

POLICY, RULES AND REGULATIONS OF LYTLE LAKE WATER CONTROL AND IMPROVEMENT DISTRICT FOR SEA WALLS

The Board of Directors of the Lytle Lake Water Control and Improvement District ("District") hereby adopts the following policy, rules and regulations covering the construction, repair, modification or improvement of or to Sea Walls along the Shoreline of Lytle Lake.

A. PURPOSE:

The Board of Directors of the District has determined that, in order to preserve and protect the water quality of Lytle Lake, as well as the storage capacity of the Lake, residents and owners of lots, tracts or parcels of land located along the Shoreline of Lytle Lake (whether improved or unimproved) should be encouraged to construct and maintain, in accordance with the provisions of this Policy, retaining walls or other structures or improvements along or near the Shoreline of the Lake to protect the integrity of the land along the Shoreline and prevent the erosion, flow or other movement of soil and other materials or substances from their property into Lytle Lake (collectively "**Erosion**"), whether the Erosion shall result from water (including both normal rainfall and flooding), wind, wave or other action or cause. The purpose of this Policy is to not only encourage the construction and proper maintenance of retaining walls and other erosion-prevention improvements along the Shoreline of Lytle Lake, but to establish guidelines for construction and replacement or repair of retaining walls, riprap and other erosion-prevention improvements along the Shoreline of Lytle Lake and, incident thereto, to address, when and where needed, boundary discrepancies and conflicts between the deeded lakeside boundary lines of lots, tracts and parcels of land owned by residents and/or taxpayers of the District along the Shoreline of Lytle Lake and the deeded boundary line of the lands underlying Lytle Lake as conveyed to the District.

B. DEFINITIONS:

- "Sea Wall" - any permanent retaining wall or other structure or improvement constructed at or near the Shoreline of Lytle Lake ("**Lake**") for the purpose of preventing erosion or other damage due to water, wind or wave action.
- "Shoreline" - the artificial interface line that exists when Lytle Lake is full of water but not overflowing the primary spillway on the east side of the dam, that is, when the water surface elevation of the lake is at Spillway Elevation, as defined in this Policy.
- "Pre-existing Sea Wall" - a Sea Wall (as defined above) which was either (1) already in existence on October 1, 2001, the effective date of the transfer of the Lake to the District or (2) constructed, installed or placed after September 30, 2001, (i) with the permission or consent of the District or (ii) pursuant to an independent, legally-enforceable grant of authority permitting such structure to be constructed.
- "Spillway Elevation" - the surface elevation of the waters of Lytle Lake (determined with reference to mean sea level) when the Lake is full, but not flooding or overflowing the primary spillway on the east side of the dam.

C. PERMIT REQUIREMENTS FOR SEA WALLS

A permit from the District (“**Permit**”) is required for installation, placement, construction, repair, modification, improvement, removal, or relocation of a Sea Wall at, below or within two (2) feet above Spillway Elevation. Permits are required for both construction of new Sea Walls and material alterations to Pre-existing Sea Walls. A Permit shall be issued only to the owner of the property (“**Permittee**”) upon which the Pre-existing or proposed Sea Wall is or will be located. Construction of any Sea Wall or other solid structure or improvement that, in the opinion of the District, may substantially or significantly impede the flow of flood waters is expressly forbidden.

The following must be submitted before a Permit will be considered:

1. A completed Permit Application, including the signatures of (i) the owner of the property upon which the Sea Wall is or will be located, and (ii) the contractor who will be responsible for installation, placement, construction, repair, modification, improvement, removal, or relocation of the Sea Wall.
2. A plat or survey of the property showing the location of (i) the Shoreline adjacent to the owner’s property, (ii) the deeded boundary line of the property (if different from the Shoreline), and (iii) the location of the existing or proposed Sea Wall.
3. Satisfactory proof of ownership of the property (i.e., a copy of the deed to the property, current tax statement for the property, etc.).
4. If applicable, a signed, acknowledged and recorded Boundary Line Agreement between the owner of the property and the District clarifying, if necessary, the common boundary line between the owner’s property and the District lands adjoining the owner’s property.
5. Plans, specifications, construction details, and a list of materials to be used in connection with the work to be accomplished. The drawings must be drawn to scale, i.e., one inch to thirty feet (1”: 30 ft.), or larger.
6. A \$100.00 non-refundable application fee. Payment shall be by check or money order payable to the District (**cash will not be accepted**).
7. The outside corners of the property at or closest to the Shoreline, and at elevation 1714.4 feet msl. NGVD 29, must be clearly marked at the time of the pre-permit inspection in order for a Permit to be issued, and must remain marked throughout the construction process.
8. A copy of the contractor’s general liability insurance policy. All contractors working on or adjacent to the Lake must provide a certificate of insurance for, or

a copy of, its liability insurance policy. Each certificate or policy must show the District as an Additional Insured, as well as provide a waiver of subrogation. Liability coverage shall be not less than \$100,000 per occurrence/\$1,000,000 in the aggregate.

