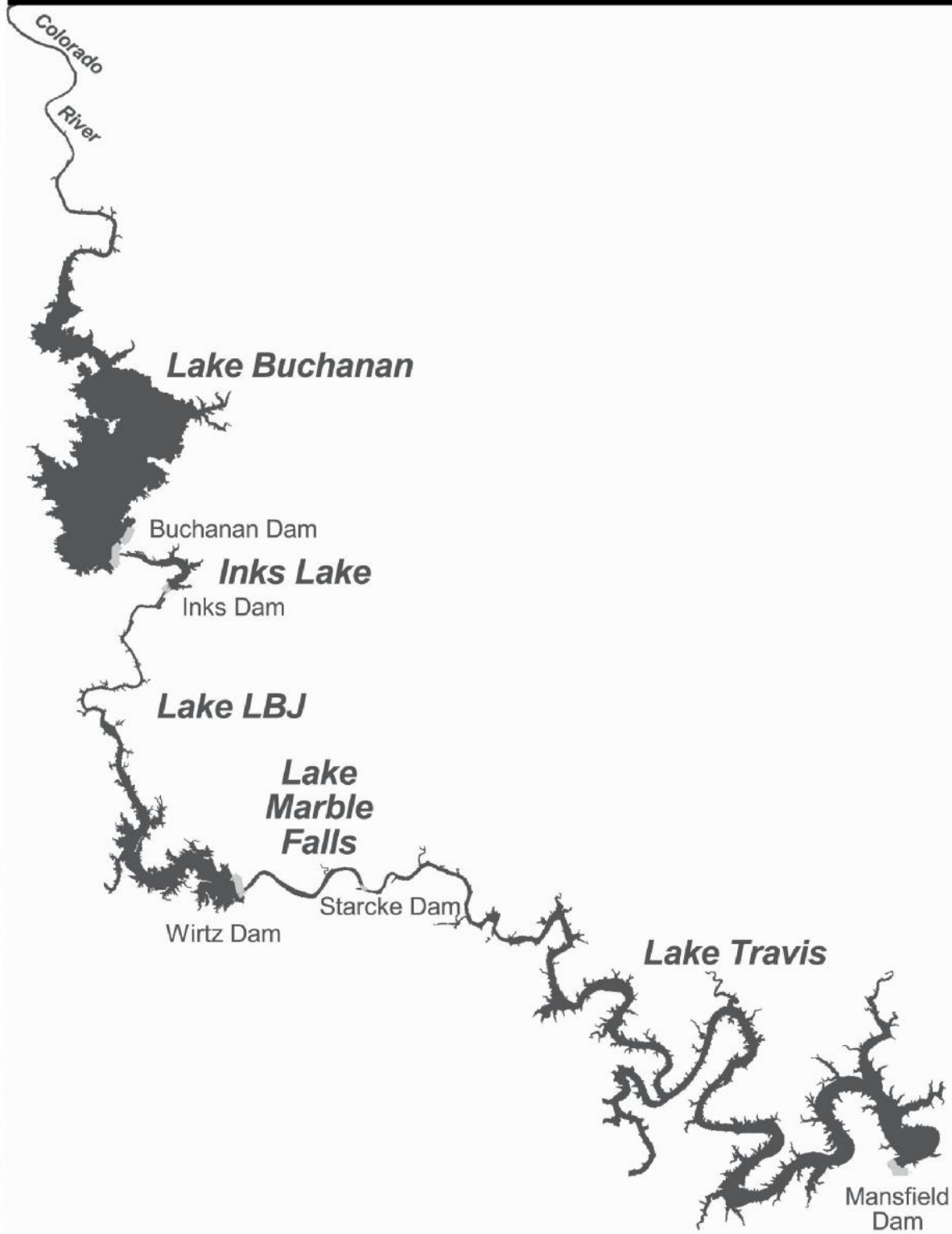


Highland Lakes Marina Ordinance



Prepared by Water Surface and Management

Effective September 21, 2011

HIGHLAND LAKES MARINA ORDINANCE

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Article 1. TITLE

Section 1.01. Title. This Ordinance shall be known and may be cited as the Highland Lakes Marina Ordinance.

Article 2. AUTHORITY

Section 2.01. Authority. This Ordinance is adopted pursuant to Section 8503.004(q), Chapter 8503 of the Special District Local Laws Code; Chapters 26, 49 and 51 of the Texas Water Code; and Chapter 31 of the Texas Parks and Wildlife Code, which statutes give LCRA the authority to adopt such rules and regulations as are necessary to control the surface of the Highland Lakes, to provide for improved water safety on the surface of the Highland Lakes, and to provide for the control of both artificial and natural Pollution of the ground and surface water of the Highland Lakes.

Article 3. PURPOSE AND PREFACE

Section 3.01. Purpose and Preface. The Highland Lakes Marina Ordinance is one of the ordinances and regulations of the LCRA adopted pursuant to its authority and intended to provide for the safety of Marina Facilities of the Highland Lakes and the water surface in and around Marina Facilities. In addition, the Highland Lakes Marina Ordinance is intended to provide water quality protection that may be adversely impacted from development and operation of a Marina Facility, to promote health and safety, and to provide minimum standards to protect public use, access, and safety at Marina Facilities on the Highland Lakes.

Marina Facilities located on the Highland Lakes shall be Constructed, Modified, and operated in compliance with the performance standards set forth in this Ordinance and all other rules, regulations, ordinances of the LCRA or other governmental authorities with jurisdiction over such activities. The provisions of this Ordinance do not address every potential problem associated with the development and operation of a Marina Facility, and the standards set out in this Ordinance represent the minimum acceptable requirements for development and operation of a Marina Facility.

Article 4. DEFINITIONS

Section 4.01. Definitions. Words used in this Ordinance and not defined in this Article shall have their ordinarily accepted meaning. For the purposes of this Ordinance, the following words and phrases shall be defined as follows:

ADJOINING WATERFRONT PROPERTY: A property that has a common property line with the Lot over which a Marina Facility is/will be located and which is either located below the Shoreline or adjoins the Shoreline at lake elevations, measured in feet above mean sea level, when the water surface is at or below the following lake elevations: Lake Buchanan — 1020'; Inks Lake - 888'; Lake LBJ - 825'; Lake Marble Falls - 738'; and Lake Travis 681.

ALTERNATE LOW WATER LOCATION: A separate tract of land that is not contiguous with the Lot over which the Marina Facility is located at the Design Elevation.

APPELLANT: Any person deemed to have filed a valid Request for Appeal pursuant to Article 13.

APPLICANT: The person(s) or entity(ies) who own the Marina Facility and have submitted an Application.

APPLICANT'S REPRESENTATIVE OR PERMITTEE'S REPRESENTATIVE: The individual(s) designated by the Applicant to represent the Applicant during LCRNs processing of the Application or by the Permittee to represent the Permittee after the Permit is issued.

APPLICATION: The form and all required attachments that, when prepared and processed in accordance with the requirements of this Ordinance, will meet all applicable requirements of this Ordinance.

BOARD: The Board of Directors of the Lower Colorado River Authority.

COMBINATION OF STRUCTURES: Structures under common use, ownership, or control.

COMMITTEE: The members of the Board designated by the Board or Board chair to consider appeals of staff decisions on Marina Facility Applications.

COMMUNITY MARINA: A marina used in lieu of multiple Residential Docks and located where Residential Docks are/will be prohibited by deed restrictions, easements or other legally binding documentation. A Community Marina shall not occupy more than 8 square feet of Water Surface Area for each linear foot of Shoreline. The linear feet of Shoreline must be owned or controlled by the same entity as the Community Marina and will be measured at the design elevation of the lake.

COMMERCIAL FACILITY: Any facility or Structure that is used for business or income—producing purposes that is not a Watercraft, a Residential Dock, or a Community Marina.

CONFIGURATION: The relative arrangement of the separate parts of a Marina Facility that are located over the water surface and the arrangement of such facilities relative to the Shoreline.

CONSTRUCT: To erect or install any structural, electrical, plumbing, or fuel portion of a Marina Facility.

COURTESY DOCKS: Docks, platforms, piers and similar Structures for which no fee is/will be assessed for their use and where the mooring of Watercraft for a period exceeding 24 consecutive hours is/will be prohibited.

COVE: A sheltered recess in the Shoreline, which is either created by a tributary or is an elongated lowland area that has been inundated by water as a result of the construction of a dam on the Colorado River. Irregularities in the Shoreline are not considered a Cove.

DESIGN ELEVATION: The elevation, measured in feet above mean sea level, which is specific

for each lake as follows: Lake Buchanan- 1020, Inks Lake- 888, Lake LBJ- 825, Lake Marble Falls-738, and Lake Travis- 668.

DESIGNATED SWIM AREA: A swim area approved under rules adopted by the LCRA Board, pursuant to the Texas Water Safety Act and marked with barrier floats.

EMERGENCY RECONSTRUCTION: Construction to repair or replace damaged portions of a Permitted Marina Facility necessitated by an emergency, such as a Flood Condition, fire, or extreme winds.

END TIE: A structurally unshielded area of a Marina Facility where a Watercraft is or is intended to be moored.

EXISTING MARINA FACILITY: A Marina Facility operating in accordance with a valid Permit issued prior to May 23, 2001 or a Marina Facility for which a Permit Application was pending on May 23, 2001.

EXPANSION: Any increase in the Water Surface Area occupied by a Marina Facility.

EXTREME DROUGHT CONDITION: When the mean sea level elevation of Lake Buchanan is below 1002 feet and/or the mean sea level elevation of Lake Travis is below 640 feet.

FAIRWAY: Unobstructed Water Surface Area that provides space for maneuvering of Watercraft when exiting or entering wet slips at a Marina Facility.

FINAL INSPECTION AND AUTHORIZATION: That inspection and authorization required prior to the occupancy or commencement of operation of a Marina Facility or Expansions and Modifications of an Existing Marina Facility as required by Section 9.04 of this Ordinance.

FIXED DOCK: A rigid Structure or portion of a rigid Structure supported by pilings, retaining wall or other materials and associated with a permanent foundation either resting or embedded in the lake bottom and designed so as to make relocation impracticable.

FLOATING DOCK: A Structure or portion of a Structure supported by flotation or otherwise designed so as to make relocation possible.

FLOOD CONDITION: When the mean sea level elevation of Lake Buchanan is above 1020 feet and/or when the mean sea level elevation of Lake Travis is above 681 feet.

FLOTATION MATERIAL: Material such as polyethylene, wood or other material used to support floating Structures on the surface of the water.

GANGWAY: A Walkway or Structure extending from the dock to the shore that, because of its short length, does not require supports by floats or outriggers and which occupies no more than eighty (80) square feet of Water Surface Area.

GRANDFATHERED FACILITY: A Marina Facility that, prior to May 23, 2001, was not required to obtain a Permit under any prior version of the Ordinance.

GUIDANCE DOCUMENT: The portion of the Ordinance and associated forms developed by LCRA, which may be amended by LCRA staff from time to time at the sole discretion of the staff, that provides guidance and assistance to Applicants in applying for a Permit required by this Ordinance.

HIGHLAND LAKES: Includes Lake Buchanan, Inks Lake, Lake LBJ, Lake Marble Falls and Lake Travis on the Colorado River within the Lower Colorado River Authority District.

