

ORDINANCE 0-20AAAA

Table of Contents

	Page
Caption . . . . .	iii
Preamble and Ordaining Statement. . . . .	iv-vi
Ordaining Sections:	
SECTION 1. REPEAL OF ORDINANCE 0-20AAA . . . . .	1
SECTION 2. DEFINITIONS. . . . .	1-2
SECTION 3. APPLICABILITY OF THE TEXAS WATER SAFETY ACT AND RULES AND REGULATIONS MADE PURSUANT THERETO. . . . .	2
SECTION 4. APPLICABILITY OF U.S. ARMY CORPS OF ENGINEERS' RULES AND REGULATIONS . . . . .	2-3
SECTION 5. CONSTRUCTION, PLACEMENT, OPERATION AND MAINTENANCE OF PIERS, BULKHEADS, WHARVES, BOATHOUSES, DOCKS, BARGES, BUILDINGS, BOATSLIPS, BOATSTALLS, FIXTURES, OR OTHER FACILITIES ON PROJECT LANDS. . . . .	3-4
SECTION 6. COMMERCIAL VENTURES AND OPERATIONS ON PROJECT LANDS. . . . .	4
SECTION 7. SPECIAL RULES AND REGULATIONS PERTAINING TO VESSELS. . . . .	4-5
SECTION 8. SPECIAL RULES AND REGULATIONS PERTAINING TO SEAPLANES . . . . .	5
SECTION 9. DESIGNATION OF CERTAIN AREAS FOR BATHING, FISHING, SWIMMING, WATERSKIING, AND/OR VESSELS. . . . .	6
SECTION 10. THROWING OR DEPOSITING OF GLASS BOTTLES, CANS AND OTHER SUBSTANCES IN OR ON THE RESERVOIR OR CERTAIN PROJECT LANDS; COLLECTION AND REMOVAL REQUIRED BY OWNERS AND OPERATORS OF COMMERCIAL VENTURES AND OPERATIONS. . . . .	6-7
SECTION 11. ABANDONMENT OF PERSONAL PROPERTY, FIXTURES, AND/OR OTHER FACILITIES. . . . .	7-8
SECTION 12. PRIVATE NOTICES AND ADVERTISEMENTS . . . . .	8
SECTION 13. EXPLOSIVES . . . . .	8
SECTION 14. DISCHARGE OF RIFLES, SIDE ARMS, SHOTGUNS, OR OTHER FIREARMS. . . . .	8

SECTION	15.	HUNTING. . . . .	8
SECTION	16.	CAMPING. . . . .	8
SECTION	17.	DESTRUCTION, DAMAGE, DEFACEMENT OR REMOVAL OF THE AUTHORITY'S PROPERTY. . . . .	9
SECTION	18.	MODIFICATION OF NATURAL CONDITIONS OF TOPOGRAPHY AND TERRAIN OF PROJECT LANDS. . . . .	9
SECTION	19.	SOLICITATION OF BUSINESS . . . . .	9
SECTION	20.	VIOLATION OF OR FAILURE TO COMPLY WITH ORDINANCE DEEMED A MISDEMEANOR; PUNISHMENT ON CONVICTION PRESCRIBED; COURT COSTS; INABILITY TO PAY FINE . . . . .	10
SECTION	21.	EMERGENCY PROCEDURES . . . . .	10
SECTION	22.	ADMINISTRATIVE MATTERS . . . . .	10-11
SECTION	23.	REVOCAION OR SUSPENSION OF LICENSE. . . . .	11-12
SECTION	24.	OTHER RULES AND REGULATIONS AFFECTING THE PROJECT OR INDIVIDUAL FACILITIES THEREOF. . . . .	12
SECTION	25.	SEVERABILITY CLAUSE. . . . .	12
SECTION	26.	CONFLICTING ORDINANCES . . . . .	12
Executory Page			13

