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Rules and Regulations
For
The Houston County Lake

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**RULES AND REGULATIONS
FOR HOUSTON COUNTY LAKE**

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RULES AND REGULATIONS FOR HOUSTON COUNTY LAKE

PREAMBLE

These rules and regulations (collectively, the "Rules") are adopted by the Board of Directors of the Houston County Water Control and Improvement District No. 1 ("District"), under the powers and provisions of, but not limited to, Chapters 49 and 54 of the Texas Water Code and the District's enabling legislation, 57th Reg. Sess., Ch. 151 (1961). The purposes for which these Rules are adopted include, without limitation:

Repealing the District's existing rules and replacing them with these newly adopted Rules.

Naming the reservoir and other facilities owned by the District.

Affording protection of the physical properties and improvements of the District; safeguarding the purity of the water stored in Houston County Lake; regulating the use of the lands contiguous to the lake in order to preserve the purity of the water stored by the District; preventing the waste or unauthorized use of the water controlled by the District; regulating habitations, boating, and all recreational and business privileges when conducted, occurring, or taking place upon property owned or controlled by the District.

Regulating septic tanks and septic systems.

Regulating sewage disposal; regulating recreational activities; regulating industries upstream from the Houston County Lake; regulating garbage and trash disposal.

Requiring a permit for certain construction on lands adjacent to the Houston County Lake.

Requiring a license for operation of commercial activities on property belonging to the District.

Regulating construction of piers and wharves; and the anchoring of rafts, floats, and other devices.

Regulating "camping" and "campfires" in public areas.

Prohibiting the discarding of cans, bottles, rubbish and waste into or adjacent to the waters of Houston County Lake.

Providing for restrictions related to the use of firearms on or near the Houston County Lake, and all hunting and fishing regulations.

Providing for the enforcement of the newly adopted Rules.

Providing certain fines and civil penalties for violation of the terms of the Rules.

Providing for the lawful publication of notice of these Rules and fixing of the time at which these Rules will be in full force and effect.

RULES

SECTION I Name of Lake and Islands

(a) Lake Name

The District's reservoir in Houston County and all facilities immediately contiguous to said reservoir constructed and owned by the District, and located upon the course of Little Elkhart Creek in Houston County, Texas, shall be hereinafter known as Houston County Lake.

(b) Island Names

The largest of the islands located within the waters of Houston County Lake and within the property formerly owned by Balis E. Dailey, shall be known as Paradise Island. The second largest island located within the waters of Houston County Lake and within the property formerly owned by Southland Paper Mills Inc., shall be known as Whispering Pine Island.

SECTION II Construction Restrictions, Stump Removal, Permits, Sanitation and Sewage Disposal

(a-1) No individual, association, partnership, corporation, any other legal entity or their legal representatives, agents or assigns (hereinafter collectively, "Person") may construct a new or modify an existing habitation below the elevation of 269 feet above mean sea level (m.s.l.).

(a-2) No Person may construct within the watershed of Houston County Lake a new, or modify an existing structure, that is not a habitation, such as, but not limited to bulkheads, piers, docks, boathouses, boat ramps, marinas, wharves, pumping stations or other similar structures, below the elevation of 267 feet above m.s.l. without first obtaining a permit issued by the District. All structures requiring a permit shall be designed, constructed and operated in a manner so as to preserve the sanitary condition of Houston County Lake and its tributaries. In such instances where a permit is required, prior to permit issuance the Person seeking the permit shall furnish the district with an approved release of liabilities for damages caused by water.

(a-3) All applications for permits required under subsection (a-2) shall set out the location and size of any such proposed pier, dock, bulkhead, wharf, boathouse, marina, pumping station or other similar structures. As part of the application, the applicant shall submit a construction plan to the District. In determining whether to approve the construction plan and grant the permit the District may consider whether the project (1) violates any of these Rules, (2) results in waste of or impairs the sanitary condition of the water in Houston County Lake or its tributaries, (3) results in a violation of any applicable health and sanitation standard, or (4) constitutes a threat to navigation or persons, or to the property of others.

