

**AN AMENDMENT TO THE ORDER OF ELM RIDGE WATER CONTROL AND IMPROVEMENT DISTRICT OF DENTON COUNTY (FORMERLY DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10) ESTABLISHING ADDITIONAL POLICIES REGARDING WATER DISTRICT PROPERTY, VEGETATION, AND TREES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDER; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, Elm Ridge Water Control and Improvement District of Denton County, known formerly as Denton County Fresh Water Supply District No. 10 (the “District”) is a conservation and reclamation district and political subdivision of the State of Texas existing and operating pursuant to the provisions of Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution and Chapters 49, 51 and, for certain purposes, 53, of the Texas Water Code; and

**WHEREAS**, on or about March 13, 2018, the District adopted that certain “Order of Denton County Fresh Water Supply District No. 10 Establishing Policy Regarding Water District Property, Vegetation, and Trees; Providing for a Penalty for the Violation of this Order; Providing for Savings and Severability Clauses; Providing for an Effective Date; and Providing for the Publication of the Caption Hereof” (the “Original Order”). A true and correct copy of the Original Order is attached to this Amendment as Exhibit “A”; and

**WHEREAS**, under the Original Order, the District’s Board of Directors (the “Board”) determined that Landscaping in or near the District Right-of-Way that blocks, interferes with, or impairs the view of a Traffic Device creates a substantial risk to the health, safety, and welfare of residents within the District and the public in general and ordered such Landscaping shall be removed, trimmed, cut, or otherwise altered to create a clear view of the Traffic Device; and

**WHEREAS**, upon further investigation, the Board has determined that additional Landscaping conditions can create a substantial risk to the health, safety, and welfare of residents within the District and the public in general; and

**WHEREAS**, the Board has determined that it is desirable to amend the Original Order to include additional policies that require residents within the District to maintain property as not to create certain conditions that can create a substantial risk to the health, safety, and welfare of residents within the District and the public in general;

**NOW THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF ELM RIDGE WATER CONTROL AND IMPROVEMENT DISTRICT OF DENTON COUNTY:**

1. The findings set forth above are incorporated into the body of this Amendment as if fully set forth herein.

2. The Original Order is incorporated herein by this reference, and capitalized terms used in this Amendment shall have the same meanings such terms are given in the Original Order. Except as specifically set forth herein, this Amendment shall in no way modify, alter or amend the Original Order, and the Original Order shall remain in full force and effect. To the extent there is any conflict between the language of the Original Order and this Amendment, the language of this Amendment will govern and control.
3. The Original Order is hereby amended by adding a new section “3(a).” to read as follows:

3(a). In consideration of the health, safety and welfare of the District’s residents and public in general, the District adopts the following regulations:

- i. No structure or plant life of any type shall be erected, planted or maintained so as to be detrimental or dangerous to those owners on adjoining premises or in any way obstruct the view of those persons using public streets and alleys within the District.
- ii. No wall, screen, hedge, tree, bush, shrub, billboard, or structure shall be erected, planted or maintained in such position or placed so as to be dangerous or detrimental to the health or safety of persons living in any house on adjoining premises or in any way obstruct the view so as to constitute a traffic hazard.
- iii. On any corner lot or parkway adjacent thereto, no fence, wall, structure, hedge, tree or growth of any nature shall be erected, planted or maintained and which shall constitute an obstruction to the vision of traffic on the public streets so as to interfere with sight lines at elevations between 2½ feet and eight feet above the top of the adjacent roadway curb, or if there is no curb, then from the average street grade within ten feet of the curb or driving surface and within a triangular area formed by the intersection of the adjacent curb lines, or if none exists, the normal curb lines and a point on each such curb line 45 feet from the intersection.
- iv. Trees shall be trimmed so as to avoid causing a hazard to public places. The minimum overhang shall be seven feet above sidewalks, nine feet at top of the street curb, 11 feet above the gutter line, and 14 feet above the street or alley surface at the outside edge of the parking lane.


