

ORDINANCE NO. _____

STATE OF TEXAS §
COUNTY OF HOUSTON §

AN ORDINANCE OF THE COMMISSIONERS' COURT OF HOUSTON COUNTY, TEXAS PROHIBITING BATHING OR SWIMMING IN THE VICINITY OF PUBLIC BOAT RAMPS LOCATED AT THE HOUSTON COUNTY LAKE, HOUSTON COUNTY TEXAS; DEEMING THE VIOLATION OF OR FAILURE TO COMPLY WITH THIS ORDINANCE TO BE A CLASS C PARKS AND WILDFIRE MISDEMEANOR; SPECIFYING THE MAXIMUM PENALTY FOR CONVICTION HEREUNDER; PROVIDING A SEVERABILITY CLAUSE; AND REPEALING ALL ORDINANCES IN DIRECT CONFLICT WITH THE PROVISIONS HEREOF.

WHEREAS, Houston County, Texas ("the County") is a political subdivision of the State of Texas governed by its Commissioners' Court; and,

WHEREAS, the County has jurisdiction over this public boat ramp; and,

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

WHEREAS, the Commissioners' Court of Houston County, Texas finds unsafe conditions exist as the public boat ramp at the Houston County Lake that necessitate the adoption of this Ordinance in order to maintain public safety; and

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

TEXAS PARKS & WILDLIFE CODE § 31.092(b): The commissioners court of a county, with respect to public water within the territorial limits of the county that is outside of the limits of an incorporated city or town or a political subdivision designated in Subsection (c) of this section and that are not lakes owned by an incorporated city or town, may enter an order on its books designating certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

TEXAS PARKS & WILDLIFE CODE § 31.127(a): A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C

Parks and Wildlife Code misdemeanor; and,

WHEREAS, the Texas Parks & Wildlife Code further provides:

TEXAS PARKS & WILDLIFE CODE § 12.406: An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than \$25.00 nor more than \$500.00.

NOW, THEREFORE BE IT ORDAINED BY THE COMMISSIONERS' COURT OF HOUSTON COUNTY, TEXAS:

I. PROHIBITING OF BATHING OR SWIMMING AT OR NEAR CERTAIN PUBLIC BOAT RAMPS.

1.01. Bathing and Swimming Prohibited. It shall be unlawful for any person to bathe or swim within ONE HUNDRED FEET (100') of the centerline of the public boat ramp located at the Houston County Lake, Houston County, Texas;

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

2.01. Class C Misdemeanor. The doing of any act forbidden by this Ordinance or the failure to do any act required by this Ordinance, or the aiding or abetting of either, shall be deemed a Class C Parks and Wildlife Code misdemeanor, and subject to up to the maximum punishment set forth for such offenses. The penalty hereby authorized shall be in addition to any other penalties provided by laws of Texas and may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the violation occurred.

2.02 Effective Date of Penalty. The criminal penalty set forth in this Ordinance shall not be in effect until the 1st day of September, 2013. The County Clerk shall publish a substantive statement of the nature of this Ordinance and the penalty for the violation thereof once in the County and on the county website. Ignorance of such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, this Ordinance, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

III. ADMINISTRATIVE MATTERS.

30.1. Filing with Texas Parks & Wildlife. The Houston County Clerk shall cause a certified copy of this Ordinance to be filed with the Texas Parks and Wildlife Department as required by **TEXAS PARKS & WILDLIFE CODE § 31.092(d)**.

IV. SERVERABILITY CLAUSE.

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

V. CONFLICTING ORDINANCES

5.01. **Conflict with Prior Ordinances.** All Authority ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

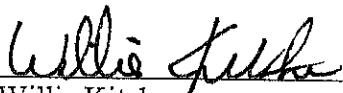
PASSED AND ADOPTED this the 27th day of August, 2013.



Erin Ford
Houston County Judge



Roger Dickey
Commissioner, Precinct No. 1



Willie Kitchen
Commissioner, Precinct No. 2



Pat Perry
Commissioner, Precinct No. 3



Kennon Kellum
Commissioner, Precinct No. 4



Attest: Bridget Lamb
Houston County Clerk