

Notice of Proposed Rule

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:RULE TITLES:

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- 40D-9.111 Access to and Closures of District Lands
- 40D-9.140 Hiking
- 40D-9.150 Equestrian Activities; Use of Saddle Animals
- 40D-9.160 Bicycling
- 40D-9.170 Hunting
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- 40D-9.191 Plant or Animal Removal, Destruction, or Harassment
- 40D-9.192 Introduction of Plants and Animals to District Lands
- 40D-9.200 Archaeological or Cultural Resources Removal, Alteration, or Destruction
- 40D-9.220 Destruction, Removal, or Alteration of District Owned Facilities or Equipment
- 40D-9.250 Fires
- 40D-9.260 Camping
- 40D-9.270 Use of Motorized Vehicles, Recreational Vehicles, Boats, and Aircraft
- 40D-9.290 Other Uses; Use of Alcoholic Beverages on District Lands Prohibited
- 40D-9.311 Penalties
- 40D-9.330 Special Use Authorization

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend and update Chapter 40D-9, F.A.C.

SUMMARY: Section 373.1391, F.S., provides that the District may establish rules related to District lands. Those rules are contained within Chapter 40D-9, F.A.C., which has not been significantly updated since 2004. This rulemaking is to update the District's land use rules to address current issues, reflect current practices and procedures, and remove outdated references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District conducted an economic review of the revisions to these rules and determined that the impact or regulatory cost, if any, of the revisions will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S. The proposed rule revisions are in response to the changing nature of District recreation opportunities. Additionally, the proposed revisions will bring the District's rules in line with those of the other water management districts. There are no changes to existing requirements that would likely, directly or indirectly, significantly increase regulatory costs. Since there are no expected significant increases in regulatory costs, small businesses will not be adversely impacted. As there are no expected significant increases in regulatory costs and no expected adverse impacts to small businesses, a SERC is not required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.1391 FS.

LAW IMPLEMENTED: 259.105, 373.1391, 373.59 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: SWFWMD Human Resources Office, (352)796-7211, ext. 4706; 1(800)423-1476 (FL only), ext. 4706 or email to ADACoordinator@swfwmd.state.fl.us.. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Reed, Land Management Manager, SWFWMD, 2379 Broad Street, Brooksville, FL 34604, (352) 796-7211, ext. 4466

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-9.021 Definitions.

When used in this part:

(1) “Access point” means a designated location or boundary for public access to District Lands.

(2) “Bicycle” means every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. A person under the age of 16 may not operate or ride upon a motorized bicycle.

(3) “Bicycling” means to ride a bicycle.

(4) ~~(4)~~ “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.

(5) ~~(2)~~ “Camping” means to use a vehicle, tent, or other shelter, and/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.

(6) ~~(5)~~ “District” means the Southwest Florida Water Management District, operating under the authority of Chapter 373, F.S.

(7) ~~(6)~~ “District Lands” means any real property owned, leased, managed, or controlled by 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, F.S.

(10) “Historic resource” means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

(11) “Horse cart” means a non-motorized two- (2) or four- (4) wheeled vehicle pulled by up to two saddle animals driven by a human.

~~(12)~~~~(40)~~ “Mobility impaired persons” means a person eligible for a disabled person exemption parking permit pursuant to Section 320.0848, F.S.

~~(13)~~~~(44)~~ “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.

~~(14)~~~~(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.~~

~~(15)(16) “Resource-based” means an activity that depends on natural resources for its occurrence such as fishing, boating, camping, wildlife study, or hunting.~~

~~(16)(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.~~

~~Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 259.105, 373.1391, 373.59 FS. History–New 7-20-04, Amended ____.~~

40D-9.111 Access to and Closures of District Lands.

(1) District Lands shall be open to the public from 30 minutes prior to sunrise until 30 minutes after sunset during daylight hours only, unless otherwise authorized by the District posted.

(2) Public ~~access~~ Access to District Lands is provided at designated access entry points from public roadways. District Lands, except as described in this Rule, may be accessed from any adjacent waterway or waterbody at any point, unless otherwise posted. Weeki Wachee Springs State Park and Weeki Wachee Preserve may not 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, vegetation spraying, 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, when 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 contracted sponsored by the District.

(7) The District shall provide notice by signs, District website, press release, or social media postings when District Lands are closed for public use.

