

ORDER ADOPTING REGULATIONS ON CONSTRUCTION  
OF IMPROVEMENTS IN THE DISTRICT

THE STATE OF TEXAS §  
COUNTY OF GALVESTON §  
FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT OF §  
GALVESTON COUNTY, TEXAS §

WHEREAS, Flamingo Isles Municipal Utility District of Galveston County, Texas (the “*District*”), is responsible for the repair and maintenance of bulkheading, including the sheet piling, caps, tiebacks and deadmen, located on property within the District and has been granted an easement to operate and maintain such bulkheading; and

WHEREAS, the District has determined it is in the best interest of its taxpayers to establish regulations for construction of improvements in the District which (i) will protect the District’s facilities during and after construction and (ii) will allocate the cost of any damages to the facilities to the appropriate party; and

WHEREAS, the District is coordinating with the Development Review Committee of Harborwalk (the “*DRC*”) to provide an integrated process for review of new development in the District;

NOW, THEREFORE, THE FOLLOWING REGULATIONS ARE ADOPTED BY THE BOARD OF DIRECTORS OF FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT OF GALVESTON COUNTY, TEXAS:

1. Notification and Fee Required. Each property owner shall be responsible for notifying the District of plans for construction of improvements on his property by a writing submitted to the District in the form attached hereto and entitled “Notice of Intent to Build.” The Notice of Intent to Build shall be accompanied by a check payable to “Flamingo Isles Municipal Utility District” in the amount of \$600 for engineering inspections of the construction. The Notice of Intent to Build and check should be submitted to the District 60 days prior to commencement of construction to allow a representative from the District’s engineering company (the “Engineering Representative”) to inspect the lot and the District to repair any of its bulkhead facilities needing repair; however, construction may commence immediately after the Engineering Representative’s initial inspection if the Engineering Representative advises the owner that no repairs are necessary. The Engineering Representative will make his initial inspection within 15 days of receipt of Notice of Intent to Build and check.

2. Improvement Defined. An improvement includes but is not limited to a house, addition to a house, other building, swimming pool, spa or hot tub, barbecue pit, stone or brick flower bed, or any other improvement which requires a foundation or otherwise potentially increases the lateral or vertical loads on bulkhead wall, impacts subsurface facilities of the District, or impedes or restricts maintenance of District facilities.

3. Initial Inspection. Following receipt of the Notice of Intent to Build and check, the Engineering Representative will inspect all District facilities on the property and

document their condition. This inspection shall occur within 15 days of receipt of the Notice of Intent to Build and check and shall be at no cost to the property owner. The District will repair any District facilities on the property which have been damaged, to the extent deemed practical and feasible by the Board, given scheduling and financing considerations.

4. Submission of Plans. Each property owner or builder who submits plans to the DRC shall include a site plot plan and an extra set of foundation/pilings plans for the District's engineering company. The plans shall be provided by the property owner or builder no less than 14 days prior to commencement of construction. If an improvement does not need DRC approval, the property owner or builder shall provide the same information directly to the District's engineering company for review and approval.

5. Changes to Plans. In the event a property owner's construction plans change, the owner must submit the revised plans to the District's engineering company and obtain written District consent to construction of improvements pursuant to the revised plans.

6. Construction in Five Foot Maintenance Easement. No property owner shall commence construction of any improvements within the five foot maintenance easement adjacent to the bulkhead without obtaining the prior written consent of the District. The District will consent to such construction only in extremely rare circumstances.

7. Construction Outside Build Line but not Within Five Foot Maintenance Easement. No property owner shall commence construction of any improvements between the build line and the five foot maintenance easement adjacent to the bulkhead without obtaining the prior written consent of the District. The District will not consent to such improvement unless the owner (i) executes a consent to encroachment, under which the property owner assumes all liability for any damages arising from the construction of improvements outside the build line and agrees that the District may destroy or damage the improvements without restoring them if necessary to repair, remove or alter the bulkhead facilities, and (ii) provides a load analysis sealed by a registered engineer demonstrating that the proposed improvement will not adversely affect the lateral or vertical loads on the bulkhead wall, and (iii) the District determines that the improvement will not impact subsurface facilities of the District or impede or restrict maintenance of District facilities.

