

**RULES OF THE
SOUTHWEST FLORIDA WATER MANGEMENT DISTRICT
CHAPTER 40D-9
DISTRICT LAND USE RULES**

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40D-9.021 Definitions

When used in this part:

- (1) "Commercial" activities means selling or offering to sell any merchandise or service including those derived from the consumptive or non-consumptive recreational use of District Lands including, but not limited to, providing guide services or tours, or providing rental vehicles or animals for use on District Lands.
- (2) "Camping" means to use a vehicle, tent, or shelter, or to arrange bedding or both with the intent to stay overnight.
- (3) "Concession" means the privilege to establish a commercial operation or business on District Land.
- (4) "Designated road" means any road, path, land, or trail designated by name or number for public vehicular travel.
- (5) "District" means the Southwest Florida Water Management District, operating under the authority of Chapter 373, Florida Statutes.
- (6) "District Lands" means any real property in which the District has an equitable or legal interest that allows the District to possess or regulate entry upon the property.
- (7) "Entry point" means a designated location or boundary for public access to District Lands.
- (8) "Facility" or "Structure" means any object placed on District Lands, which is intended to be permanently attached to the land, or which would be considered a fixture under Florida Law.
- (9) "Fireworks" means any device as defined in Chapter 791, Florida Statutes.
- (10) "Mobility impaired persons" means a person eligible for a disabled person exemption parking permit pursuant to Section 320.0848, Florida Statutes.
- (11) "Motorized Vehicle" means any vehicle, which travels over land and is partially or completely powered by a motor, as well as animal-drawn carriages and buggies.
- (12) "Natural resource" means land, water, soils, flora, and fauna.
- (13) "On foot" means activities such as hiking and jogging where travel is by foot only and does not involve any type of device, apparatus, or other means of enhancing mobility.
- (14) "Recreational purposes" means resource-based outdoor recreational activities including, but not limited to, fishing, hunting, horseback riding, bicycling, swimming, camping, hiking, canoeing, boating, diving, wildlife watching, sailing, and jogging.
- (15) "Recreational site" means an improved or unimproved site established to facilitate public use.
- (16) "Resource-based" means an activity that depends on natural resources for its occurrence such as fishing, boating, camping, wildlife study, or hunting.
- (17) "Special Use Authorization" means the granting of a privilege to go on or use District Lands for a certain purpose without conveying any property or possessory interest. Specific Authority 373.044, 373.113, 373.1391, F.S. Law Implemented 259.105, 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.091 Land Acquisition Procedures (Repealed)

Specific Authority 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.113, 373.149, 373.171, F.S. Law Implemented 373.103, 373.1391, 373.149, 373.59, F.S. History - New 3-11-82, Repealed 7-20-04.

40D-9.101 Recreational Land Use Policy

(1) Consistent with the legislative directives contained in Sections 373.016, 373.139, 373.59 and 373.045, F.S., the District's policy is to manage and maintain District Lands, to the extent practicable, in such a way as to ensure a balance between public access, general public recreational purposes, and restoration and protection of their natural state and condition. To further this policy, the land management and land use provisions of this Chapter are based on:

- (a) Water resource conservation and protection;
- (b) Environmental protection, with emphasis on restoration or preservation of ecosystems; and
- (c) Public recreation, where compatible with (a) and (b) above.

(2) The District recognizes that a principal tool for ensuring resource protection in land management programs is the control of human activities, in particular, the use of motorized vehicles. Therefore, the District's policy is to limit the use of motorized vehicles to those areas necessary for reasonable access for approved recreational activities or land management purposes.

(3) The District's policy is to make its lands accessible to persons with disabilities to the extent it is consistent with resource protection needs and is economically feasible.

