

**POLICIES, RULES, REGULATIONS AND PROCEDURES
for Permit Holders of the
Comal County Water Oriented Recreation District**

100.1 AUTHORITY AND PURPOSE

(a) Authority: These Policies, Rules, Regulations and Procedures are adopted pursuant to the authority granted the Water Oriented Recreation District (W.O.R.D.) in Chapter 324, Parks and Recreation, Texas Local Government Code § 324.066.

(b) Purposes: The purposes of these Policies, Rules, Regulations and Procedures (hereinafter called "Directive") are:

- (1) to establish a system for the administration, implementation, and collection of district taxes and issuance of revenue permits;
- (2) to ensure compliance with minimum health and safety standards under federal, state and local laws;
- (3) to govern the recreational activities in district facilities including but not limited to: commercial float operations and devices; lodging, fishing, boating, picnicking, guide services and camping.
- (4) to limit possession of glass containers, foam/polystyrene containers, and open plastic containers of 5 ounces or less in and on the waterways of the district; and
- (5) to set forth conduct of a permit holder which will constitute a violation of this directive.

100.2 DEFINITIONS

(a) The term "minimum health standards" shall mean the minimum health standards prescribed by Texas Department of Health.

(b) The term "commercial float operators," also known as "outfitters" shall mean any person or enterprise who makes flotation devices available for hire by the public for use upon waterways within the jurisdiction of the Water Oriented Recreation District.

(c) The term "flotation device" shall mean a canoe, boat, kayak, jet ski, wind surfer, raft, inner tube, or other similar device suitable for transportation of individuals or personal belongings on waterways.

(d) The term "permit holders" shall mean those businesses who are subject to the collection of user fees and who have acquired a revenue (tax) permit.

(e) The term "W.O.R.D." or "district" shall mean the Water Oriented Recreation District of Comal County.

(f) The term "Foam/Polystyrene" shall refer to a product commonly called "Styrofoam."

(g) The term "recreational guide services" shall mean any person or enterprise who offers fishing, boating, or rafting guide services available for hire by the public upon waterways within the jurisdiction of the Water Oriented Recreation District.

100.3 USER FEES

(a) Imposition and Collection of User Fees: W.O.R.D. shall impose and collect taxes in the form of user fees pursuant to §324.099 Local Government Code.

(b) User Fee Rates: The Board may impose tax rates for the different types of services and different types of rental items, but none of the rates may exceed the maximum rate allowed by §324.099 Local Government Code. The following rates, established by W.O.R.D. shall remain in effect until changed by the Board.

- (1) a tax of five percent (5%) of gross income (net after sales tax) for the following rentals or services if the customer pays \$1.00 or more for:
 - a. a camping space;
 - b. a picnic space;
 - c. a parking space;
 - d. fishing tackle;
 - e. water-oriented recreational equipment intended for use on a lake in the district, including, but not limited to a boat, personal watercraft, windsurfer, or sailing craft;
 - f. for each day of recreational guide services; and
 - g. for an initiation or membership fee of a private club or organization that provides water-oriented recreational equipment for use to a member;
- (2) a tax of four percent (4%) of gross income (net after sales tax) for the rental of a boat slip or three percent (3%) of gross income (net after sales tax) for the rental of a dry storage boat space if the customer pays \$1.00 or more for such boat slip or dry storage boat space rental.
- (3) a tax of four percent (4%) of gross income (net after sales tax) for lodging in the district if the lodging is less than 30 consecutive days and the customer pays at least \$2.00 or more for such lodging.
- (4) a tax of \$1.00 per person for the following rentals or services if the customer pays \$1.00 or more for:
 - a. each rental of water-oriented recreational equipment, including a canoe, tube, raft, boat, or kayak intended for use on a river in the district; and
 - b. if the person is not renting equipment under Paragraph (4)(a), for each person using shuttle service in the district
 - c. if the person is not renting equipment under Paragraph (4)(a), for each person granted river ingress and egress
 - d. there shall be no tax collected on tubes rented to carry a cooler

(c) Collection of User Fees: User fees must be paid by the individual or group renting the equipment, services or lodging facilities, except that vacation property management or ownership companies shall be required to collect and remit user fees on behalf of the individual property owners. The user fees are due and payable prior to use of the equipment, service or facility and such fee must be collected by the permit holder. No permit holder shall provide recreational guide services without collection of user fees under section 100.3(b)(1), above, if such permit holder is also renting equipment to an individual or group pursuant to section 100.3(b)(4), above.

