

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

CHAPTER 40C-9, F.A.C.

**WATER MANAGEMENT LANDS ACQUISITION
AND
MANAGEMENT**

**Revised
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CHAPTER 40C-9
WATER MANAGEMENT LANDS ACQUISITION AND MANAGEMENT

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40C-9.001 Purpose.

Rulemaking Authority 373.016, 373.044, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.113, 373.171 FS. Law Implemented 373.103, 373.139, 373.59 FS. History—New 6-15-82, Formerly 40C-9.01, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.021 Definitions.

When used herein:

- (1) “Acquisition” means the reduction of the title to land to be acquired to fee, or in the discretion of the District such other legal interest necessary for water management, water supply and the conservation and protection of water resources.
- (2) “Concession” means the privilege to establish a commercial operation or business on District Lands.
- (3) “Conservation Easement” means an easement in real property whereby the District is the dominant tenant for the purposes of the easement but does not own the underlying fee title. A Conservation Easement will place restrictions upon utilization of the property by the underlying fee owner and may include a grant to the District of affirmative rights of utilization in the property, including the right to permit public access. Any utilization for public access shall not exceed the express grant of the Conservation Easement, and may be further limited by the District through the establishment of site-specific policies regarding public utilization.
- (4) “Department” means Florida Department of Environmental Protection.
- (5) “Designee” means any of the following: the Assistant Executive Director, Director or Assistant Director of the Division of Water and Land Resources, Chief of the Bureau of Real Estate Services, or Chief of the Bureau of Land Resources.
- (6) “District” means the St. Johns River Water Management District, operating under the authority of Chapter 373, F.S.
- (7) “District Land” means any real property in which the District has an equitable or legal interest that allows the District to possess, or control entry upon or limit or engage in specific uses of the property. District Land includes Conservation Easements.
- (8) “District Lease” means the granting of either an exclusive or non-exclusive use of or interest in District Lands for a specified period of time.
- (9) “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.
- (10) “Fund” means the Water Management Lands Trust Fund, Preservation 2000 funds and Florida Forever funds.
- (11) “Mobility impaired persons” means a person having a State of Florida Mobility-Impaired Eligibility Certification (Florida Physician’s Certification) administered through the Florida Fish and Wildlife Conservation Commission.
- (12) “Motorized Vehicle” means any vehicle which travels over land and is partially or completely powered by a motor, and animal-drawn carriages and buggies.
- (13) “Plan” means the five year plan as approved by the Governing Board of the St. Johns River Water Management District.
- (14) “Project” means a parcel or parcels of land in a discrete unit of purchase.
- (15) “Resource-based” means an activity that depends on natural resources for its occurrence such as fishing, boating, camping, wildlife study, or hunting.
- (16) “Secretary” means the Secretary of the Florida Department of Environmental Protection.
- (17) “Special Use Authorization” means the granting of a privilege to go on or use District Land for a certain purpose which does not confer any property or possessory interest to the user.
- (18) “Survey” means a certified survey signed by a licensed land surveyor authorized to practice surveying in the State of Florida.

Rulemaking Authority 373.044, 373.113, 373.139, 373.1391 FS. Law Implemented 259.105, 373.056, 373.088, 373.089, 373.093, 373.096, 373.099, 373.139, 373.1391, 373.199, 373.59 FS. History—New 6-15-82, Amended 1-16-94, 5-11-94, 7-30-01, 6-7-04.

40C-9.031 Selection of Lands – Five Year Plan Pursuant to Section 373.199, Florida Statutes.

Rulemaking Authority 373.044, 373.113, 373.139, 373.1391 FS. Law Implemented 373.056, 373.088, 373.089, 373.093, 373.099, 373.103, 373.139, 373.199, 373.59 FS. History—New 6-15-82, Amended 7-30-01, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.041 Acquisition Procedures; Negotiations.

- (1) Upon determination of land requirements, descriptions and maps sufficient to identify the lands to be acquired should be

obtained.

