

## 504 ENCROACHMENT PERMITS

### 504.1 Purpose

A property owner within the District must apply for and receive an Encroachment Permit from the District in the following circumstances:

- A. Whenever a property owner desires to install or construct physical improvements, such as landscaping, fencing, retaining walls, culverts, bridges, pipelines, or other structures or improvements on or within real property owned by the District or easements and right-of-way dedicated to the District, or
- B. Whenever a District resident or customer desires to secure temporary access over District owned real property or District easements or rights-of-way in order to access other private property, or
- C. Whenever a third party desires to secure temporary access to District owned real property, easements or rights-of-way in order to perform inspection or testing services including but not limited to soils testing, geotechnical engineering studies including borings, survey work or field inspection work.

Encroachment Permits are typically used by the District in the above situations. Other temporary uses of District Property or District easements which preclude District usage of such property will be handled by the District as a request to enter into a Right-of-Way and Entry Agreement pursuant to Section 503 above. The District will issue Encroachment Permits for authorized uses of District Property which do not interfere with the District's usage of such property for the provision of services to the public.

#### 504.2 Definition of "Encroachment"

"Encroachment" means (1) any structure or object of any kind or character located on District Property, easements and/or rights-of-way, including but not limited to building expansions, landscaping, fencing, retaining walls, culverts, bridges, pipelines, signage, or other structures and physical improvements; (2) use of District owned property, easements and/or rights-of-way for access to other properties; and (3) excavation including borings for geotechnical engineering purposes, and the deposit of materials from excavation within District Property; and (4) access to District owned property, easements and/or rights-of-way for survey, inspection or other engineering work. District Property includes District owned property, easements, rights-of-way, and the airspace above such property.

#### 504.3 Procedure

- A. The applicant for the encroachment permit must complete an application in a form provided by the District. As deemed appropriate by the District Engineer, plans for any structures, pipelines, or improvements to be constructed on or within District owned property or easements or rights-of-way must be attached to the application for review by District staff. Said application shall describe the name and address of the applicant, the nature and location of the proposed encroachment, the estimated duration of time of the proposed encroachment and a signed agreement by the applicant to comply with all of the provisions contained in the District Encroachment Ordinance (*See Appendix 500-E*)
- B. If physical improvements are to be constructed on or within District owned property, easements or rights-of-way, fully engineered plans and specifications for any such improvements must be attached to the application for review by District staff.
- C. If improvements are to be constructed on District Property, the applicant shall pay a deposit to the District as an advance against all administrative costs and expenses to be incurred by the District in reviewing the application and the plans and specifications for the improvements, at the time of filing the application.
- D. The District's form of Application for Encroachment Permit is attached hereto and marked Appendix 500-F. The District's form of Encroachment Permit is attached hereto and marked Appendix 500-G.
- E. Encroachments shall be approved and executed by the General Manager and do not require approval of the Board of Directors. Such Encroachment Permits only permit limited access to District owned real property or easements.

#### 504.4 General Requirements

- A. No person or entity shall do or cause to be done any work on District Property without first having obtained an Encroachment Permit and paid the applicable fee.
- B. Any construction work performed in connection with the permitted encroachment shall be in accordance with the plans and specifications reviewed by District and the conditions specified in the Encroachment Permit.
- C. Such Encroachment Permits only permit limited access to District Property for such purposes and uses as will not interfere with the District's customary use of such property for the provision of public services.
- D. All such Encroachment Permits shall comply in all respects with the District's Encroachment Ordinance (*see* Appendix 500-E) which requires, among other things, that the applicant agree to defend and indemnify the District against any and all claims, liability, damages and expenses arising out of the construction, installation, or maintenance of the encroachment, including (1) any dangerous or defective conditions created as a result of such encroachment; (2) the conditions under which Encroachment Permits may be refused and/or revoked; and (3) the penalties for violating the Ordinance and encroaching upon District Property without a permit.
- E. The District is not responsible for repairing or replacing any improvement made within a District easement due to activities undertaken by the District within the easement. Such repairs and replacements of property owner improvements shall be at the sole expense of the property owner.