ORDINANCE 0-20AAAA

CAPTION

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS PERTAINING TO LAKE LIVINGSTON DAM AND RESERVOIR: A PROJECT IN POLK, SAN JACINTO, WALKER, TRINITY, HOUSTON AND MADISON COUNTIES, TEXAS; REPEALING ORDINANCE NO. 0-20AAA; DEFINING CERTAIN TERMS; MAKING THE TEXAS WATER SAFETY ACT, U.S. ARMY CORPS OF ENGINEERS' GENERAL PERMIT APPLICABLE TO THE RESERVOIR AND OTHER ADJACENT PROJECT LANDS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE CONSTRUCTION, PLACEMENT, OPERATION AND MAINTENANCE OF PIERS, BULKHEADS, WHARVES, BOATHOUSES, DOCKS, BARGES, BUILDINGS, BOATSLIPS, BOATSTALLS OR OTHER FACILITIES ON PROJECT LANDS; ESTABLISHING RULES AND REGULATIONS PERTAINING TO VESSELS; ESTABLISHING RULES AND REGULATIONS PERTAINING TO SEAPLANES; ESTABLISHING RULES AND REGULATIONS RELATIVE TO COMMERCIAL VENTURES AND OPERATIONS ON PROJECT LANDS; ESTABLISHING SPECIAL RULES AND REGULATIONS PERTAINING TO THE DESIGNATION OF CERTAIN AREAS FOR BATHING, FISHING, SWIMMING, WATERSKIING AND/OR AQUAPLANING, RESTRICTION OF SPEED OF VESSEL; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE THROWING OR DEPOSITING OF GLASS BOTTLES, CANS AND OTHER SUBSTANCES, IN OR ON THE RESERVOIR OR CERTAIN PROJECT LANDS AND IMPOSING CERTAIN DUTIES AS TO THE COLLECTION AND REMOVAL OF SUCH SUBSTANCES BY OWNERS AND OPERATORS OF COMMERCIAL VENTURES AND OPERATIONS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE ABANDONMENT OF PERSONAL PROPERTY AND/OR FIXTURES; ESTABLISHING RULES AND REGULATIONS RELATIVE TO PRIVATE NOTICES AND ADVERTISEMENTS; PROHIBITING THE EXPLOSION OF EXPLOSIVES; PROHIBITING THE DISCHARGE OF RIFLES, SIDE ARMS, SHOTGUNS OR OTHER FIREARMS EXCEPT BY DULY AUTHORIZED PEACE OR LAW ENFORCEMENT OFFICERS AND EXCEPTING THE USE OF GUNS FOR SUCH PROHIBITION UNDER CERTAIN CIRCUMSTANCES; PROHIBITING HUNTING ON PROJECT LANDS EXCEPT AS TO PERMITTED HUNTING; PROHIBITING CAMPING IN UNAUTHORIZED AREAS; PROHIBITING THE DESTRUCTION, DAMAGE, DEFACEMENT OR REMOVAL OF THE AUTHORITY'S PROPERTY; PROHIBITING THE MODIFICATION OF NATURAL CONDITIONS OF TOPOGRAPHY AND TERRAIN OF PROJECT LANDS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE SOLICITATION OF BUSINESS; DEEMING THE VIOLATION OF OR FAILURE TO COMPLY WITH THIS ORDINANCE TO BE A MISDEMEANOR; SPECIFYING THE MAXIMUM PENALTY FOR CONVICTION HEREUNDER; MAKING ARRANGEMENTS FOR COURT COSTS AND THE INABILITY TO PAY FINES; ESTABLISHING EMERGENCY PROCEDURES; SPECIFYING CERTAIN ADMINISTRATIVE MATTERS; RESERVING THE BOARD OF DIRECTORS RIGHT TO REVOKE OR SUSPEND A LICENSE; RESERVING THE AUTHORITY'S RIGHT TO PROMULGATE OTHER RULES AND REGULATIONS AFFECTING THE PROJECT OR INDIVIDUAL FACILITIES THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND REPEALING ALL ORDINANCES IN DIRECT CONFLICT WITH THE PROVISIONS HEREOF.

ORDINANCE 0-20AAAA

PREAMBLE

WHEREAS, the Trinity River Authority of Texas is a conservation and reclamation district, governmental agency of the State of Texas and a body politic and corporate created by the Texas Legislature under the authority of Article XVI, Section 59 of the Texas Constitution by House Bill No. 20, 54th Legislature, Regular Session (1955), said House Bill No. 20 and the amendments thereto being codified as Article 8280-188, Revised Civil Statutes of Texas; and

WHEREAS, the Authority is constructing and will operate and maintain the Livingston Dam and Reservoir Project pursuant to Permit to Appropriate Public Waters of the State of Texas numbered 1970 and granted October 11, 1960 by the Board of Water Engineers of the State of Texas, and all subsequent amendments thereto, and pursuant to that contractual Agreement made between the Authority and the City of Houston, Texas on September 2, 1964; and

WHEREAS, Livingston Reservoir will have a total storage capacity of about 1,750,000 acre-feet of water and a surface area of about 84,000 acres at normal operating level, with its length being about 49 miles and its shoreline measuring about 460 miles; and

WHEREAS, the Texas Water Safety Act (Chapter 31, V.T.C.A., Parks and Wildlife Code) provides;

1. In Section 31.092(c):

"The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59 of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter."

2. In Section 31.127:

"A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, for which no other penalty is applicable is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200."

and

WHEREAS, Section 5 (1) of Article 8280-188 empowers the Authority:

"To adopt all reasonable rules and regulations designed to facilitate the exercise of its rights and the performance of its duties..."

and

WHEREAS, Section 20 of Article 8280-188 provides:

"The Authority shall have the same power to make provision for the protection of its properties and water supply as is provided by general law for water control and improvement districts."

and

WHEREAS, House Bill 542, 61st Legislature, Regular Session, 1969 (codified as Article 8280-188, Section 5-A) provides as follows:

"Section 5-A

"(a) The Board of Directors of the Authority shall have the power to adopt and promulgate all reasonable regulations to regulate residence, hunting, fishing, boating, camping and all recreational and business privileges on all lands and easements owned by the Authority and to protect the property of the Authority; provided, however, that such regulations shall not include any provisions for the collection of fees or the requirements of permits and/or licenses for boat inspections, noncommercial fishing, the use on lakes owned by the Authority of boats operated for noncommercial purposes, and hunting.