(2) Ownership information shall be obtained and reviewed in order to determine the title to the land being acquired.

(3) The District shall obtain at least one certified appraisal pursuant to Rule 40C-9.061, F.A.C., or written estimate of value, as follows:

(a) For lands where staff estimates the value to be less than \$50,000, a written estimate of value may be prepared by staff in lieu of a certified appraisal;

(b) For any lands that are acquired with acquisition moneys released by the Department of Environmental Protection, the District shall obtain at least one certified appraisal.

(4) The District shall attempt to acquire each parcel through voluntary negotiation prior to commencement of proceedings in eminent domain.

(5) All contracts to purchase shall be reduced to writing and shall be contingent upon approval by the Governing Board.

(6) The District shall attempt to negotiate the acquisition of desired parcels in accordance with the following procedure:

(a) The District shall contact each owner or authorized representative and make an offer to acquire based on the appraised value of the property.

(b) A file shall be maintained, which shall summarize such negotiations, including the amount of offer made by the District, and any counter-offer made by the property owner.

(c) In the event an offer is accepted, the District shall:

1. Arrange for the proper execution and recording of all necessary documents.

2. When necessary, prepare a resolution by the Governing Board requesting the Department of Environmental Protection to release the necessary funds pursuant to Chapter 62-402, F.A.C.

(d) When a negotiated settlement cannot be readily attained, and staff determines that acquisition is necessary, staff shall prepare a memorandum, which shall include:

1. A request for resolution to institute eminent domain proceedings.

2. Identification of parcels by title memorandum number.

3. Legal interest or estate considered for acquisition.

(e) The District may accept donations of land. In such event the provisions of this subsection shall be followed, except that appraisals may be waived upon concurrence of both the landowner and the District. The District shall not accept a donation unless it has received or obtained the following:

1. A Phase I environmental site assessment;

2. Title insurance; and

3. A description of the boundary that is adequate to serve the District's needs, which may include a surveyed legal description.

(7) The District shall adhere to the provisions of Chapter 287.055, F.S., if applicable.

Rulemaking Authority 373.044, 373.113, 373.139 FS. Law Implemented 259.105, 287.055, 373.056, 373.086, 373.099, 373.139, 373.199 FS. History—New 6-15-82, Amended 7-30-01, 6-7-04.

40C-9.045 Acquisition Procedures – Condemnation.

Rulemaking Authority 373.044, 373.113, 373.139 FS. Law Implemented 287.055, 373.056, 373.086, 373.096, 373.099, 373.139, 373.199, 373.59 FS. History—New 6-15-82, Amended 7-30-01, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.051 Surveys.

Rulemaking Authority 373.016, 373.044, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.113, 373.171 FS. Law Implemented 373.103, 373.139, 373.59 FS. History—New 6-15-82, Repealed 11-3-15.

40C-9.061 Appraisals.

(1) The District's contract with non-staff appraisers shall substantiate that each appraiser has no vested or fiduciary interest in the property to be appraised, except for the professional fee.

(2) The District shall transmit all pertinent data to the appraiser regarding the assignment.

(3) Certified appraisals shall be reviewed by the District to ensure that they comply with the professional practice standards

established in accordance with section 475.628, F.S.

(4) Appraisal information shall be presented to the Governing Board concurrently with the presentation of the proposed purchase agreement.

Rulemaking Authority 373.044, 373.113, 373.139 FS. Law Implemented 373.139, 475.628, 475.629 FS. History—New 6-15-82, Amended 7-30-01, 6-7-04, 7-5-15.

40C-9.065 Disclosure of Beneficial Interest.

Rulemaking Authority 373.016, 373.044, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.113, 373.171 FS. Law Implemented 373.103, 373.139, 373.59 FS. History—New 6-15-82, Formerly 40C-9.065, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.071 Use of Trust Funds.

