

AN AMENDED ORDER OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10 ADOPTING FINES FOR SPECIFIC CONSTRUCTION RELATED VIOLATIONS AFFECTING THE DRAINAGE, STORM WATER CONTROL, AND SANITARY CONDITIONS WITHIN THE DISTRICT; PROVIDING FOR A PENALTY FOR THE VIOLATION FOR THIS AMENDED ORDER; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

**WHEREAS**, Denton County Fresh Water Supply District No. 10 (the “District”) is a conservation and reclamation district created and operating pursuant to Article 16, Section 59, and Article III, Section 52 of the Texas Constitution; and Chapters 49 and 53, Texas Water Code, as amended; and

**WHEREAS**, the District was created for the purpose of conserving, transporting, and distributing fresh water from any sources for domestic and commercial purposes; purchasing, constructing, acquiring, and extending a sanitary sewer system to control wastes; and the construction, maintenance and operation of roads and improvements, including drainage improvements, serving the District; and

**WHEREAS**, pursuant to Section 53.122, Water Code, the District may regulate the installation, maintenance, and operation of plumbing fixtures and facilities inside the District for the purpose of maintaining safe and sanitary conditions; and protecting the lives, health, and welfare of the people in the District;

**WHEREAS**, pursuant to Section 49.211(c), Water Code, the District may adopt rules for construction activity to be conducted within the District that reasonably relate to providing adequate drainage or flood control and use generally accepted engineering criteria; and reasonable procedures to enforce rules adopted by the District under such subsection; and

**WHEREAS**, pursuant to Section 49.004, Water Code, the District’s governing board may set reasonable civil penalties for the breach of any rule of the District;

**WHEREAS**, the District’s road system is a significant and necessary component of the drainage and storm water control system serving the land within the District; and the condition of the District’s road system, right of way, and easements resulting from construction activities within the District affects drainage of land within the District; and

**WHEREAS**, the condition of the District’s road system, right of way, and easements resulting from construction activities within the District affects the sanitary conditions within the District, and the health, safety and welfare of the people in the District; and

**WHEREAS**, the Board of Directors of the District (the “Board”) has investigated and determined that the prohibited construction activities detailed in the attached Exhibit “A” (the “Prohibited Construction Activities”) may significantly interfere with public use of the District’s

property and would result in negative impact to drainage of land within the District, sanitary conditions within the District, water quality within the District, public safety, level of service on streets and sidewalks, drainage lines, the aesthetics of the community, and business, and

**WHEREAS**, the Board has further investigated and determined that substantial public funds have been and will be invested by or on behalf of the District to build, maintain and repair the road system within the District and the District holds this property as an asset in trust for District citizens; it is desirable to adopt regulations to protect the structural integrity of District property and safeguard the value of the public investment for the benefit of District residents, by providing incentives to reduce the number of Prohibited Construction Activities. Such incentives will encourage coordination among construction contractors and the District and minimize the number of Prohibited Construction Activities, so as to ensure construction activities are performed safely and efficiently to the extent possible and to minimize any negative impact on drainage of land within the District, sanitary conditions within the District, public safety, level of service on streets and sidewalks, drainage lines, aesthetics, and business of the District; and

**WHEREAS**, the Board has further investigated and determined that entities making and benefiting from construction activities in the District should comply with standard requirements for construction activities that ensures the best possible result for the health, safety, and welfare of District citizens and the aesthetics of the community; and

**WHEREAS**, the Board has further investigated and determined that regulation of construction activities in the District helps reduce disruption of and interference with public use of the District property, helps prevent pavement and utility damage, helps maintain the safe condition of the District streets, protects the public health, safety, welfare, and community aesthetics, is a valid and appropriate exercise of the District's police power, and is a District responsibility; and

**WHEREAS**, the Board has further investigated and determined that it is desirable to adopt a schedule of fines that will provide the District greater control over construction activities on District property; and

**WHEREAS**, on November 17, 2016, the Board adopted an Order Of Denton County Fresh Water Supply District No. 10 Adopting Fines For Specific Construction Related Violations Affecting The Drainage, Storm Water Control, And Sanitary Conditions Within The District; Providing For A Penalty For The Violation For This Order; Providing For An Effective Date; And Providing For The Publication Of The Caption Hereof (the "Original Order"); and

**WHEREAS**, the Board now wishes to amend and replace the Original Order to revise the schedule of fines included in the Original Order; and

**WHEREAS**, the Board has found that all legal notices, hearings, procedures and publishing requirements have been performed and completed in the manner and form set forth by law.

**NOW THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10:**

**ARTICLE I  
GENERAL PROVISIONS**

SECTION 1.1: Findings Incorporated. The findings set forth above are incorporated into the body of this Amended Order as if fully set forth herein.