(d) Remittance of User Fees and Filing of Tax Returns: A tax return (attached as appendix A) is due W.O.R.D. no later than twenty (20) days after the end of each calendar quarter. In the event the 20th falls on a Sunday or Federal Holiday with no post office service, the return is due (In-hand or postmarked) on the following day. User fees for the quarter reflected on the return are due to WORD of Comal County by the same date. Tax returns received with no postmark will be considered late if received after the due date. Tax returns received without user fees due will be returned to the permit holder as incomplete unless the return reflects no taxable services were provided. Checks received with no tax return will be considered incomplete and will be returned to the permit holder. The tax return and payment of user fees will be considered late unless both the return and proper user fees are received by the due date.

(e) Penalties: Failure to timely file a tax return with W.O.R.D. may result in revocation of a permit. Failure to timely remit user fees to the WORD office may result in penalties and interest pursuant to §324.099 (e), (f), Texas Local Government Code, as well as revocation of a permit. Failure of a permit holder to collect and remit the user fee shall make the permit holder personally liable for such user fee.

(f) Late fees: Failure to remit late penalties and/or interest due on late taxes will result in revocation of WORD permit within 30 days after the base tax has been paid. WORD staff shall have authority to carry over late fees to the following quarter at their discretion if below \$25.

100.4 MAINTAINING RECORDS; INSPECTIONS AND AUDITS

(a) Maintain Records: All permit holders shall maintain complete and accurate records of all receipts and reports of monthly gross income relating to the collection of user fees. The records to be kept shall include but not be limited to the signed and dated rental contracts of all customers. Such records and reports shall be maintained for a period of five (5) years and shall be subject to inspection and auditing by the district.

(b) Inspection and Audit: All records of permit holders which reflect or should reflect collection of district user fees shall be subject to inspection and audit by the district's Certified Public Accountant or other duly authorized representatives designated by the W.O.R.D. Board of Directors. Such inspection and audit shall be conducted within four weeks of receipt of all records requested from the permit holder. All user fees, penalties, and interest determined to be due to the district as a result of such inspection and audit shall be paid promptly by the permit holder.

(c) Penalty: Failure to comply with the requirement to maintain accurate records or to permit inspection and auditing of records may subject a permit holder to penalties described under §324.066 Local Government Code (Class C misdemeanor) and revocation of permit to operate under §324.099 Local Government Code.

(d) Payment of Audit Costs: A permit holder shall be liable for all fees associated with an audit of the permit holder's records if:

- (1) the permit holder has failed to maintain complete and accurate records of all receipts and reports of monthly gross income for the period of five years;
- (2) the audit reflects that the permit holder has underpaid user fees in an amount greater than ten percent (10%) of the user fees determined to be due; or
- (3) the permit holder does not cooperate with the inspection and audit.

100.5 PERMITS; APPLICABLE BUSINESSES; REQUIREMENTS

(a) Applicability: The following, doing business within the district, whether located within the District or not must obtain a Revenue (Tax) Permit from the Water Oriented Recreation District:

- (1) campgrounds, picnic space, river ingress and egress;
- (2) lodging, including condominiums, motels, resorts, RV parks, cabins or individual homes rented for periods of less than thirty (30) days. In the case of an ownership or management company, said company shall obtain the permit and remit taxes on behalf of the individual owners. This includes any timeshare company which facilitates the property rental by providing keys, facilities maintenance, or other services to guests.
- (3) providers of recreational guide or shuttle services, or rental of parking spaces for purposes of river access, and all water oriented recreation businesses which rent equipment including canoes, rafts, sailboats, motor boats, tubes, kayaks, jet skis, windsurfers, and fishing tackle intended for use on public inland water in the district.

- (4) all boat storage including wet slip storage on Canyon Lake and dry boat storage within the District boundaries.
- (5) an initiation or membership fee of a private club or organization that provides water-oriented recreational equipment for use to a member.

(b) Application for Revenue (Tax) Permit: All required businesses as outlined in 100.5 (a) above, shall make application to the Water Oriented Recreation District for a Revenue (Tax) Permit.

(c) Charges: There is no charge for the Revenue (Tax) Permit.

(d) Renewals: The Revenue (Tax) Permit will be automatically renewed if a business has been in full compliance with this directive of the district, has filed all quarterly tax returns required, and has remitted all user fees to the district.

(e) Display of Permit: The Revenue Tax Permit must be prominently displayed in the holder's place of business.

(f) Permits are Nontransferable: A new permit shall be required if there is a change of ownership, location or trade name of a permit holder.

(g) Return of Permit: A permit must be returned to the W.O.R.D. office if there is a change in ownership, location or trade name of a business. A permit must also be returned if a permit holder's business is closed. At the time the permit is returned to the W.O.R.D. office, the permit holder must indicate the date of the last taxable transaction such business performed, file a final tax return with WORD of Comal County and remit all applicable taxes to the WORD office.

