

**LAKE POINTE MUNICIPAL UTILITY DISTRICT
CONSTRUCTION DEPOSIT RULE
RULE NO. 2023-11-09**

A RULE REQUIRING PROPERTY OWNERS TO DEPOSIT FUNDS WITH THE DISTRICT PRIOR TO COMMENCING CONSTRUCTION; DECLARING THE FAILURE OF PROPERTY OWNERS TO REMOVE CONSTRUCTION DEBRIS, TRASH, AND EXCESS MATERIAL DEPOSITED OR LEFT REMAINING ON PROPERTY WITHIN THE DISTRICT TO BE A NUISANCE AND TO CAUSE HARM TO THE DISTRICT'S DRAINAGE AND WATER QUALITY PROTECTION SYSTEMS; PROVIDING PENALTIES FOR VIOLATION OF THIS RULE; PROVIDING THAT THIS RULE SHALL BE APPLICABLE AND IN FORCE WITHIN THE DISTRICT AND ON ANY PROPERTY OWNED BY THE DISTRICT AND SHALL ALSO BE APPLICABLE AND IN FORCE WITHIN THE AREA IMMEDIATELY ADJACENT AND CONTIGUOUS TO THE BOUNDARIES OF LAKE POINTE MUNICIPAL UTILITY DISTRICT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORIZING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

THE BOARD OF DIRECTORS OF THE LAKE POINTE MUNICIPAL UTILITY DISTRICT ESTABLISHES A RULE AS FOLLOWS:

SECTION 1. POLICY AND PURPOSE

The failure to remove trash, debris, and other construction materials that results from the construction and/or renovation of homes, pools and landscaping within the boundaries of the Lake Pointe Municipal Utility District creates a substantial threat to health and safety in the District, to the safety of all property that the District controls, and can subject the District's drainage and water quality systems to harm, damage, or failure. The District, therefore, finds that the adoption and implementation of this Rule will preserve the health and safety condition of all property that the District controls and will prevent the harm, damage, or failure of the drainage and water quality systems that the District owns or controls.

SECTION 2. DEFINITIONS

When used in this Rule, the following definitions shall apply unless the context clearly indicates otherwise:

- A. "*Construction Deposit*" means a Five Thousand Dollar (\$5,000) deposit made by the Property Owner and payable in U.S. funds to the District prior to the commencement of any work at a Construction Site.
- B. "*Construction site*" means the home, pool, or other structure to be constructed, renovated, improved, or demolished, that is owned by the Property Owner and is located within the boundaries of the District.

- C. "*District*" means Lake Pointe Municipal Utility District.
- D. "*District's Representative*" means the District's then-current Operations Manager or Administrator.
- E. "*Person*" shall mean and include any natural person, association of persons, partnerships, corporations, agents, or officers of corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, and administrators.
- F. "*Property Owner*" means the Person owning fee title to a lot or tract in the District, and that Person's agents, contractors, employees, representatives, attorneys, or tenants.

SECTION 3. RULE REQUIREMENTS

A. CONSTRUCTION DEPOSIT.

- 1. Prior to commencement of any construction, renovation, improvement or demolition of a Construction Site with an estimated construction, renovation, improvement or demolition cost of One Hundred Thousand Dollars (\$100,000) or more, the Property Owner shall deposit with the District a Construction Deposit.
- 2. If the District, in its sole discretion, determines that the Construction Deposit is insufficient to cover the costs associated with the violation of any portion of this Rule, the District may increase the amount of the Construction Deposit up to a maximum of 10% of the total value of the Construction Site, including the value of the Construction Site lot.
- 3. The District, or the District's Representative, shall place the Construction Deposit in an account separate from the District's operating funds.

B. USE OF CONSTRUCTION DEPOSIT. The District may use the Construction Deposit as follows:

- 1. To pay the cost of any repairs to or cleanup of the District's property, including repairs to storm sewer lines and water quality ponds, or trash collection necessitated by any work at the Construction Site;
- 2. For the payment of any fines or penalties levied by the District against the Property Owner for violation of the District's Rules, Orders or Resolutions; and
- 3. The cost of any inspections of the Construction Site by the District.