"(b) The Board of Directors of the Authority shall have the right to make contracts with responsible persons for the construction and operation of any facility on the Authority's property, fixing the compensation to be charged for service by any such facility to the end that the same be reasonable, and requiring adequate bond from any such contracting person, association or corporation, payable to the Authority and to be of such amount and condition as the Board of Directors of the Authority may in its discretion deem appropriate, and such contracts may provide for forfeiture of the particular franchise in case of a failure of the licensee to render adequate public service.

"(c) The Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200.00), or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulations; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations, must subject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation

shall not constitute a defense to a prosecution for the enforcement of a penalty; and the rules and regulations authorized hereby, after the required publication shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

"(d) It further is expressly provided that the Authority shall have the power to employ and constitute its own law enforcement officers, and any such officer or law enforcement officer of any governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense, or threatened offense, occurs upon any land, water or easement owned or controlled by the Authority.

WHEREAS, the Authority has obtained a General Permit for construction of facilities in navigable waters from the U.S. Army Corps of Engineers under the provisions of P.L. 92-500, Section 404 and the River and Harbor Act of 1899, Section 10 and the requirements of this permit must necessarily be passed on to those persons desirous of using the General Permit.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS:

ORDINANCE 0-20AAAA

SECTION 1: REPEAL OF ORDINANCE NO. 0-20AAA.

Ordinance NO. 0-20AAA passed and approved by the Board of Directors of the Trinity River Authority on February 24, 1988, is hereby repealed.

SECTION 2: DEFINITIONS.

When used in this Ordinance the following words and terms shall have the following meaning unless expressly indicated otherwise:

- A. Authority: Means the Trinity River Authority of Texas, which is a conservation and reclamation district, governmental agency of the State of Texas and a body politic and corporate created by the Texas Legislature under the authority of Article XVI, Section 59 of the Texas Constitution by House Bill No. 20, 54th Legislature, Regular Session (1955), said House Bill No. 20 and the amendments thereto being codified as Article 8280-188, Revised Civil Statutes of Texas.
- B. Board of Directors: Means the twenty-four (24) member group appointed by the Governor with the advice and consent of the Texas Senate.
- C. Lake: Means the body of standing water created by the Livingston Dam including any alterations of shoreline which expands the surface area thereof, said term sometimes being referred to as the "Reservoir".
- D. Project Lands: Means any land in which the Authority has a property or regulatory interest.
- E. Livingston Dam: Means that earthfill embankment, concrete spillway and gates, and outlet works constructed, operated and maintained by the Authority at River Mile 128 on the Trinity River in Polk and San Jacinto Counties as part of the Project.
- F. Marina: Means a basin, pier, floating structure, boat dock, or any other structure on lands owned or regulated by the Authority, or within the confines of the Lake providing for anchorage, storage or launching of vessels for commercial purposes or for the renting or hiring out of vessels for profit.
- G. Motorboat: Means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.
- H. Operate: Means to navigate or otherwise use a motorboat or vessel.
- I. Owner: Means a person, other than a lienholder, having the property interest in or title to a structure or vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as a security.
- J. Person: The word person shall include individuals, firms, partnerships, corporations and governmental entities, and any combination thereof, their heirs, successors or assigns.
- K. Project: Means the area commonly known as the Lake Livingston Dam and Reservoir or Livingston Recreation Facilities in which the Authority has a property or regulatory interest for any purpose.

- L. Project Managers: Means the employee of the Authority who is charged with direct responsibility for various aspects of the Projects.
- M. Reservoir: Means the body of water impounded by Livingston Dam which will occupy lands up to Elevation 131' Mean Sea Level, and the Project lands thereabove which will from time to time be inundated by floods, including any alteration of shoreline which expands the surface thereof.
- N. Texas Water Safety Act: Chapter 31, Vernon's Texas Codes Annotated, Parks and Wildlife Code.
- O. Vessel: Means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- P. Licensee: Means that person to whom a license is issued, their heirs, successors or assigns.
- Q. General Permit: Means that permit issued to the Authority under application #11442 by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92-500) and Section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403) and subsequent extensions, amendments, modification or reissuances of the herein described General Permit under future application numbers.
- R. Nuisance: The commission of any act prohibited by those provisions of section 42 of the Texas Penal Code, as amended or to be amended. The word shall be understood to include the commission of any act having a continuing or enduring nature or the maintenance of any object, activity or condition which would operate to be offensive to public morals; to impair the purity and sanitary condition of water stored in the Authority's reservoir; to create any hazard to the properties, water control devices and structures owned and controlled by the Authority; to produce a hazard for the safe condition of properties and structures placed upon the lands forming the margins of said reservoir; or to create hazards for any craft or improvement placed, in, over or upon the water stored in the Authority's reservoir; or to produce fear of bodily harm to, or discomfort of, those persons who lawfully may be upon the water stored by the Authority or upon the lands forming the margins thereto. Further, the word "nuisance" shall include the commission of any act having an enduring effect or the maintenance of any condition which is forbidden by the succeeding provisions of this ordinance, unless such act, or such maintenance shall have first been expressly authorized by the Authority. To cause a nuisance is a misdemeanor and is punishable by law.
- S. Seaplane: An aircraft designed to maneuver on water.