(4) Pursuant to Section 373.1395, Florida Statutes, the District is not responsible for any injury to persons or property caused by an act or omission of a person who goes on District land or park areas provided to the public for recreational purposes. Additionally, the District is not responsible for any injury to persons or property caused by an act or omission of a person who goes on District lands or water areas leased to the state for outdoor recreational purposes.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.110 Scope and Applicability

District Lands are available to the public for general recreational purposes except as otherwise limited, restricted or prohibited by the rules in this Chapter or unless such use is inconsistent with the purposes for which the lands were acquired, as provided in a specific management plan developed by the District. Nothing in this rule shall prevent other federal, state, or local agencies, including but not limited to, those having management contracts with the District, from requiring compliance with their own rules, regulations or laws to the fullest extent of their lawful authority.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.111 Access to and Closures of District Lands

(1) District Lands shall be open to the public during daylight hours only, unless otherwise posted.

(2) Public Access to District Lands is provided at designated entry points from public roadways. District Lands may be accessed from any adjacent waterway or waterbody at any point, unless otherwise posted.

(3) District Lands may be closed to public use during certain hours or for certain periods of time when such closure is necessary due to emergency conditions such as floods, severe weather events, and wildfires; or during prescribed burns, construction, or other land management activities if such activity presents a danger to the public. If a governmental entity

other than the District is conducting the activity, that entity shall close District Lands with the concurrence of the District pursuant to this subsection.

(4) District Lands may be closed to public use in areas undergoing construction or restoration, or subject to other land or water management activities, where necessary to protect the site.

(5) District Lands may be closed to public use when such action is necessary to protect the water, natural or cultural resources of such lands.

(6) District Lands may be closed to public use when necessary to conduct research, studies, or data collection that has been approved or sponsored by the District.

(7) The District shall provide notice by signs when District Lands are closed for public use.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.120 Commercial Recreational Activities

Any entity planning to conduct a commercial recreational activity consistent with these rules on District Lands shall contact the District and provide the following information prior to entry upon District Lands:

- (1) Name of business and owner,
- (2) Address of business and owner,
- (3) Type of activity to be conducted on District Lands,
- (4) Number of participants in the activity, and,
- (5) Duration of the activity.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.130 Recreational Fishing

Recreational fishing as authorized and regulated by the Florida Fish and Wildlife Conservation Commission is allowed on District Lands except where specifically restricted by signs. The Florida Fish and Wildlife Conservation Commission requires any person engaging in recreational fishing to have appropriate fishing licenses in their possession, unless exempted by the Commission.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.131 Commercial Fishing

Commercial fishing is prohibited on all District Lands unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.140 Hiking

Hiking is allowed on District Lands except where specifically restricted by signs. For the purposes of this subsection, hiking shall include jogging, wildlife watching, or any other activity where travel is by foot only and does not involve another activity described in this chapter.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.150 Equestrian Activities; Use of Saddle Animals.

(1) Equestrian activities and the use of saddle animals other than horses are allowed on District Lands, on designated trails or areas.

(2) The responsible party for each saddle animal on District Lands shall carry proof of negative Coggins test administered within the last twelve months for each such saddle animal while on District Lands.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.160 Bicycling

Bicycling is allowed on District Lands only on designated trails or areas.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.170 Hunting

Hunting is allowed on District Lands designated by the District. Under cooperative agreements with the District, the Florida Fish and Wildlife Conservation Commission (Commission) regulates and manages recreational hunting on District Lands designated as Type I Wildlife Management Areas. The Commission requires any person engaging in recreational hunting to have a valid hunting license and a wildlife management area stamp in their possession, unless exempted by the Commission. On District Lands not designated as Type I Wildlife Management Areas, the District allows hunting by permit where hunting is part of the site-specific management plan developed or authorized by the District. The District shall issue permits for specifically authorized hunts on District Lands by lottery. Any person engaging in hunting on District Lands during these special hunts must have in their possession a valid hunting license and a District permit.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.171 Trapping

Trapping on District Lands is prohibited except by Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.180 Swimming

Swimming is allowed on District Lands only in designated areas unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.181 Diving