C. REFUND OF CONSTRUCTION DEPOSIT.

1. The District shall refund a maximum of \$4,500 to the Property Owner if the District does not use any of the Construction Deposit for costs incurred as described in Section 3(B), above.
2. The District shall refund, without interest, any remainder of the Construction Deposit to the Property Owner upon the last of the following:
 - a. the completion of all Construction Site work and removal of all Construction Site debris, trash, and other construction material in a manner deemed satisfactory to the District, in its sole discretion;
 - b. the Property Owner, receives a certificate of occupancy from the Lake Pointe Homeowners Association Architectural Control Committee; and
 - c. the District subtracts any fines, penalties, and/or costs associated with the Property Owner's failure to comply with the District's rules, including this Rule.
3. The District shall refund any remaining portion of the Construction Deposit 45 days after the occurrence of the last of the three requirements enumerated in Section 3(C)(2) above.

SECTION 4. EROSION CONTROL AND ENVIRONMENTAL PROTECTION

- A. The Property Owner must maintain on the Construction Site a construction dumpster or other sufficient, secure container for the disposal of refuse acceptable to the District's Representative (the "Dumpster"). The Property Owner must maintain the Dumpster at a Construction Site location convenient to the construction activity at all times.
- B. The Property Owner must place all Construction Site debris, litter, and other refuse within the Dumpster. This Rule prohibits the Property Owner and all other Persons from dumping, disposing, or leaving any materials unsecured upon any property within the District. This requirement includes, without limitation, the District's Preserve. During work at the Construction Site, the Property Owner must contain all trash, debris, construction, or any other foreign material on the Construction Site, including but not limited to, lunch materials, beer cans/bottles, and car oil, and anti-freeze containers, in such a manner as to prohibit the debris blowing off the Construction Site or otherwise leaving the Construction Site.
- C. No Person or Property Owner may place or dispose of any concrete on any property within the District except as a part of approved structural placements. All concrete from the washout of delivery trucks or equipment and all waste concrete is hereby declared Construction Site debris and must be disposed of using appropriate control and disposal devices.

- D. The Property Owner violates this Rule if they cause or allow to be placed, deposited, or discharged any trash, debris, or foreign material into or onto any property, easement, or facility within the District. This requirement includes, without limitation, the District's Preserve. The District hereby declares each Property Owner responsible for all other Persons performing work on behalf of the Property Owner at the Construction Site, and the Property Owner must ensure compliance with this Rule.
- E. The Property Owner violates this Rule if the Property Owner causes or allows another Person to place, deposit, or discharge any human excreta into or onto any property, easement, or facility within the District other than as described in Section 341.014 of the Texas Health & Safety Code. Each Property Owner is responsible for compliance with this Rule at all times. This requirement includes, without limitation, the District's Preserve.
- F. Upon completion of Construction Site work, the Property Owner must remove or cause to be removed from the Construction Site all Dumpsters, containers, construction debris, and rubbish from the site, and the Property Owner must repair at its own expense any damage to the District's easements, drainage systems, or facilities.
- G. The District shall not consider a Construction Site project complete until the Property Owner has completed all required restoration and revegetation, removed all non-permanent erosion and sedimentation controls in a manner deemed appropriate by the District, and the Lake Pointe Homeowners Association Architectural Control Committee has issued a certificate of occupancy to the Property Owner.

SECTION 5. PROTECTION OF DRAINAGE AND WATER QUALITY SYSTEMS

- A. The Property Owner must protect the District's drainage and water quality systems, including all drainage easements, channels, storm sewer facilities, detention/water quality ponds and all other facilities owned, maintained, or controlled by the District for the purpose of collecting, controlling, storing, managing or distributing storm and flood waters or run off, from abuse, in order to assure the proper functioning of all such facilities for the benefit of all property owners and residents of the District through protection of the State's water resources.
- B. The Property Owner is prohibited from placing, throwing, disposing of, depositing, discharging, allowing to migrate any foreign materials or debris, including motor oil, grass, leaves or tree clippings, trash, Construction Site debris or silt, into the District's drainage systems. Any violator of this Rule is subject to a fine as well as the cost to repair any resulting damage to the District's systems.

SECTION 6. PENALTY AND ENFORCEMENT

- A. Under Section 54.206 of the Texas Water Code, the Courts shall recognize these Rules and Regulations as if the rules were penal ordinances of a city.

