

ORDINANCE NO. O-76

CAPTION

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS PROHIBITING BATHING OR SWIMMING IN THE VICINITY OF PUBLIC BOAT RAMPS AT LAKE LIVINGSTON; DEEMING THE VIOLATION OF OR FAILURE TO COMPLY WITH THIS ORDINANCE TO BE A CLASS C PARKS AND WILDLIFE MISDEMEANOR; SPECIFYING THE MAXIMUM PENALTY FOR CONVICTION HEREUNDER; PROVIDING A SEVERABILITY CLAUSE; AND REPEALING ALL ORDINANCES IN DIRECT CONFLICT WITH THE PROVISIONS HEREOF.

Preamble and Ordaining Statement

WHEREAS, the Trinity River Authority of Texas (Authority) 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 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 operates and maintains public boat ramps as part of its Lake Livingston Project; and

WHEREAS, the recreational usage of public boat ramps at Lake Livingston for purposes other than launching and landing of watercraft has created certain unsafe conditions; and

WHEREAS, the Board of Directors of the Authority finds unsafe conditions exist at the public boat ramps at Lake Livingston that necessitate the adoption of this Ordinance in order to maintain public safety; and

WHEREAS, the Texas Water Safety Act, Texas Parks and Wildlife Code Chapter 31, provides:

1. TEX. PARKS & WILD. CODE § 31.092(c):

"The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution . . . may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas . . . which it deems necessary for the public safety;"

2. TEX. PARKS & WILD. CODE § 31.127(a):

"A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor;" and

WHEREAS, TEX. PARKS & WILD. CODE § 12.406 provides:

"An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than \$25.00 nor more than \$500.00;" and

WHEREAS, Section 5a of TEX. REV. CIV. STAT. art. 8280-188 provides:

"Section 5a.

"(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

* * * *

"(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 regulation; 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."

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

SECTION 1: PROHIBITION OF BATHING OR SWIMMING AT OR NEAR PUBLIC BOAT RAMPS.

- A. It shall be unlawful for any person to bathe or swim within one hundred feet (100') of any public boat ramp at Lake Livingston;

- B. A "public boat ramp" for purposes of this Ordinance is any boat ramp that is available to the public for the launch and retrieval of any watercraft to or from Lake Livingston. This Ordinance shall apply, but not be limited in application, to the following locations:
1. Patrick's Ferry Park boat ramp, located in San Jacinto County, approximately 3 miles west of Onalaska, Texas, in the Isaac Jones Survey A-182 and the City of Houston Property Plat, Tract D-71;
 2. Paul Cauthan Jr. Park boat ramp, located in Trinity County, 3 miles northeast of Trinity, Texas. It is situated in the Guadalupe Sosa Survey A-42 and is further described in the City of Houston Property Plat, Tract K-27;
 3. Blanchard Park boat ramp, located in Polk County approximately 9.5 miles west of Livingston, Texas, in the Thomas Burris League Survey A-10 and the City of Houston Property Plat, Tract E-1;
 4. Tigerville Park boat ramp, located in Polk County approximately 1.5 miles southwest of Blanchard, Texas, on the eastern shore of Lake Livingston. It is located in the Augustine Viesca Four League Grant Survey A-78 and in the City of Houston Property Plat, Tract A-43 and A-44;
 5. Wolf Creek Park boat ramp, located in San Jacinto County, 5 miles north of Coldspring, Texas. It is located in the William Rankin, Jr. Survey A-41, the Wiley Harrison Survey A-147, and in the City of Houston Property Plat, Tract B-58; and
 6. Point Blank boat ramp, located in San Jacinto County on the west side of Lake Livingston, at the eastern edge of the town of Point Blank, Texas, where old U.S. Highway 190 intersects the reservoir.
 7. The Riverside boat ramp, located in Walker County, where State Highway 19 intersects the reservoir north of Riverside, Texas, approximately one-half mile north of Farm-to-Market Road 980.
- C. The term "watercraft," as used herein, means any boat, vessel, personal watercraft, barge or similar floating craft used or capable of being used for transportation on water.
- D. It shall further be unlawful for any person to use any public boat ramp for any purpose other than to launch or retrieve a watercraft from Lake Livingston. It shall not be an offense under this Ordinance for a person to wade into or enter the water at a public boat ramp to assist, as necessary, in the launch or retrieval of a watercraft.
- E. It shall further be unlawful for any person to allow an animal under their ownership or supervision to wade into or enter the water at a public boat ramp.

SECTION 2: 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 by this Ordinance or the failure to do any act required by this Ordinance, or the aiding or abetting of either, shall be deemed a Class C Parks and Wildlife Code misdemeanor, and subject to up to the maximum punishment set forth for such offenses. 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.

- B. The criminal penalty set forth in this Ordinance shall not be in effect until five (5) days next after the Authority may have caused a substantive statement of the nature of this Ordinance and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. 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, this Ordinance, 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 3: ADMINISTRATIVE MATTERS.

- A. The Authority's General Manager shall:
 - 1. Cause notice of this Ordinance to be published as required by Section 5a of TEX. REV. CIV. STAT. art. 8280-188 in Polk, San Jacinto, Trinity and Walker Counties; and
 - 2. Cause a certified copy of this Ordinance to be filed with the Texas Parks and Wildlife Department as required by TEX. PARKS & WILD. CODE § 31.092(d).

SECTION 4: SEVERABILITY CLAUSE.

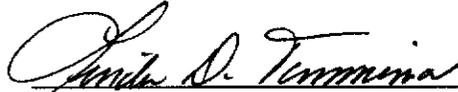
If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance 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 5: CONFLICTING ORDINANCES.

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

EXECUTORY PAGE

ADOPTED by the Board of Directors on the 25th day of August, 2010.



LINDA D. TIMMERMAN, Ed.D, President
Board of Directors
Trinity River Authority of Texas

ATTEST:



HOWARD S. SLOBODIN, Secretary
Board of Directors

(SEAL)