SECTION 3:           APPLICABILITY OF THE TEXAS WATER SAFETY ACT AND RULES AND REGULATIONS MADE PURSUANT THERETO.

- A. All the terms and provisions of the Texas Water Safety Act shall be applicable to the Reservoir and, where appropriate, to other adjacent Project lands.
- B. All rules and regulations promulgated by the Texas Parks and Wildlife Department pursuant to the Texas Water Safety Act shall likewise be applicable to the Reservoir and, where appropriate, to other adjacent Project lands.

SECTION 4:           APPLICABILITY OF U.S. ARMY CORPS OF ENGINEERS' RULES AND REGULATIONS.

- A. All appropriate rules and regulations of the U.S. Army Corps of Engineers including provisions of the General Permit, Application No. 11442, shall be applicable to the Reservoir and, where appropriate, to other Project lands.

SECTION 5: CONSTRUCTION, PLACEMENT, OPERATION AND MAINTENANCE OF PIERS, BULKHEADS, WHARVES, BOATHOUSES, DOCKS, BARGES, BUILDINGS, BOATSLIPS, BOATSTALLS, FIXTURES OR OTHER FACILITIES ON PROJECT LANDS.

- A. The Trinity River Authority has the sole discretion whether to permit or deny any structure of any type or character to be located on land owned or water owned or controlled by the Authority. If approved, the structure will be subject to an allocated area and will be permitted within guidelines established by the Authority.
- B. It shall be unlawful to construct, place, or operate any pier, bulkhead, wharf, boathouse, dock, barge, building, boatslip, boatstall, fixture or other facility of any kind or character on the Project lands owned or regulated by the Authority or under easement to the Authority unless an application has been submitted, the Authority has granted written authorization for such construction, placement or operation, the Authority has inspected the facility, a license has been issued by the Authority and/or a Joint Use Agreement has been executed by each land owner of the land abutting the Project lands. An application for such authorization or license shall be submitted to the Authority on the form provided by the Authority.
- C. Prior to the granting of any license, the applicant must pay the license fee prescribed from time to time by the Authority's Board of Directors.
- D. Persons constructing or placing facilities on Project lands prior to obtaining the Authority's authorization or contrary to the plans and specifications agreed on by the Authority may either be required to remove said facilities or to pay a post construction fee.
- E. The Authority may refuse to issue or to reissue or may revoke or suspend an authorization or a license, if, at any time:
- (1) Piers and wharves, stationary or floating, and any other structures extending into the Reservoir are not constructed within the dimensional limits, and to the specifications prescribed by the applicant to the Authority in the application.
  - (2) Any floating piers, docks, boathouses, barges and other floating facilities are not securely moored at all times in a manner approved by the Authority.
  - (3) Any floating piers, docks, boathouses, barges and other floating facilities are not supported by floating pontoons of styrofoam, polyethylene, wood or other material approved by the Authority. (Oil drums, chemical drums and any type of hollow metal drums not specifically manufactured for floating purposes are prohibited from use as supporting material for floating piers, docks, boathouses, barges and other floating facilities.)
  - (4) Any facilities covered by this section which are not equipped with safety features when, in discretion of the Authority, such features are deemed to be necessary.

(5) The applicant or licensee, in the opinion of the Authority, due to financial instability or irresponsibility or due to inability to use or to the lack of use of due diligence in the operation of his installation, is likely to inconvenience, discomfort, endanger or injure the public or is likely, in any way, to adversely affect the well-being of the public.

(6) The applicant or licensee violates any other rules and regulations that are presently in effect or that may be established from time to time, by the Authority to insure the health, safety, comfort and convenience by the public.

(7) The licensee does not maintain licensed facilities in accordance with the provisions of the General Permit, application #11442.

- F. Subsection C above shall not apply to bulkheads, riprap or soil conservation measures that have been authorized by the Authority.
- G. All such licenses shall be effective for the period of time stated therein. Upon expiration of the stated term, if the licensee and his installation are deemed by the Authority to be in compliance with all rules, regulations and standards set forth herein and established elsewhere, and if he pays the then applicable license fee, if any, the license shall be renewed. If the license is not renewed, or if the license has been revoked or suspended, the licensee may be required to remove, at his own expense, any improvements that were constructed or used in the operation authorized in said license and that belong to licensee.