Scuba diving, or the use of underwater breathing apparatus of a similar nature, is prohibited on District Lands unless authorized by a Special Use Authorization. A person issued

a Special Use Authorization to perform a dive from District Lands shall submit a report informing the District of any scientific or archeological evidence discovered during the dive within 30 days after completing the dive. To receive a Special Use Authorization for diving, the applicant must satisfy the requirements contained in Rule 40D-9.330, F.A.C., and must provide reasonable assurances that:

- (1) The dive is for a scientific or resource investigation purpose; and
- (2) The person performing the dive is certified for the type of dive to be performed.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.190 Dogs, Cats, or Other Animals

Dogs and horses are allowed on District Lands only in designated areas. Dogs must be leashed or caged at all times unless they are authorized as part of an approved hunting program or authorized by a Special Use Authorization. Other types of domesticated animals, such as cats, are prohibited on District Lands.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.191 Plant or Animal Removal, Destruction, or Harassment

All plants and animals on District Lands are protected. Removing, destroying, or harassing animals or plants from or on District Lands is prohibited except for specifically authorized research efforts, hunting and fishing activities authorized by permit or Special Use Authorization, or District initiated removals associated with reforestation, control of exotic or nuisance species, silvicultural timber harvests or other land management activities.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.059, F.S. History – New 7-20-04.

40D-9.192 Introduction of Plants and Animals to District Lands

The introduction or release of any plant or animal on District Lands is prohibited unless done pursuant to a District initiated land management or restoration activity.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.200 Archaeological or Cultural Resources Removal, Alteration, or Destruction

All archaeological and cultural resources on District Lands are protected. Removal, alteration or destruction of archaeological or cultural resources is prohibited on District Lands unless authorized by a Special Use Authorization. The District shall consult the Florida Department of State, Division of Historical Resources, prior to authorizing the removal, alteration or destruction of any archaeological or cultural resources on District Lands. Archaeological or cultural resources means associated physical remnants and features contained in the ground including artifacts, fossils, bones, shell mounds, or primitive culture facilities or items. Any person discovering archaeological or cultural resources on District Lands shall notify the District of such discovery within 24 hours.

Specific Authority, 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.210 Disposal or Discharge of Waste

The disposal or discharge of any waste outside of designated waste collection facilities is prohibited on District Lands. The disposal of oil, gasoline or other hazardous substances is prohibited on District Lands.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F.S. History – New 7-20-04.

40D-9.220 Destruction, Removal, or Alteration of District Owned Facilities or Equipment

The destruction, removal or alteration of any District owned facilities, vehicles or other equipment is prohibited on District Lands. District owned facilities and equipment include but are not limited to water control structures, scientific study plots, photo points, transect lines, survey markers, public buildings, towers, recorders, gauges, signs, gates, fences and monuments. Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.230 Firearms and Similar Equipment

The possession or use of firearms or similar equipment on District Lands is prohibited except (1) for hunting purposes during specifically authorized hunts; (2) for District initiated land management activities; (3) as authorized by a Special Use Authorization. Firearms and similar equipment includes shotguns, rifles, muzzle loading guns, pistols, revolvers, air guns, gas guns, blow guns, crossbows, spear guns, or other devices capable of mechanically propelling an arrow, spear, or other projectile. The use of paintball guns, paintball markers, and paintball equipment on Districts Lands is prohibited. Paintball equipment includes, but is not limited to: paint balls, paint gun refillable gas tanks, paint gun propellant canisters, and targets.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.231 Fireworks and Explosives

The possession or discharge of any fireworks or explosives on District Lands is prohibited unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.240 Posting or Distributing Bills

Distributing any handbills or circulars or posting, placing, or erecting any bills, notices, papers, signs or advertising devices or informational matter of any kind, excluding District or managing agency notices, is prohibited on all District Lands unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.250 Fires

Igniting any fire on District Lands is prohibited except for District authorized prescribed burns, campfires in designated camping areas, or fires authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.260 Camping