(h) Compliance with other Laws: All water oriented recreation businesses, campground, and lodging facilities shall comply with all federal, state and local laws, ordinances, rules and regulations with respect to licensing or permits (i.e. assumed name certificates, franchise tax, state sales tax)

(i) Revocation of Permits: The Water Oriented Recreation District retains the right to revoke the permit of any permit holding business if:

- (1) the business fails to file a timely tax return or remit user fees or late penalties on time;
 - (2) the business fails to maintain complete and accurate records of all receipts and reports of monthly gross income
- (3) the business is shown to be in violation of any WORD enacted ordinance, which violation may be shown by issuance of a citation by a law enforcement officer.
- (4) the business violates the provisions of this W.O.R.D. promulgated directive.

(j) Procedure for Revocation of Permit: The W.O.R.D. Board may revoke a permit after it has given the permit holder written notice of the violation or the offense.

(k) Reinstatement of Revoked Permits: A permit may be reinstated by W.O.R.D. upon the payment of a \$250.00 fee, payment of all user fees, late and reinstatement fees, penalties and/or interest due, filing of all tax returns with WORD of Comal County, filing a new application for a Revenue (Tax) Permit, and complying with provisions of this directive spelled out in Section 100.10 for businesses in their first two (2) years after a permit is issued or re-issued. WORD staff may require monthly tax reporting for a period of time after reinstatement with the same conditions for revocation on a monthly basis as specified in this document. In the event that WORD has initiated legal proceedings related to the business, all accrued legal fees must be paid by the business prior to reinstatement.

(m) Lost or Destroyed Permits: A permit which is lost or destroyed may be replaced at no charge if the business will make a written request to the Manager of the district stating that the permit has been lost or destroyed.

100.6 PUBLIC SAFETY, WATER SAFETY, AND BOATING SAFETY

(a) Authority: This section is promulgated pursuant to §31.002 of the Parks and Wildlife Code and §324.066, Local Government Code.

(b) Compliance with Laws and Standards: Each permit holder shall comply with the laws and standards set forth in the following regulations, if applicable to their business:

- (1) the standards set by the Texas Water Safety Act (Chapter 31, §31.001 et, seq., Texas Parks and Wildlife Code (Vernon's 1999).
- (2) the standards for boating safety set by the U.S. Corps of Engineers;
- (3) the standards for boating and water safety set by the U.S. Coast Guard;
- (4) the standards for white-water boating set by the American Red Cross

(c) Instructions on Water Safety and Boating Safety: All permit holders providing water oriented recreation equipment for rent shall:

- (1) Display public safety information at principal locations;
- (2) Provide safety orientation to all customers.

Failure to comply with provisions (1) and (2) above and the entirety of section 100.8 below is subject to the penalty provisions of §324.066, Texas Local Government Code. W.O.R.D. shall provide permit holders, upon request, with assistance in preparing an orientation format.

(d) Water Safety Requirements for Life Jackets:

- (1) Authority: This section is promulgated pursuant to §32.002, 32.004, and 32.001 of Texas Parks and Wildlife Code (Vernon's).
- (2) Life Jackets required: All permit-holding businesses offering flotation devices for hire must make available a U.S. Coast Guard-approved Type I, II, III, or V Personal Flotation Device (Life Jacket) to each user renting, leasing, or borrowing from that permit holder.

(e) Emergency Watershed Protection Control Contract:

- (1) Authority: This section is promulgated pursuant to Section 324.066, Texas Local Government Code.
- (2) Prohibited Areas. No person may float, swim or boat on the Guadalupe River within 200 feet of a designated work zone pursuant to the Emergency Watershed Protection Control Contract.
- (3) A person who violates a rule or ordinance under this section commits an offense. An offense under this section is a Class C misdemeanor.

100.7 IDENTIFICATION OF EQUIPMENT

(a) Business Name, Initial, or Logo: All flotation devices, including but not limited to canoes, rafts, kayaks, and tubes, which are offered for hire shall display conspicuously the name, initials, or logo of the business that offers the device for hire. The lettering on all shall be no less than three inches in height and two inches in width and shall appear on two opposite outsides of the device.

(b) Vehicles Identified: All vehicles used by the permit holders for the transportation of customers shall be

identified by the business name, initials or logo. The lettering shall be no less than three inches in height and two inches in width and shall appear on both the driver's side and the passenger's side of the vehicles.

(c) Vessels: All boats, waverunners, and other water recreation equipment for use on a lake or river within the District shall follow the guidelines set forth in this section. This includes fishing and charter vessels available for rent, guide, or charter service.

