

DELAVAN LAKE SANITARY DISTRICT ENCROACHMENT POLICY

From the formation of the DLSD to date, there have been many instances of property owners placing, erecting or constructing structures, plantings and other obstructions within District easements. Some obstructions exist with the express written consent of the former District Administrator, some with knowledge but without written consent of the District, but mainly without District knowledge or approval. The existence of these obstructions is becoming of greater concern as the District's system ages, and it is advisable to adopt a policy dealing with all encroachments - the goal being to completely eliminate all encroachments over time. In order to facilitate this goal, the District has adopted the following policy.

1. REMOVAL POLICY:

The District will remove all obstructions and encroachments in the District's easements as necessary to conduct District business. Removal may result in the destruction of the obstructing or encroaching item. The District shall not be liable for the cost of removal, damage to items or property that are located within the District's easement. In removing obstructions and encroachments, the District will not purposely destroy items, but property may well be damaged or destroyed in the process. The cost of removal of obstructions and encroachments shall be billed to the property owner. The failure to pay the removal cost shall result in the cost of the removal being entered on the tax roll as a special charge as provided under §66.0627, Stats.

The District, in non-emergency situations, will endeavor, but is not required, to provide the property owner advance notice of scheduled work to allow the property owner to arrange for permanent removal of the obstructions from the easement.

Some of the various types of obstructions are listed below but this list is not exhaustive.

- Trees, shrubs, gardens, flowerbeds, and other vegetation. If tree roots or location of other obstructions of this type are causing problems with or otherwise threatening operations or District facilities from outside the easement, the District may still, working within the easement, remove the encroachment or obstruction, to the detriment of the item outside of the easement boundaries. The District is not liable for any damage to vegetation outside of the easement boundaries due to work within the easement.
- Fences. All property owners owning encroaching fences may wish to consider installing ground sleeves to allow easy removal of the sections of fence within the easement. Installation of such sleeves shall be in accord with District specifications and with District approval. Property owners should consult with the District to see if the sleeve option is viable for their property and ensure District approval of such installation. Approval would occur only where the sleeved fences would not adversely affect District operations.

- Signs. All property owners owning encroaching signs may wish to consider installing ground sleeves to allow easy removal of the sign within the easement. Installation of such sleeves shall be in accord with District specifications and with District approval. Property owners should consult with the District to see if the sleeve option is viable for their property and ensure District approval of such installation. Approval would occur only where the sleeved signs would not adversely affect District operations.
- Decorative Obstructions (e.g. lamp posts, gazebos, arbors and other yard obstructions)
- Above Ground Pools, Swing sets
- Sidewalks and Walkways
- Private Electrical Lines
- Stone, Brick, or Concrete Fences, Retaining Walls, Fountains and Landscaping Boulders
- Large Stone or Timber Steps
- **Homes, Garages or Other Buildings.** All property owners owning homes, garages or other buildings within an easement are advised that the District shall not be responsible in any way for damage or destruction of any building encroaching within District easements and the District will not be responsible for restoration of any such building if damaged by District operations. Property owners are therefore advised to remove any obstruction or encroachment at their earliest convenience.

In the event it becomes necessary for the District to access its facilities, and such obstruction or encroachment remains, the District may determine to take special protective measures. The determination as to whether to take special protective measures and what measures will be taken shall be at the sole discretion of the District. Should the District take special protective measures, the property owner shall be charged all costs associated with any special measures undertaken by the District. The failure to pay for the special measures costs shall result in the cost being entered on the tax roll as a special charge as provided under §66.0627, Stats.

As an alternative to removal, other measures may be taken. The District is willing, on a case-by-case basis, **at the property owner's request**, to work with an owner of an encroaching building to determine if alternative easement areas on their property could be provided by the property owner to the District so as to meet District needs. Such requests must be made in writing, prior to the District's need to work in the easement area. A determination by the District as to whether to move an easement and the final location of the easement shall be in the sole discretion of the District. The costs for any professional services required to consider relocation of the easement, including, but not limited to surveys, engineering costs or legal fees as well as miscellaneous costs such as recording

fees, shall be the responsibility of the property owner. These costs will be a special charge and if not paid, shall be placed on the tax roll as a special charge pursuant to §66.0627, Stats.

2. IMPLEMENTATION OF POLICY

1. Zoning and Building Permit Coordination

The District will work with each Town and the County building/zoning staff, to review all new permits.

2. Special Assessment Notices

Any obstruction should be brought to the attention of the prospective purchasers at such time as each request for delinquent assessments is received.

3. Communication with District Property Owners

At least annually (most likely with the year-end mailing), the District should remind property owners of the Encroachment Policy, in a format determined by the District, such as sending a copy of the policy, a summary of the policy or the link to the District website where the policy is located, to owners of all property within the District. The notice should invite the property owner to contact the District for information regarding encroachments on their property.