LOT: The parcel of land, or contiguous parcels of land, that are specifically designated by the Permit to be occupied, or intended to be occupied, by a Marina Facility. Except for leased property that comprises the Lot or a portion thereof, the parcel(s) of property that comprise the Lot must be identifiable in the public records. Those portion(s) of any Lot that are not otherwise identifiable in the public records shall be identified by a metes and bounds description provided by the Applicant.

LOW WATER ELEVATION: The elevation measured in feet above mean sea level for Lake Buchanan- 1002' and Lake Travis- 640.

LCRA: The Lower Colorado River Authority.

MARINA FACILITY: Any Structure or Combination of Structures, other than a Residential Dock, located on or over the water surface of the Highland Lakes and located on or over a Lot, that is designed or used for the mooring of Watercraft or is a Commercial Facility, Community Marina, Marine Service Station, or Residential Marina Facility.

MARINE SERVICE STATION: A facility which provides fueling services for Watercraft while they are located on or over the water surface of the Highland Lakes.

MODIFICATION: Any change, Expansion, addition or alteration in the location, Configuration, Structure, substructure, flotation, plumbing, fuel or electrical services of a Marina Facility, other than routine maintenance and repairs.

NAVIGABLE PASSAGE: A dedicated space to allow the passage of Watercraft, which for purposes of this Ordinance, is defined as follows:

- a. At least 75 feet in width and with a minimum depth of 8 feet; or
- b. At least 40 feet in width and with a minimum depth of 8 feet under the following circumstances:
 - i) Existing Marina Facilities on Lake Travis when the level of Lake Travis is below the 655' msl contour elevation, and
 - ii) Existing Marina Facilities on Lake Buchanan when the level of Lake Buchanan is below the 1015' msl contour elevation.

NON-SUBSTANTIVE CHANGE: Modifications or Expansions to an Existing Marina Facility or proposed Marina Facility as follows:

- (1) Relocation of Gangways or walkways;

- (2) Expansion of the width of a Fairway so long as such Expansion does not result in the Marina Facility extending further from the Shoreline than allowed under the Permit or as proposed in the original Application;
- (3) Expansions of the width of walkways and/or finger piers;
- (4) Change in the Application made in response to public comments received pursuant to Article 8 or by the requirement of LCRA staff;
- (5) Expansion reasonably required to comply with applicable regulations of a governmental entity;
- (6) addition or Expansion of a Courtesy Dock;
- (7) revisions of electrical installations;
- (8) Any Expansion of a Permitted or Constructed Marina Facility that does not exceed the lesser of:
 - a. twenty percent (20%) of the square footage, within a five year period;
 - b. 5000 square feet capable of mooring thirty (30) or fewer Watercraft, within a five year period; or
 - c. 1500 square feet capable of mooring six (6) or fewer Watercraft, within a one year period;
- (9) Modification of an Existing Marina Facility that is required to temporarily accommodate variable lake levels as shown on the low water Configuration plan;
- (10) Addition of roof to an existing dock; or
- (11) Any other change, as determined by the LCRA staff, that would not adversely affect Adjoining Waterfront Property owners, water quality, or public use, access, or safety. In any event, however, a Non-Substantive Change shall not include addition of a Marine Service Station, retail business, or conversion of Courtesy Docks to any other use.

ORDINANCE: The Highland Lakes Marina Ordinance, as it may be amended from time to time.

PERMIT: The authorization issued by the LCRA to an Applicant to Construct and operate a Marina Facility after an Application for such Permit has been received, reviewed, and processed in compliance with this Ordinance. The term Permit also includes the authorization issued by the LCRA to operate a Marina Facility after the Marina Facility, as Constructed, has been inspected and found to comply with this Ordinance and the Application upon which the Permit is based.

PERMIT AMENDMENT: An amendment to a Permit issued by the LCRA after an Application for such amendment has been received, reviewed, and processed in compliance with this Ordinance. The term Permit Amendment also includes the authorization issued by the LCRA to operate a Marina Facility after the Marina Facility, as Constructed, has been inspected and found to comply with this Ordinance and the Application upon which the Permit Amendment is based.

PERMITTEE: An Applicant to whom a Permit or Permit Amendment has been issued in accordance with the terms of this Ordinance.

POLLUTION: Alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the Highland Lakes or sediments underlying the Highland Lakes or adjoining Coves that render the water in the Highland Lakes harmful, detrimental, or injurious to humans, animal life, vegetation, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

REGISTRANT: The owner of a Grandfathered Facility who has registered with the LCRA in compliance with Article 12 of this Ordinance.

REQUEST FOR APPEAL: The document submitted to initiate an appeal from a Permit decision in accordance with Article 13.

RESIDENTIAL DOCK: A non-commercial dock associated with a single family residence for which no compensation is/will be received by the owner(s) of the dock for the use of the dock. This definition also includes swim platforms and piers. However, a floating dock located on Lake Travis or Lake Buchanan that occupies more than 1,500 square feet of Water Surface Area, excluding the square footage occupied by the Gangway, shall be considered a Marina Facility. Further, any Floating Dock or Fixed Dock exceeding 1,500 square feet that is not associated with a single family residence may be subject to the Highland Lakes Marina Ordinance.

RESIDENTIAL MARINA FACILITY: A non-commercial floating Structure, or Combination of Structures: (1) located on lakes Travis or Buchanan; (2) associated with a single family residence for which no compensation is/will be received by the owner(s) of the dock(s) for its use and (3) that occupies more than 1500 square feet of Water Surface Area, excluding the square footage occupied by the Gangway.

SHORELINE: The line at which the water surface of each Highland Lake intersects the land at any given time. The Shoreline will move as the surface elevation of a lake changes.

SPILL: Any amount of petroleum product that is not accounted for in the fuel system in excess of 0.05 gallons/hour (1.2 gallons/day) or any amount that reaches the water surface and causes a sheen.

STRUCTURE: Anything Constructed or otherwise located or operated on or over the water surface, extended over the water surface, or affixed to something that is/will be located on the ground and covered by water or is located on land and is an essential part of the operation or an integral system of the Marina Facility, such as fuel and electrical systems.

TNRCC: Texas Natural Resource Conservation Commission, or its successor agency.

WATER SURFACE AREA: The area including, but not limited to, the width times the length of the Marina Facility's floating and fixed Structures located on or over the water, its open and covered slips and the maximum area covered by Watercraft, including that portion of the Water Surface Area that is used by Watercraft as a Courtesy Dock and all End Tie areas. Fairways and Gangways are not included in the Water Surface Area measurements.

WATERCRAFT: Any craft, vessel or boat used or capable of being used as means of transportation on or under the water, including vessels such as houseboats and other vessels not used primarily for transportation.

YOUTH CAMP: A property or facility that is/will be regulated by the Texas Department of Health and licensed under the Texas Youth Camp Safety and Health Rules and Regulations and for which all water-based Structures and systems are for the sole use of the facility.

Article 5. SCOPE AND APPLICATION

Section 5.01. Applicability — General. Except as expressly modified by this Ordinance, no Application shall be approved by LCRA and a Permit issued unless the Application conforms to the requirements of this Ordinance, the Application conforms to the requirements of LCRNs Nonpoint Source Pollution Control Ordinances, where applicable, and the Application fees have been paid.

Section 5.02. Permit Required.

A. Permit. Except as provided in this Section, no person may cause, suffer, or allow Construction of a Marina Facility on any of the Highland Lakes without first obtaining a Permit from the LCRA. Except as provided in Section 5.02.C, and after issuance of a Permit or Permit Amendment to the Marina Facility, no person may cause, suffer, or allow the operation of a Marina Facility on any of the Highland Lakes without first obtaining from the LCRA a Final Inspection and Authorization to begin occupancy and operation of the Marina Facility as described in Section 9.04 of this Ordinance.

B. Permit Amendment. Except as provided in this Section, no person may cause, suffer, or allow the Expansion or Modification of a Marina Facility on any of the Highland Lakes without first obtaining a Permit Amendment from the LCRA. No Permit Amendment is required to remove Structures from a Constructed Marina Facility or to Construct fewer or smaller Structures (including slips) than allowed under a valid Permit so long as the Marina Facility, as Constructed, will not extend further from the Shoreline than allowed under the existing Permit. If removed Structures are to be replaced with new Structures, a Permit Amendment is required. A Permittee that removes Structures, or constructs fewer or smaller Structures, without the need for a Permit Amendment shall nevertheless submit a revised Location and Configuration Plan to LCRA within thirty (30) days of completing such removal or Construction so that Permit fees may be adjusted accordingly.

C. Emergency Reconstruction. A person who already has a Permit for a Marina Facility may commence Emergency Reconstruction of a damaged Marina Facility without first obtaining a Permit Amendment from the LCRA, provided that written notice of the commencement of reconstruction activities is provided to LCRA within seventy-two (72) hours of commencement of reconstruction. Within thirty (30) working days of commencement of reconstruction, the Marina Facility Permittee shall submit an Application for a Marina Facility Permit Amendment. A Marina Facility must submit an Application for Emergency Reconstruction within one (1) year from date the damage occurred in order to utilize this provision of the Ordinance. Permit fees will be waived for Permit Applications submitted in accordance with this provision of the Ordinance.

Notwithstanding any other provision of this Ordinance, when Emergency Reconstruction is performed, Modifications to the electrical installations may also be made pursuant to the terms of this subsection. Any other Modification or Expansion to the Marina Facility, except as excepted under Section 5.02.B, shall require the filing of an Application for a Permit Amendment and payment of applicable fees.

Section 5.03. Residential Docks. Residential Docks are exempt from the requirements of this Ordinance.

Section 5.04. Youth Camps. A Marina Facility which is/will be for the sole use of a Youth Camp, and that is in compliance with all applicable Texas Department of Health (TDH) regulations, is exempt from all requirements of this Ordinance except as set forth below.

A. Youth Camps shall comply with Section 6.03.A (Location and Configuration), Section 6.06.B (Lighting), and Section 6.06.0 (Insurance) of this Ordinance.

B. Youth Camps are required to pay the annual Permit fees established by the LCRA Board of Directors for all Structures located on or over the surface of the water.

C. Written verification of compliance with applicable TDH regulations shall be submitted to LCRA by June 1 of each year for which the exemption is sought.

Section 5.05. Community Marina. Construction of a Community Marina shall conform to all of the provisions of this Ordinance with the following exceptions or modifications:

A. Fees. All fees are waived for a Community Marina.

B. Location and Configuration. At locations where the lake or Cove has an unobstructed open water width of 1,000 feet or less, no Community Marina shall, at any time, extend a distance of more than 33% of the width of the lake or Cove from Shoreline to Shoreline (measured perpendicular from the Shoreline at the Low Water Elevation for Lakes Travis and Buchanan and the Design Elevation for Lakes Inks, LBJ, and Marble Falls).

C. Public notice. The public notice, meeting, and comment requirements of Article 8 do not apply to Community Marinas.

D. Insurance. The requirement that LCRA be named as an additional insured on the general public liability insurance policies, as specified in Section 6.06.C, does not apply to a Community Marina with fewer than five (5) mooring slips.

