

OLIVENHAIN MUNICIPAL WATER DISTRICT ADMINISTRATIVE AND ETHICS CODE	Article No. 10	Page 1 of 3
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	Latest Revision Date January 23, 2008	Ordinance No. 357

ARTICLE 10. ENCROACHMENT PERMITS

Sec. 10.1. **Requests for Encroachment Permits.** All requests for encroachment permits upon Olivenhain Municipal Water District lands and rights-of-way shall be reviewed by the Board of Directors and, if approved, a statement to this effect shall be noted on deeds, ownership records and rights-of-way.

The appropriate conveyance documents and encroachment permits shall be recorded and become a part of the District's permanent records.

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 easement and the facilities of the District in the easement.

- B. A change in existing ground shall be permitted only when adequate precautions are employed, as required in the judgment of the General Manager, to protect the District's facilities, including, but not limited to, provision for adequate clearance between the permittee's installation and the District's existing or proposed facilities, non-interference with the facilities of the District, non-interference with access of the District to the District's facilities over 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 on a 90 degree angle; proposed roads to be constructed by the permittee shall not change the grade of the District's right-of-way; any exceptions to this standard shall be submitted to the Board of Directors 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.

- D. Permittee's proposed facilities, which parallel the District facilities, may not be less than five (5) feet from the District's facilities and may not involve any unusual uses (including, but not limited to, gaseous or liquid hydrocarbons and

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underground electric lines) without prior approval of the Board of Directors of the District.

- E. All permits for use or access to the land in which the District holds an easement must also 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 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. In all cases, the permittee shall provide as-built drawings to the District. In any case required by the District, the permittee shall provide detailed plans and specifications prepared in accordance with accepted engineering practice prior to initiating any work 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.

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

Sec. 10.3. Execution of Encroachment Permit Agreement. No permittee shall be granted an encroachment permit unless the permittee has executed an encroachment permit agreement and completed all other forms required by the District from time to time.

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

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

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 \$500 with the District. The District will charge all actual costs to process the encroachment permit against the \$500 deposit, including but not limited to staff time, surveying costs, design costs, plan checking, administrative costs, 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 \$500 deposit from the permittee. If the cost of processing the encroachment permit is less than \$500, the District will refund the balance (if more than \$1.00) to the permittee not later than 45 days and recordation at the County Recorders Office after approval of the encroachment permit by the Board of Directors. The General Manager has the authority to waive the \$500 deposit in good judgment where circumstances dictate waiver of the deposit is beneficial from a public relations standpoint.