8. Pre-Construction Inspection. The owner or builder shall schedule a site inspection with the Engineering Representative on a day which is no less than two business days prior to the day the pile driver plans to drive piles or the contractor plans to begin excavation of a foundation. The pile driver or contractor shall attend the inspection with the Engineering Representative so that they can discuss the location of existing tierods and deadmen and verify that the planned location of new piling or the foundation will not damage District facilities. The owner or builder shall contact the District engineer's office directly to schedule such inspection and shall provide adequate contact information so that the Engineering Representative can coordinate with the builder to be able to accomplish the inspection in an efficient manner.

9. Post-Construction Inspection. The owner or builder shall schedule another inspection with the Engineering Representative before the foundation is poured so that the Engineering Representative can verify that no District facilities were damaged in connection with the installation of the piling or excavation of the foundation. In the event the owner or owner's builder fails to contact the Engineering Representative for a post-construction inspection

and the District determines that District facilities were damaged by the piling installation or foundation excavation, the District has the right to hire a third party contractor to repair the damages and to back-charge the owner for the cost of the repair.

10. Cost of Inspections. It is the policy of the District that the cost of the pre-construction and post-construction inspections be borne by the property owner constructing improvements, rather than the taxpayers. The District intends that the inspection fees be a pass-through of the cost of such inspections charged by the engineering company. In the event the engineering company incurs costs in excess of \$600 due to additional inspections or other problems, additional fees will be due and payable by the owner; if the engineering company incurs costs which are less than \$600, the excess will be refunded to the owner. The full fee will be refunded to the owner promptly following the Engineering Representative's determination that pre-construction or post-construction inspections are not necessary due to the location or nature of the improvements.

11. Commencement of Construction Prior to Obtaining District Consent. If any property owner or contractor commences construction of an improvement prior to obtaining the written consent from the District in contravention of Sections 6 or 7, the District may require the owner or his contractor to remove any such construction to facilitate the inspection and/or repair of the District's facilities with all costs for the account of the owner.

APPROVED BY FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT OF GALVESTON COUNTY, TEXAS this 6 day of November, 2015.

**NOTICE OF INTENT TO BUILD**

**Flamingo Isles Municipal Utility District  
1301 McKinney Suite 5100  
Houston, Texas 77010  
Attention: Kathleen Ellison  
kathleen.ellison@nortonrosefulbright.com**

**As the owners of the lot located at: \_\_\_\_\_**

**We hereby give notice that we intend to construct the following improvements:**

\_\_\_\_\_  
**Construction is expected to begin (at least 60 days' notice is needed for the District to make any needed bulkhead repairs): \_\_\_\_\_**

**We hereby enclose a check in the amount of \$600 made payable to "Flamingo Isles Municipal Utility District." We understand that the \$600 fee is an estimate of the costs the District will incur for engineering review and inspection of our construction and may be greater if conditions warrant.**

**We further understand that we are required to submit to the Harborwalk DRC a site plot plan and an extra set of foundation/piling plans for use by the District engineer, to schedule an on-site meeting between the District engineering representative and our pile driver, and to schedule a final engineering inspection before our builder pours the foundation. These inspections may be coordinated through:**

**Shelmark Engineering L.L.C., 921 FM 517 Road East  
Dickinson, Texas 77539 (409)935-9986  
Marcus Michna [mjmichna@shelmark.net](mailto:mjmichna@shelmark.net)  
Crystal Oliver [crystal@shelmark.net](mailto:crystal@shelmark.net)**

**WE AGREE TO ASSUME ALL LIABILITY FOR ANY DAMAGES ARISING FROM THE CONSTRUCTION OF IMPROVEMENTS OUTSIDE THE BUILD LINE AND AGREE THAT THE DISTRICT MAY DESTROY OR DAMAGE THE IMPROVEMENTS WITHOUT RESTORING THEM IF NECESSARY TO REPAIR, REMOVE OR ALTER THE BULKHEAD FACILITIES, INCLUDING TIE-BACKS AND DEADMEN.**

**Signed: \_\_\_\_\_**

**Printed Name: \_\_\_\_\_**

**Address: \_\_\_\_\_**

**Phone: \_\_\_\_\_**

**Email: \_\_\_\_\_**

**Builder: \_\_\_\_\_**

**Best Means of Contact: \_\_\_\_\_**