- (1) Camping is allowed on District Lands at designated sites by permit only.
- (2) Camping using a motorized vehicle is allowed on District Lands only in camping sites designated for this purpose. The use of a motorized vehicle is subject to section 40D-9.270, F.A.C.
- (3) The District shall grant a permit for camping on District Lands with or without using motorized vehicles, subject to the following conditions:
 - (a) The District is given ten days prior written notice of the camp;
 - (b) The ten day prior written notice is delivered to:
Southwest Florida Water Management District
Land Use and Protection Section, Land Resource Department
2379 Broad Street
Brooksville, FL 34604-6899;
 - (c) The campground capacity is not exceeded by the proposed camping activity.
- (4) The length of stay for camping authorized by this section shall be no greater than seven continuous days.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.270 Use of Motorized Vehicles, Recreational Vehicles, Boats, and Aircraft.

- (1) Motorized vehicles that are licensed for Florida highway use are allowed on District Lands in designated areas. Use of all-terrain, off-road, or other motorized vehicles not licensed for Florida highway use is prohibited on District Lands except by a Special Use Authorization for access by mobility impaired persons. Special Use Authorizations for access by mobility impaired persons shall be issued by the Land Resources Director or the Director's designee pursuant to Section 40D-9.330, F.A.C.
- (2) Motorized vehicles licensed for Florida highway use shall be operated by licensed drivers only on roads designated as open for motorized vehicles.
- (3) Motorized vehicles shall not exceed posted speed limits. If no speed limit is posted, the speed limit shall be 20 miles per hour.
- (4) Boating is allowed on all District-owned waterways (canals, impoundments, etc.) subject to the following:
 - (a) Boats traveling within 500 feet of any District structure or levee shall not exceed idle speed unless otherwise indicated by signs.
 - (b) Boats shall not be operated in a manner which would damage plants, animals or other environmental resources.
 - (c) Boat use shall be limited to designated boat trails except in areas posted as open for boats.
 - (d) The District shall prohibit or limit boating in areas for public safety, resource protection, and protection of District facilities or equipment. Boating shall be limited by engine horsepower, speed, or vessel type as necessary for public safety, resource protection,

or protection of District facilities or equipment, and these limitations shall be specific to each water body. Areas closed to boating and boating limitations shall be designated by signs.

(e) The mooring of any boat on any District Lands for more than 24 continuous hours, is prohibited, unless otherwise posted.

(5) Boats on trailers shall only be launched from areas designated by signs.

(6) For the purposes of this section, the term "boating" includes both motorized and non-motorized boats.

(7) Taking off or landing aircraft on District Lands is prohibited unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.280 Unauthorized Facilities or Structures

(1) Constructing, erecting or maintaining any facility or any other structure of a permanent or semi-permanent nature on District Lands is prohibited unless authorized by a Special Use Authorization.

(2) Any unauthorized facility or structure discovered on District Lands shall be removed according to the following procedure:

(a) Upon discovery of the unauthorized facility or structure, District staff will post a notice on such facility or structure, for a period of 30 days, informing the owner that such facility or structure is not authorized on District Lands and that the owner must remove such facility or structure.

(b) The owner of an unauthorized facility or structure must remove such facility or structure within 30 days after the posting of the District notice.

(c) If the owner of the unauthorized facility or structure fails to remove such facility or structure within 30 days after posting of the District notice, the District will remove such facility or structure from District Lands or claim such facility or structure as District property. The District may seek reimbursement of costs for removal of any unauthorized facility or structure from the owner of such facility or structure.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.290 Other Uses; Use of Alcoholic Beverages on District Lands Prohibited

(1) Any recreational use of District Lands not authorized by this chapter is prohibited.

