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\$2.00) to the permittee no later than 45 days after recordation at the County Recorder's Office and addition of the permit into the District's GIS mapping system. The General Manager has the authority to waive the deposit in good judgment where circumstances dictate waiver of the deposit is beneficial for the operation of District facilities or in the best interest of District customers.