Rulemaking Authority 373.044, 373.113, 373.139 FS. Law Implemented 373.056, 373.139, 373.199, 373.59 FS. History—New 6-15-82, Amended 7-30-01, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.081 Disposition of Surplus Land.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.056, 373.089, 373.139, 373.199, 373.59 FS. History—New 6-15-82, Amended 7-30-01, 6-7-04, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.101 Land Management Policy.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.088, 373.093, 373.096, 373.099, 373.139, 373.1391, 373.1395, 373.1401, 373.199, 373.59 FS. History—New 1-16-94, Amended 7-30-01, Repealed 11-3-15.

40C-9.110 Land Management Plans.

(1) The District shall develop plans for the management of District Lands, excluding District Lands upon which District office facilities are located.

(2) The District shall consider the following in developing these land management plans:

- (a) The physiography, topography, hydrology, and ecology of each District Land;
- (b) The physical setting and history of the District Land;
- (c) The purpose for which the District Land was acquired;
- (d) The regional significance of the District Land;
- (e) The protection of environmental resources;
- (f) The protection of cultural and archeological resources;
- (g) Water resource projects scheduled for the District Land;
- (h) The need for ecosystem restoration;
- (i) Prescribed fire management;
- (j) The security needs of the District Land;
- (k) The regulation of vehicle use on the District Land;
- (l) The compatibility of potential land uses with the provisions of this chapter;
- (m) The relationship with adjacent lands uses;
- (n) The recreational uses suitable on the District Land;
- (o) Other entities available to manage the District Land in partnership with the District;
- (p) The responsibilities of other agencies relating to the District Land;
- (q) Access to the District Land;
- (r) The fiscal implications of managing the District Land including opportunities to generate revenue in an environmentally acceptable manner to offset management expenses;
- (s) Management of exotic and nuisance species; and

(t) Use of the District Land by persons with disabilities.

(3) For the properties on which the District serves as lead manager, within one year after acquiring a District Land, the District shall prepare a draft land management plan for such District Land and distribute the plan for public comment. After receiving public comment on the draft land management plan, a final land management plan for each District Land shall be presented to the Governing Board for adoption at a public meeting in which the public shall have the opportunity to comment on the final land management plan. A land management plan shall become effective when adopted by the Governing Board.

(4) The land management plan approved by the Governing Board shall guide management of District Lands.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 259.032, 259.105, 373.093, 373.139, 373.1391, 373.1401, 373.199, 373.591 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01, 6-7-04.

40C-9.115 Land Management Review Team.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.088, 373.093, 373.096, 373.099, 373.139, 373.1391, 373.199, 373.59, 373.591 FS. History—New 7-30-01, Amended 6-7-04, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.117 Access to and Closure of Conservation Easements.

Not all Conservation Easements permit public access. For Conservation Easements that permit public access, such access shall be limited to trails and entry points designated by signs, and to those uses designated by sign or brochure at designated entry points.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 259.032, 373.1391 FS. History—New 6-7-04.

40C-9.120 Access to and Closures of District Lands.

(1) Public Access. District Lands shall be open to the public for access on foot at all points except where restricted by signs. Public access to District Lands by means other than foot shall only be at entry points designated by signs.

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

(3) District Lands shall be closed to public use during emergency conditions such as floods, severe weather events, wildfires, or during prescribed burns, construction, or other land management activities that may present a danger to the public. If a governmental entity other than the District is conducting the activity, that entity shall close District Lands pursuant to this subsection.

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

(5) District Lands shall be closed to public use during certain hours, or for certain periods of time, when such closure is necessary to implement the land management requirements for such Lands.

(6) District Lands shall be closed to public use when necessary to conduct research, studies or data collection.

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

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 259.032, 373.1391, 373.1401 FS. History—New 1-16-94, Amended 7-30-01.

40C-9.130 Recreational Fishing.

Recreational fishing as authorized 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.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 253.7825, 259.032, 373.1391, 379.104, 379.354 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01.

40C-9.140 Hiking.

Hiking is allowed on District Lands except in areas restricted by signs. For the purposes of this subsection, hiking shall include jogging, bird 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, 373.1391 FS. Law Implemented 259.032, 260.012, 373.1391, 373.199 FS. History–New 1-16-94.