Applicants should allow ten (10) working days for the processing of all Permit Applications. Unless the plans and specifications are prepared by a licensed or registered engineer, they must be reviewed by the District's engineers. An additional fee, not to exceed \$500.00, may be charged for review of plans and specifications by the District's engineers. A detailed invoice supporting such fee will be provided to the Permittee upon request on or before final approval of the permit. A Permit shall be valid for a period to be determined by the District with a maximum of 180 days. A construction extension may be granted, at the sole discretion of the District, and upon payment to the District of a Permit extension fee of \$50.00. A Permit extension shall be valid for a period to be determined by the District.

If construction or alteration of a Sea Wall shall require access to, or the use of, District land below Spillway Elevation, the District, upon request, may grant the Permittee a temporary easement for use of such District land. No use of District land shall be permitted without a written easement from the District. Such temporary easement shall not be unreasonably withheld by the District.

Any construction without a Permit (other than routine maintenance or minor repair to an existing structure) is a violation of this Policy and shall be subject to the provisions of Paragraph H hereafter.

D. PLACEMENT OF SEA WALLS

A Sea Wall may be constructed either (i) on the Permittee's property at or above Spillway Elevation or (ii) if the deeded boundary line of the Permittee's property nearest to the Lake is located above Spillway Elevation, then, with the consent of the District, between such property line and Spillway Elevation. Without the prior written consent of the District, no Sea Wall may be constructed on property of the District or below Spillway Elevation, or be allowed to encroach upon District property in any manner.

Without the prior written consent of the owner(s) of the property or properties adjoining the Permittee's property, no Sea Wall may be constructed or extend beyond the boundary lines of the Permittee's property perpendicular to, or otherwise extending away from, the Shoreline or, if the boundary line of the Permittee's property nearest to the Lake is not also the Shoreline, extending away from the deeded boundary line of the property nearest to the Shoreline.

E. GUIDELINES FOR SEA WALLS

Sea Walls shall be constructed in a manner that improves the alignment of the Shoreline and prevents Erosion.

Sea Walls shall be constructed of durable, water resistant materials such as concrete, mortared stone, soil cement, modular concrete wall units, minimum 8 gauge steel sheet piling, PVC sheet piling, or riprap. Other durable materials having a long life expectancy may be considered. Use of wood for construction of Sea Walls, even if pressure treated or creosote treated, is not permitted.

Except for approved use or placement of stone or block riprap directly on the ground for preventing Erosion at or above the Shoreline along the property, all Sea Walls, regardless of construction material, shall rest on a concrete foundation or footer of sufficient design to support the weight of the wall and resist wash-out and undermining by water, wave or wind action.

Sea Walls built with poured-in-place concrete shall be of a thickness and quality of concrete mix to provide sufficient load bearing and durability for the Lake environment. Concrete walls shall be sufficiently reinforced with steel to provide continuous structural integrity.

Sea Walls built with stone, rock, or modular wall units shall be constructed with such material of size and shape to form a solid, integrated wall unit and resist movement by water, wave or wind action. Stone units shall be bonded together with concrete, mortar mix or approved adhesive to provide a consistent seal against intrusion by water. "Dry stack" construction without mortar will not be permitted without the issuance of a special variance.

All Sea Walls shall be protected from Erosion on the land side by the installation of a permeable or non-permeable sheet barrier against the wall prior to backfill. Backfill material should be properly compacted to prevent the creation of voids that collect water and endanger the strength of the wall.

All backfill material shall be placed and maintained in such a manner as to prevent any sediment runoff into the Lake. Containment and/or silt screens may be required.

Owner shall notify District prior to commencement of construction of the Sea Wall, and shall also notify District in writing when the construction has been substantially completed.

District may, during construction of the Sea Wall and/or upon completion of the construction, conduct such inspections and investigations of the work as may be necessary or advisable under the circumstances in order for District to determine that the Sea Wall has been constructed in a good and workmanlike manner in accordance with the plans and specifications approved by the District in the permit.

If at any time during or following completion of construction, the District determines that corrections or repairs must be made to the Sea Wall in order for the construction to comply with the terms of the permit, or with other legal requirements, Owner shall promptly cause such repairs or corrections to be made to the satisfaction of the District.

Owner shall be solely responsible for the entire cost and expense of the construction, and shall not permit any lien or other encumbrance to attach to the District Property during or as a result of the construction of the Sea Wall. If any materialman's or mechanic's lien or other encumbrance shall be filed against the District or the District Property, Owner shall cause such lien or other encumbrance to be removed immediately, at Owner's sole expense.

In constructing, repairing, modifying, improving, removing, or relocating the Sea Wall Owner shall comply with all federal, state, and local laws, rules, regulations, codes, and ordinances applicable to same.