100.8 LOCAL, STATE, AND FEDERAL LAWS

(a) Glass, Foam/Polystyrene, and open plastic containers of 5 ounces or less are prohibited. Copies of the W.O.R.D. ordinances prohibiting glass, open plastic containers of 5 ounces or less, and foam/polystyrene on the River and Lake are available at www.wordcc.com.

(b) Litter Laws: In addition to the W.O.R.D. ordinances described above, permit holders should become familiar with the Litter Abatement Act, Article 4477-9a, Texas Revised Civil Statutes; and standards set by the Texas Department of Public Health.

(c) Public Display of W.O.R.D. Rules on Littering:

- (1) Each permit holder shall display in plain view of its customers a sign reflecting ordinances pertaining to the ban on glass, open plastic containers (5 oz or less), and foam/polystyrene. Such signs will be supplied by W.O.R.D.
- (2) Each permit holder is encouraged to display in plain view of its customers information about fines for littering, as prescribed in the Litter Abatement Act.

(d) Trespassing, Public Nuisance, Alcohol and Drug-Related Laws:

- (1) Each permit holder providing water oriented recreation equipment for rent shall display in plain view for its customers, and shall recommend that all customers read a statement informing them of policies pertaining to trespassing, public nuisance, alcohol, and those related to drugs. This statement shall be part of the contract executed by the customer/user or part of the rental procedure conducted by the permit-holding business.

(e) Signed Statement by Customer/User: Each (business offering water recreation equipment for rent) shall have all customers read and sign a statement informing them of rules and regulations pertaining to litter. This statement shall also include a clause which holds W.O.R.D., and Comal County, and the business harmless from any and all injuries or deaths. This statement shall be part of the rental agreement, and shall be retained by the permit holder for not less than a five (5) year period.

(f) Litter Bags: Outfitters shall distribute a Mesh Bag or other refuse collection device to each individual canoe and/or raft, and each tube group, to provide for the user's trash, and other debris they are urged to collect along their route. Outfitters will be supplied Mesh Bags by W.O.R.D.. These bags should be tied to the flotation device and recycled by the outfitters.

100.9 RIVER CLEAN UP

Each outfitter should periodically provide reasonable assistance in river clean-up in its float section and should notify WORD of significant hazards to navigation.

100.10 ACCESS AND EGRESS POINTS

(a) Proof: All outfitters during their first two (2) years after their permit is issued, or re-issued must:

- (1) provide written proof of access and egress points as owners, a lease, or written consent to use such land for access and egress points: **OR**

- (2) provide proof that the business is instructing its customers to use public right-of-way.

100.11 LIABILITY INSURANCE

(a) Shuttle Vehicle Liability Insurance: All Businesses offering shuttle service to the public must obtain from an insurance company liability insurance for the commercial transport of the public, as required by the State of Texas.

(b) Livery vessels: All Businesses offering livery vessels for rent to the public must obtain from an insurance company liability insurance as required by the Water Safety Act (Chapter 31, §31.111, Texas Parks and Wildlife Code

(b) Proof: Each permit holder, or applicant for a permit, shall provide W.O.R.D. with proof of such coverage upon demand.

(c) Penalty: Anyone failing to comply with this section shall be subject to the penalty described in §324.066 of Texas Local Government Code.

100.12 PERMIT HOLDER PROTEST

(a) Right of Protest: A permit holder is entitled to protest before the W.O.R.D. Board of Directors the following actions:

- (1) a determination made of revenues due the district after an audit;
- (2) an identification of the equipment or services offered by the permit holder as those being subject to the tax; and
- (3) a revocation of a permit by the W.O.R.D. Board for violation of the rules, regulations, policies, or procedures of the district.

(b) Notice of protest: To be entitled to a hearing and determination of a protest, the permit holder initiating the protest must file a written notice of the protest with the W.O.R.D. Board within thirty (30) days after the act or omission of W.O.R.D. which the permit holder is protesting.

(c) Hearing on Protest:

- (1) On the filing of a timely notice of protest, the W.O.R.D. Board shall schedule a hearing on the protest and give notice to the protesting permit holder.
- (2) The permit holder initiating the protest is entitled to an opportunity to appear and offer evidence or argument. The permit holder may offer said evidence or argument by affidavit without personally appearing as long as such affidavit is sworn to before a notary public.

(d) Determination of Protest:

- (1) The W.O.R.D. Board hearing on reviewing the protest shall determine its decision by written order.
- (2) If the Board determines that the permit holder is entitled to all or part of the relief requested, it shall order such relief.
- (3) The Board shall deliver written notice of issuance of the order and a copy of its order to the permit holder.

The Board may settle a claim for a penalty or interest accrued on a tax imposed by Chapter 324, Local Government Code, if the Board finds that the revenue permit holder exercised reasonable diligence to comply with this chapter.