(2) The use of alcoholic beverages on District Land is prohibited.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.300 Trespass After Notice

Pursuant to Section 810.09, F.S., any person who, without being authorized, licensed or invited, enters and remains on District Lands as to which notice against entering or remaining is given, either by actual communication to the offender or by posting or fencing is guilty of a misdemeanor of the first degree punishable as provided in Chapter 775.082 or 775.083, F.S. Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.310 Penalties

(1) Pursuant to Section 373.609, F.S., it shall be the duty of every state and county attorney, sheriff, police officer, and the appropriate city and county official to assist the District, and its agents, in the enforcement of the provisions of the rules in this Chapter.

(2) Any person who violates any of the provisions of the rules in this Chapter is subject to eviction from the premises and arrest and prosecution for a second degree misdemeanor, punishable as provided in Section 775.082 or Section 775.083, F.S.

(3) The penalties identified in these rules are in addition to and cumulative to other penalties or options available to the District including civil remedies.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.320 Conflicting Rules

If an agency has entered into a cooperative management agreement with the District regarding specific District Lands, the rules of that agency shall apply if in conflict with these rules. If the cooperative management agreement or management plan does not address a specific recreational use, or if the agency does not have rules addressing a specific recreational use, then the District's rules shall apply.

Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.

40D-9.330 Special Use Authorization

(1) A person must apply for a Special Use Authorization to use District Lands for activities not specifically provided for in this Chapter.

(2) To receive a Special Use Authorization the applicant must provide reasonable assurance that:

(a) the requested use is natural resource-based,
(b) the requested use will not permanently alter District Lands or involve the placing of any structure or facility on District Lands,

(c) the requested use is consistent with the management plan for the District Lands involved,

(d) the requested use will not harm the environmental or historical resources of the District Lands,

(e) the requested use will not cause unreasonable expense to the District,

(f) the requested use will not create a substantial risk of liability to the District,

(g) the requested use will not harm any dam, impoundment, works, water control structures, roads, or District owned facilities or equipment,

(h) the requested use will not interfere with District water management, leased, licensed, or authorized uses of the land, and,

(i) the requested use will not interfere with any other use allowed by the rules in this Chapter.

(3) The District shall impose upon any Special Use Authorization issued pursuant to this Chapter such reasonable conditions as are necessary to assure that the use or activity authorized will meet the criteria set forth in this Chapter.

(4) The Governing Board delegates to the Land Resources Director or a person designated by the Director, the authority to issue or revoke Special Use Authorizations pursuant to this section.

(5) Any person may apply for a Special Use Authorization according to the following procedure:

(a) Submit request to:
Southwest Florida Water Management District
Land Use and Protection Section, Land Resource Department
2379 Broad Street
Brooksville, FL 34604-6899

(b) If the requested use will create a substantial risk of liability to the District, the applicant can mitigate substantial risk of liability by:

1. providing proof of liability and property damage insurance naming the District as an additional insured in an amount sufficient to cover the cost of the liability which is posed to the District, or

2. providing waivers or releases of liability sufficient to eliminate the liability, which is posed to the District.

(c) The application shall be reviewed by the Land Resources Department for compliance with the criteria listed in this section and a recommendation regarding the application forwarded to the Land Resources Director.

(d) If the requested use satisfies all of the criteria set forth in this Section, the Land Resources Director, or the Director's designee, shall issue the Special Use Authorization.

(e) If the requested use does not meet the criteria set forth in this section, the Land Resources Director, or the Director's designee, shall deny the Special Use Authorization application.

(f) The District's notices of intent to issue or deny a Special Use Authorization shall be governed by Chapter 28-106, F.A.C., and Rule 40D-1.1010, F.A.C.

(6) Any person receiving a Special Use Authorization from the District must have the Special Use Authorization in their possession at all times while on District Lands.

(7) The Land Resources Director, or the Director's designee, shall revoke a Special Use Authorization if the grantee violates the conditions of the authorization or engages in a use not specifically authorized.

(8) A Special Use Authorization does not eliminate the necessity to obtain any required federal, state, or local approval or permit prior to the start of any authorized use. Specific Authority 373.044, 373.113, F.S. Law Implemented 373.1391, 373.59, F. S. History – New 7-20-04.