(a-4) Provided the permit application meets the requirements set forth in these Rules, the District shall issue to the applicant a permit and a permit number, the latter of which shall be fixed upon, and prominently displayed from, such dock, pier, bulkhead, wharf, boathouse, marina, pumping station or other similar structure requiring a permit in such a manner that such structure may be readily identified by its permit number.

(a-5) For construction projects begun on or after the effective date of these Rules, the District shall be authorized to order the cessation of all non-permitted construction until a permit is issued for the construction project. The District may by order require the owner of any structure requiring a permit under section (a-2) above that is constructed without a permit or constructed in a manner not authorized by a permit to remove, reconfigure, relocate or repair the structure at the owner's cost. Constructing a new structure or modifying an existing structure requiring a permit either: (1) without first obtaining a permit; or (2) done in a manner not authorized by permit is a violation of these Rules.

(a-6) Stump removal regulations:

Stumps may be removed from the lake at the owner's expense. A lot owner may remove stumps in front of their property only, from property line to property line, and at a distance of 30 feet into the lake past their boat house.

(b-1) No Person may construct or install a new or modify an existing sewer line, septic tank or septic system located on land contiguous to land owned or controlled by the District without first submitting proof to the District that the Person has obtained all approvals, authorizations or permits necessary to construct, install and operate the line, tank or system. Each septic tank and septic system on land contiguous to land owned or controlled by the District shall have sufficient and properly constructed subsurface disposal. Treatment systems shall have adequate facilities and approved toilets to preserve the sanitary condition of the Houston County Lake and its tributaries. Structures with waste disposal devices not using a septic tank or a septic system shall be connected with a community sewage disposal system approved by the Texas Commission on Environmental Quality ("TCEQ") and the District.

(b-2) All new or modified septic tanks, septic systems, soil absorption fields, sewer lines, concrete sanitary sewers, sewer manholes or other similar sewer facilities (collectively, "Sewer Facilities") shall be designed and installed in accordance with plans and specifications approved by the Houston County authorized agent in accordance with all applicable local and state rules and specifications.

(b-3) It shall be unlawful and a violation of these Rules to cause or to allow a discharge of waste from a sewer line, septic tank or a septic system into or onto land owned or controlled by the District, including without limitation the Houston County Lake and its tributaries.

(c) Shore installations, boathouses, marinas, boats, habitations and all other structures with waste disposal devices on land contiguous to Houston County Lake shall provide satisfactory sewage disposal and treatment facilities that are adequate to preserve the sanitary condition of all water controlled by the District including Houston County Lake and its tributaries.

(d) Swimming, fishing, boating, picnicking, hunting, and other recreational activities, shall not be permitted within the marked areas surrounding any water intake or public boat ramp. All water intakes will be kept plainly marked by the District at all times.

(e) No Person may discharge municipal, industrial or agricultural waste as those terms are used in Chapter 26 of the Texas Water Code into a stream or other waterbody that is within or drains into the watershed of Houston County Lake except in compliance with a waste discharge permit issued by the TCEQ. No Person may discharge paper mill wastes, chemical plant wastes, salt water wastes, or wastes from feed lots, slaughter houses, markets or meat shops where hogs, cattle, or other animals or fowls are fed, housed or slaughtered, except in compliance with a discharge permit issued by the TCEQ.

(f) No dead animals, or any part thereof, fish, decayed vegetable, food, ashes, garbage, offal, rubbish, or filth of any kind, by which the decaying or putrefaction processes could or would become offensive, shall be placed or permitted to be placed, or situated, in such a manner that it will drain toward or reach Houston County Lake or its tributaries.

(g) All Persons applying for any permits required by the District's Rules shall upon application for such permit, pay unto the District a nonrefundable permit and inspection fee of \$250.00.