SECTION 6: COMMERCIAL VENTURES AND OPERATIONS ON PROJECT LANDS.

- A. It shall be unlawful for any person or persons to construct, operate, or engage, otherwise, in any commercial operation including but not limited to marinas, piers, wharves, boathouses, docks or other installations of any kind, on Project lands owned in fee simple or regulated by the Authority unless the Authority has granted a contract for such operation and the applicant has paid the fees as specified by the Authority's Board of Directors through the applicable resolution.
- B. From time to time the Authority's Board of Directors may designate:  
  
Certain areas for the development of commercial marina operations and may restrict the number of such operations as well as the type of operation in conjunction with the facilities to be offered for public recreational use.
- C. Any commercial venture or operation engaged in or operated under an Authority contract and all installations thereof, shall be subject to periodic inspections by authorized representatives of the Authority during business hours.
- D. All operations of a commercial nature existing under prior contract (as authorized prior to the adoption of the herein described ordinance by the Authority's Board of Directors) may continue to operate under the provisions of the existing contract until such time as the applicable contract shall expire.

SECTION 7: SPECIAL RULES AND REGULATIONS PERTAINING TO VESSELS.

- A. It shall be unlawful for any person to:
  - (1) Leave any private vessel unattended on or in the Reservoir unless such vessel is securely moored or anchored and suitably flagged

and lighted so as not to create a hazard, except in the case of any emergency. The term "unattended", as used in the preceding sentence, does not include vessels properly moored in or at a licensed marina or a licensed facility.

- (2) Anchor, moor, or dock any vessel for a period exceeding twenty-four (24) hours anywhere on or in the Reservoir except in a licensed marina or to a facility which is currently licensed by the Authority.
  - (3) Hold, conduct or participate in any racing event involving muffled or unmuffled motorized vessel(s) unless the Authority has granted prior written authorization. Any applicant requesting written authorization shall be required to comply with Title 33, Code of Federal Regulations, Part 100 - U.S. Coast Guard Regulations as well as all provisions of the Texas Water Safety Act. Any such application seeking the Authority's authorization to conduct such an event shall be required to obtain sponsorship from a marina or other commercial operation on Lake Livingston holding a valid Authority license as outlined in Section 6 herein. The applicant shall pay the applicable fee as prescribed by the Authority's Board of Directors should written authorization be granted to stage the event. No authorization shall be granted for any racing activity to be held within one hundred (100) yards of the shoreline of Lake Livingston. The Project Manager shall be authorized to establish geographical zones upon the surface of Lake Livingston and to limit the number of events to be authorized in any zone during a calendar year. Requests shall be considered as received. An event will be considered as not exceeding five (5) hours per day on any two consecutive days.
- B. The term "private vessel" as used in Subsection A, above, means all vessels other than vessels owned or operated by an agency or political subdivision of the State of Texas or an agency of the United States Government and engaged in the performance of duty.
- C. All vessels on or in the Reservoir shall be subject to inspection by authorized representatives of the Authority at all times.

SECTION 8: SPECIAL RULES AND REGULATIONS PERTAINING TO SEAPLANES.

- A. All Authority rules and regulations shall apply.
- B. U.S. Coast Guard rules found in CF-169 Publication shall be adhered to.
- C. All local, state or federal regulations shall apply to any seaplane using an Authority reservoir or lake.
- D. When in the air, seaplane activity is governed by all applicable federal air regulations.
- E. No low formation flying or unnecessary low passes will be made over the reservoir.
- F. Seaplane activity may be hazardous due to underwater obstacles and increased boating activity on Livingston Reservoir. The Authority assumes no responsibility or liability for seaplane activity. Persons operating seaplanes will be required to execute a liability disclaimer.

SECTION 9: DESIGNATION OF CERTAIN AREAS FOR BATHING, FISHING, SWIMMING  
WATERSKIING AND/OR AQUAPLANING; RESTRICTION OF SPEED OF  
VESSELS.

- A. From time to time the Authority's Board of Directors may designate:
- (1) certain areas for bathing, fishing, swimming, waterskiing and/or aquaplaning;
  - (2) areas in which vessels shall not exceed a maximum speed; and
  - (3) areas in which individuals and/or vessels are not permitted.
- B. All such areas shall be marked by buoys and/or signs stating the designation. Persons requesting the designation may be required to bear the expense of placement or replacement of said buoys or signs.
- C. It shall be unlawful to engage in any activity violative of a specified designation.
- D. This section shall not apply to vessels owned or operated by an agency or political subdivision of the State of Texas or any agency of the United States government and engaged in the performance of duty.

SECTION 10: THROWING OR DEPOSITING OF GLASS BOTTLES, CANS AND OTHER  
SUBSTANCES IN OR ON THE RESERVOIR OR CERTAIN PROJECT LANDS;  
COLLECTION AND REMOVAL REQUIRED BY OWNERS AND OPERATORS OF  
COMMERCIAL VENTURES AND OPERATIONS.

