



## **LCRA Response to Comments from the Public On Proposed Amendments to the Highland Lakes Marina Ordinance May 12, 2023**

The Lower Colorado River Authority posted proposed amendments to the Highland Lakes Marina Ordinance on March 1, 2023, and accepted comments from the public and the regulated community through March 31, 2023. LCRA also held a public meeting to accept comments on March 15, 2023.

LCRA received 30 comments on the proposed amendments. This document provides responses from LCRA staff to concerns, suggestions and questions raised in the comments.

**1. PROPOSED FEE INCREASE:** Some commenters said that although they understand the proposed annual fee increase is necessary to recover costs, the fee increase should be postponed until 2024 to allow additional time for marina operators to adjust their budgets. Some comments suggested the rates be increased incrementally over time and other methods to mitigate rate shock, and some said fees should decrease as lake levels decline. One comment requested additional information regarding the basis of the fee increase.

**LCRA response:** The fees associated with the Marina Ordinance have not changed since 2001. After over 20 years of maintaining the same fees, LCRA staff is proposing to update the fee schedule to enable LCRA to recover its costs to administer the marina program.

After review of public and regulated community comments, LCRA staff revised its recommendation for implementation of the new fee schedule, and now is proposing the updated annual permit fees be phased in over two years, with approximately 50% of the fee increase taking effect Jan. 1, 2024, and the remaining 50% taking effect on Jan. 1, 2025.

In light of the new phased in proposed fee schedule, LCRA recalculated the annual permit fee increase based on the fiscal year 2026 budget (as included in the FY 2024 LCRA business plan) and now proposes that full cost recovery of the marina program occur beginning in FY 2026. Additionally, as previously proposed, LCRA is recommending separating the fee schedule from the Ordinance to allow the LCRA Board to adopt more frequent changes in the fee schedule rather than only as part of a broader Ordinance revision process.

LCRA did not make changes to the proposed fee schedule based on comments related to variable lake levels.

**2. UNENCAPSULATED FLOTATION MATERIAL:** Some comments said the proposed requirement for all marinas to replace unencapsulated flotation materials with encapsulated flotation materials within two years of the adoption of the revised Ordinance will create a significant financial and resource burden. Some comments recommended the timeline for replacement of unencapsulated flotation be based



**on performance and quality of the existing foam rather than a specific deadline. One comment suggested LCRA provide financial support for the replacement of foam and another suggested the requirement to replace unencapsulated foam be suspended when lake levels are low. Additionally, one comment supported the proposed timeline.**

**LCRA Response:** The existing requirement for new Marina Facilities to use encapsulated flotation materials has been in place for two decades.

The HLMO has required all new Marina Facilities to use encapsulated flotation materials since May 23, 2001. Existing Marina Facilities were allowed to continue to use non-encapsulated foam for three years, after which time, encapsulated foam was required when flotation materials needed replacement. Today, 19 of 147 marinas have unencapsulated foam.

After hearing from members of the public and the regulated community, LCRA staff revised its recommendation relating to the required replacement of unencapsulated foam. LCRA staff is continuing to propose a two-year time frame for the remaining 19 Marina Facilities to complete the replacement of unencapsulated foam, per HLMO Section 5.1(f), but now is proposing an option that would provide additional time for the changes in certain circumstances. The new proposed revision says that in instances where LCRA determines compliance with the two-year time frame would result in “a grave injustice or unreasonable hardship,” marinas with unencapsulated foam would have the option to enter into an unencapsulated flotation material replacement plan with LCRA that, at a minimum, includes a plan for funding, timeline for replacement and status reports to LCRA. Under the proposed amendments, a marina would be issued a notice of violation if it fails to replace unencapsulated foam or enter into a replacement plan with LCRA within two years.

The proposed amendments also have been revised to specify that flotation material would be deemed in need of immediate replacement if at any time more than 25% of the float is missing or the float is not providing enough buoyancy to keep the bottom of the dock frame above the water’s surface. This provision would supersede any existing replacement plan. Flotation material would have to be kept free of vegetation and properly maintained at all times.

LCRA staff did not make changes to the proposed Ordinance based on comments related to LCRA financing and lake levels and would note that LCRA did not provide financing for the thousands of residential dock owners who have already eliminated the use of exposed foam flotation.

**3. COMMUNITY MARINAS: Some comments from community marinas said the proposal to prohibit Existing Community Marinas from applying for major permit amendments would restrict their ability to complete planned expansions. Some comments requested that Existing Community Marinas be allowed to continue to operate under the provisions of the existing Ordinance and other comments requested special allowances for Existing Community Marinas located in low density coves.**

**LCRA Response:** Per HLMO Section 4.3, the LCRA staff proposal to prohibit new community marinas remains unchanged.



After hearing from members of the public and regulated community, LCRA staff amended its recommendations relating to Existing Community Marinas. LCRA staff now recommends allowing Existing Community Marinas to apply for both major and minor permit amendments. Under the revised recommendation from LCRA staff, an Existing Community Marina can file an application for a major or minor permit amendment to expand from its current size but may not occupy more than the eight square feet of water surface area for each linear foot of shoreline restricted and documented in the application for a permit issued and in effect on or before Aug. 17, 2022. Existing Community Marinas would not be allowed to deed restrict additional shoreline in an effort to increase the size of their community marina.

Additionally, in HLMO Section 3 of the current Ordinance, certain marina expansions qualify as a non-substantive change (minor amendment). Under the proposed revisions, amendments to a permit for an Existing Community Marina would require an amendment application and \$500 filing fee to enable LCRA to recover its expenses for application review and processing. Existing Community Marinas also would be subject to other fees listed in the proposed fee schedule, such as a \$300 permit assignment fee; however, Existing Community Marinas would remain exempt from the annual permit fee. As previously recommended, Existing Community Marinas would be subject to all the provisions of the amended Ordinance except as expressly stated or modified in HLMO Section 4.3. LCRA staff did not recommend any changes to the Ordinance regarding Community Marinas located in low density coves.

