




MEMORANDUM

TO: Lee Davila, Agenda Manager

FROM: Daryl Slusher, Assistant Director
Austin Water 

DATE: May 6, 2015

SUBJECT: Marine Sanitation, City Council Agenda Item #3
May 7, 2015

Per Mayor Pro Tem Tovo's office, we are attaching this information as additional backup for item 3 on the May 7, 2015 Council agenda. It is the text of the state law regarding marine sanitation which is referenced in the backup for the item.

SUBCHAPTER A : BOAT SEWAGE DISPOSAL

§§321.1 - 321.11

Effective November 11, 2010

§321.1. Authority.

The provisions in this subchapter are issued under the authority of Texas Water Code, Chapter 26, Water Quality Control.

Adopted October 15, 2010

Effective November 11, 2010

§321.2. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Boat**--Any vessel or other watercraft, whether moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating on surface water in the state, whether or not capable of self-locomotion, including but not limited to cabin cruisers, houseboats, barges, marinas, and similar floating objects. The term does not include a vessel subject to inspection under 46 United States Code, §3301.

(2) **Boat pump-out station**--Any private or public shoreside, mobile, or floating installation either independent of or in addition to an organized waste collection, treatment, and disposal system used to receive boat sewage.

(3) **Clear Lake**--That body of water located in Harris and Galveston Counties and commonly referred to as "Clear Lake" and its immediate tributaries including: Clear Creek east of Interstate Highway 45; Cow Bayou south of NASA Road 1; Horsepen and Armand Bayous south of Bay Area Boulevard; Taylor Lake south of Red Bluff Road; and to the confluence with Galveston Bay at the navigation light in Kemah.

(4) **Holding tank**--Any tank or receptacle used for retaining sewage.

(5) **Houseboat**--Any boat or floating structure on surface water in the state, capable of being used as a stationary and/or mobile residence that usually, but not necessarily, contains plumbing fixtures.

(6) **Marine sanitation device**--Any sanitation device for use on any boat, which is designed to receive, retain, treat or dispose of sewage. Marine sanitation device Types I, II, and III shall be defined as provided in 33 Code of Federal Regulations Part 159.

(7) **No discharge zone**--Any surface water in the state where the discharge of boat sewage is prohibited.

(8) **Sewage**--Human body wastes and wastes derived from domestic activities, such as washing, bathing, and food preparation, discharged into marine sanitation devices and boat pump-out stations.

(9) **Shoreside, mobile, or floating installation**--Marinas and other installations servicing boats on surface water in the state.

(10) **Surface water in the state**--All lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico out three nautical miles into the Gulf, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state, except waters beyond three nautical miles of any shore in the state.

(11) **Toilet**--Any sanitation device used on a boat which is designed to receive, retain, or dispose of sewage when connected to a marine sanitation device.

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§321.3. Discharge Prohibited.

(a) The discharge of sewage which has not been treated in accordance with federal standards specified in 40 Code of Federal Regulations (CFR) Part 140 is prohibited into any surface water in the state.

(b) No person may discharge sewage, treated or untreated, from a boat into:

(1) any inland freshwater lake, freshwater reservoir, or other freshwater impoundment whose inlets or outlets are as such to prevent the entry or exit of vessel traffic;

(2) any river not capable of navigation by interstate vessel traffic; or

(3) Clear Lake or any other state designated and federally recognized no discharge zone.

(c) With the exception of those waterbodies identified in subsection (b) of this section, a person may discharge sewage that has been treated in accordance with federal standards specified in 40 CFR Part 140 from a boat into the following areas:

(1) coastal waters that begin from any shore of the state moving seaward to a point three nautical miles into the Gulf of Mexico; and

(2) any river that is accessible from the Gulf of Mexico starting from the mouth of the river moving inland up to the point where navigation by the boat is no longer capable.

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§321.4. Requirements for Marine Sanitation Devices.

(a) Any marine sanitation device installed on a boat shall meet the requirements specified in 33 Code of Federal Regulations (CFR) Part 159.

(b) If a Type I or Type II marine sanitation device is installed on any boat, the operator shall secure the device using an acceptable method described in 33 CFR Part 159 to prevent the discharge of treated or untreated sewage while located on a no discharge zone.