F. PROPERTY LINES

The District, by various deeds and other conveyances, owns, or claims ownership of, all of the lands under Lytle Lake when the Lake's water surface elevation is at Spillway Elevation. However, many lots that adjoin the Lake were conveyed using legal descriptions providing for a lakeside property line which does not necessarily coincide with the Shoreline and which, in some cases, may result in creation of a strip of land between the District's Shoreline/Spillway Elevation property line and the property owner's deeded lakeside boundary line. In some cases, the lakeside property line in a deed may be located below Spillway Elevation, resulting in an apparent encroachment upon the District's property. Some Pre-existing Sea Walls have also been constructed such that they extend beyond a property's actual deeded lakeside boundary line and encroach upon the Lake bed owned by the District.

If, during the course of reviewing and processing a property owner's Permit Application, it is determined that there is a discrepancy or disagreement regarding the location of the common boundary line between the owner's property and the District's lands adjoining the owner's property, then the owner's Permit Application may not be approved by the District unless and until the property owner and the District have entered into a mutually acceptable Boundary Line Agreement clarifying and establishing the common boundary line between the owner's property and the District's lands adjoining the owner's property.

G. LAKE LEVEL/FLOODING

The surface water elevation of the Lake is not constant. The water surface elevation will vary depending on the amount of water used or taken from the Lake by homeowners, evaporation rates, amounts of rainfall and runoff in the Lytle Creek Watershed, and other factors. The water surface elevation of the Lake may drop 15 feet or more below Spillway Elevation. Conversely, during periods of heavy or prolonged rainfall or runoff in the Watershed, the surface water elevation of the Lake may rise substantially, and rapidly, above Spillway Elevation. Both factors should be considered in connection with construction and maintenance of a Sea Wall.

Any Sea Wall or other structure or improvement located or constructed below elevation 1720 feet msl. (the current 100-year flood elevation line determined by the Federal Emergency Management Agency) may be subject to inundation or flooding in times of

heavy or prolonged rainfall or runoff. Therefore, it shall be the duty and responsibility of the owner of any Sea Wall to insure and maintain the structural integrity of the Sea Wall. The granting by the District of a Permit for construction, installation, placement, repair, modification, improvement or relocation of a Sea Wall shall not constitute a representation, warranty or guarantee by the District regarding either (1) the structural integrity of the Sea Wall or (2) the ability of the Sea Wall to withstand the effects of natural forces (wind, rain, runoff, flooding, etc.) upon the Sea Wall, whether constructed in accordance with the specifications approved by the District or otherwise.

H. RELEASE FROM LIABILITY

Except for District's existing dam and spillways, District has no means to control the flow of water into or out of Lytle Lake, nor to prevent flooding of adjacent properties during periods of heavy rain or runoff. Therefore, the District shall not be liable or responsible in any way for damage to, or destruction of, any Sea Wall resulting from wind, water or wave action, from flooding or erosion, or from any other cause. Each owner of a Sea Wall on or adjacent to Lytle Lake agrees to indemnify and hold the District harmless from and against all claims and suits made or filed against the District, its directors, officers, employees and agents, arising out of the existence, location, construction, maintenance or removal of the Sea Wall, including all costs and expenses suffered or incurred by any of the indemnified persons in connection with any such claim or suit.

I. VIOLATIONS OF POLICY

1. The District may require that a Pre-existing Sea Wall, or a Permitted Sea Wall, even if it otherwise complies with the construction standards and other provisions of this Policy, be removed or modified, at the owner's expense if, in the opinion of the District, it constitutes a hazard to navigation, or to public health, safety, or welfare. The District shall notify the owner of such Sea Wall and the owner shall be allowed a maximum of 30 calendar days to cure or correct the condition considered to constitute a hazard or danger to navigation, or to the public health. If not in compliance within 30 calendar days, the Sea Wall will be in violation of this Policy.
2. Any violation of this Policy which, after notice to the owner of the Sea Wall which is not cured within 60 days following the date of such notice, so that the Sea Wall is brought into compliance with this Policy, may subject the responsible person or persons to criminal penalties, civil penalties, or both, at the discretion of the Board of Directors of the District. Any person violating this Policy may be charged with a Class A misdemeanor punishable by a fine not to exceed \$500.00, or may be required to pay a civil penalty to the District not to exceed \$100.00 per day (but not to exceed, in the aggregate, the maximum jurisdiction of a Justice Court), or both.
3. A continued violation of this Policy may, in the discretion of the Board of Directors, result in additional restrictions being placed upon, or the loss of, the right and privilege of the responsible person (and such person's family members and guests) to use Lytle Lake.

APPROVED AND ADOPTED by the Board of Directors of the Lytle Lake Water Control and Improvement District this 10th day of May, 2011.

**LYTLE LAKE WATER CONTROL
AND IMPROVEMENT DISTRICT**

ATTEST:

Laurence S. Hill
Secretary

By: _____

James Hill
President