40C-9.150 Horseback Riding.

Horseback riding is allowed on District Lands but only on designated trails or areas, established roads, and fire lines, except where restricted by signs.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 253.7825, 259.032, 260.12, 373.1391 FS. History–New 1-16-94.

40C-9.160 Bicycling.

Bicycling is allowed on District Lands but only on designated trails or areas, established roads, and fire lines, except where restricted by signs.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 253.7825, 259.032, 260.12, 373.1391 FS. History–New 1-16-94.

40C-9.170 Hunting.

Hunting is allowed only by permit on certain District Lands as indicated in the Land Management Plan for those District Lands. Hunting on District Lands is also regulated by the Florida Fish and Wildlife Conservation Commission and United States Fish and Wildlife Service.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 259.032, 373.104, 373.1391, 379.354 FS. History–New 1-16-94, Amended 5-11-94, 7-30-01.

40C-9.180 Dogs, Cats, and Other Domestic Animals.

Dogs, cats, and other domestic animals of a similar nature, excluding horses, are allowed on District Lands provided that such animals must be leashed at all times. Domestic animals are allowed unleashed on District Lands if they are specifically authorized as part of an approved hunting program or authorized by a Special Use Authorization or District Lease.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391 FS. History–New 1-16-94, Amended 5-11-94, 7-30-01.

40C-9.190 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 40C-9.360, F.A.C., and must provide reasonable assurances that:

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

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 259.032, 373.1391 FS. History–New 1-16-94, Amended 5-11-94.

40C-9.200 Swimming.

Swimming is prohibited on all District Lands except in areas designated by signs.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391 FS. History–New 1-16-94.

40C-9.210 Plants 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 authorized research efforts, authorized hunting, gathering, and fishing, as authorized by a permit or Special Use Authorization, or District-initiated removals associated with reforestation, control of exotic or nuisance species, or other land management activities. However, the sale or harvest of wetland trees and plants is prohibited on all District Lands except for District-initiated removals associated with land management activities.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391 FS. History–New 1-16-94, Amended 5-11-94, 7-30-01, 6-7-04.

40C-9.220 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 all District Lands unless authorized by a Special Use Authorization or a District-initiated removal conducted for scientific or land management purposes. The District shall consult the Florida Department of State, Division of Historical Resources prior to authorizing the removal, alteration or destruction of any archeological 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 immediately notify the District of such discovery.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 267.13, 373.1391 FS. History—New 1-16-94, Amended 5-11-94.

40C-9.230 Disposal or Discharge of Waste.

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

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391, 403.413 FS. History—New 1-16-94.

40C-9.240 Destruction, Removal, or Alteration of District-Owned Facilities or Equipment.

The unauthorized destruction, removal, or alteration of any District-owned facilities or equipment is prohibited on all District Lands. District-owned facilities and equipment includes water control structures, scientific study plots, photo points, transect lines, survey markers, public buildings, towers, recorders, gages, signs, gates, fences, or monuments.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391, 373.614 FS. History—New 1-16-94.

40C-9.250 Firearms and Similar Equipment.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New 1-16-94, Amended 5-11-94, Repealed 3-9-12.

40C-9.260 Posting or Distributing Bills.

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

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391, 403.413 FS. History—New 1-16-94, Amended 5-11-94.

40C-9.270 Fires.

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

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391, 590.11, 590.125 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01.

40C-9.280 Trapping.

Trapping is prohibited on all District Lands except where specifically authorized by a Special Use Authorization which shall be limited to scientific study or removal of nuisance species. Trapping on District Lands is also regulated by the Florida Fish and Wildlife Conservation Commission.

Rulemaking Authority 258.008, 373.044, 373.113, 373.1391, 379.104 FS. Law Implemented 258.008, 373.1391, 379.104 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01.

40C-9.290 Commercial Fishing.

Commercial fishing, except for District-initiated activities, is prohibited on all District Lands, unless authorized by a Special Use Authorization.