Section 5.06. Grandfathered Facilities. Grandfathered Facilities are subject only to the requirements of Article 12 of this Ordinance.

Section 5.07. Existing Marina Facilities. Except as expressly set forth in this Section, an Existing Marina Facility is authorized to Construct or Operate the facility in accordance with the terms and conditions of the Permit for the Existing Marina Facility and the siting, location, or Configuration requirements of the Marina Ordinance in effect at the time the Application for the Existing Marina Facility was accepted by LCRA staff. With the exception of the siting, location and

Configuration requirements set forth in Section 6.03, an Existing Marina Facility shall comply with the Performance Standards set forth in Article 6, including but not limited to:

- Section 6.02.B(3) (regarding boat painting, paint removal and boat cleaning)
- Section 6.02.D(9) (regarding Spill control response plans)
- Section 6.02.F (regarding provision of restroom facilities)
- Section 6.02.G (regarding replacement of flotation material)
- Section 6.08.E (regarding staffing of marine service stations)

Except as otherwise set forth in Section 6.02.D(9) and Section 6.02.G, compliance with the above-listed provisions shall be achieved as soon as reasonably practicable, but in any event, no later than forty-five (45) days from May 23, 2001.

Any Expansion or Modification of an Existing Marina Facility shall be subject to all requirements of this Ordinance.

Section 5.08. Residential Marina Facility. Construction of a Residential Marina Facility shall conform to all of the provisions of this Ordinance with the following exceptions or modifications:

- A. Fees.** All Highland Lakes Marina Ordinance application and annual permit fees are waived for a Residential Marina Facility.
- B. Location and Configuration.** Residential Marina Facilities may go aground at low water elevations if engineered to go aground without damage to the structure.
- (1) At LCRA staff discretion, Residential Marina Facilities may be allowed to use LCRA Bathymetry (topographical data) for location and configuration plans to demonstrate adequate depth.
- C. Marina Facility Description.** Residential Marina Facilities are exempt from Section 6.03.C.
- D. Display of Permit or Letter Authorizing Operations.** Residential Marina Facilities are exempt from Section 6.09.
- E. Marina Facility Operations.** Residential Marina Facilities are not required to comply with the Uniform Fire Code (UFC) and National Fire Protection Association (NFPA) #303 and #30A with the exception that all facilities are required to have one fire extinguisher with a minimum rating of 2A 20 B:C located in a conspicuous and easily accessible location on the dock(s).
- F. Grandfathered Facilities.** Residential Marina Facilities constructed and located in their current location and configuration on or over the water surface prior to August 1, 1984 are subject only to the requirements of Article 12 of this Ordinance.
- G. Setback Requirements.** Residential Marina Facilities shall maintain a minimum setback of 50 feet from the property line of Adjoining Waterfront Properties for Structures located over or on the water surface. Exceptions contained in Section 6.03D (a, b & c) shall also apply to Residential Marina Facilities.

H. Public Notice. Residential Marina Facilities need only to comply with the exceptions contained in Section 8.01 and 8.02 of this Ordinance.

Section 5.09. Floating Habitable Structures. Pursuant to the LCRA Land and Water Use Regulations, floating habitable structures, as they are defined in those regulations, are prohibited within the floodplain of Lake Travis, Lake Marble Falls, Lake LBJ, Lake Inks and Lake Buchanan (collectively, "the Highland Lakes"). Please refer to the LCRA Land and Water Use Regulations for specific definition and provisions.

Article 6. PERFORMANCE STANDARDS

Section 6.01. General. Except as otherwise expressly stated in this Ordinance, any person who is required by this Ordinance to obtain a Marina Facility Permit or Permit Amendment shall demonstrate compliance with the performance standards set out in this Article.

Section 6.02. Pollution Control.

A. General. All Marina Facilities shall be designed, Constructed and operated so as to prevent sewage and other pollutants from entering the waters of the Highland Lakes.

B. Nonpoint Source Pollution Control.

- (1) All Marina Facilities shall comply with the LCRNs Nonpoint Source (NPS) Pollution Control Ordinance, and with all other applicable local, state, and federal water quality rules, regulations, or ordinances.
- (2) All Watercraft maintenance, repair, sanding, painting, cleaning, and other types of finishing or re-finishing work shall be performed in such manner and at locations that will prevent, fuel, oil, sewage, paint or other pollutants from entering the waters of the Highland Lakes.
- (3) Boat painting, paint removal, and high-pressure-bottom-cleaning of wooden boat hulls shall not be performed over or on the water surface at any time.

C. Water Quality Analysis Statement. An Applicant for a Permit or Permit Amendment for the Construction of fifty (50) or more slips, a restaurant over the water surface, or a Marine Service Station shall prepare and submit as part of the Application a Water Quality Analysis Statement, which shall analyze the seven (7) specific impacts listed below and describe in detail the best management practices that will be implemented by the Applicant to meet the requirements established below and minimize the impacts on water quality from the facilities for which the Permit or Permit Amendment is sought. The Applicant shall use the results of the Water Quality Analysis Statement to design and operate the Marina Facility with the least amount of water quality impact as can be cost effectively achieved.

(1) Boat sewage.

- a. Minimize the potential for accidental release of boat sewage to surface waters.

- b. Allow ease of access to boat sewage collection facilities and promote the use of such facilities.
- c. Ensure that boat sewage collection facilities are operating properly, are leak-free, and are otherwise properly maintained.

(2) Solid waste collection and disposal.

- a. Reduce potential for litter and solid waste to pollute nearby land and water.

(3) Litter and debris collection and disposal.

- a. Ensure removal of litter and debris at regular intervals.
- b. Ensure prompt removal of abandoned anchors, dock materials, debris and refuse in and around the Marina Facility.

(4) Impact to freshwater exchange and flushing action of a Cove.

- a. Site and design the Marina Facility to ensure that wind and currents will aid in flushing of the site or renew its water regularly.
- b. Unless it can be scientifically demonstrated that the bottom will support a natural population of benthic organisms, site and design the Marina Facility such that the bottom of the Marina Facility and the entrance channel are not deeper than adjacent navigable water.
- c. Design Marina Facilities to promote circulation within the basin.
- d. Design and locate entrance channels to promote flushing.
- e. Design Marina Facility to promote flow-through currents.
- f. Consider other design alternatives in poorly flushed water bodies to enhance flushing.

(5) Hazardous or toxic material storage and Pollution precautions.

Design liquid materials storage facilities to prevent toxic or hazardous materials from entering the water in the event of a Spill.

(6) Marine Service Station operations and Pollution prevention.

- a. Ensure the containment of Spills at fueling stations.
- b. Develop a Spill response plan.

(7) Boat cleaning.

- a. Ensure that debris from boat commercial cleaning operations can be captured and disposed of properly.

- b. If boat cleaning will be allowed, establish procedures that will avoid negative impacts to water quality.

D. Marine Service Station Pollution Control.

- (1) Marine Service Station facilities shall be designed, maintained and operated so as to prevent Spills or leaks of fuel and/or petroleum products into any of the Highland Lakes.
- (2) All components of Marine Service Station fuel systems shall be leak free and fuel shall be dispensed in a manner to avoid Spills. If a Spill occurs, it shall be promptly reported and mitigated in accordance with TNRCC requirements. If a Spill or leak of fuel and/or petroleum products occurs, the Marina Facility owner, Marina Facility operator, or other responsible party shall notify LCRA and TNRCC as soon as possible, but not more than 24 hours after the Spill or leak occurs. The Marina Facility owner, Marina Facility operator, or other responsible party, and not LCRA, shall be responsible for providing any required notification to the TNRCC.
- (3) Marine Service Station fuel facilities must have an adequate supply of sorbent materials readily available in a clearly marked container to clean up any minor Spills that may occur.
- (4) Gravity feed fuel systems shall have a pressure solenoid control valve positioned adjacent to and outside the tank block valve and adjusted so liquid cannot flow by gravity from the tank. A fuel storage tank located more than 100 feet from the Shoreline shall have an additional solenoid valve installed prior to the first flexible connection.
- (5) Fuel lines shall contain the appropriate number of valves to prevent Spills while performing repairs, reconfiguring the Marina Facility during periods of varying lake levels or shutting off the fuel supply in an emergency. When the fuel system is not in use, all valves shall be kept in the closed position.
- (6) Flexible fuel lines and fittings shall be approved by testing laboratories such as Underwriters Laboratory or Factory Mutual. Strain relief devices shall be attached to the fuel hose where the flexible line attaches to a rigid line. Fuel lines shall not be installed on floating marina access bridges or Gangways. All fuel lines shall be located where they are not subject to physical damage. Safety break valves shall be installed on all dispenser hoses exceeding eighteen (18) feet in length.
- (7) No more than 2 flexible connections shall be allowed on any single fuel supply line. A flexible line connected between two rigid lines shall be considered one flexible connection. Quick-throw valves, approved by testing laboratories such as Underwriters Laboratory or Factory Mutual, shall be installed on both sides of the flexible connections.
- (8) Tanks that have been removed from use shall have all valves removed and, with the exception of the tank vent, all piping connections and unused openings at the tank shall be sealed. All combustible or flammable materials must be removed from the tank and the tank shall be properly closed in accordance with TNRCC and Uniform Fire Code (UFC) procedures.

(9) A Spill control response plan shall be prepared for each Marine Service Station and readily available and accessible to all Marina Facility personnel. An Existing Marina Facility shall have one year from May 23, 2001 to comply with this requirement.

(10) Fuel delivery nozzles shall be equipped with a self-closing control valve that will shut off the flow of fuel when the operator's hand is removed from the nozzle. The use of any device to override this feature is prohibited.

E. Boat Sewage. New Marina Facilities and Expansions of Existing Marina Facilities harboring more than 25 Watercraft that are required by TNRCC regulations to be equipped with marine sanitation devices shall have an operating boat sewage pumpout facility which has been approved and certified in accordance with TNRCC regulations. Certification shall be displayed per TNRCC regulations.

F. Restrooms. All patrons of Marina Facilities must have access to restroom facilities. Portable facilities located on shore are acceptable.

G. Flotation Material. New Marina Facilities with Flotation Materials must use encapsulated Flotation Material. Existing Marina Facilities may continue to use non-encapsulated Flotation Material for three years from May 23, 2001, after which time, when Flotation Material is in need of replacement, it must be replaced with encapsulated Flotation Material. Flotation Material will be deemed to be in need of replacement if more than 25% of the float is missing. Flotation Material must be kept free of vegetation. Homemade floats, such as barrels or drums, are prohibited.

Section 6.03. Location and Configuration.