(h) The Board of Directors of the District may delegate responsibility to review and act on permit applications to the District's General Manager, or the person appointed by the General Manager.

SECTION III Docks and Boats

(a) No Person shall construct any new or modify any existing structure requiring a permit under section II (a-2) above that extends more than fifty (50) feet from the Houston County Lake shoreline, at elevation 262 feet m.s.l., into or toward the lake. The height of the permitted structure shall not be over twelve (12) feet tall measuring from 262 feet m.s.l.

Structures requiring a permit under section II (a-2) erected in Houston County Lake shall be marked by placement of red reflectors. These reflectors shall be at least three (3) inches in diameter, and shall be placed at intervals of not more than fifteen (15) feet between reflectors on all sides of any fixed structure facing, or within the waters of Houston County Lake.

Regarding any inlet or cove, natural or manmade:

1. To construct any pier, boathouse, deck, dock, wharf, bulkhead or any other structure requiring a permit under section II (a-2) of these Rules, the inlet or cove must be a minimum of sixty (60) feet across at the entrance from the Lake. A minimum of thirty (30) feet between structures located across the inlet or cove from one another must be maintained to allow for boat traffic. (See illustration on the following page).
2. If the entrance to the inlet or cove is less than sixty (60) feet in width, no structures shall be built extending into the waters of Houston County Lake unless a single Person owns all the land on all sides of the inlet.
3. The District shall not grant authority for and no Person may construct any pier, dock, boat house, deck, wharf or any other structure requiring a permit under section II (a-2) of these Rules that will block access of or to structures permitted by the District.

4. The District shall not grant a permit for and no Person may construct a structure into Houston County Lake extending over 1/3 of the distance across the inlet or cove, or more than fifty (50) feet from the District's property line at 262 feet m.s.l., whichever distance is less. (See illustration on the following page).

Regarding bulkheads:

1. New bulkheads shall not be placed or constructed at an elevation lower than 260 feet m.s.l.
2. Any replacement of existing bulkheads shall require removal of the old bulkhead, and placing the new bulkhead in the same location, unless otherwise ordered by the District.
3. Any bulkhead or replacement shall not be built in a manner that will fill in the Lake except as provided by these provisions regarding bulkheads.

Regarding the anchoring of structures:

All docks, piers, bulkheads, wharves, boathouses, marinas or other similar fixed structures, shall be firmly and securely anchored or fixed in such a manner as to prevent loosening or removal by reasonably anticipated wave and weather conditions.

(b) Classification of boats:

1. Private boat: Any boat or boats, raft, or device used and operated upon the waters of Houston County Lake for pleasure purposes only, and producing no revenue either direct or indirect, to the owner.

2. Commercial boat: Any boat or boats, raft, or other device used and operated upon the waters of Houston County Lake by a Person for the purpose of deriving revenue, direct or indirect, from the use of same.

(c) Classification of docks:

1. Private dock: Any dock, or structure, fixed or floating, now located on, or hereinafter placed upon the waters of Houston County Lake, or the property owned or controlled by the District, for pleasure purposes only, and producing no revenue, either direct or indirect to the owner.

2. Commercial dock: Any dock, or structure, fixed or floating, now located on, or hereinafter placed upon the waters of Houston County Lake, or property owned or controlled by the District, and used by any Person for the purpose of deriving revenue, direct or indirect, from same.

(d) Water Safety Act

The Water Safety Act of Texas, and The Texas Parks and Wildlife Rules, as the same is, or may be amended, will control the use of all boats, rafts, and devices, used and operated on the waters of Houston County Lake. The only exceptions are provided by these Rules.

(e) Boat Capacity

It shall be unlawful and a violation of these Rules for any Person to cause, suffer, permit, or allow any boat to be occupied by more persons than the rated capacity of the boat.