- A. It shall be unlawful for any person to throw or deposit in or upon any waters of the Reservoir or any Project lands owned, regulated or controlled by the Authority any of these substances:
- (1) any form of litter including but not limited to glass bottles, glass, nails, tacks, wire, cans, etc;
  - (2) the contents of a marine toilet;
  - (3) refuse, garbage, rubbish or junk as same is defined and construed in legislative acts codified as Article 6674v2, Revised Civil Statutes of Texas (Supp. 1974-75); or
  - (4) any other substance likely to injure any person, animal or vessel.
- B. The owners and/or operators of all commercial ventures and operations, including but not limited to licensed marinas, shall, as to the four (4) categories of substances mentioned in the preceding subsection:
- (1) provide on-site facilities satisfactory to the Authority for the collection thereof; and
  - (2) make arrangements satisfactory to the Authority for the timely removal of such collected substances from the premises.

It shall be unlawful for the owner and/or operator of any commercial venture or operation to fail to provide the aforesaid on-site collection facilities or to make the aforesaid removal arrangements.

- C. Detection or reports of present or potential pollution from oil, gas or other hydrocarbons, from raw sewage, from toxic waste, from garbage, or from any other unpermitted discharge, shall be promptly and vigorously

investigated by the Authority and reported to all governmental agencies having jurisdiction thereof, including the investigative and enforcement resources of the Environmental Protection Agency, the Texas Railroad Commission, the Texas Natural Resource Conservation Commission and the Texas Department of Health, as well as any other federal, state or local agency having jurisdiction of such matter.

- D. If the operator or other person responsible for such pollution or in possession or control of the premises where such pollution occurs or where the act causing such pollution was committed fails to take immediate and effective remedial action to correct such pollution, the Authority may do so. Removal operations will be at the sole expense of the operator or other person responsible for such pollution or in possession or control of the premises where such pollution occurs or where the act causing such pollution was committed. The Authority is under no legal or other obligation to correct such pollution on behalf of the operator or other person responsible for such pollution or in possession or control of the premises where such pollution occurs or where the act causing such pollution was committed, but if such action is taken by the Authority, such operator or other person shall be liable to forth-with reimburse the Authority for all costs incurred by the Authority in taking such action. Failure of the operator or other responsible person to promptly reimburse the Authority for such pollution clean-up costs will result in legal action by the Authority to enforce the liability for same.
- E. The Authority may enjoin operations by any entity, or suspend any permit previously granted by the Authority for any operation when it appears that the provisions of this article are being, have been or will be violated.

SECTION 11: ABANDONMENT OF PERSONAL PROPERTY, FIXTURES AND/OR OTHER FACILITIES.

- A. It shall be unlawful to abandon personal property, including vessels, fixtures and/or other facilities on Project lands owned or regulated by the Authority. (Fixtures and/or other facilities in this section refer to piers, wharves, boathouses, docks, barges, buildings, boatstalls or other improvements of any kind located on Project lands owned or regulated by the Authority.)
- B. If personal property is left unattended for a period in excess of forty-eight (48) hours, it will be deemed to have been abandoned.
- C. Fixtures and/or other facilities unlicensed for a period of sixty (60) days from date of notification the license has expired, will be deemed to have been abandoned.
- D. Abandoned personal property, fixtures and/or other facilities may be impounded and/or removed from lands owned or regulated by the Authority and held in custody by the Project Manager. Such abandoned property may be reclaimed by the payment of cost to the Authority for impoundment.
- E. Abandoned property which has been impounded and which has not been reclaimed within ninety (90) days from date of impoundment by the payment of the above specified charge, may be sold, destroyed, converted to the Authority's use or otherwise disposed of by the Authority as it, in its sole discretion, deems appropriate, without notice.

- F. No responsibility will be assumed by the Authority for any property left unattended on lands owned or regulated by the Authority.

SECTION 12: PRIVATE NOTICES AND ADVERTISEMENTS.

It shall be unlawful to place private notices and advertisements on Project lands owned or regulated by the Authority except when authorized in writing by the Authority and only then when necessary for the convenience and guidance of the public.

SECTION 13: EXPLOSIVES.

It shall be unlawful for any person to possess, discharge, fire or explode any explosive of any nature, including but not limited to firecrackers, all types of fireworks and dynamites, upon, across, into or onto Project lands owned or regulated by the Authority without prior written approval from the Project Manager.

SECTION 14: DISCHARGE OF RIFLES, SIDE ARMS, SHOTGUNS OR OTHER FIREARMS.