- v. No planting of trees or tall shrubs will be permitted within alley rights-of-way. Growth encroachment in the alley shall not exceed one foot. In areas where the dedicated right-of-way is enhanced by alley easements on either or both sides, the one foot maximum growth encroachment shall also be effective.
- vi. As in the Original Order, should conditions exist that violate this Amendment, the property owner (“Owner”) of the land on which the violation occurs or originates shall be responsible for removing, trimming, cutting, or otherwise altering such offending conditions to comply with this Amendment.
- vii. Should the Owner fail to maintain conditions in a fashion acceptable under this Amendment, the District shall send written notice to the Owner notifying the Owner of the failure and providing thirty (30) days for the Owner to resolve the failure in a manner acceptable to the District. Should the Owner not completely resolve the failure within thirty (30) days of receipt of the written notice, the Owner shall be subject to a fine of \$200.00, representing the costs to the District to resolve the failure. The penal provisions imposed under this Order shall not preclude the District from filing suit to enjoin a violation of this Order. The District retains all legal rights and remedies available to it pursuant to local, state and federal law.

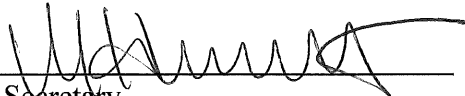
4. This Amendment shall become effective immediately upon passage and approval by the Board.

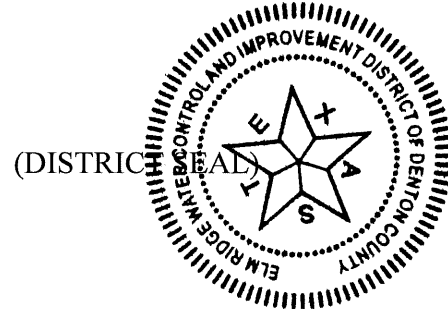
5. The Secretary of the Board of Directors of the District shall give notice of the adoption of this Amendment by publishing a descriptive caption of the Amendment in a newspaper of circulation within the District.

THIS AMENDMENT TO THE ORDER ESTABLISHING ADDITIONAL POLICIES REGARDING WATER DISTRICT PROPERTY, VEGETATION, AND TREES PASSED AND APPROVED this 15<sup>th</sup> day of September, 2022.

ELM RIDGE WATER CONTROL AND IMPROVEMENT DISTRICT OF DENTON COUNTY

By:   
President

Attest:   
Secretary



# EXHIBIT A

AN ORDER OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10 ESTABLISHING POLICY REGARDING WATER DISTRICT PROPERTY, VEGETATION, AND TREES; PROVIDING FOR A PENALTY FOR THE VIOLATION FOR THIS ORDER; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSES; 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 and political subdivision of the State of Texas existing and operating pursuant to the provisions of Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution and Chapters 49, 51 and, for certain purposes, 53, of the Texas Water Code; and

WHEREAS, the District assumed the rights, authority, privileges, and functions of a road district operating under Article III, Section 52(b)(3), of the Texas Constitution, Chapter 257, Transportation Code, and other general laws of this state relating to road districts pursuant to and in accordance with an election held within the District on November 7, 2000; and

WHEREAS, the District has acquired or constructed road and related drainage improvements (the "Road Infrastructure") that serve areas within the District, with such road and drainage improvements being located within a dedicated residential District Right-of-Way (the "ROW") and under the ownership and control of the District;

WHEREAS, pursuant to the provisions of Chapter 51.122, Water Code, the District is authorized to adopt and enforce reasonable rules and regulations for the purpose, among others, of regulating privileges on any land or any easement owned or controlled by the District in order to protect the health, safety and welfare of its citizens;

WHEREAS, the Board of Directors of the District (the "Board") has investigated and determined that any construction and/or landscaping ("Landscaping") within the ROW (the "District ROW") that blocks, interferes with, or impairs the view of a traffic road control device creates a substantial risk to the health, safety, and welfare of residents within the District and the public in general. For the purposes of this order, "Landscaping" shall include, but not be limited to, grass, trees, bushes, shrubbery, flora, fauna, and any improvement installed or constructed within the District ROW;