(f) Boat Sleeping Accommodations

It shall be unlawful and a violation of these Rules for any Person to use, or operate on Houston County Lake, for more than three consecutive calendar days or more than a total of nine days per calendar month, any boat having overnight accommodations if same is used as a temporary domicile or place of abode. No boat or craft having overnight accommodations shall be placed upon, or used upon the waters of Houston County Lake unless the same is equipped with sanitation facilities approved by the District. Such approval to be obtained by application to the District, made prior to the operation of such craft upon the waters of Houston County Lake.

(g) Rules of the Road

All boats, rafts, and devices operated on Houston County Lake shall, at all times, observe the rules of the road as set forth by the U.S. Coast Guard Inland Navigation Rules.

1. Right of way of boats, rafts, and devices shall be as follows:
 - a. Rowboats, rafts, and canoes shall have the right-of-way over all other craft.
 - b. Sailboats shall have the right-of-way over all powerboats.
 - c. Outboard power boats shall have the right-of-way over inboard power boats.
2. All operators of power boats shall, upon approach to other boats, reduce speed and pass in such a manner as to prevent damage from the wake. All operators of power boats shall be directly responsible for any damage whatsoever caused by wake from their craft.
3. All other rules of the road, as applicable to Inland Waterways, shall be observed at all times.
4. Jet skis are considered power craft, and all applicable rules apply.

(h) Self Sustaining

All boats, rafts, and devices used on Houston County Lake, shall be self-sustaining, either by patent methods, air tanks, compartmentalization or composition.

(i) Removal of Boats

Any employee of the District or any law enforcement officer may require the removal of any boat, raft, or device from the waters of Houston County Lake if:

1. Said boat, raft, or device is in an unsafe operating condition.
2. Said boat, raft, or device is in violation of any of the applicable provisions of these Rules.

Any Person refusing to remove any boat, raft, or device when so ordered under the provisions of this section, shall be deemed guilty of violation of this regulation.

Any boat or flotation device found abandoned may be removed by the District. If the boat or device is then claimed by the owner, a removal fee, and/or a reclaim fee may be assessed by the District.

(j) Commercial Operations

1. It shall be unlawful and a violation of these Rules for any Person to operate docks or boats or any operations related in any manner to any commercial operation, upon property owned or controlled by the District without first having obtained a license for such purpose from the District. The District shall not issue such licenses until such time as it has reviewed the signed, written application submitted by the applicant, specifying the manner in which, and the location at which, the same will be operated. Approval of such application may be given only by the Board of Directors of the District.

2. All Persons who are required to have commercial licenses required under these Rules, shall pay an annual license fee to the District in accordance with the following schedule:

- a. Operation of commercial boats, \$200.00 per year.
- b. Operation of commercial docks, \$1.00 per linear foot per year, determined by the longest measurement as determined by the District.
- c. Operation of commercial boat houses, \$10.00 per year for each boat space.
- d. Any other license fee required shall be determined upon receipt of application.

(k) Anchoring

It shall be unlawful and a violation of these Rules to anchor any raft, float, or floating device, upon the waters of Houston County Lake at any place other than at any point within ten (10) feet from the water's edge, and between a projection of the property lines intersecting with the water's edge of property owned or leased by the owner of such raft, float, or floating device. Any raft or float may be anchored at any place, not otherwise prohibited, upon the waters of Houston County Lake, so long as such raft or float is occupied or attended by any person of the age of eighteen (18) years or older.

(l) Buoys, Floats, or Markers

It shall be unlawful and a violation of these rules for any Person to anchor, moor, or otherwise affix to any buoy, float, marker, or fence belonging to the District, any boat, trot line, or other fishing apparatus, or device whatsoever.

(m) Water Skiing, Surf Boarding, Jet Skiing and Parasailing

All water skiing, surf boarding, and jet skiing shall be restricted to open areas of the Lake and shall be prohibited in any other area. Water skiing, surf boarding, or jet skiing shall also be prohibited, where same is prohibited elsewhere by these Rules, or where marked by signs erected by the District. No Person shall launch a parasail or any other device designed to lift and carry a person or persons aloft from property owned or controlled by the District including but not limited to above the District's submerged property forming the lake bottom of the Houston County Lake.