- A. It shall be unlawful for any person to discharge a rifle, side arm or shotgun except in the course of permitted hunting as authorized in Section 15, or any other firearm upon, across, into or onto Project lands owned or regulated by the Authority.
- B. Subsection A, above, shall not apply to the following persons in the act of performing their duty:
- (1) duly authorized agents or employees of the Authority;
  - (2) Sheriffs, Deputy Sheriffs, Constables and other peace officers of Polk, San Jacinto, Walker, Trinity, Houston or Madison Counties, Texas;
  - (3) duly authorized employees of the Texas Department of Public Safety, the Texas Parks and Wildlife Department, the Texas Department of Corrections; or
  - (4) any other duly authorized peace or law enforcement officers of the State of Texas or the United States government.

SECTION 15: HUNTING.

- A. It shall be unlawful to hunt on lands owned in fee simple or regulated by the Authority except as permitted in Subsections B and C, below.
- B. The hunting of waterfowl is permitted in accordance with state law in areas more than two hundred (200) yards waterward from the Authority's fee line at the 131' Mean Sea Level elevation and two hundred (200) yards from another blind.
- C. Hunting may be permitted in other specified areas as permitted by law and as designated by the Board of Directors.

SECTION 16: CAMPING.

It shall be unlawful for any person to camp on lands owned in fee simple or regulated by the Authority except in or on those areas designated for such activities.

SECTION 17:       DESTRUCTION, DAMAGE, DEFACEMENT OR REMOVAL OF THE  
                  AUTHORITY'S PROPERTY.

- A.   It shall be unlawful for any person to:
- (1)   destroy, damage or deface any of the Authority's property, including but not limited to trees or other vegetation, timber or improvements of any nature existing or placed on Project lands; or
  - (2)   remove from Project lands owned or regulated by the Authority, any of the Authority's property, including but not limited to trees or other vegetation, timber, rock or other minerals, or improvements of any nature existing or placed on said lands without prior written approval of the Authority.
- B.   Violation of Subsection A, above, is punishable by:
- (1)   penalty of immediate removal from said Project lands;
  - (2)   revocation or cancellation of any permitted privileges; or
  - (3)   prosecution under Section 19 of this Ordinance.

SECTION 18:       MODIFICATION OF NATURAL CONDITIONS OF TOPOGRAPHY AND TERRAIN  
                  OF PROJECT LANDS.

- A.   It shall be unlawful to modify the natural conditions of topography and terrain of the Project lands, as such conditions existed when said Project lands were acquired by the Authority by excavating, filling, dredging or any other means unless a Joint Use Agreement has been executed pursuant to Section 5 of this ordinance (if applicable) and the Authority has issued a license authorizing such modification to each landowner abutting such modification. The issuance of a license by the Authority for modification does not preclude the necessity of a Section 404 Permit from the U.S. Army Corps of Engineers.
- B.   Prior to the granting of any such authorization the applicant may be required to pay the fee prescribed from time to time by the Authority's Board of Directors.
- C.   If such modification shall be made without authorization or if modification is contrary to plans and specifications agreed to by the Authority:
- (1)   The modifier may be required to return said Project lands to their natural conditions of topography or terrain as such conditions existed when the Project lands were acquired by the Authority.
  - (2)   The modifier may be required to pay a retroactive fee covering the period of time from the modification to the authorization.

SECTION 19:       SOLICITATION OF BUSINESS.

It shall be unlawful for any person, firm or corporation or the representatives thereof to engage in or solicit any business within or upon Project lands unless such is authorized by the Project Manager.

SECTION 20: VIOLATION OF OR FAILURE TO COMPLY WITH ORDINANCE DEEMED A MISDEMEANOR; PUNISHMENT ON CONVICTION PRESCRIBED; COURT COSTS; INABILITY TO PAY FINE.

- A. The doing of any act forbidden to be done by this Ordinance or by regulation of the Authority or the failure to do any act required by the provisions of this Ordinance, or the aiding or abetting of either, so far as on land and easement owned or regulated by the Authority, shall be deemed a misdemeanor, which, in case of a lawful conviction therefor, shall be punishable by current penalties under State Penal Code for Class C misdemeanors. Each twenty-four (24) hour period of any violation constitutes a separate offense.
- B. The penalty hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the violation occurred, or if the violation occurs within four hundred (400) yards of the boundary of any two counties, then the complaint may be filed in the appropriate court of jurisdiction in either county, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statements so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that the breach of the particular regulation or regulations will subject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the Authority, where the same may be read by an interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State.

SECTION 21: EMERGENCY PROCEDURES.

- A. In order to protect properties and provide for the general welfare of the public, all access to Lake Livingston Project may be restricted when it is deemed necessary.
- B. Watercraft or persons found upon the Authority property during times of restriction, without prior consent of the Authority or by virtue of other lawful reason, shall be guilty of a nuisance under Section 2:R.

SECTION 22: ADMINISTRATIVE MATTERS.

- A. The Project Manager is responsible to the Regional Manager of the Authority's Southern Region, who is responsible to the Authority's General Manager, who is totally responsible to the Authority's Board of Directors and Executive Committee for the conduct of the business of the Authority. Nothing in this Ordinance shall be construed to alter the aforesaid responsibilities and the corollary authority of the said Regional Manager and General Manager to discharge their respective responsibilities.