A. Location and Configuration. Except as otherwise provided in Texas Water Code § 11.097, no Marina Facility shall be located or Configured so as to extend into the waters of any of the Highland Lakes to such a distance that it would constitute a navigation hazard or a flood control hindrance, or would unreasonably infringe upon public use of and access to the water surface. This standard is satisfied when all of the following requirements are met:

- (1) **Maximum Distance From Shore:** No Marina Facility shall, at any time, extend a distance greater than 400 feet from the Shoreline (measured perpendicular from the Shoreline) or such a distance as to preclude the maintenance of the Navigable Passage of a Cove, whichever is the shorter distance.
- (2) **Additional Passage Requirements:** If the Navigable Passage also serves as a Fairway, the width of the passage shall be 1.75 times the longest Watercraft slip or 75 feet, whichever is greater.
- (3) **Locations 1000 Feet or Less In Width:** At locations where the lake or Cove has an unobstructed open water width of 1,000 feet or less, no Marina Facility shall, at any time, extend a distance of more than 10% of the width of the unobstructed open water from Shoreline to Shoreline or from the Shoreline to a Structure located on the opposite shore (measured perpendicular from the Shoreline at the Low Water Elevation for Lakes Travis and Buchanan and the Design Elevation for Lakes Inks, LBJ, and Marble Falls). Measurements to Structures located on the opposite shore will include only those

Structures so located as Permitted by LCRA or otherwise allowed by LCRA rules or regulations and present on the date the Application is filed with LCRA.

- (4) **Locations Greater Than 1000 Feet In Width:** At locations where the lake or Cove has an unobstructed open water width of greater than 1,000 feet, no Marina Facility shall, at any time, extend a distance of more than 20% of the width of the unobstructed open water from Shoreline to Shoreline or from the Shoreline to a Structure located on the opposite shore (measured perpendicular from the Shoreline at the Low Water Elevation for Lakes Travis and Buchanan and the Design Elevation for Lakes Inks, LBJ, and Marble Falls). Measurements to Structures located on the opposite shore will include only those Structures so located as Permitted by LCRA or otherwise allowed by LCRA rules or regulations and present on the date the Application is filed with LCRA.
- (5) **Height:** No Marina Facility shall, at any time, extend to a height of more than 35 feet above the surface of the water (measured perpendicular to the surface of the water).
- (6) **Fairways:** A Marina Facility must provide a minimum Fairway width between Marina Facility docks of 1.75 times the length of the longest boat slip opening into the common Fairway shared by docks at the same Marina Facility.
- (7) **Displacement of boating traffic in area:** Marina Facilities shall not be so located or configured in such a way as to potentially displace boating traffic into shallow areas.
- (8) **Underwater topography and Alternate Low Water Locations:** A Marina Facility shall be maintained at an Adequate Depth of Water down to the Low Water Elevation. For the purpose of this Section, Adequate Depth of Water shall mean that depth necessary to allow the wet mooring slips to remain useable while complying with Section 6.03 and not be allowed to go aground. All Marina Facilities and Expansions of Existing Marina Facilities must maintain an adequate depth of water while complying with the provisions of this Article 6 without re-locating to an Alternate Low Water Location.

Exception: Courtesy Docks engineered to go aground without damage to the Structure.
- (9) **Prevailing winds:** Marine Fuel Facilities shall be so located as to provide natural protection against prevailing winds or shall have adequate artificial protection, such as a breakwater Structure.

B. Property Ownership. Marina Facilities shall be located on and over a Lot that is owned, leased or otherwise controlled by the Applicant, and shall not interfere with the legal rights and privileges of an Adjoining Waterfront Property Owner, including those conveyed through covenants, deed restrictions, easements, court judgement, or other legally binding documents.

- (1) The Applicant shall provide the following documentation:
 - a. A legal description of the Lot, the name and address of the owner of the Lot, including that portion of the Lot under the water surface.
 - b. An Affidavit, in a form prescribed by LCRA staff, stating that the Applicant owns, leases, or otherwise controls the Lot over which the Marina Facility will be located;

- c. Copies of public records identifying those parcels of property comprising the Lot and a metes and bounds description for any leased portion(s) of any Lot that are not otherwise identifiable in the public records;
 - d. If the Applicant and the property owner are different individuals or entities, documentation, such as a lease, easement, or other deed-recorded instrument, supporting Applicant's claim that the Applicant has the authority from the property owner to locate the Marina Facility on or over the Lot; and
 - e. Other documentation, if required by staff to demonstrate ownership or control, which may include a title opinion from an attorney, if such ownership or control is challenged. Any such title opinion shall state that the attorney has reviewed the chain of title or other appropriate documents and finds that, in the attorney's professional opinion, the Applicant is the owner or has the legal right to Construct a Marina Facility on or over the Lot in question.
- (2) LCRA does not have jurisdiction to adjudicate competing property rights claims. Therefore, a claim of interference under this Section may not form the basis for a valid appeal unless the party raising the complaint has provided a certified copy of a final judgment from a court of competent jurisdiction. This Section does not preclude any party from seeking relief in a civil court to resolve disputed property rights claims.

C. Marina Facility Description. The Application shall fully describe the Marina Facility including the services offered and any future plans for development known on the date the Application is filed. All rules and regulations of the Marina Facility will be applicable within the Lot and may be enforced by the Marina Facility provided that such rules do not conflict with the Lake Management rules and regulations of the LCRA.

D. Setback Requirements. Marina Facilities and Expansions of Existing Marina Facilities shall include minimum setbacks for Structures located over or on the water surface at:

- (1) **Adjoining Waterfront Properties:** 75 feet from the property line of Adjoining Waterfront Properties.

Exceptions:

- a. Structures, such as anchors and cables, located a minimum of 8 feet under the water surface.
- b. An Applicant who submits written releases obtained from owners of Adjoining Waterfront Property stating that the proposed Marina Facility or Expansion will not infringe upon such owner's reasonable ingress and egress on the lake.
- c. Expansion of an Existing Marina Facility with existing Structures so affixed to realty (not floating) as to make their relocation impracticable shall be exempt from the setback requirements; provided, however, that any Construction shall not be located closer to the Adjoining Waterfront Property lines than the existing Structures.

- (2) **Public Water Supply Wells:** No Marina Facility shall be located within 150 feet of an existing public water supply well that is licensed and operated in accordance with TNRCC rules and regulations.
- (3) **River Channels:** Construction of a Marina Facility or an Expansion or Modification of an Existing Marina Facility shall not be located within 200 feet from the edge of the main channel of the Colorado River that is located nearest to the Shoreline where the Marina Facility is to be located. The edge of the river channel will be measured from the point where the bank intersects with the river bed.
- (4) **Designated Swim Areas:** Except for Structures such as swim platforms that are located within a Designated Swim Area, no Marina Facility Structure shall be located on or over the water surface within 50 feet from any existing Designated Swim Area. LCRA staff may waive this requirement if the swim area is separated from the Marina Facility Structures by structural barriers.

Section 6.04. Representation of Applicant or Permittee. An individual designated by the Applicant or Permittee as the Applicant's Representative or Permittee's Representative shall submit documentation demonstrating his/her authority to represent the Applicant or Permittee.

Section 6.05. Franchise Taxes. Prior to the issuance of any Permit, if the Applicant is a corporation, the Applicant shall submit documentation demonstrating that all franchise taxes have been paid.

Section 6.06. Risk Management.

A. Marina Facility Design and Certification.

- (1) All Marina Facilities shall be designed and maintained in such a manner as to ensure public safety.
- (2) All Permit and Permit Amendment Applications for Construction or Modification or Expansion of a Marina Facility must contain a signed certification from a professional engineer registered in the State of Texas stating that the civil, structural, electrical, mechanical and fuel installations and systems of the Marina Facility are designed to ensure public safety and comply with the most recent editions of the following codes: National Electrical Code (NEC), National Electrical Safety Code (NESC), Uniform Fire Code (UFC), and National Fire Protection Association (NFPA) #303 and #30A.
- (3) Upon completion of Construction, Expansion, or Modification of a Marina Facility, the Applicant shall submit a follow-up certification signed by the engineer and/or master electrician stating that the Construction, Expansion, or Modification was completed in accordance with above referenced publications and plans submitted to and approved by LCRA.
- (4) With respect to the electrical requirements only, in lieu of an engineer's certification, a master electrician may design and certify the electrical installations and systems of a Marina Facility as complying with the most recent editions of the National Electrical Code (NEC) and the National Electrical Safety Code (NESC).

B. Lighting. Marina Facilities shall be continuously lighted from sunset to sunrise and during periods of restricted visibility. The minimum safety lighting shall adequately define the presence of all Structures located on or over the water surface. When possible, lighting shall be so located and configured or shielded so as not to present a hazard to navigation.

C. Insurance.

- (1) Except as expressly stated in this Ordinance, all Marina Facilities shall maintain comprehensive general or public liability insurance providing a minimum coverage of \$500,000 per person/per occurrence bodily injury and \$100,000 property damage or \$500,000 combined single limit.
- (2) A certificate of insurance shall be filed with LCRA as evidence of the required coverage before Construction may commence and prior to the expiration of any certificate on file. This certificate shall state that LCRA will be given a minimum of thirty (30) working days advance notice of cancellation or material change in coverage.
- (3) Marina Facilities that do not lease boat slips to the public but provide the slips only as a service to their customers, shall maintain comprehensive general or public liability insurance providing a minimum coverage of \$300,000 per person/per occurrence bodily injury and \$100,000 property damage or \$300,000 combined single limit.
- (4) Any required insurance shall be purchased from an insurance company licensed in Texas or a surplus lines carrier on the list of eligible surplus lines carriers maintained by the Texas State Board of Insurance. The insurance company shall be rated at least B Class VIII by the A.M. Best Company. Insurance companies not rated by the A. M. Best Company may be required to submit audited financial statements for LCRNs consideration and approval.
- (5) LCRA shall be named as an additional insured in any insurance policy required by this Section.

Exception: A Marina Facility that is insured under a homeowner's insurance policy.

Section 6.07. Public Education. Owners and operators of Marina Facilities shall reasonably cooperate with LCRA in its efforts to promote water safety through public education and awareness. This assistance shall include, but is not limited to, the following activities:

- A. Provide a central location to advertise the availability of maps, boater education courses, and to display educational information, press releases or notices so as to provide timely distribution of information to Marina Facility patrons.
- B. Include educational or advisory inserts with regular billing invoices and/or newsletters supplied by LCRA, provided that any such inserts do not increase the mailing cost associated with the inclusion of inserts.
- C. Display posters, warnings and other educational materials as provided by LCRA to the Marina Facility.

Production and printing costs of materials associated with complying with this Section shall be borne by LCRA.

Section 6.08. C. Marina Facility Operations. Fire extinguishers, with a minimum rating of 2A, 20 B:C, shall be located along the main walkways so that the travel distance to the nearest fire extinguisher is no more than 50 feet.

A. The minimum lighting required to adequately define the presence of the Marina Facility from sunset to sunrise and during periods of restricted visibility shall be wired with a photo-electric cell-operated switch so that the lights will automatically operate.

B. Adequate on-site facilities shall be provided for the collection of garbage and trash generated at the Marina Facility and arrangements made for the timely removal of such collection shall be made by the Marina Facility owner or operator. Receptacles must be located in convenient, accessible areas, but are not required to be located on the dock.

C. Fire extinguishers, with a minimum rating of 2A 20B:C, shall be located along the main walkways so that the travel distance to the nearest fire extinguisher is no more than 50 feet.

D. Electrical extension cords shall not be used as a substitute for permanent wiring, shall not be repaired with tape, and shall be kept out of the water.

E. An attendant shall be present at fuel dispensing areas on weekends and holidays from Memorial Day through Labor Day when the Marine Service Station is open for business. The attendant shall supervise, observe and control the dispensing of fuel, give immediate attention to accidental Spills and access a fire extinguisher, if needed.

