

**LAKE POINTE MUNICIPAL UTILITY DISTRICT
PRESERVE RULES
RULE NO. 2018-06-14.2**

A RULE ALLOWING THE DISTRICT TO IMPOSE PENALTIES UPON PARTIES WHO PERFORM UNAUTHORIZED ACTIVITIES IN THE PRESERVE OR ENCROACH UPON THE PROTECTED PRESERVE AREA WITHIN THE BOUNDARIES OF THE LAKE POINTE MUNICIPAL UTILITY DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AUTHORIZING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

THE BOARD OF DIRECTOR OF LAKE POINTE MUNICIPAL UTILITY DISTRICT ESTABLISH A RULE AS FOLLOWS:

SECTION 1. POLICY AND PURPOSE

It is in the best interests of Lake Pointe Municipal District (the "District") and its residents to prevent or discourage unauthorized activities in and encroachment upon the Preserve. Unauthorized activities in and encroachments upon the Preserve and its boundaries puts at risk the delicate habitat within the Preserve. These activities and encroachments also put in jeopardy the status of the federal permit for the Preserve property, and thus can potentially harm the District. It is the District's duty to protect and preserve this habitat of the Golden-Cheeked Warbler, a listed endangered species. The Board, therefore, finds that the adoption and implementation of this rule will prevent unauthorized activities in and encroachments upon the Preserve, and will maintain the boundaries and contents of the Preserve.

SECTION 2. DEFINITIONS

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

"District" means Lake Pointe Municipal Utility District.

"Motor vehicle" means every vehicle that is self-propelled by power other than muscular power. This definition includes cars, trucks, tractors, motorcycles, and all-terrain vehicles.

"Passive Recreation" means activities that will not adversely affect the habitat in the Preserve, e.g., hiking, walking on and maintaining interpretive trails, jogging, nature photography, and activities that have no more effect on the Preserve than these activities.

"Preserve" mean the approximately 259-acre habitat preserve area located within the boundaries of the District, which tract the District owns and for which the U.S. Fish & Wildlife Service issued

two Section 10(a) permits under the federal Endangered Species Act as a protected habitat of the Golden-Cheeked Warbler.

“*Taking*” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect an endangered species or to attempt to do so. The meaning includes any actions that induce stress, affect critical habitat, or have other adverse impacts on the habitat of the Preserve.

SECTION 3. UNLAWFUL ACTIVITIES

(a) UNLAWFUL ACTIVITIES. The following activities are not permitted in the Preserve:

- (1) Any unauthorized activity in the Preserve that is not passive recreational use;
- (2) The unauthorized placement of improvements on the Preserve property whether wholly or partially located within the boundaries of the Preserve;
- (3) The possession of fireworks inside of the Preserve or the discharge of fireworks in or into the Preserve;
- (4) The operation of an unauthorized motor vehicle within the Preserve;
- (5) The operation of a bicycle within the Preserve in a destructive manner or in a manner that would constitute a Taking;
- (6) Any unauthorized action that constitutes the take of Golden-Cheeked Warbler or any other endangered species;
- (7) The unauthorized clearing or altering vegetation within the Preserve, including killing, cutting, trimming, harvesting, removing, collecting, or trampling of vegetation within the Preserve;
- (8) The use of sound devices that broadcast sound into the environment including boom boxes, mobile phones, portable CD players, radios, and stereos;
- (9) The disposal of litter, garbage, trash, or refuse within the Preserve, including construction debris, chemicals, household trash, yard trimmings, and picnic scraps;
- (10) Allowing a domestic animal, in the control of the offending person, to enter the Preserve, including off-leash dogs, cats, and horses; and
- (11) Possession of any unauthorized weapons that may be used to take wildlife inside of the Preserve, including handguns, shotguns, rifles, pellet guns, BB guns, blow guns, air guns, slingshots, and animal traps.

(b) AUTHORIZATION. Authorization under provisions (1), (2), (4), (6), (7), and (11) above requires the prior express written consent of the District’s Board of Directors or its General Manager. Any other authorization purported to allow unlawful activities is null and void.

(c) **EXCEPTIONS.**

- (1) Subsection (a)(4) shall not apply to authorized patrol and maintenance vehicles.
- (2) Subsection (a)(11) shall not apply to authorized law enforcement personnel or to hunters authorized by the Board to conduct ecosystem management.

SECTION 4. REPEAL OF CONFLICTING PROVISIONS

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

SECTION 5. SEVERABILITY

If any portion of this rule is held to be 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 6. PENALTY AND ENFORCEMENT

- (a) The provisions of this Order constitute rules adopted under authority set forth in Section 54.205 of the Texas Water Code. As provided in Section 54.206 of the Texas Water Code the courts shall recognize the provisions of this Order as if they were penal ordinances of a city. Any person who violates any provision of this Order may be punished by a penalty up to \$1,000 per offense and will be assessed all costs of clean-up, administrative and professional fees, and fines or penalties levied by other governmental entities with jurisdiction. Any violator will be assessed all costs incurred by the District in connection with the violation, including reasonable fees for attorneys, expert witnesses, and other costs incurred by the District, as permitted by Section 49.004 of the Texas Water Code;
- (b) Each day of violation constitutes a separate violation;
- (c) The General Counsel is authorized to pursue all judicial remedies available to the District, including filing complaints in the court of appropriate jurisdiction to enforce provisions of this ordinance.

SECTION 7. AUTHORIZATION TO PUBLISH AND EFFECTIVE DATE

- (a) The General Counsel of the District is authorized 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 publication of notice of a substantive statement of the rule and the penalty for its violation.

PASSED AND APPROVED ON THE 14th DAY OF JUNE 2018.


Steven Knuff, President

ATTEST:


Frederick W. Goff, Secretary