~~Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History–New 7-20-04, Amended ____.~~

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.~~

~~Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History–New 7-20-04, Amended ____.~~

40D-9.150 Equine Equestrian Activities, ~~Use of Saddle Animals.~~

(1) Equestrian activities ~~and the use of saddle animals other than horses~~ are allowed on District Lands where identified by posted signage on trails, areas, roads, or equestrian campgrounds, ~~on designated trails or areas.~~

(2) Persons using saddle animals on District lands must have proof of a negative Coggins test for Equine Infectious Anemia in their possession at all times. 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.

(3) Equestrian activities are prohibited in wetlands.

(4) The use of a horse cart as defined by subsection 40D-9.021(11), F.A.C., must be authorized by the District and is allowed only on designated District lands as identified by posted signage on trails, areas, roads, or equestrian campgrounds.

~~Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History–New 7-20-04, Amended ____.~~

40D-9.160 Bicycling.

Bicycling is allowed ~~on District Lands~~ only on District Lands designated for this purpose, designated trails or areas. *Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.*

40D-9.170 Hunting.

Hunting is allowed on District Lands designated by the District. ~~The Under cooperative agreements with the District, the~~ Florida Fish and Wildlife Conservation Commission (Commission) regulates and manages recreational hunting on District Lands by agreement with the District and pursuant to the Florida Statutes and the Commission's own rules, 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 a Type I Wildlife Management Area 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 or Special Use Authorizations for ~~specifically authorized~~ hunts on District Lands and shall limit the number of permits based upon the conservation management goals and objectives contained within the specific management plan for the property. Any person engaging in hunting on District Lands during such authorized hunts must have in their possession a valid hunting license for game animals and a District permit or Special Use Authorization.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended 7-6-10, ____.

40D-9.181 Underwater 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 archaeological 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.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

40D-9.182 Swings, Diving, and Jumping.

The installation or use of swings, rope swings, platforms or stairs in trees is prohibited, unless otherwise authorized by Florida law. Diving or jumping from trees, banks, structures or bridges on District Lands into any body of water is prohibited.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New ____.

40D-9.190 Dogs, Cats, or Other Animals.

Dogs and ~~saddle animals~~ 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. Pet waste must be removed by owner. Saddle animal manure must be pulverized on site or removed by the owner/handler.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

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, including the felling of dead trees, 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 restoration ~~reforestation~~, control of exotic or nuisance species, silvicultural timber harvests or other land management activities.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.059 FS. History--New 7-20-04, Amended ____.

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 or authorized land management or restoration activity.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

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

~~All archaeological and cultural resources on District Lands are protected.~~ Removal, alteration or destruction of historic 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 historic 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 historic archaeological or cultural resources on District Lands shall notify the District of such discovery within 24 hours.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

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

The destruction, removal or alteration of any District-owned ~~District owned~~ facilities, vehicles or other equipment is prohibited on District Lands. District-owned ~~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, monitoring wells, and associated equipment.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

40D-9.250 Fires.

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

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

40D-9.260 Camping.

(1) Camping is allowed on District Lands at designated sites by permit or Special Use Authorization 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 Rule 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) Camping permits are issued on a first come-first served basis to those registered on the District's website. Reservations must be made no later than 24 hours prior to the start of the camping permit. The number of camping permits issued per site is limited to the capacity of the site; The District is given ten days prior written notice of the camp;

(b) Campers may arrive no earlier than 3 p.m. on the first day of the camping permit and must depart no later than 11 a.m. on the final day of the camping permit. 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) Overnight camping or the presence of camping equipment is limited to no more than seven (7) consecutive days, and thirty (30) total days per year on District lands where camping is authorized, unless authorized by Special Use Authorization. The campground capacity is not exceeded by the proposed camping activity.

(d) Permittees can hold no more than two (2) active camping permits within the reservation system at any given time.

(e) Camping is allowed outside of areas designated for camping only by Special Use Authorization.

(f) No person shall install, erect, or maintain any unauthorized camp, building, structure, shelter, residence or sign.

(g) Between the hours of 10:00 p.m. and 7:00 a.m., music, barking dogs, or any other activities causing excessive noise are prohibited in camping areas. Generator use is only allowed in camping areas on District Lands from 7:00 a.m. to 10:00 p.m., unless authorized by Special Use Authorization. Generators are not to be left running unattended at any time.