F. The Marina Facility shall comply with the most recent editions of the following codes, as they may be amended from time to time: National Electrical Code (NEC), National Electrical Safety Code (NESC), Uniform Fire Code (UFC), and National Fire Protection Association (NFPA) #303 and #30A.

Exception: Requirement for fire standpipe systems, fixed extinguishing systems and fire detectors is waived.

Section 6.09. Display of Permit or Letter Authorizing Operations. The Marina Facility shall display in a prominent location any letter authorizing the Marina Facility to operate pursuant to Section 9.04 and make available for inspection by LCRA and other regulatory agencies at the Marina Facility all LCRA Permits.

Section 6.10. Performance Standards Waived During Extreme Drought and Flood Conditions. The performance standards provided for in this Article apply at all times to Marina Facilities on Lakes Marble Falls, LBJ and Inks. The performance standards referenced below shall not apply to Lake Buchanan or Lake Travis during Extreme Drought or Flood Conditions.

A. Section 6.03.A(1) during Flood Conditions as it applies to the 400-foot from shore requirement.

B. Section 6.03.A(3) — Locations 1000 Feet or Less in Width during Extreme Drought Conditions.

C. Section 6.03.A(4) — Locations Greater Than 1000 Feet in Width during Extreme Drought Conditions.

D. Section 6.03.B — Property Ownership during Extreme Drought Conditions.

E. Section 6.03.D(1) — Setback Requirements during Extreme Drought Conditions.

F. Section 6.03.D(3) — River Channels during Extreme Drought Conditions.

Article 7. APPLICATION PROCESSING PROCEDURE

Section 7.01. Administrative Review.

A. Acceptance of Application and Commencement of Administrative Review. An Application for a Marina Facility Permit shall be considered to have been filed on the date that it is received by the LCRA staff at 3701 Lake Austin Boulevard in Austin, Texas. LCRA staff shall not accept for filing any Application that is not signed and accompanied by the appropriate Application fees. Absent good cause, as that term is described in Section 7.06.A, LCRA staff shall review an Application for completeness within ten (10) working days of the date it is filed. Within the ten (10) working days, the Applicant shall be notified whether or not the Application is administratively complete.

B. Administratively Incomplete Applications. If the Application is determined to be administratively incomplete, LCRA shall notify the Applicant of the deficiencies and the Applicant shall have thirty (30) working days to submit additional information. If the Applicant does not submit the required additional information within thirty (30) working days, the Application may be returned to the Applicant. The Application fee will be refunded in accordance with the fee schedule.

C. Administratively Complete Application. For Applications requiring public notice pursuant to Article 8. , notice must be published and mailed by the Applicant in accordance with Article 8. within thirty (30) working days from the date that notice from the LCRA is sent informing the Applicant that the Application is administratively complete. For those Applications for which public notice is not required, LCRA shall commence Technical Review of the Application pursuant to Section 7.02.

Section 7.02. Technical Review.

A. Commencement of Technical Review. Technical Review of the Application by LCRA staff shall commence after the Application is deemed Administratively Complete pursuant to Section 7.01, or upon the conclusion of any public comment period required pursuant to Article 8. , whichever is later.

B. Technical Review Period. LCRA staff shall consider all information received from the Applicant and received from the public during the public comment period provided for in Section 8.04 and shall continue Technical Review of the Application for a period not to exceed thirty (30)

working days. During Technical Review, LCRA staff shall notify the Applicant of any information necessary to complete the Technical Review. The Applicant shall provide such additional information within a time prescribed by LCRA staff, not to exceed six (6) months. A suspension of the processing of the Application pursuant to Section 7.07.B shall not serve to extend the deadline for submitting requested information under this Section. Upon receipt of the requested information, the Technical Review may be extended as necessary to review the additional information.

C. Technically Incomplete Application. If the Applicant fails to submit the requested additional information within six (6) months from the date it is requested by LCRA staff, the Application will be returned to the Applicant without prejudice. The Application fee will be refunded in accordance with the fee schedule.

D. Technically Complete Application. Upon a determination that the Application is technically complete, staff shall proceed with processing of the Application in accordance with Article 9.

Section 7.03. Application Amendment. Non-Substantive Changes to an Application can be made at any time prior to issuance of the Permit. Any other change to an Application made after the requirements of Article 8. have been completed requires the filing of a new Application. Staff may extend the Technical Review period as necessary to review any changes made to an

Application. Non-Substantive Changes do not require public notice, however, all other provisions of this Ordinance apply.

Section 7.04. Withdrawal of Application. An Applicant may withdraw an Application at any time and shall be entitled to a prorated return of a portion of the fees in accordance with the fee schedule.

Section 7.05. Request for Extension of Time to Provide Requested Information. An Applicant may request an extension of time to provide the information requested by staff during Administrative or Technical Review. Requests for extensions shall be in writing and shall explain in detail the need for additional time. Such requests shall be approved in writing by LCRA, which approval shall not be unreasonably withheld except that, in no event shall the cumulative number of extensions granted to an Applicant under this provision for a particular Application exceed six (6) months.

Section 7.06. Complaint Regarding Time Limitations.

A. Procedure. An Applicant may file a complaint regarding violations of the time limitations set forth in this Article directly to the General Manager of LCRA or his designee. The complaint shall be in writing and shall specifically set forth the grounds for the complaint. The complaint shall be decided in the Applicant's favor if the LCRA staff exceeded the time limitations for processing the Application and the LCRA staff failed to establish good cause for exceeding the time limitations. Good cause for exceeding the periods for processing Applications shall be established if:

- (1) The number of Marina Facility Permit or Permit Amendments to be processed exceeds by fifteen percent or more the number of Marina Facility Permit or Permit Amendments processed in the same calendar quarter the preceding year or the preceding five calendar years;

- (2) The LCRA staff must rely on another public or private entity for all or part of its Permit processing, and the delay is caused by that other entity;
- (3) A natural disaster, such as a Flood Condition, has delayed processing of the Application;
- (4) The LCRA staff is unable to process the Application due to unique or unforeseen circumstances or other circumstances that are beyond staff's control and that the LCRA staff did not create and shall include but is not limited to staffing limitations due to illness, absence, or attrition;
- (5) The LCRA staff has granted extensions at the request of Applicant pursuant to Section 7.05; or
- (6) The LCRA staff has been requested to consider a variance request.

B. Remedy. An Applicant who appeals pursuant to this Section, and whose appeal is decided in the Applicant's favor, shall receive full reimbursement of all fees paid by the Applicant.

Section 7.07. Effect of Violations on Application Processing.

A. Violations for Addition of Slips.

- (1) When a Marina Facility has added slips to a Marina Facility without first having obtained the Permit required by this Ordinance, the Marina Facility, after obtaining the necessary Permit for the unauthorized slips, is thereafter prohibited from filing a subsequent Application for that Marina Facility for a period of five years from the date the Marina Facility was posted for adding slips without a Permit except as provided in subsection (3) below.
- (2) If staff accepts an Application for Expansion to a Marina Facility, except one limited to curing the violations identified in subsection (1) above, and later determines that additional slips were added in violation of the Ordinance, Applicant shall be required to amend its Application to include the unauthorized slips and, after obtaining the necessary Permit for the unauthorized slips, is thereafter prohibited from filing a subsequent Application for that Marina Facility, for a period of five years from the date the Permit is issued except as provided in subsection (3) below.
- (3) Notwithstanding the limitations set forth in subsections (1) & (2) of this subsection, a Marina Facility may conduct Emergency Reconstruction in accordance with Section 5.02.0 for any portion of the Marina Facility for which a valid Permit has been issued. In addition, a Marina Facility subject to the limitations set forth in subsections (1) & (2) may file an Application to make any Non-Substantive Changes to a Marina Facility identified in subparagraphs (1), (3), (4), (5), (7), (9), or (10) of the definition for Non-Substantive Change (*see* Section 4.01).

B. Other Violations. Except as provided in Section 7.07.A above, when an Applicant or Marina Facility has received a Notice of Violation pursuant to Section 16.02.A and has failed to correct such violations as required by Section 16.02.B, the Applicant is prohibited from filing an Application until such violation is corrected. If a violation of the Ordinance is discovered during

the processing of the Application, LCRA staff shall have the discretion to suspend processing of the Application for up to six (6) months, during which time compliance must be achieved. If the violations are not cured during this time period, staff shall return the Application and the Application fee shall be refunded in accordance with the fee schedule.

Article 8. PUBLIC NOTICE, MEETING, AND COMMENT

Section 8.01. Public Notice. Except as otherwise provided in this Section or Section 8.05, and within the time period prescribed by Section 7.01.C, the Applicant shall provide public notice of the Marina Facility Permit Application or Permit Amendment Application as follows:

A. Public notice shall be provided in a form(s) prescribed by LCRA staff by:

- (1) publishing notice in the legal notice section in two newspapers of general circulation within the section of the state where the Marina Facility is or will be located, and
- (2) sending notice by certified mail, return-receipt requested to all property owners of record located within 500 feet of the Lot over which the Marina Facility is/will be located, as determined by the County Tax Appraisal District records obtained no more than thirty (30) calendar days prior to the date the Application is filed, and which records have been reviewed and approved by LCRA staff, and
- (3) sending notice by certified mail, return-receipt requested to the TNRCC, and any local fire departments, city and county governments, and any groups or associations requesting notification. The LCRA staff shall provide the Applicant with a list of those entities or persons who should receive notice under this subsection.

Exception: A Marina Facility intended solely for the use of a single-family residence that does not otherwise qualify as a Residential Dock need only provide written notice by certified mail as provided in subsections (2) & (3).

B. Affidavit Proving Notice. Within ten (10) working days of the completion of public notice, as required by this Section, Applicant shall submit a sworn affidavit stating that the requirements of this Section have been met and summarizing the exact nature of the notice that was provided and including as exhibits copies of any Publisher's Affidavits and return-receipts received by the Applicant.

Section 8.02. Public Meeting. For any Marina Facility Application requiring public notice, the Applicant shall hold a public meeting at a reasonable time and place no sooner than fifteen (15) working days from the date the notice by mail was mailed to all property owners of record as required under Section 8.01. On the form provided to the Applicant by the LCRA, the public notice will provide the date, time and location of the public meeting and a description of the procedure for public participation in the Permit Application process.

The Applicant or the Applicant's Representative shall facilitate the public meeting, explain the project in detail, provide printed materials as necessary, and answer questions about the project. LCRA staff will attend to answer questions about the Highland Lakes Marina Ordinance.

Exception: A Marina Facility intended solely for the use of a single-family residence that does not otherwise qualify as a Residential Dock need not hold a public meeting.

Section 8.03. Costs of Notice and Public Meeting. The Applicant shall bear all costs of providing public notice, including any cost associated with obtaining a facility for the public meeting.

Section 8.04. Public Comment. Written comments from the public must be received by LCRA no later than fifteen (15) working days after the public meeting, or the date public notice is mailed, if a public meeting is not required. At the end of the comment period, LCRA will forward copies of all written comments to the Applicant. Comments received after this time shall not be considered by LCRA for purposes of the Permit decision or any appeal thereof.