SECTION IV Hunting and Fishing

(a) Waterfowl

Persons who have complied with the laws of the United States and the State of Texas, and with the Rules of this District, including but not limited to being in possession of a valid hunting license, shall be permitted to hunt waterfowl in season upon Houston County Lake, except as prohibited by these Rules.

No new stationary blinds may be placed or constructed on or in Houston County Lake for the purpose of hunting waterfowl. No sink-boxes used for waterfowl hunting are allowed in Houston County Lake. The District is authorized to remove, or have removed, any prohibited structures at owner's cost.

(b) Firearms and Ammunition

All hunting with and firing of any rifle, side arm, or other firearms, except shotguns using steel or approved shot not larger than Number 2, in, over or upon the waters of Houston County Lake or over or upon land owned or controlled by the District, are strictly prohibited.

It shall be unlawful and a violation of these Rules to discharge a firearm on land owned or controlled by the District within 300 yards of a habitation or commercial structure including but not limited to discharging a firearm above the District's submerged property forming the lake bottom of the Houston County Lake.

(c) Sanctuaries

The Paradise Island and the Whispering Pine Island are hereby declared to be game sanctuaries and hunting of waterfowl and game, and discharging firearms is strictly prohibited thereon.

(d) Hunting and Fishing -- Applicable Law

The general and special laws of Texas pertaining to hunting and fishing, as the same are, or may be amended, and as provided through rules and regulations passed by the Board of Directors of the District, and as provided by the Texas Parks and Wildlife Department, shall control the hunting and fishing activities on the Houston County Lake and all other property owned or controlled by the District.

SECTION V Miscellaneous

(a) Sirens

No Persons shall be authorized to have, use, own, operate, or maintain upon the waters of Houston County Lake, any boat or craft equipped with a siren, except duly authorized peace officers.

(b) Trash and Debris

It shall be unlawful and a violation of these Rules for any Person to throw, discard, or discharge into the waters, or on the shores of Houston County Lake or on any land owned or controlled by the District, any can, bottle, drum, canister, container, rubbish, trash, waste material or matter of any kind. A violation is punishable under the State of Texas Littering Laws and the District's Rules.

(c) Camping and Fires

It shall be unlawful and a violation of these Rules to camp in any shelter overnight, or to start or build an open flame fire or campfire in any public area.

(d) Destruction of District Property

The destruction, damage, defacement, or removal of property belonging to the District, is specifically prohibited.

(e) Storage of Gasoline and Oil

Gasoline, oil and other inflammable or combustible liquids, or wastes or pollutants, shall not be stored in, upon, around, or within fifty (50) feet of the conservation pool shoreline at elevation 260 m.s.l. without written permission of the District. Each day a prohibited substance is so stored is a separate violation of these Rules.

(f) Denial of Public Access to District Owned Properties

It shall be unlawful and a violation of these Rules to enter any area that may from time to time be restricted by the District and marked "Restricted Area", "No Public Access", or "No Swimming".

(g) Automobile Speed Limits

The speed of all automobiles and vehicles operating within property areas owned or controlled by the District shall not exceed posted limits. Exceeding posted limits is a violation of these Rules.

(h) Variances

The District may issue a variance to any of its Rules upon a demonstration of good cause by the applicant for a variance. The District may issue a variance only to the extent doing so does not authorize a Person to conduct any activity that results in the waste of or that impairs the sanitary condition of the water in Houston County Lake or its tributaries.

SECTION VI Penalties. Enforcement and Remedies

(a) Penalties

The commission of any act forbidden or prohibited by these Rules, or the failure to perform any act or to obtain any permit or other authorization required by these Rules, may be punishable by the imposition of a fine or civil penalty as established by the state laws of Texas and these Rules. The fines and civil penalties collected hereunder, insofar as they may not be required for payment of the cost of Court, shall be payable to the District.