WHEREAS, the Board has investigated and determined that any such Landscaping in or near the District ROW that blocks, interferes with, or impairs the view of a traffic road control device (the "Traffic Device") shall be removed, trimmed, cut, or otherwise altered to create a clear view of the Traffic Device;

WHEREAS, on or about October 15, 2015, the District adopted an order titled "Order Adopting Policies Regarding Maintenance, Repair and Improvement of Sidewalks and Landscaping in Road Right-Of-Way" (the "Maintenance Order") under which the District adopted

a policy that the owner of the property abutting a District road right-of-way is responsible for the maintenance, repair or improvement of any sidewalk or landscaping in the District ROW;

WHEREAS, under the Maintenance Order, the owner of property abutting the District ROW is responsible for removing, trimming, cutting, or otherwise altering any Landscaping that that blocks, interferes with, or impairs the view of a Traffic Device in order to create a clear view of the Traffic Device;

WHEREAS, the Board has further investigated and determined that it is desirable to adopt regulations that require residents within the District to maintain the Landscaping in the District ROW as to not block, interfere with, or impair the view of a traffic road control device;

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; and

WHEREAS, the Board of Directors finds 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:

1. The findings set forth above are incorporated into the body of this Order as if fully set forth herein.

2. In consideration of the health, safety and welfare of the District's residents and public in general and to reduce disruption of and interference with public use of the District ROW, the Board formally prohibits any Landscaping within or near the District ROW from blocking, interfering with, or impairing the view of a Traffic Device and preventing the Traffic Device from serving the purpose it was designed for.

3. Should Landscaping exist in or near the District ROW that blocks, interferes with, or impairs the view of a traffic road control device, the abutting property owner ("Owner") shall be responsible for removing, trimming, cutting, or otherwise altering such offending Landscaping to create a clear view of the Traffic Device so that the Traffic Device may serve the purpose it was created for.

4. Should the Owner fail to maintain the Landscaping in a fashion acceptable under this Order, the District shall send written notice to the Owner notifying the Owner of the failure and providing thirty (30) days for the Owner to resolve the failure in a manner acceptable to the District. Should the Owner not completely resolve the failure within thirty (30) days of receipt of the written notice, the Owner shall be subject to a fine of \$200.00, representing the costs to the District to resolve the failure. The penal provisions imposed under this Order shall not preclude the District from filing suit to enjoin a violation of this Order. The District retains all legal rights and remedies available to it pursuant to local, state and federal law.

5. An Owner that believes that fines imposed are invalid may have the fine imposition reviewed, upon the delivery of written notice of appeal to the Board within five (5) business days of receipt of notice of the fine. The Board shall provide a written decision within thirty (30) business days of receipt of an appeal in accordance with this section. Failure to render a decision within thirty (30) business days shall constitute a denial. Any notice of appeal should be sent to the Board at:

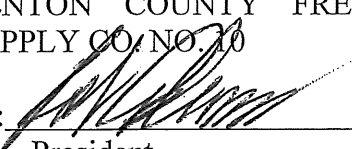
Board of Directors  
DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10  
c/o Crawford & Jordan LLP  
3100 McKinnon Street, suite 1100  
Dallas, Texas 75201

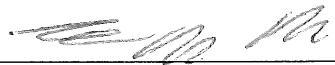
6. This Order shall become effective immediately upon passage and approval by the Board.

7. The Secretary of the Board of Directors of the District shall give notice of the adoption of this Order by publishing a descriptive caption of the Order in a newspaper of circulation within the District.

THIS ORDER ESTABLISHING POLICY REGARDING WATER DISTRICT PROPERTY, VEGETATION, AND TREES PASSED AND APPROVED this 15<sup>th</sup> day of March, 2018.

DENTON COUNTY FRESH WATER  
SUPPLY CO. NO. 10

By:   
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
Secretary