(h) Pets permitted include horses and dogs on District lands where allowed. Pets must be leashed or tethered at all times while on District lands. Dogs must remain on a 6ft leash at all times.

(i) Campers are limited to two dogs per camping reservation.

(j) Within camping areas, pet waste must be disposed of in waste bins, if provided, or removed by the owner. Saddle animal manure must be removed by owner/handler, or pulverized adequately on site.

(k) Changing the registered name of a group or individual, or if the same individuals or the similar persons in a family group or camping rig make multiple advanced reservations, through any means, including the use of multiple user profiles, to circumvent the 7-day maximum or 30 day total annual length of stay is prohibited.

(4) Camping on District Lands, whether authorized by permit or Special Use Authorization, does not create a tenancy or any other interest in land. The length of stay for camping authorized by this section shall be no greater than seven continuous days.

(5) The District may revoke a camping permit if the permittee fails to comply with the rules in Chapter 40D-9, F.A.C., or any provision of a camping permit.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended ____.

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, research, studies, or data collection. ~~Special Use Authorizations for access by mobility impaired persons shall be issued by the Land Resources Director or the Director's designee pursuant to Rule 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) For purposes of this section, the term "boating" includes both motorized and non-motorized boats.

(5) (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.

~~The District shall prohibit or limit boating in areas for public safety, resource protection, and protection of District facilities or equipment.~~ The District shall limit boating ~~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. The mooring of any boat on any District Lands for less than 24 continuous hours is authorized, unless otherwise posted.

(f) No person shall operate an airboat or vessel beyond posted signage or on upland areas.

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

(6) Parking a motor vehicle or trailer in an unauthorized location or in a manner blocking roads, gates, firelines,

monitoring wells, or water control structures is prohibited. Parking of commercial vehicles and trailers is prohibited unless authorized by Special Use Authorization.

~~(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.

(8) Unmanned aerial vehicles, including recreational drones, are prohibited from taking off or landing on District Lands unless authorized by the District.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

40D-9.290 ~~Other Uses;~~ Use or Possession of Alcoholic Beverages on District Lands Prohibited.

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

~~(2) The use or possession of alcoholic beverages on District Land is prohibited, except as authorized herein.~~

(1) The possession, sale, and use of alcoholic beverages may be allowed on District Land that is cooperatively managed by another agency or local government when that agency or local government has adopted a rule or ordinance that allows the sale and use of alcoholic beverages in parks or facilities owned or managed by the agency or local government and makes such a request in writing.

(2) The rule or ordinance must, at a minimum, require \$1,000,000 liquor liability insurance, and the agency or local government must agree in writing to indemnify and hold the District harmless from any claims of liability resulting from events authorized by the agency or local government pursuant to its rule or ordinance at which alcoholic beverages are sold or used on District Land.

(3) If the conditions of paragraphs (a) and (b) are not met, the District shall deny a request by an agency or local government to allow the possession, sale, or use of alcoholic beverages on District Land.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended 9-11-11, Amended ____.

40D-9.311 Penalties.

(1) Any person who violates any provision of this chapter is subject to ejection from the premises and may be subject to criminal prosecution.

(2) Any person who is ejected more than once from District Lands may be barred from applying for any permit or Special Use Authorization contemplated by this chapter for a period of up to five years.

(3) The penalties identified in these rules do not supersede other remedies available to the District at law and/or in equity.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New ____.

40D-9.330 Special Use Authorization.

(1) A person or entity must obtain ~~apply for~~ a Special Use Authorization to use District Lands for activities not specifically authorized by ~~provided for in~~ this chapter.

(2) For recreational activities specifically authorized by this chapter involving 25 or more participants, a Special Use Authorization must be obtained on behalf of the group.

~~(3)~~(2) To receive a Special Use Authorization the applicant must provide reasonable assurance in writing 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 ~~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.

~~(4)(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 ~~must~~ may apply for a Special Use Authorization according to the following procedure:

(a) Submit request by email to:

Land@swfwmd.state.fl.us, or by mail to:
Southwest Florida Water Management District
Operations and Land Management Bureau
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 District may require the applicant to ~~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 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) Special Use Authorizations shall be subject to terms, conditions, and restrictions as may be prescribed therein. Failure to abide by all terms and conditions shall be a violation of the authorization and this chapter.

~~(8)(7) The District 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.~~

~~(9)(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.~~

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended ____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Southwest Florida Water Management District

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 5, 2021