40C-9.300 Camping.

(1) Hike-in or boat-in primitive camping in groups of no more than six persons is allowed on District Lands only in designated camping sites.

(2) Camping using a motorized vehicle in groups of no more than six persons is allowed on District Lands only in designated camping sites. The use of the motorized vehicle is subject to rule 40C-9.320, F.A.C.

(3) The Governing Board grants a general permit after notice for camping on District Lands in groups of more than six but less than 25 persons, with or without using motorized vehicles, subject to the following conditions:

- (a) The group camping is conducted not-for-profit;
- (b) Use of any motorized vehicle is subject to rule 40C-9.320, F.A.C.;
- (c) The District is given seven days prior written notice of the group camp.
- (4) The seven day prior written notice must be delivered to:

St. Johns River Water Management District

Bureau of Land Resources

4049 Reid Street

Palatka, Florida 32177-2529

(5) The length of stay for camping authorized by this section shall be no greater than seven continuous days or 30 total days per year per District Land.

(6) All other camping is allowed only by a Special Use Authorization.

40C-9.310 Introduction of Plants and Animals to District Lands.

The introduction of plants or animals to District Lands is prohibited unless done pursuant to a District-initiated land management activity.

40C-9.320 Use of Motorized Vehicles, Recreational Vehicles, Boats, and Aircraft.

(1) Motorized vehicles that are licensed for Florida highway use are allowed on District Lands. All-terrain, off-road, or other motorized vehicles not licensed for Florida highway use are prohibited on all District Lands except as follows:

(a) By a Special Use Authorization for access by mobility impaired persons which shall be issued by the Executive Director pursuant to rule 40C-9.360, F.A.C.; or

(b) By Special Use Authorization issued by the Executive Director or Designee pursuant to rule 40C-9.360, F.A.C., which shall be limited to three Special Use Authorizations per calendar year District wide, and shall have a duration not to exceed two days; or

(c) By Special Use Authorization issued by the Executive Director or Designee for the purpose of leading guided all-terrain vehicle tours on property designated by the District, pursuant to rule 40C-9.360, F.A.C. No more than six Special Use Authorizations shall be granted per calendar year. Said Special Use Authorizations shall have a duration not to exceed one year. Each guided tour shall be limited to no more than 12 people and the vehicles involved shall be limited to those commonly referred to as "4-wheelers" and shall have low ground pressure tires so as to minimize impacts to existing vegetation.

(2) Overnight parking of recreational vehicles is prohibited on all District Lands except in areas designated by signs.

(3) Motorized vehicles licensed for Florida highway use shall be operated by licensed drivers only on roads designated as open for public motorized vehicles.

(4) Motorized vehicles shall not exceed posted speed limits. If no speed limit is posted, the speed limit shall be 30 miles per hour.

(5) Boating. 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) Airboat use shall be limited to established airboat trails except in areas indicated in the land management plan as open for

airboats.

(d) Boating is prohibited in areas closed to boating 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 made specific to each waterbody. Areas closed to boating and boating limitations shall be indicated by signs.

(6) Boats on trailers shall only be launched from areas so designated by signs on each District Land.

(7) For the purposes of this section, the term “boating” includes both motorized and non-motorized boats.

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

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 261.02, 373.1391 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01, 6-7-04.

40C-9.330 Concessions.

The District encourages the development of retail sales or rentals that provide services or goods that assist the public in using District Lands at locations adjacent to or near District Lands as opposed to being located on District Lands. However, the District recognizes that, in certain instances, concessions could be located on District Lands to serve the interests of the public and assist the District in providing for public uses of District Lands while managing these lands in an environmentally acceptable manner. Therefore, the District may enter into a negotiated agreement to establish and operate a concession on District Lands if:

(1) The concession is necessary to fulfill a need in the interest of the public and will assist the District in providing public uses of District Lands;

(2) The concession will be open to the public;

(3) The concession will be economically feasible;

(4) The concession will not result in an unfair advantage over existing businesses that provide similar services in the area; and

(5) The concession meets the requirements of paragraphs 40C-9.360(2)(b) through (h), F.A.C.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391, 373.1395 FS. History—New 1-16-94, Amended 5-11-94, 6-7-04.