(c) A portable marine sanitation device that is designed to facilitate the carry-off of sewage for onshore disposal is acceptable as an additional marine sanitation device on any boat other than a houseboat.

(d) All houseboats, regardless of length, shall be equipped with at least one permanently installed toilet which shall be properly connected to a Type III marine sanitation device. The toilet may be simultaneously connected to both a Type III marine sanitation device and to another approved marine sanitation device only if the valve or other mechanism between the two devices are set to direct all sewage to the Type III marine sanitation device and shall be locked or otherwise secured by the boat operator in a manner that will prevent the discharge of treated or untreated sewage while the vessel is located on a no discharge zone.

(e) Contents of a holding tank, whether permanently installed or portable, may be disposed of only by the following methods:

(1) discharge into a boat pump-out station approved and certified under this subchapter;

(2) discharge into an adequately-sized on-site sewage facility permitted to receive boat sewage in accordance with Texas Health and Safety Code, Chapter 366 and Chapter 285 of this title (relating to On-Site Sewage Facilities); or

(3) pick up and discharge by a transporter registered under Chapter 312, Subchapter G of this title (relating to Transporters and Temporary Storage Provisions), for disposal at a facility permitted or authorized by the commission to receive boat sewage.

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§321.5. Design Specifications and Operation Requirements for Boat Pump-Out Stations.

(a) Boat pump-out stations shall be designed:

(1) to provide a spill-proof connection with shipboard holding tanks;

(2) with suction controls or vacuum breaker to limit suction to such levels as will avoid collapse of rigid holding tanks;

(3) to provide fresh water facilities for tank flushing;

(4) with a check valve and positive cut-off or other device to preclude spillage when breaking connection with a vessel being serviced;

(5) to provide adequate interim storage, if required, prior to transfer to an approved sewage system for disposal; and

(6) to ensure that any connection to a drinking water system is provided with vacuum breakers or other device designed to insure against backflow or siphonage of sewage or contaminated water into the drinking water system.

(b) Mobile or floating boat pump-out stations shall be provided with adequate and spill-proof facilities for transfer to shore-based sewage systems or intermediate transfer facilities.

(c) Sewage from a boat pump-out station may be disposed of only by the following methods:

(1) after obtaining permission from the owner or operator of the sewage system, discharge into a sewage system operated under authority of a valid permit issued by the commission;

(2) discharge into an adequately-sized on-site sewage facility permitted to receive boat sewage in accordance with Texas Health and Safety Code, Chapter 366 and Chapter 285 of this title (relating to On-Site Sewage Facilities); or

(3) pick up and discharge by a transporter registered under Chapter 312, Subchapter G of this title (relating to Transporters and Temporary Storage Provisions), for disposal at a facility permitted or authorized by the commission to receive boat sewage.

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§321.6. Applicability of Certifications.

(a) The executive director is authorized to certify marine sanitation devices and boat pump-out stations as meeting the requirements of this subchapter.

(b) The owner of any boat with a permanently installed marine sanitation device located on surface water in the state must obtain and maintain certification of facilities for that boat in accordance with the provisions of this subchapter, except as described in subsection (d) of this section.

(c) The owner of a boat pump-out station operated on or adjacent to surface water in the state must obtain and maintain certification of those facilities in accordance with the provisions

of this subchapter.

(d) The certification requirement for marine sanitation devices is not required for:

(1) those boats that are registered in another state or country, which will be located on surface water in the state for less than 30 consecutive days during a 12-month period; provided they have a marine sanitation device meeting the requirements of this subchapter;

(2) any marine sanitation device owned by a federal, state, or local governmental agency; or

(3) those boats which are certified with an authorized local government, as described in §321.8(d) of this title (relating to Certification Fees).

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§321.7. Obtaining Certifications.

(a) Applications for certifications shall be made on a standard form provided by the executive director. The application must be submitted to the executive director with the appropriate fee, as described in §321.8 of this title (relating to Certification Fees).

(b) Initial certifications. Certification application forms must be submitted to the executive director for:

(1) marine sanitation devices within 45 days of obtaining a boat number or of determining that a boat number is not required to be obtained under the Texas Water Safety Act, Texas Parks and Wildlife Code, Title 4, Chapter 31; and

(2) a boat pump-out station prior to its operation.