The District may assess a fine or civil penalty to any Person from \$100.00 to \$500.00 per day for each Rule violation not related to public health and safety matters. The District may assess a fine or civil penalty to any Person from \$100.00 to \$1,000.00 per day for each Rule violation related to public health and safety matters. Each day a Person fails to comply with these Rules is a separate violation. The District may impose a fine or civil penalty for each day a violation occurs until such violation is brought into compliance with the Rules, as determined by the District.

Any Person found in violation of any section, or sections of these Rules shall, upon request of the District, surrender his permit or permits issued by the District, for suspension or cancellation by the District, without return of permit fee or any portion thereof and without any other type of compensation from the District.

(b) Enforcement

The General Manager of the District and his or her authorized representatives are authorized to administer, implement and enforce the provisions of these Rules as provided herein. In accordance with section 49.221 (b) of the Texas Water Code, the General Manager and his or her authorized representatives are authorized to enter and inspect any public or private property within the boundaries of the District at any reasonable time for the purpose of inspecting and investigating conditions relating to compliance with these Rules.

Whenever the General Manager finds that a Person has violated a prohibition or failed to meet a requirement of these Rules, the General Manager may issue a written notice of violation to the responsible Person. Such notice may require without limitation:

- (i) The performance of monitoring, analyses and reporting;
- (ii) The filing of an application for a required permit or authorization;
- (iii) Taking action necessary for a Person to come into compliance with these Rules; and
- (iv) Setting a deadline by which a Person must come into compliance with these Rules.

Any Person receiving a notice of violation may appeal the determination of the General Manager to the District's Board. The notice of appeal must be received by the District within 10 days from the date of issuance of the notice of violation. A hearing on the appeal before the Board of Directors of the District shall take place at the first meeting of the Board of Directors at which such matter may be considered after receipt of the notice of appeal by the District. The decision of the Board of Directors shall be final.

If the Board of Directors determines that there has been a violation of these Rules, the Board of Directors, on behalf of the District, may issue an order to the Person responsible for the violation requiring such action as necessary for the Person to comply with these Rules.

If the Board of Directors determines that there has been a violation of these Rules, the Board of Directors, on behalf of the District may, by order, authorize the imposition and collection of fines and civil penalties for any violations under these Rules, and as authorized by all other applicable law.

Any violation of an order issued by the District shall be deemed a violation of these Rules. Each day a Person fails to comply with an order issued by the District is a separate violation of these Rules.

If a Person has violated or continues to violate the provisions of these Rules, the District may, upon approval of the Board of Directors, petition for a preliminary or permanent injunction restraining the Person from activities which would create further violations or compelling the Person to perform abatement or remediation of the violation.

Any law enforcement officer having jurisdiction over the area where Houston County Lake is located also shall be authorized to enforce the provisions of these Rules when engaged to do so by the District.

These Rules shall be enforced in accordance with the laws of the State of Texas.

(c) Remedies

The District is not limited to imposing fines for violations of its Rules. The District may also seek any other remedies available to it under Texas law for violations of its Rules including, but not limited to, seeking damages, civil penalties, attorney's fees and court costs, or injunctive or administrative relief whether it be from any agency or governmental entity or from the courts.

SECTION VII Savings Clause

To the extent that the wording in any clause, phrase, sentence, paragraph, section, or provision of these Rules, or the application thereof, to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of these Rules, or the application thereof to any Person or thing.

These Rules may be revised at any time as the District's Board of Directors deems necessary.

SECTION VIII Publication and Effective Date

The provisions of these Rules shall be in force and shall become effective five days after the second publication of a substantive statement of the Rules and the penalty for their violation, as provided by statute. These Rules are required by law to be made available to the public, and have notices of said ordinance published two times in a newspaper of general circulation in Houston County.

The District's rules in effect prior to the adoption of these Rules are repealed as of the effective date of these Rules.