40C-9.340 Unauthorized Facilities or Structures.

(1) Constructing or erecting any facility or structure is prohibited on all District Lands unless authorized by a District Lease or Special Use Authorization, as appropriate.

(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 shall 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 the District Land and that the owner must remove such facility or structure.

(b) The owner of an unauthorized facility or structure shall 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 shall remove such facility or structure from the District Land 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.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391, 373.1401, 373.199 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01, 6-7-04.

40C-9.350 Other Uses.

Any use of District Lands not specifically authorized by this chapter is prohibited unless authorized by a Special Use Authorization, District Lease, easement or District letter issued or entered into prior to May 11, 1994.

Rulemaking Authority 373.044, 373.113, 373.1391, 373.1395 FS. Law Implemented 373.093, 373.139, 373.1391, 373.1395 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01.

40C-9.360 Special Use Authorization.

(1) A person shall apply for a Special Use Authorization to use District Lands in a manner not otherwise provided for in this chapter.

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

(a) The requested use will not involve the permanent alteration of any District Land or the permanent placement of any structure on District Land;

(b) The requested use is resource-based;

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

(d) The requested use will not harm the environmental resources of the District Land;

(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, or authorized uses of the land; and

(i) The requested use will not interfere with any other use allowed by 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 Executive Director or Designee 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:

St. Johns River Water Management District
Bureau of Land Resources
4049 Reid Street
Palatka, Florida 32177-2529

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

1. Providing proof of liability and property damage coverage insurance naming the District as an insured in an amount sufficient to cover the cost of the potential liability; or

2. Providing waivers or releases of liability sufficient to eliminate the potential liability.

(c) The application will be reviewed by District staff for compliance with the criteria listed in subsection 40C-9.360(2), F.A.C., who shall then issue a recommendation regarding the application to the Executive Director or Designee. The staff recommendation shall set forth the recommended term for the Special Use Authorization, which may be based upon a term of one year or less, and may be renewable for up to five years. All Special Use Authorizations shall be revocable at will by the District.

(d) If the requested use satisfies all of the criteria set forth in this section, the Executive Director or designee, shall issue the Special Use Authorization, except in the case of a Special Use Authorization applied for under paragraph 40C-9.320(1)(b) or (c), F.A.C.

(e) If the requested use does not meet the criteria set forth in this section, the Executive Director shall deny the Special Use Authorization application, except in the case of a Special Use Authorization applied for under paragraph 40C-9.320(1)(b), F.A.C.

(f) If a requested use applied for under paragraph 40C-9.320(1)(b), F.A.C., satisfies the criteria in this section, and if the District has not reached the limit for Special Use Authorization for a use under paragraph 40C-9.320(1)(b), F.A.C., during the same calendar year, the Executive Director or Designee may issue the Special Use Authorization. If a requested use applied for under paragraph 40C-9.320(1)(b), F.A.C., does not satisfy the criteria in this section, or if the District has reached the limit for Special Use Authorizations for a use under paragraph 40C-9.320(1)(b), F.A.C., during the same calendar year, the Special Use Authorization shall be denied.

(g) The District's notices of intent to issue or deny a Special Use Authorization shall be governed by rule 40C-1.511, F.A.C.

(6) The Bureau of Real Estate Services shall prepare an annual summary report to the Governing Board of all issued Special Use Authorizations.

(7) 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.

(8) The Executive Director or Designee shall revoke a Special Use Authorization if the user violates the conditions of the authorization or if the user engages in a use not authorized by the authorization.

Rulemaking Authority 373.044, 373.083, 373.113, 373.1391 FS. Law Implemented 373.093, 373.1391, 373.1401, 373.199 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01, 6-7-04.

40C-9.370 District Leases.