(c) Renewal applications. Certification renewal application forms must be submitted no later than November 30th of each odd-numbered year to obtain valid certifications for the next biennium.

(d) Electronic application for certification.

(1) When the executive director announces on the commission's public Web site that electronic application forms are available, applications for certifications required by this section shall be submitted electronically using the electronic forms provided by the executive director.

(2) Until such time when the electronic application forms become available, payments associated with the certification fees shall be made electronically on the commission's public Web site through the electronic payment system approved by the executive director.

(3) Persons unable to comply with paragraphs (1) or (2) of this subsection may

request from the executive director a waiver from the requirement to file or pay electronically. In evaluating a request for a waiver, the executive director may require the applicant to provide documentation to support a claim of hardship.

(e) Certification decals for this purpose will be designed and issued by the executive director. The certification decal shall clearly indicate date of expiration.

(f) Any certification of marine sanitation devices and boat pump-out stations or renewals thereof issued on or after December 31, 2009, will expire December 31 of each odd-numbered year thereafter.

(g) A certification decal issued under this subchapter remains valid for the life of the decal whether the boat is traded or sold.

(h) A certification issued under this subchapter is subject to cancellation by the executive director prior to the date of expiration if the applicant misrepresents any material fact in the application or provides information for certification which is false or fraudulent.

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§321.8. Certification Fees.

(a) The commission shall charge a fee of \$15 for the initial certification and each renewal certification of marine sanitation devices.

(b) The commission shall charge a fee of \$35 for the initial certification and \$25 for the renewal certification of a boat pump-out station. Inspections of boat pump-out stations may be required prior to certification.

(c) If a certification decal becomes illegible or is destroyed, a replacement decal can be obtained from the executive director for a fee of \$2.00.

(d) The commission may delegate the administration and performance of the certification function to another governmental entity in the state. When such delegation occurs, the governmental entity shall have the authority to administer and perform the certification functions contained in this subchapter within its jurisdictional boundaries. Compliance with the certification requirements of the delegated governmental entity is deemed to be in compliance with applicable provisions of this subchapter if such requirements are as restrictive in prohibiting the discharge of sewage from boats as the provisions in this subchapter. On furnishing proof of certification by a delegated governmental entity, a copy of the certification requirements that governs the discharge of sewage from boats inside the jurisdiction of the governmental entity, and a \$2.00 fee payable to the commission for issuance of decals, the boat owner will obtain a certification decal from the executive director in order to locate the boat on surface water in the state outside the jurisdiction of the governmental entity.

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§321.9. Evidence of Certifications.

(a) Evidence of the certification, which must clearly indicate the date of expiration, shall be displayed on a boat as follows:

(1) On a boat registered by the Texas Parks and Wildlife Department under the Water Safety Act, the certification decal must be clearly visible and be placed within three inches of the registration validation decal; or

(2) On boats unregistered by the Texas Parks and Wildlife Department, the certification decal must be clearly visible on the exterior of the boat.

(b) A boat pump-out station must have the certification decal prominently displayed, which must clearly indicate the date of expiration.

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§321.10. Delegation to Local Governmental Entities.

(a) The executive director may delegate the administration and performance of the functions required by this subchapter to any local governmental entity wishing to perform the certification functions. The commissioners' court of a county so delegated may designate any agency of the county to perform such certification.

(b) Any local governmental entity seeking to obtain delegation to administer and perform the certification functions pursuant to this subchapter shall submit a request to the executive director. The request shall be submitted on a form approved by the executive director.

(c) Upon approval of a request to obtain delegation under this section, the executive director shall notify the local governmental entity in writing to provide for the terms and conditions of program assumption, including the executive director's oversight.

(d) Any local governmental entity which has been delegated authority pursuant to Texas Water Code, §26.044, is hereby authorized to inspect boat pump-out stations in its designated area.

(e) The executive director reserves the right to modify or rescind any powers and functions delegated to any local governmental entity and shall notify immediately the local governmental entity when it modifies or rescinds any such delegation.

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§321.11. Criminal Penalties.

Any person who violates or fails to comply with the provisions of this subchapter concerning the disposal of sewage from boats is subject to criminal penalties pursuant to the Texas Parks and Wildlife Code, §31.129.

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