- B. The Authority's General Manager may authorize the Project Manager to designate personnel subordinate to the Project Manager as representatives for the purposes of accepting for filing all applications mentioned in the Ordinance, granting authorizations or licenses or revoking authorizations or licenses and receiving monies in payment therefor; provided, however, that the designation of such representatives shall not relieve the Project Manager of his responsibilities under this Ordinance, including the handling, custody, depositing and accounting for monies received in payment of licenses.
- C. The Project Manager and all of his authorized representatives shall each give a bond in such amounts as are prescribed by the General Manager and all such bonds shall be approved by the General Manager.
- D. Any person seeking to appeal the act of a Project Manager shall address his appeal in writing to the Authority's Board of Directors via the Regional Manager of the Authority's Southern Region and the Authority's General Manager in that order.
- E. The Authority's General Manager shall:
  - (1) cause this ordinance to be published in pamphlet form suitable for public dissemination and to be made available to the public in the Project area;
  - (2) cause a certified copy of this Ordinance summarily to be filed with the Texas Department of Transportation and the Texas Parks and Wildlife Department as required by the Texas Water Safety Act; and
  - (3) cause a copy of this Ordinance to be published in a newspaper of general circulation in each of Polk, San Jacinto, Walker, Trinity, Madison and Houston Counties once each week for two (2) consecutive weeks in order to comply with the provisions of Section (c) of Article 7880-7, Revised Civil Statutes of Texas (codified as Texas Water Code, 51.129, V.T.C.A.).

SECTION 23:            REVOCATION OR SUSPENSION OF LICENSE.

- A. The Trinity River Authority shall have the right to revoke, to suspend, or to refuse to reissue the license of any licensee upon violation of the rules, regulations, standards or ordinances of the Trinity River Authority.
- B. Proceedings under this Article shall be begun by filing with the Board a statement in writing and under oath. Said statement may be made by any person or persons. Said statement shall set forth the rules, regulations, standards or ordinances with which the licensee has failed to comply and shall set out the matter in which the licensee has violated or failed to comply with such rules, regulations, standards or ordinances. Upon the receipt of the statement, the President of the Board shall set a time and place for hearing and shall cause a copy of the statement, together with a notice of the time and place fixed for hearing, to be served on the respondent-licensee or his counsel at least ten (10) days prior thereto. Notice shall be sufficient if sent by registered or certified mail to the respondent-licensee at the address shown on his most recent application for license. If no such address is available, the Board shall cause to be published, once a week for two (2) consecutive weeks, a notice of the hearing in a newspaper published in the county wherein respondent-licensee was last known to operate his

installation on Authority-owned or regulated property, and shall mail a copy of such statement and of such notice to the respondent-licensee's last known address. When publication of the notice is necessary, the date of the hearing shall be not less than ten (10) days after the date of the last publication of notice. At said hearing the respondent-licensee shall have the right to produce witnesses or evidence in his own behalf; and to cross-examine witnesses. The Board or a committee designated by the Board shall thereupon determine the allegations in the statements upon their merits. If requested by the respondent-licensee, the Board or its designated committee shall give in writing the reasons for its decision.

- C. Any person whose license to operate an installation on Authority-owned or regulated property has been revoked, suspended, or not reissued by the Board may, within twenty (20) days after the making and entering of such order, take an appeal to a district court of appropriate jurisdiction, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be under the substantial evidence rule.
- D. Upon application, the Board may reissue a license to operate an installation on Authority-owned or regulated land to a person whose license has been revoked, suspended, or not reissued, but such application, in the case of revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner as the Board may require.

SECTION 24: OTHER RULES AND REGULATIONS AFFECTING THE PROJECT OR INDIVIDUAL FACILITIES THEREOF.

Nothing herein shall preclude the Authority's Board of Directors from promulgating rules and regulations governing the use of flowage easement areas, recreation areas and facilities, park facilities in general, and particular park facilities.

SECTION 25: SEVERABILITY CLAUSE.

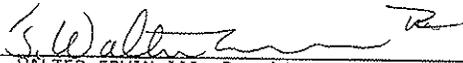
If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances, shall not be affected thereby, it being the intent of the Authority's Board of Directors in adopting this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and to this end all provisions of this Ordinance are declared to be severable.

SECTION 26: CONFLICTING ORDINANCES.

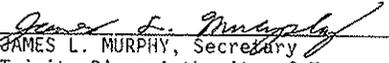
All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

EXECUTORY PAGE

PASSED AND APPROVED as Ordinance 0-20AAAA by action of the Board of Directors on the 27<sup>th</sup> day of October, 1993, A.D.

  
\_\_\_\_\_  
T. WALTER ERWIN III, President  
Board of Directors  
Trinity River Authority of Texas

Attest:

  
\_\_\_\_\_  
JAMES L. MURPHY, Secretary  
Trinity River Authority of Texas