B. Under Section 54.209 of the Texas Water Code, the District shall enforce these Rules by complaints filed in the appropriate court of jurisdiction in Travis County, Texas.

C. Prior to formal enforcement, the District shall provide notice in writing, via facsimile, hand-delivery, certified mail, or electronic format such as email. The Property Owner must achieve compliance within 24 hours of receipt of notice of violation, after which the District may commence enforcement action, including pursuit of a temporary restraining order in a court of competent jurisdiction to halt all Construction Site work. Upon commencement of an enforcement action, the District will also initiate steps to correct the violation and draw down on the Construction Deposit for all costs associated with those corrective actions. The District may also collect any penalties or fines by drawing down the Construction Deposit.

D. The Property Owner shall notify the District's Representative in writing, via hand-delivery, certified mail, or electronic format such as email, upon correction of the violation and/or completion of all Construction Site work. The District's Representative must review the Construction Site within five (5) days of receipt of notice of correction. The penalty clock on a violation of this Rule is stopped only when the District's Representative issues a certificate of compliance.

E. Any Person who violates any provision of this Rule is subject to a fine in an amount of up to \$1,000.00 per offense. Each day of violation constitutes a separate offense. In addition, the offending Person is liable to the District for any costs incurred by the District in connection with any repairs, corrections, attorney's fees, and/or court costs necessitated or incurred by the District as a result of the violation. The following violations are subject to the fines as set forth below:

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| (1) | Failure to keep trash contained and secured | - \$100/day; |
| (2) | Mud on public or District roads | - \$100/day; |
| (3) | Damage to District facilities | - \$100/day; |
| (4) | Allow building occupation before CO issuance | - \$100/day; |
| (5) | Failure to maintain proper silt fence | - \$100/day. |

F. Any Person who violates any provision of this Rule shall be guilty of a misdemeanor and be subject to the appropriate fine, imprisonment, or both.

G. The District's General Counsel is authorized to pursue all judicial remedies available to the District, including filing complaints in the court of appropriate jurisdiction to enforce the provisions of this Rule.

SECTION 9. INSPECTION AND IMPOSITION OF FINE

A. The District's Representative will identify violations and establish the appropriate fines for violations of this Rule.

B. The District's Representative will give written notice to the Property Owner of the amount of the fine imposed, the violation or violations giving rise to the fine, the date or dates of the violations, and any other information the District's Representative deems appropriate. The written notice will further advise the Property Owner that the District will

review the fine at its next regular meeting, and that the Property Owner may appear at that meeting to appeal the imposition of the fine. The District's Representative will include the date, time, and place of the meeting in the notice. The District's Representative will also provide a copy of the notice to the Board of Directors of the District.

C. The District shall review all fines imposed by the District's Representative at its next regular meeting following imposition of the fine. The District's Representative will ensure that the imposition of the fine is placed on the meeting agenda. At the meeting, the Board will review the action of the District's Representative, permit the Property Owner to address the Board to appeal the imposition of the fine, and either affirm or overrule the imposition of the fine. In making its decision, the Board may consider any evidence it deems appropriate.

SECTION 8. REPEAL OF CONFLICTING PROVISIONS

All provisions in all other rules in conflict with this Rule are repealed, which repeal shall take effect upon the effective date of this Rule.

SECTION 9. SEVERABILITY

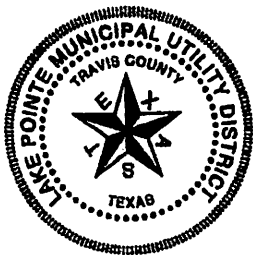
If a Court of competent jurisdiction holds any portion of this Rule invalid or unenforceable for any reason, that holding shall not be construed to affect any other portion of this Rule and all other portions shall remain in full force and effect.

SECTION 10. AUTHORIZATION TO PUBLISH AND EFFECTIVE DATE


A. The Board of Directors of the District hereby authorizes the General Counsel of the District to publish notice of this Rule in accordance with Section 54.207 of the Texas Water Code.

B. This Rule shall become effective on the fifth day after the publication of notice of a substantive statement of the Rule and the penalty for its violation.

PASSED and APPROVED on the 9th day of November 2023.



LAKE POINTE MUNICIPAL
UTILITY DISTRICT


Terry Elam, President

ATTEST:



Jody Flaws, Secretary