Iowa Great Lakes Sanitary District
Easement Encroachment Procedures and Policy

The Iowa Great Lakes Sanitary District (IGLSD) has several easements throughout the Dickinson County. The majority of the easements are recorded at the Dickinson County Courthouse, but some easements are also prescribed under Iowa Law or by necessity. From time-to-time property owners may request to encroachment upon the sewer easements and it is only through permission of the Iowa Great Lakes Sanitary District Trustees that easement encroachments are allowed. This policy provides the way to apply for an encroachment request, requirements for the application, and requirements for any encroachment that may be considered for approval.

Determining Possible Easement Encroachment

1. A property owner will make a request to the IGLSD staff to locate the easement based on the center of the easement being in the center of the sewer pipe, unless otherwise stated in the easement document. All easements by prescription or necessity will be mark based on the center of the easement in line with the center of the pipe.
2. Once the easement marking is completed, the property owner must mark out their proposed structure or landscaping.
3. If there is an easement encroachment from the proposed structures or landscaping based on the IGLSD markings, then the property owner has two choices.
    a. Modify their proposed structure or landscaping off the easement as marked.
    b. If the property owner wishes to proceed with an application than the following is required:
        i. The property owner will sign an agreement to have pay for the Sanitary District to hire a surveyor identify the following items
            1. Property lines
            2. Sewer facilities
                a. Depth
                b. Location
                c. Pipe size
            3. Sewer easement
            4. Proposed encroachment of structure or landscaping
                a. Heigh from existing ground elevation
                b. Width
                c. Materials proposed
                d. Depth of pipe after encroachment
                e. Other items that may be necessary.

Application Process:

1. The owner(s) of the land shall fill out an easement encroachment application. The application is Exhibit A of this document and can be provided by the Sanitary District staff. The owner(s) must sign the application and pay any approved fees by the Trustees for the application to request encroachment.

2. The survey required above shall be Exhibit 1 for the application.
3. The recorded easement must also be provided with the application.
4. The property owner shall provide proof of ownership of the property at the time of the application through a written attorney's title opinion. This is needed to complete the hold harmless agreement.
5. The property owner shall sign the District's hold harmless agreement and the same shall be notarized.
6. At minimum, documents required to be considered a complete application are:
    a. Application form filled out and signed by the property owner(s).
    b. Attorney's title opinion for ownership of the property.
    c. Hold Harmless Agreement Signed by property owner(s) and notarized.
    d. Copy of the most current sewer easement for the properties request encroachment.
    e. Payment for the easement encroachment application.
7. All required documents must be provided to the District Superintendent no less than five days prior to the next scheduled Trustee meeting to be placed on that meeting's agenda for consideration.
8. If the property owner wants to request a special meeting, there will be additional costs of $600 per meeting requested.

<u>Trustees Consideration for Encroachment</u>

1. The application, and survey's will be provided to the Trustees for their consideration of the requested encroachment.
2. Trustees may ask for recommendations from Sanitary District staff.
3. Trustees will review the information and will evaluate if the encroachment request is keeping with the intent of the easement. If this is an easement by prescription or necessity, then the Trustees will look at, but not limited to:
    a. Can the public sanitary sewer system be maintained for equipment and staff to safely traverse the easement area in any direction?
    b. How will the proposed easement encroachment impact the ability to get equipment onsite to do a repair?
    c. How deep is the sewer and how wide would a trench need to be for access the sewer main for repairs?
    d. If there is a way to keep the encroachment from occurring?
    e. If the encroachment a hardship?
    f. Any other reasonable questions.
4. Trustees may approve the request, deny the request, or table the request to gain more information.
    a. If approved, a hold harmless agreement must be part of the approval. The hold harmless must allow the Sanitary District to conduct maintenance, construction, and reconstruction with no additional financial costs or liability. There shall be no prohibited structures as provided in the District's easement.
    b. The hold harmless document must be signed and recorded prior to any work taking place on the property.

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Following Board Approval

1. In the event, the homeowner has modifications to the plan, said modifications must be updated on the surveyed plan brought before the Trustees for consideration and approval before the modifications can proceed. If work is completed prior to the approval of the Trustees, it invalidates the hold harmless agreement and is considered a violation of the Sanitary District Ordinances for easements and is subject to penalties set forth in the Ordinances.
2. The agreement is only valid if the approved commences within 6 months of the approval of the encroachment by the Board of Trustees and the construction must be completed within 12 months of the Trustee approval. At the Trustees' sole discretion, the Board may approve one extension not to exceed 12 months to complete construction.
3. All documents shall be reviewed by the Sanitary District's attorney to ensure they are complete.
4. The documents will be recorded at the Dickinson County Courthouse. Once the District is billed for the cost of the recording, required to be paid by the property owner.
5. Once the documents are at the Courthouse, the property owner may begin the approved encroachment.

Changes to the Agreed Encroachment

1. Any changes to the agreed upon encroachment must be brought before the Trustees for consideration.
2. The changes may or may not be approved by the Trustees.
3. Any approved changes will require the survey to be updated and an affidavit or updated recording to the original documents must be completed.
4. Once the updated survey is provided to the Sanitary District, the modified work may start.

Failure to Follow the Approved Encroachment

1. The Sanitary District staff will notify the contractor and property owner verbally, if possible, but will provide written notice as soon as possible.
2. The change of the approved encroachment is considered a violation of the agreement and furthermore an unauthorized encroachment. Any unauthorized encroachment in this manner will be considered a violation of the Ordinances of the Iowa Great Lakes Sanitary District and subject to all penalties set forth in the Ordinances.
3. If the work continues, then the Sanitary District has the right to seek judicial intervention and to apply penalties for easement encroachments as stated in the current ordinances.