SECTION 1.2: Purpose. This Amended Order provides the schedule of Prohibited Construction Practices and fines, as detailed in the attached Exhibit "A," for construction, excavation, encroachments, and work activities within the District boundaries to protect the integrity and service level of streets, sidewalks and drainage systems, to protect the drainage of land within the District, to protect sanitary conditions within the District, to protect the beauty of the community's aesthetics, and to protect the health, safety, and welfare of the District's citizens.

SECTION 1.3: Administration. The Board shall appoint a ROW Manager, who is the principal District official responsible for the administration of the ROW, the regulation of same and ordinances related thereto. The ROW Manager may delegate any or all of the duties. Whereas, the ROW Manager (hereinafter defined), shall have the duties, responsibilities and authority as specified for the ROW Manager stated herein.

SECTION 1.4: Definitions. The following definitions apply in this Amended Order. The terms, phrases, words, abbreviations and their derivations shall have the same meanings herein. When not inconsistent with the context words used in the present tense include the future; words in plural number include the singular number, and words in the singular include the plural. The word "shall" is mandatory and not merely permissive.

***Day*** means business day unless otherwise specified.

***Person*** means any person, company, partnership, contractor, subcontractor, agency or other public or private entity.

***Right of Way or Public Right of Way (ROW)*** means the surface of, and the space above and below, any street, road, highway, freeway, toll way, lane, path, drainage way, channel, fee interest, public way or place, sidewalk, alley, boulevard, parkway, drive, fire lane or other easement now or hereafter held by the District or over which the District exercises any rights of management or control and shall include, but not be limited to, all easements now held, or hereafter held, by the District, but shall specifically exclude private property.

***Right of Way (ROW) Manager*** as used herein shall mean the District Manager of the District, or his/her designee.

***Right of Way (ROW) User*** means a Person, its successors and assigns, that performs construction related work within the District boundaries.

SECTION 1.5: Notice. Notice for purposes of this Amended Order shall be made to the District via overnight courier (generally used carrier with tracing available) or hand delivery with signed receipt, facsimile to the District, or United States mail return receipt required.

SECTION 1.6: Appeal. A ROW User that believes that fines imposed are invalid may have the fine imposition reviewed, upon written request as follows:

- A. If an applicant desires to appeal a decision, the applicant may file a written notice of appeal with the ROW Manager within five (5) business days of the date the decision was rendered. The notice must state the alternatives available and routes explored, hardship encountered, cost comparison of other alternatives and a statement of any other significant factors. The ROW Manager shall provide a written decision within five (5) business days. Failure to render a decision within five (5) business days shall constitute a denial.
- B. If a further denial is given, the appellant may thereafter file a written notice of appeal to the Board within five (5) business days of receipt of the ROW Manager's written decision. The Board shall provide a written decision within five (5) business days of receipt of an appeal in accordance with this section. Failure to render a decision within five (5) business days shall constitute a denial.

## **ARTICLE II FINES AND ENFORCEMENT**

SECTION 2.1: The fines in listed in the attached Exhibit "A" shall apply and be enforceable against all ROW Users immediately upon discovery of the violation of the corresponding Prohibited Construction Activity by the ROW Manager.

## **ARTICLE III VARIANCES AND EXCEPTIONS**

SECTION 3.1: Variances/Exemptions. A ROW User may request a variance from any of the Prohibited Construction Practices by filing a written request with the ROW Manager stating the requirement and the basis for the variance. The ROW Manager may reject incomplete variance requests. The applicant shall bear its own expenses of the application process.

- A. Any request for a variance from any prohibited construction practice shall be made in writing, in advance of any contemplated work.
- B. Any request for an exemption and/or variance from any penalty and/or fine shall be made in writing, and shall be accompanied by a written detailed request stating the reasons therefore.
- C. The ROW Manager shall grant or deny an application for a variance and/or exemption within ten (10) days of receipt of the application for variance and/or exemption.

- D. Denial of the variance may be appealed in accordance with the Section 1.4 of this Amended Order.

**ARTICLE IV  
MISCELLANEOUS**

SECTION 4.1: Penalty Provision. Any person, firm, corporation or business entity violating this Amended Order shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the corresponding fine specified in the attached Exhibit "A." Each continuing day's violation under this Amended Order shall constitute a separate offense. The penal provisions imposed under this Amended Order shall not preclude the District from filing suit to enjoin the violation. The District retains all legal rights and remedies available to it pursuant to local, state and federal law.

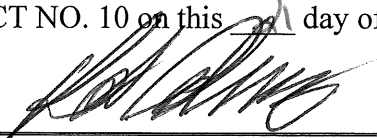
SECTION 4.2: Savings/Repealing Clause. All provisions of any order in conflict with this Amended Order are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the order. Any remaining portions of said order shall remain in full force and effect.