**4. RESIDENTIAL MARINAS: One commenter requested that LCRA change the size restrictions for residential docks and residential marinas so that larger structures could be considered residential docks rather than residential marinas. The commenter also said LCRA should eliminate fees associated with a Residential Marina and remove the requirement that Residential Marinas provide access to restroom facilities.**

**LCRA Response:** LCRA staff did not propose any changes to the size restrictions of a residential dock or residential marina based on this comment; however, in the draft Ordinance that was provided for public review and comment, LCRA proposed a change to the definition of a residential dock to include non-commercial docks associated with both single- and multi-family homes, rather than only single-family homes. Residential docks must comply with the Safety Standards for Residential Docks on the Highland Lakes and are not subject to the Highland Lakes Marina Ordinance. LCRA also will make conforming changes to the definitions of a residential dock and a marina facility in the Safety Standards for Residential Docks on the Highland Lakes.

Additionally, HLMO Section 5.1(e) states “all patrons of Marina Facilities must have access to restroom facilities”. Per HLMO Section 3, a Residential Marina is required to be associated with a single-family residence. Restroom facilities located in the associated single-family residence would generally satisfy this requirement.

As part of its original proposed revisions, LCRA proposed assessing a \$500 application filing fee for Residential Marinas to enable LCRA to recover its expenses for application review and processing. Residential Marinas also would be subject to other fees, such as a \$300 permit assignment fee, listed in the proposed fee schedule; however, Residential Marinas would remain exempt from the annual permit fee. HLMO Section 4.6(i) has been amended to clarify which fees apply to Residential Marinas.

**5. DIFFERENT RULES FOR DIFFERENT LAKES: One comment said that different rules should apply for marinas located on pass-through lakes and variable lakes.**

**LCRA Response:** LCRA staff did not revise the proposed changes to the Ordinance based on this comment; however, in the draft Ordinance, several rules are unique to a fixed versus floating marina. Fixed structures are more commonly found on the pass-through lakes and floating structures are more common to lakes Buchanan and Travis. For instance, the definition of a marina facility has different size limits of a fixed versus floating structure. Additionally, per Sections 5.2(b), 5.2(h), and 5.2(i), areas dredged exclusively for a recessed marina facility are exempt from certain setback requirements. These areas are typically found on the pass-through lakes. Section 5.2(b) similarly provides exceptions for the setback requirements for existing fixed docks. Also, the definition of marina design elevation differs for the pass-through and variable lakes to account for potential relocation of the marinas on lakes Buchanan and Travis due to fluctuations in lake levels. Per Section 5.2(d), the navigable passage requirements are also different for lakes LBJ, Marble Falls, and Inks.

**6. MARINA SIZE: One comment said that marinas take up too much of the lakes and may impact recreational boating in the future.**

**LCRA Response:** The Ordinance prohibits marinas from being located or configured so as to extend into the waters of any of the Highland Lakes to a distance that would constitute a navigation hazard or would unreasonably infringe upon public use of and access to the water surface. Specifically, Section 5.2(d) requires marinas to maintain a navigable passage at all times and Section 5.2(f) prohibits marinas from being located or configured in such a way as to displace boating traffic into shallow areas. Additionally, per Section 5.2(a), marinas must be located on and over land that is owned, leased or otherwise controlled by the applicant. LCRA staff did not revise the proposed amendments to the Ordinance based on this comment.

**6. SPEED LIMITS ON LAKES: One comment said that marinas should be required to post signs notifying boaters of the provision in the LCRA Land and Water Use Regulations stating that “no person may operate a Motorboat on LCRA Water at a speed greater than the minimum speed necessary to maintain steerageway and headway within 50 feet of the shoreline, structures, swimmers or restricted areas.” The comment said the LCRA Land and Water Use Regulations were difficult to find online.**

**LCRA Response:** In response to this comment, LCRA updated [www.lcra.org/water](http://www.lcra.org/water) to include LCRA Land and Water Use Regulations alongside information regarding all water-related permits and contracts. LCRA also updated the Frequently Asked Questions on its website to include the rules for boating on the Highland Lakes. Per HLMO Section 5.5, owners and operators of marinas are already required to cooperate with LCRA in its efforts to promote water safety through public education and awareness. LCRA did not revise the proposed changes to the Ordinance based on this comment.



**7. REQUEST FOR EXPLANATION OF THE ORDINANCE UPDATE PROCESS: One comment asked LCRA to describe the process to update the Highland Lakes Marina Ordinance and describe how the process compares to other rule changes.**

**LCRA Response:** In August 2022, LCRA notified the LCRA Board of Directors that staff was in the process of reviewing the Highland Lakes Marina Ordinance with the intent of amending the ordinance. LCRA developed proposed amendments to the Ordinance and fee schedule and posted the proposed amendments on LCRA.org for review and comment by the public and the regulated community from March 1 through March 31, 2023. LCRA also held a public meeting on the proposed amendments on March 15, 2023. Seven people attended the meeting and three of the seven provided comments. LCRA received 30 written comments in addition to comments received during the public meeting and during Board and Water Operations Committee meetings. After review and consideration of the comments provided by the public and regulated stakeholders, including discussions and meetings with members of the regulated community, LCRA staff made several modifications to its original proposed amendments to the ordinance. The process to develop amendments to the Highland Lakes Marina Ordinance is consistent with the process used to develop LCRA's Highland Lakes Dredge and Fill Ordinance and update LCRA's Highland Lakes Watershed Ordinance in 2021.

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