

### Lake Austin No-Wake Zone

**The City Council may create a no-wake zone on Lake Austin for public safety purposes. But to be enforceable the no-wake zone would have to be marked with buoys or pilings.**

- State law authorizes cities (and water authorities) to designate restricted areas on a public water way, if the city council determines that it is for public safety purposes. Texas Parks and Wildlife Code Sec. 31.092(c).
- The Texas Parks and Wildlife Commission has the authority to “provide for the standardization of speed limits for moving vessels. No political subdivision or state agency may impose a speed limit not in conformity with the commission’s standards.” Texas Parks and Wildlife Code Sec. 31.095(b).
- The Texas Parks and Wildlife Department has adopted a rule that requires a no-wake zone to be marked by buoys or pilings. 31 Texas Administrative Code 55.303(1)(D).
- The TPWD rule states that buoys or pilings must be used for any restricted area.
- A no-wake zone is such an area.

**The boat speed limit for operating a boat outside of a marked no-wake zone is a “reasonable and prudent” speed for that area and existing conditions. The City of Austin does not have authority to set boat speed limits that are not in conformity with the Parks and Wildlife Commission standards.**

- TPWD Rule 55.303(C) provides that “Boat speeds outside of regulated areas shall be governed by the Parks and Wildlife Code, Sec. 31.905(a).”
- Texas Parks and Wildlife Code Sec. 31.095(a) provides that:  
“Sec. 31.095. EXCESSIVE SPEED. (a) No person may operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.  
(b) The commission may provide for the standardization of speed limits for moving vessels. No political subdivision or state agency may impose a speed limit not in conformity with the commission's standards.”

#### LCRA Regulations

- The Lower Colorado River Authority regulations provide: “No person may operate a motorized watercraft on the Highland Lakes at a speed greater than necessary to

maintain steerageway and headway within 50 feet of the shoreline, structures, swimmers or restricted areas.”

- The LCRA does not have buoys that mark the 50 foot area.
- LCRA’s Jim Richardson, Manager of Water Surface Management, stated at a March 25, 2015 meeting with Council Member Gallo and city staff that the LCRA 50 foot regulation is not enforced.
- Mr. Richardson said that the LCRA enforces state law. That law is Texas Parks and Wildlife Code, Sec. 31.094, RECKLESS OR NEGLIGENT OPERATION.  
“No person may operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a wilfully or wantonly reckless or negligent manner that endangers the life, limb, or property of any person.”
- Also attending the March 25, 2015 meeting were LCRA attorney Vic Ramirez; Texas Parks and Wildlife Department attorney Kerry Spears; and Asst. Commander Cody Jones, TPWD Law Enforcement Division, Boating Law Administrator.
- The Austin Police Department Lake Patrol marine safety officers have the authority to enforce state law relating to boating safety. Those cases are filed in the Austin Municipal Court.

## **Buoys**

- Spacing of buoys is not addressed in either the Code of Federal Regulations – Uniform State Waterway Marking System, in the Texas Parks and Wildlife Code, or in the Texas Administrative Code.
- To be enforceable, the buoys need to be close enough that persons using the waterway can see from one to the next based on the shoreline and visibility.
- The Austin Police Department’s Lake Patrol recommends a spacing of 100 yards between buoys. A rough estimate of the purchase price of buoys for the entire 42 miles of shoreline, spaced at 100 yards, is \$270,000.