SECTION 4.3: Severability. Should any section, subsection, sentence, clause or phrase of this Amended Order be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Amended Order shall remain in full force and effect. The District hereby declares that it would have passed this Amended Order, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.


SECTION 4.4: Effective Date. This Amended Order shall become effective from and after its adoption and publication as required by law.

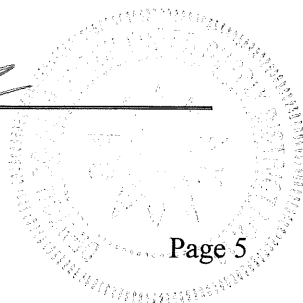
SECTION 4.5: This Amended Order supersedes and replaces the Original Order in its entirety.

DULY PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10 on this 11 day of December, 2017.

  
\_\_\_\_\_  
President  
Board of Directors

ATTEST

  
\_\_\_\_\_  
Secretary  
Board of Directors



**EXHIBIT "A"**

**CONSTRUCTION FINES:**

Pursuant to the Governing Documents, prohibited construction activities may also be subject to the following schedule of construction fines for specific construction related violations ("Construction Fines"). Construction Fines commence upon the expiration of the cure period provided in the notice. Construction Fines may be assessed by the district manager or district engineer pursuant to the schedule of fines as follows:

Unauthorized Clearing of Tree(s) on District Property	\$500
Missing or Broken Sewer Upright and/or Cap	\$500
Construction Entry Violation	\$250
Silt Fence Violation	\$250
Street Mud/Debris Violation	\$250 plus \$50/day
Excessive Construction Debris	\$500 plus \$100/day
General Pollution Prevention Violation	\$250 plus \$50/day
Violation of Designated Standard Homebuilding Construction Times*	\$100
Encroachment of Construction Equipment/Material on District Property	\$500 plus repair costs
Damage to District's Street Pavement, Lights, Curbs and other Infrastructure	\$500 plus repair costs
Illegal Dumping	\$1,000 plus \$50/day until removed
Scheduling Landscape Inspection Premature to Landscape Completion	\$150
Blocking Fire Hydrant and/or Homeowner Mailbox/Driveway Access	\$200
Failure to Follow Approved Access Route to Well Sites	\$200
Miscellaneous Violation of Construction Rules	\$100

\*Standard Construction Times: Mon.-Fri. 7am-9pm, Saturdays 9am-5pm. No construction on Sunday, New Year's Day, Thanksgiving, or Christmas. Restriction of construction times for emergency repairs, as directed by District Engineer, do not apply.

If the fine is not paid within 15 days, District has the authority to withhold inspections and permits.

## ANEXO "A"

### MULTAS DE CONSTRUCCIÓN:

En virtud de los documentos que rigen, actividades prohibidas construcción también pueden ser sujeto a los siguientes horarios de multas de construcción para la construcción concreta relacionada con violaciones ("construcción multas"). Multas de construcción comienzan al vencimiento del periodo de cura proporcionado en el anuncio. Construcción multas pueden evaluarse por el Gerente de distrito o Ingeniero de distrito conforme a la programación de las multas de la siguiente manera:

No autorizada tala de árboles en propiedad del distrito	\$500
Falta o rotura de alcantarilla vertical y / o tapa	\$500
Construcción entrada violación	\$250
Silt Fence violación	\$250
Calle barro/escombros violación	\$250 más \$50/día
Desechos de construcción excesiva	\$500 más \$100/día
Violación de prevención de la contaminación general	\$250 más \$50/día
Violación de Designada Standard Construcción de viviendas Construcción Tiempos *	\$100
Intromisión de equipos/materiales de construcción en propiedad del distrito	\$500 más los gastos de reparación
Daño al pavimento de la calle del distrito, luces, bordillos y otras infraestructuras	\$500 más los gastos de reparación
Vertido ilegal	\$1,000 y \$50/día hasta eliminar
Programación de paisaje inspección premature a la terminación del paisaje	\$150
Bloqueo de incendios y/o propietario Buzón/entrada acceso	\$200
El incumplimiento aprobado vía de acceso para sitios bien	\$200
Miscelánea violación de las normas de construcción	\$100

\*Construcción estándar horario: Lunes – Viernes 7:00-21:00, los sábados de 9:00-17:00. Ninguna construcción el domingo, día de año Nuevo, acción de Gracias o Navidad. Restricción de tiempos de construcción para reparaciones de emergencia, según lo indicado por el ingeniero de distrito, no se aplican.

Si no se paga la multa dentro de 15 días, Distrito tiene la autoridad para retener las inspecciones y permisos.