Section 8.05. Public Notice Not Required. No public notice or public meeting under this Article is required for:

- A. Emergency Reconstruction;
- B. Any Application pending on or before August 23, 2000, which will be processed in accordance with the public notice and meeting provisions in effect on the date the Application was submitted;
- C. A Community Marina; or
- D. Non-Substantive Changes.

Section 8.06. Notice Irregularities.

A. General. The public notice provisions of this Ordinance are intended to afford the public the maximum opportunity to comment on proposed Marina Facilities. In the event that an irregularity in publication or mailing of notice occurs, but the affected party receives actual notice before the expiration of the time period for submitting public comments as provided in Section 8.04, such actual notice shall be considered procedurally the same as if the notice had been mailed or published as required. For purposes of this Section, if the person has submitted written comments within the prescribed time period for filing such comments, actual notice shall be deemed to have occurred.

B. Appeal Based on Notice Irregularities. Any persons who allege improper notice as a basis for an appeal may make such allegation on their own behalf, but not on the behalf of a third party. For improper notice to constitute a valid basis for appeal, the person raising the issue must demonstrate that:

- (1) they are an affected person,
- (2) that they were prevented from participating in the public comment process because of improper notice,
- (3) that, had they been afforded the opportunity to comment, they would have raised other issues not raised by someone else on appeal, and

(4) such issues form a valid basis for appeal, as required by Section 13.05.

C. Remedy. In the event that lack of notice forms a valid basis for appeal, the General Manager, or the Committee Chair as the case may be, shall remand the Permit to staff and allow the affected person the opportunity to submit written comments within fifteen (15) working days after the case is remanded to staff, which staff shall take into consideration and process as if such comments were received during the ordinary public comment period described in Section 8.04. All other appeals shall be stayed until staff completes processing the new information.

D. Appeal process after defective notice corrected. If changes in the Permit or denial of the Permit occurs as a result of the new comments, the Permit shall be processed again as described in Article 7 to allow only the Applicant or the person affected by the lack of notice the right to appeal. The appeal will be joined with any other previously stayed appeals and all appeals will be set for resolution in accordance with Article 13 except that any appeals rendered moot in light of the new staff decision shall be dismissed.

Article 9. ISSUANCE OF PERMIT AND COMMENCEMENT OF CONSTRUCTION OR OPERATION

Section 9.01. Issuance of Permit or Permit Amendment. Upon completion of the Technical Review, the staff shall make a determination to grant the Permit, in whole or in part, or deny the Permit. Staff shall prepare and mail to the Applicant a draft proposed Permit, which may include conditions that the staff deems appropriate, or a letter notifying the Applicant that the Application has been denied. The Applicant shall have fifteen (15) working days to provide written comments, if any, to LCRA staff. At the conclusion of the fifteen (15) working days, staff shall have five (5) working days to consider the Applicant's comments and issue a Permit or reaffirm the denial of the Application. A copy of the issued Permit or letter affirming the denial of the Application shall be mailed to the Applicant and every person who provided written comments within the time limits prescribed by Section 8.04.

Section 9.02. Permittee's Rights Under Permit. The Permittee's right to Construct, Modify, Expand, or operate the Marina Facility is limited to the extent stated in the Permit (including any conditions) and approved plans. Permits shall allow the Permitted Construction, Modification or Expansion to occur for a period of two years from the date of issuance.

Section 9.03. Request for Extension of Time for Construction. If Construction, Expansion, or Modification of a Marina Facility cannot be completed within the time limits specified in the Permit, Permittee may apply for an extension of time. One extension of time, for a period of one (1) year, shall be granted upon receipt by the LCRA of a written request prior to the expiration date set forth in the Permit.

Section 9.04. Operation of Marina Facility - Final Inspection and Authorization Required. On issuance of a Permit for a Marina Facility, and upon completion, and inspection of Construction, Expansions, or Modifications, the LCRA shall issue authorization to occupy and operate the Marina Facility and/or the Constructed, Expanded, or Modified portions of the Marina Facility. Occupancy and Operation of the Constructed, Expanded, or Modified portions of Marina Facility is prohibited until LCRA staff has:

- (1) received the certification(s) required under Section 6.06.A indicating that the Marina Facility has been Constructed, Expanded, or Modified in accordance with the Permit;
- (2) conducted an inspection of the Marina Facility to determine compliance with this Ordinance and the terms of the Permit; and
- (3) issued a letter authorizing occupancy and operation of the Constructed, Expanded, or Modified portions of the Marina Facility.

Operation or occupancy of a Marina Facility prior to Final Inspection and Authorization is a violation of this Ordinance and may be subject to the enforcement provisions of Article 16.

Section 9.05. Reformation of Permit Upon Completion of Construction. If, upon the final inspection conducted pursuant to Section 9.04, LCRA determines that the Permittee has Constructed fewer or smaller Structures than allowed under a valid Permit, the Permittee shall submit a revised location and configuration plan showing all Structures located over the Water Surface. Upon receipt of such revised plan, LCRA shall reform the terms of the Permit to reflect that Configuration of the Marina Facility as actually Constructed.

Section 9.06. Expiration of Permit for Failure to Complete Marina Facility. Any Permit that is issued will automatically expire if Construction, Modification or other action authorized by the Permit is not completed prior to the expiration of a Permit and any extension that has been granted. Construction that has been inspected and certified by LCRA staff as being substantially complete may be authorized to continue for a reasonable amount of time, as determined by LCRA staff, to enable completion of the Permitted project.

Section 9.07. Commencement of Marina Facility Construction. The Applicant shall not commence Construction, Expansion, or Modification of a Marina Facility for which staff has issued a Permit before the time period for filing appeals pursuant to Section 13.02 has expired, or during the pendency of any appeal filed pursuant to Article 13.

Section 9.08. Effect of Pending Appeal on Permit Expiration. The expiration date stated in a Permit issued after an appeal shall be based on the date the appeal is resolved.

Article 10. VARIANCES

Section 10.01. Variance. The LCRA staff shall have the discretion to grant a variance to the provisions of this Ordinance where strict adherence to one or more of the provisions would result in a grave injustice or an unreasonable hardship to the Applicant. Granting the variance must not significantly increase boat traffic in or around the Marina Facility, create significant adverse impacts to Adjoining Waterfront Property Owners, or compromise water quality or public safety.

Section 10.02. Requests for Variance. A Request for Variance shall be made prior to public notice commencing and shall be reviewed and processed in accordance with all of the procedures contained in this Ordinance, including those related to Application processing, Permit issuance, and appeals. Receipt of a variance request may result in an extension of the Technical Review period.

Article 11. PERMIT AMENDMENTS

Section 11.01. Amendments. An Application for an amendment to a Marina Facility Permit shall be made in accordance with the requirements of this Ordinance regarding Permit Applications. The Application for Permit Amendment shall be reviewed and processed according to the provisions of this Ordinance relating to Permit Applications.

Article 12. GRANDFATHERED FACILITIES

Section 12.01. Registration of Grandfathered Facilities. Within two years of May 23, 2001, the owner of a Grandfathered Facility shall register with LCRA by submitting a completed registration form on a form prescribed by LCRA staff. Such form shall, at minimum, require submission of the following:

- (1) An Affidavit stating that the Registrant owns, leases, or otherwise controls the Lot over which the Grandfathered Facility is located, information indicating the size, location, and Configuration of the Grandfathered Facility.

Failure to submit a registration form in accordance with this Section may subject the Grandfathered Facility to enforcement pursuant to Article 16.

Section 12.02. Inspections of Grandfathered Facilities. Authorized agents or employees of LCRA shall have the right to enter Grandfathered Facilities in accordance with Section 15.01 for the purposes of verifying information submitted pursuant to Section 12.01, as deemed necessary by LCRA staff. In addition, at the request of the Registrant, LCRA staff may conduct an inspection of the Grandfathered Facility to assist the Registrant in identifying potential health and safety hazards. Nothing in this Section shall limit the LCRA staff's right to inspect, in accordance with Article 15, a Grandfathered Facility that has been Expanded or Modified after May 23, 2001.

Section 12.03. Expansion or Modification of a Grandfathered Facility. Any Expansion or Modification of a Grandfathered Facility shall be subject to all requirements of this Ordinance.

Article 13. APPEALS OF PERMIT DECISIONS

Section 13.01. Who May Appeal. An Applicant or any adversely affected party that provided written comments in accordance with Article 8 may appeal from a Permit decision by LCRA staff regarding the grant, denial, or revocation of a Permit under this Ordinance in accordance with the requirements of this Article.

Section 13.02. Filing of Appeal. A person eligible to file an appeal under Section 13.01 who wishes to appeal must file a Request for Appeal within fifteen (15) working days after the date of the issuance of the Permit. The Request for Appeal shall be filed with the LCRA General Counsel in accordance with the procedures outlined in this Article.

Section 13.03. Notice of Appeal. Notwithstanding the prohibition contained within Section 13.11.A, the LCRA General Counsel shall send written notice of receipt of any Request(s) for Appeal to the Board, LCRA staff, the Applicant, and any persons filing a Request for Appeal, within three (3) working days after expiration of the date for filing Requests for Appeals. Such

notice shall identify the parties, generally describe and summarize the issues raised by an appeal, and advise of the prohibition against ex parte contacts. In addition, the LCRA General Counsel may advise the Board of the receipt of a Request for Appeal at any time prior to the expiration of the date for filing Requests for Appeals as necessary to prevent ex parte contacts.

Section 13.04. Form of Appeal. A Request for Appeal must be in writing, timely filed, submitted as an original and two (2) copies, and shall not exceed twenty (20) pages in length including exhibits or attachments. The Request for Appeal shall include the following information:

- (1) the name and address of the persons filing the Request for Appeal;
- (2) the name of the Permit Applicant, if different from (1);
- (3) a concise statement of how the person requesting the appeal is affected by the issuance or denial of the Permit or by one or more of the terms or conditions of the Permit; and
- (4) information required by Section 13.05.

Section 13.05. Validity of Appeal. For an appeal to be valid, the Request for Appeal must:

- (1) be filed in accordance with Sections 13.01, 13.02, and 13.04(1)-(3); and
- (2) demonstrate that the person requesting the appeal provided written comments to the staff in accordance with Article 8; and
- (3) only raise matters or issues that were presented in writing pursuant to Article 8, or as part of the Permit Application; and
- (4) for appeals by third parties, allege the failure of a specific performance standard(s) in Article 6; and
- (5) provide competent evidence in support of the allegations raised by the Request for Appeal; and
- (6) demonstrate how such allegations, if taken as true, would change the terms and conditions of the Permit or would affect the issuance of the Permit; and
- (7) demonstrate that such allegations are related to a matter that the LCRA has jurisdiction to consider. For example, the LCRA may not consider effects on property values, increases in vehicle traffic, noise, incompatibility of land uses, or questions of property rights, property ownership or easement rights (if LCRA is in possession of a title opinion from the Applicant's attorney); or
- (8) meet the requirements of Section 8.06 regarding notice irregularities, if applicable.

Section 13.06. Determination of Validity of Appeal.