(1) A person shall apply for a District Lease to use District Land if the use constitutes an agricultural activity or is of such a nature as to require a legal interest in the District Land.

(2) A District Lease may be granted only when the purpose of the lease is consistent with the land management plan for such District Land, and otherwise consistent with the statutory criteria applicable to the acquisition of such District Land. The lease shall include such terms and conditions as are considered to be in the best interest of the District. Leases shall be restricted to the minimum interest necessary to conduct the desired activity.

(3) A person may apply for a District Lease by contacting the St. Johns River Water Management District, Bureau of Land Resources, 4049 Reid Street, Palatka, Florida 32177-2529.

(4) The Governing Board delegates to the Executive Director or Designee the authority to enter into leases of District Land where: (1) the use of District Land to be authorized by the lease is explicitly included within a management plan that has been approved by the Governing Board; (2) the total estimated lease revenue is less than \$100,000; and (3) the period of the lease does not exceed five years. However, staff may submit any proposed lease to the Governing Board for approval when staff determines that entering into the lease may generate significant public interest.

(5) Review of applications for District Leases will comply with the requirements of Section 373.093, F.S.

(6) If required, the District shall publish notice of its intent to grant a District Lease in a newspaper in the county in which the District Land is situated pursuant to the requirements of Section 373.093, F.S.

(7) Any District Lease in existence prior to 1-16-94 shall remain effective until it expires by its own terms or is revoked or cancelled. Thereafter, the use authorized by the existing District Lease shall be subject to this chapter.

Rulemaking Authority 373.044, 373.083, 373.113, 373.1391 FS. Law Implemented 373.056, 373.093, 373.099, 373.1391, 373.1401 FS. History—New 1-16-94, Amended 5-11-94, 7-30-01, 6-7-04.

40C-9.380 Right-of-Way Easements.

(1) The District does not encourage the use of District Lands for utility right-of-way easements or other similar purposes. However, the District will grant right-of-way easements if the following criteria are met in the sequence listed below:

(a) First, an analysis is performed by the person or entity requesting the right-of-way demonstrating why the right-of-way cannot be located in a manner which will avoid the District Lands;

(b) Second, to the greatest extent possible, the proposed right-of-way must be located within an existing utility right-of-way easement, along the District Land boundary, or within an existing fireline or roadway;

(c) Third, the proposed right-of-way does not fragment wetland or other functioning habitat; and

(d) Fourth, the proposed right-of-way is not located on or under environmentally sensitive lands as defined by the District in the land management plan.

(2) The District must be compensated for the loss of intended use of the land within the proposed right-of-way.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.056, 373.088, 373.089, 373.1391 FS. History—New 1-16-94, Amended 5-11-94.

40C-9.390 District-Initiated Land Management Activities.

The provisions of this chapter shall not apply to any District-initiated land management activity.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.1391 FS. History—New 1-16-94.

40C-9.400 Individuals Living on District Lands.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.088, 373.093, 373.096, 373.099, 373.139, 373.1391, 373.199,

373.1401, 373.59 FS. History—New 1-16-94, Amended 7-30-01, Repealed by Section 5, Chapter 2012-31, Laws of Florida, 5-27-12.

40C-9.410 Intergovernmental Management Agreements.

This chapter shall not apply to the extent it conflicts with the provisions of any intergovernmental management agreement between the District and another governmental entity for the acquisition or management of District Lands provided those activities, uses, or facilities are environmentally acceptable.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 373.046, 373.056, 373.139, 373.1391, 373.1401, 373.199 FS. History—New 1-16-94, Repromulgated 7-30-01.

40C-9.420 Revenues Generated From District Lands.

All revenues generated from the use of District Lands shall be used for District land acquisition or management. The annual report prepared pursuant to subsection 40C-9.360(7), F.A.C., shall contain a section setting forth the revenues generated from the use of District Lands, how these revenues were spent, and the remaining balance in any fund containing these revenues.

Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 253.036, 373.1391 FS. History—New 1-16-94.