A. Staff review. The LCRA staff shall evaluate the Request for Appeal within fifteen (15) working days after expiration of the date for filing Requests for Appeal to determine if such requests meet the requirements of Sections 13.01, 13.02, and 13.04(1)-(3). If the appeal does not meet the

requirements of Sections 13.01, 13.02, and 13.04(1)-(3), staff shall return the Request(s) for Appeal and the staff's Permit decision shall become final. If the Request(s) for Appeal meets the requirements of Sections 13.01, 13.02, and 13.04(1)-(3), the LCRA staff shall prepare a short statement stating whether or not such Request(s) for Appeal is valid under Section 13.05. Staff shall forward the Permit and the Application, together with such Request(s) for Appeal and the staff's statement as to the validity of such Request(s) for Appeal, to the LCRA General Manager for consideration of the validity of the Request(s) for Appeal.

B. General Manager review. Within fifteen (15) working days from referral of a Request for Appeal from LCRA staff pursuant to Section 13.06.A, the General Manager shall determine the validity or invalidity of the Request for Appeal.

C. General Manager's Decision Final. The General Manager's determination of the invalidity or validity shall be final. Upon a determination that a third party appeal is invalid, the staff's Permit decision shall become final in accordance with Article 9.

D. Notification. The General Manager shall direct the LCRA General Counsel to immediately provide written notice of the General Manager's decision regarding the validity of the appeal to staff and send such notice by first class mail to all persons filing Requests for Appeal and the Applicant. Any notice regarding valid appeals shall include information regarding the mediation requirements contained in Section 13.07.

Section 13.07. Mediation Required Prior to Hearing of Valid Appeal. Within thirty (30) calendar days of a decision by the General Manager that a valid appeal has been filed, the person(s) with valid Request(s) for Appeal ("Appellant(s)"), Applicant, and the LCRA staff shall participate in mediation of the disputed issues. Any party required to participate in mediation that fails to participate within the prescribed time period shall be precluded from further participation as a party in any appeal of the staff's Permit decision. Such mediation shall be conducted by a neutral mediator selected by agreement of the parties, or if the parties fail to agree, by a mediator selected by the LCRA General Counsel. Costs of mediation shall be shared equally among the parties to the mediation. Any party that fails to pay such costs shall be precluded from further participation as a party in any appeal of the staff's Permit decision. The parties shall submit a written report (not to exceed 3 pages) informing the LCRA General Counsel (and LCRA staff, if not a party to the mediation) of the result of the mediation within five (5) working days after completion of the mediation. If the mediation is completed but unsuccessful, further consideration of any unresolved appeal shall proceed under Section 13.08.

Section 13.08. Valid Appeals.

A. Staff Response to Valid Appeal. Absent a successful mediation of the appeal, within ten (10) working days after the receipt of the written report required under Section 13.07, staff shall prepare a written response to the appeal. Any response shall not exceed twenty (20) pages in length including exhibits and attachments, and shall be submitted to the LCRA General Counsel and mailed by certified mail, return-receipt requested to the Applicant and all Appellants.

B. Applicant Response to Valid Appeal. Absent a successful mediation of the appeal, within ten (10) working days after the receipt of the written report required under Section 13.07, the Applicant, if not the appellant, may submit a written response to the appeal to the LCRA General

Counsel. Any response shall not exceed twenty (20) pages in length including exhibits and attachments, and shall be mailed by certified mail, return-receipt requested to all Appellants.

C. Valid Appeal Forwarded to Committee Chair. Upon expiration of the deadline for the Applicant to submit a response pursuant to Section 13.08.B, the LCRA General Counsel shall forward to the Chair of the Committee a copy of the Permit, all valid appeals, the staff response and the Applicant's response, if any.

Section 13.09. Committee Consideration of Valid Appeal.

A. Forum. Taking into consideration the complexity of the issues, the number of Appellants, and the need to develop an adequate evidentiary record, the Chair of the Committee shall determine the most appropriate forum for consideration of an appeal.

The Chair of the Committee may:

- (1) Consider all of the written information forwarded by the LCRA General Counsel and direct staff to issue the Permit with appropriate terms and conditions;
- (2) Forward the appeal to the Committee with a recommendation that the Committee consider all of the written information submitted and allow each party to the proceeding a period of time to present oral argument;
- (3) Forward the appeal to the Committee with a recommendation that the Committee consider all of the written information submitted, and allow each party to the proceeding to submit additional evidence and present oral argument; or
- (4) Forward the appeal to the Committee with a recommendation that they consider the appeal using another method agreed to by all of the parties.

B. Scheduling of Hearing. Upon the direction of the Committee Chair, as specified in Section 13.09.A, a hearing before the Committee may be held to consider a valid appeal. Such hearing shall be scheduled no later than ninety (90) calendar days after receipt of the mediation report required pursuant to Section 13.07.

C. Written Information Provided. No later than fifteen (15) working days prior to the date scheduled for the hearing, the LCRA General Counsel shall forward to the members of the Committee the following materials:

- (1) All written information received from Appellants relative to a valid appeal and inaccordance with Sections 13.01, 13.02 and 13.04;
- (2) the staff's response prepared pursuant to Section 13.08.A; and
- (3) the Applicant's response submitted pursuant to Section 13.08.B, if any.

D. Open Hearing. The hearing shall be open to the public.

E. Participants. Only the Applicant/Permittee, LCRA staff, the Appellant(s), or any of their representatives, shall be entitled to participate in the hearing.

F. Alignment of Parties. The LCRA General Counsel shall align parties (other than staff) according to their positions in support of, or opposed to staff's Permit decision. Except for an Applicant appealing a condition in a Permit, those Appellants opposed only to specific parts of the staff's Permit decision shall be aligned with those Appellants generally opposed to the staff's Permit decision. An Applicant appealing a condition in a Permit shall be separately aligned from other Appellants, if any, opposed to the staff's Permit decision. Each party shall designate a spokesperson to speak on behalf of the aligned parties. If the aligned parties cannot agree to a spokesperson, the LCRA General Counsel shall designate a person.

G. Procedure. The hearing process is as follows:

- (1) **Staff Summary.** The Committee shall convene in open session and shall receive a presentation by staff not to exceed fifteen (15) minutes which summarizes the position of each party to the appeal, including the staff's position. The staff summary shall be based upon all written information validly received from Appellants, in accordance with this Section, the Application and the information contained in the Applicant's or Permittee's file.
- (2) **Oral Argument.** If oral argument is recommended by the Committee Chair pursuant to Section 13.09.A:
 - a. The parties in opposition to the staff's Permit decision, as aligned by the LCRA General Counsel, will follow and will be allowed a total of twenty (20) minutes to make their presentation.
 - b. The parties in support of the staff's Permit decision, as aligned by the LCRA General Counsel, will follow and will have a total of twenty (20) minutes for their presentation.
 - c. Staff shall be given fifteen (15) minutes to rebut the presentation of the parties aligned in opposition to the staff's Permit decision.
 - d. Each party, as aligned by the LCRA General Counsel, shall have five (5) minutes to summarize their respective positions.
- (3) **Presentation of Additional Evidence.** If recommended by the Committee Chair pursuant to Section 13.09.A, any party may offer as part of their presentation additional evidence in the form of written information or documentation, if the information is credible and copies of the information have been provided to all other parties at least seven (7) working days in advance of the hearing date.
- (4) The Committee shall have the discretion to alter the hearing process as needed for full presentation of all relevant information. The Committee may ask questions of any party or person that has registered with the LCRA General Counsel and is a member or representative of a valid party to the appeal at any time during the proceeding, extend the presentation times, and/or require a speaker to present their information under oath as sworn testimony. If sworn testimony is allowed or required, the Committee shall provide

each other party a minimum of ten (10) minutes each to rebut the testimony with their own sworn testimony.

H. Committee Deliberation. The Committee shall deliberate in open session taking into consideration the presentations of staff and the parties, if any, and all written materials submitted to the Committee as a valid part of the appeal process. Notwithstanding the foregoing, the Committee may confer with the LCRA General Counsel in Executive Session for the purpose of receiving legal advice concerning the appeal.

I. Committee Decision. The appeal shall be decided from the written information provided to the Committee prior to the hearing, documents contained in the Application file, and any other evidence or information submitted at the hearing, if recommended by the Chair to be considered by the Committee.

The Committee may:

- (1) Issue the Permit,
- (2) Deny the Permit, or
- (3) Modify the Permit.

J. Procedures May Be Altered As Justice Requires. The Committee may alter the procedures set forth in this Section, if necessary to develop an adequate record, to afford full opportunity for public participation or comment by the Applicant or staff, or if in the public interest.

K. Decisions Final and Unappealable. Any decision by the Committee Chair or the Committee that directs staff to issue a Permit is final and may not be appealed to the LCRA Board.

Section 13.10. Board Consideration of Permit Denial. If the Committee recommends denial of the Permit, the Committee shall forward the decision to the full LCRA Board for consideration within ninety (90) calendar days of the Committee's recommendation. The Board shall consider the Committee's recommendation and may allow, at its discretion, the parties a specific amount of time to present oral argument in support their respective positions. The Board may take the following action:

- (1) approve the Committee's decision;
- (2) modify the Committee's decision; or
- (3) direct staff to issue the Permit with appropriate terms and conditions.

Section 13.11. Ex Parte Communications.

A. Prohibition. Any communication by an Applicant/Permittee, party requesting the appeal, LCRA staff member, or any other party in interest, or their representatives, with Committee or other member(s) of the LCRA Board on the merits of any pending appeal or decision affecting a Permit or Permit Amendment from the date the Permit or Permit Amendment is issued by staff until the date the appeal is decided in accordance with Article 13, other than at a hearing or in a

public meeting of the Committee, or the Board, is strictly prohibited. Notwithstanding the foregoing, the LCRA General Counsel may consult with the Board or any of its Directors regarding any procedural or legal issues regarding the appeal.

B. Effect of Violation. Any person who violates this provision may be subject to sanctions, which may include:

- (1) return of the Application if the violation is from the Applicant or his/her Representative;
- (2) return of all or portion of the Application fee if the violation is from the LCRA staff; or
- (3) automatic rejection of the appeal if the violation is from a person requesting an appeal or a person otherwise opposed to the Application.

Article 14. ASSIGNMENT OF PERMIT

Section 14.01. Requirement to Assign Permit and Notify LCRA. A transfer of ownership of a Marina Facility requires the transfer of the associated Marina Facility Permit(s), and if applicable, buoy permits and LCRA land lease agreements. The Permittee shall provide written notice to LCRA of a transfer of ownership and the assignee of the Permit ("Assignee") shall submit the items listed below no later than thirty (30) working days after the transfer. Failure to submit the required notice, information, or fees may subject the Permittee and/or the Assignee to enforcement pursuant to Article 16.

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Section 14.02. Materials to be Submitted to Assign Permit. LCRA shall assign the Marina Facility Permit upon receiving all of the following items from the Assignee and completing all necessary review:

- (1) Completed Marina Facility Application form executed by both the Assignee and Permittee.
- (2) Assignee's certificate of insurance which meets the requirements of Section 6.06.C.
- (3) A sworn affidavit in a form prescribed by the LCRA and executed by the Assignee stating that the Assignee has ownership or control or will have, upon the date of transfer, ownership or control of the property over which the Marina Facility is or will be located.
- (4) Documents that demonstrate that Assignee owns, leases, or otherwise controls the Marina Facility and the property over which it is located in accordance with Section 6.03.
- (5) Payment of the Permit assignment fee and any outstanding Marina Facility or lease fees.

Section 14.03. No Expansion or Modification Prior to Assignment. No Application to Expand or Modify a Marina Facility shall be filed until Assignment under this Article is complete.

Article 15. INSPECTIONS

Section 15.01. Right of Entry. Authorized agents or employees of LCRA shall have the right to enter at all reasonable times in or upon any property, whether public or private, for the purpose of

inspecting and investigating conditions relating to Construction, Modification, or Operation of a Marina Facility or Existing Marina Facility. LCRA authorized agents and employees shall not enter private property having management in residence without first notifying the management, or the person in charge at the time of the inspection, of their presence and exhibiting proper credentials. Authorized LCRA agents and employees shall observe the rules of the Marina Facility concerning safety and fire protection. Nothing in this Section, however, shall preclude an LCRA peace officer from entering the property without notice to investigate suspected criminal activity as might otherwise be allowed under the laws of this State.

Section 15.02. Inspections.

- A. Authorized agents or employees of LCRA shall conduct a Periodic Inspection of each Marina Facility for compliance with the performance standards stated in Article 6 of this Ordinance. LCRA shall provide advance notification for periodic inspections and Permittee or Permittee's Representative shall, whenever possible, be present during the inspection.
- B. Agents or employees of LCRA may inspect the Marina Facility at any reasonable time.
- C. Upon receipt of a report or complaint of possible violation of this Ordinance, agents or employees of LCRA may inspect the Marina Facility.
- D. After the first three (3) inspections related to any Permit that have been specifically requested by the Applicant or the Applicant's Representative, the Permittee shall be required to pay a reinspection fee for each subsequent inspection related to that Permit.
- E. When a Marina Facility Permit is assigned in accordance with Article 14, the staff will conduct an inspection of the Marina Facility to ensure that it is in compliance with all applicable LCRA regulations and that the new owner is familiar with LCRA regulations. The inspection need not be completed prior to the transfer of ownership of the Marina Facility.
- F. Upon discovery of any violation during an inspection conducted pursuant to Section 15.02.A or Section 15.02.B, LCRA staff shall promptly inform the Permittee of the violations and prescribe a definite time period during which such violations shall be corrected. Failure to correct such violations within the time period prescribed by the LCRA staff shall subject the Permittee to enforcement pursuant to Article 16. Provided however, the notice contemplated by this section is not a prerequisite to any enforcement action under Article 16 deemed necessary to protect the public from an imminent hazard.

Article 16. ENFORCEMENT

Section 16.01. Revocation of Permit - Grounds. A Permit may be revoked as prescribed in this Article, whenever:

- (1) The Permit was issued on the basis of false or incorrect information;
- (2) The Marina Facility is being Constructed, Modified, Expanded, or operated in violation of one or more of the requirements of this Ordinance, a condition of the Permit, or a final court judgment or decision;

- (3) The required fees have not been paid; or
- (4) A term(s) of the Permit conflicts with a judgment from a court of competent jurisdiction and such term cannot be amended to conform to the judgment.

Section 16.02. Enforcement Procedure.

A. Notice of Violation. Whenever any Construction, Modification, Expansion, or operation of a Marina Facility occurs in violation of this Ordinance, or contrary to the terms and conditions of a valid Permit, or contrary to the terms and conditions of a final court judgment, an authorized agent or employee of LCRA shall issue a Notice of Violation (NOV) by posting same in a prominent location at the Marina Facility.

B. Response to NOV.

- (1) A Permittee or Registrant shall have fifteen (15) working days from the date that the NOV is posted to comply with this Ordinance or the terms and conditions of the Permit. If a Permittee or Registrant fails to cure the violation within this time period, LCRA may revoke the Permit and/or seek penalties provided for in this Ordinance. Requests for exceptions to the fifteen (15) day time frame shall be in writing and shall explain in detail the need for additional time and what measures are being taken to ensure that the health and safety of the public is not compromised until the violation can be corrected. Staff has the discretion to grant requests for extensions, which shall be approved in writing.
- (2) Any person Constructing, Modifying, Expanding, or operating, a Marina Facility without a Permit for such activities, as required by this Ordinance, shall, upon receipt of a NOV, immediately cease such activities until such time the required Permit is obtained.

Section 16.03. Penalties. All penalties provided for herein are civil penalties and shall be determined by a civil court of competent jurisdiction. Appeals of penalties must also be determined by a court of competent jurisdiction and will not be decided by the LCRA Board.

A. Any person violating or failing to comply with any provision of Section 6.02 of this Ordinance (Pollution Control) may be subject to a penalty of not less than \$200 nor more than \$10,000 for each such violation. Each day the violation continues, from the date the NOV is posted at the Marina Facility, shall constitute a separate offense.

B. Any person violating or failing to comply with any performance standard or requirement other than Section 6.02 of this Ordinance (Pollution Control) may be subject to a civil penalty not to exceed \$5,000. Each day that such a violation continues, from the date the NOV is posted at the Marina Facility, shall constitute a separate offense.

C. No penalties will be assessed for violations corrected within fifteen (15) working days from the date the NOV is posted at the Marina Facility or where the owner or operator of a Marina Facility is complying with the terms of any extension of time approved in accordance with this Ordinance.

Section 16.04. Permit Reformation.

A. In the event that a Permittee receives three (3) or more NOV's in a 12-month period, LCRA staff may, at its discretion, and with the Permittee's consent and in lieu of penalties, reform the Permit by adding additional terms and conditions intended to better guarantee compliance with the Ordinance. If the Permittee does not agree to the terms and conditions proposed for the reformation of the Permit, then enforcement pursuant to Section 16.02 shall be pursued.

B. In the event that a court of competent jurisdiction issues a judgment that affects a Marina Facility that has a Permit issued by the LCRA, the LCRA shall reform the Marina Facility Permit to the extent necessary to conform to the court's judgment. If the Permit cannot be reformed to so conform, staff shall revoke the Permit.

C. If a Permittee fails to substantially complete Construction, Expansion, or Modification of a Marina Facility within the time limits specified in the Permit or any extension of time granted pursuant to this Ordinance, the LCRA may reform the Marina Facility Permit to allow completion of any portions of the Marina Facility within a reasonable amount of time, as determined at the discretion of LCRA staff. If the Permittee does not agree to the terms and conditions proposed for the reformation of the Permit, then enforcement pursuant to Section 16.02 shall be pursued.

Section 16.05. Emergency Orders. Notwithstanding the notice periods set forth elsewhere in this Section, the LCRA may at any time issue an Emergency Order to address an imminent and substantial endangerment to human health and safety. The Emergency Order shall order the Permittee or, in the case of an unpermitted Marina Facility, the owner or operator of the Marina Facility, to immediately isolate the hazard from the public by closing off portions of the Marina Facility or isolating systems until such time as the hazardous condition can be corrected and order that the condition be corrected within a specified time period. The Emergency Order shall be in writing and shall be prominently posted at the site. The Permittee or, in the case of an unpermitted facility, the owner of the facility, may appeal the issuance of an Emergency Order to the General Manager of the LCRA by submitting in writing a concise statement of the reasons for believing that the Emergency Order should not have been issued and citing the specific performance standards or Permit conditions from which the Marina Facility should be exempt. An appeal of the Emergency Order must be received in the office of the LCRA General Manager prior to the expiration of the time for performance prescribed by the Emergency Order. The General Manager may decide the appeal based upon the reasons stated in the appeal or may request additional information from the staff or person filing the appeal.

Section 16.06. Injunction. Nothing in this Ordinance shall prevent LCRA from seeking injunctive relief or any other remedy in law or equity at any time against any person allegedly violating this Ordinance.

Section 16.07. Appeals of Certain Enforcement Actions. Decisions by LCRA staff that result in the revocation or reformation of a Permit shall be appealable in the same manner as a decision denying a Permit as described in Article 13.

Article 17. FEES

Section 17.01. Fees.

A. The Board shall establish Permit and other fees for Marina Facilities regulated by this Ordinance. These fees shall be re-evaluated annually.

B. All required fees shall be paid prior to issuance or assignment of a Permit and shall be calculated based on the total Water Surface Area occupied by floating and fixed Structures of the Marina Facility.

Article 18. OTHER LAWS, SEVERABILITY, AMENDMENTS, EFFECTIVE DATE

Section 18.01. Relationship to Other Laws. Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern.

Section 18.02. Severability. Should any Section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 18.03. Amendments or Suspension of the Ordinance, Guidance Document, or Fee Schedule. This Ordinance or fee schedule may be amended from time to time by the Board after notice and reasonable opportunity for public review. When possible, the effective date of amendments to the fee schedule shall be January 1 of the following year. The Guidance Document may be amended by LCRNs staff from time to time at the sole discretion of the staff. The Board of Directors may suspend all, or any portion of the processing of Applications and/or issuance of Marina Facility Permits, whenever the Board determines such suspension to be in the public interest.

Section 18.04. Effective Date. The Ordinance, as amended by the Board on September 21, 2011, shall become effective September 21, 2011. [This Ordinance was originally adopted July 19, 1984 (effective August 1, 1984), and was amended August 24, 1984; January 24, 1985; October 24, 1985; September 18, 1986; June 18, 1987; December 14, 1989 (effective February 1, 1990; and June 24, 1993 (effective July 1, 1993) and September 19, 1996 (effective October 9, 1996) and May 23, 2001 and February 18, 2004 and November 17, 2004 (effective November 17, 2004).]

FEE SCHEDULE

FEE TYPE*	FEE AMOUNT
PERMIT AND PERMIT AMENDMENT FILING FEES	
(Non-refundable)	
Minimum Filing Fee	
Lake Travis Marinas	
Facilities of 10,000 sq. ft. or less not requiring public notice	\$500.00
Facilities of 10,000 sq. ft. or less requiring public notice	\$1,000.00
All Other Lakes	
Facilities of 10,000 sq. ft. or less not requiring public notice	\$300.00
Facilities of 10,000 sq. ft. or less requiring public notice	\$500.00
Additional Permit and Permit Amendment Filing Fee	
Square feet in excess of 10,000 sq. ft.	\$.27 per sq. ft.
ANNUAL PERMIT FEE	
First 10,000 sq. ft.	\$.08 per sq. ft. (Minimum \$100.00)
Square feet in excess of 10,000 sq. ft. ** \$.23 per sq. ft.	
OTHER FEES	
Permit assignment	\$300.00
Re-inspection pursuant to Section 15.02.D	\$150.00
Review of revised plans	\$300.00
Permit extension	\$300.00
FILING FEE REFUNDS	
AMOUNT OF FEE FORFEITED	
After application has been received by LCRA	Minimum Filing Fee
After Completion of Administrative Review	Minimum Filing Fee + 10% of Additional Fee
During Technical Review	Minimum Filing Fees + 30% of Additional Fee
After Completion of Technical Review	Minimum Filing Fee + 50% of Additional Fee

Footnotes

* Square footage calculations are based on the Water Surface Area occupied by the Marina Facility.

** Increase to \$.19/sq. ft. for 2002, \$.21/sq. ft. for 2003, and \$.23/sq. ft. for 2004.

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September 2011