ORDINANCE NO. 2018-05

AN ORDINANCE AMENDING ORDINANCE NO. 94-13 PASSED NOVEMBER 15, 1994 AND AS SUBSEQUENTLY AMENDED, ESTABLISHING GENERAL AND SPECIFIC RULES AND REGULATIONS PERTAINING TO THE PUBLIC USE OF MILL CREEK RESERVOIR, ALSO KNOWN AS CANTON CITY LAKE, AND ADJOINING CITY-OWNED PROPERTY; ADOPTING THE TEXAS WATER SAFETY ACT; PROVIDING FOR ENFORCEMENT THEREOF; PROVIDING A SAVINGS CLAUSE; REPEALING PREVIOUSLY-ENACTED ORDINANCES AND RULES AND REGULATIONS IN CONFLICT HEREWITH; ESTABLISHING A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Canton, Texas, finds that certain activities conducted on or in Mill Creek Reservoir, also known as Canton City Lake, and adjoining City-owned properties can and will create a safety and/or health hazard for citizens of the community and other users of the facilities; that amendments are desired by said City Council addressing the use of personal watercraft; and other amendments have been made addressing duck hunting and the use of trotlines;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON TEXAS:

ARTICLE I
AUTHORITY & LIABILITY

Authority of City Police on Reservoir Property

Any police officer of the City shall have authority to arrest any person on any property owned and used by the City for reservoir purposes for violation of any of the provisions of this Ordinance.

Power and Duties of Authorized Personnel of the City of Canton

Authorized personnel shall have full charge and control of the waters of the reservoir and grounds of Mill Creek Reservoir (Canton City Lake) and it shall be his duty at all times to command and preserve the peace and patrol such waters and grounds or to cause the same to be done for the purpose of enforcing obedience and strict compliance upon the part of any person with the terms, provisions and conditions of this Ordinance and all other laws, ordinances, rules and regulations of the City relating to the waters of Mill Creek Reservoir and the grounds adjacent thereto, and to make arrests upon the violation of any provision of this Ordinance or other ordinances of the City.

Exclusion of Offenders

The Chief of Police or any City Police Officer or authorized City personnel shall have the right and authority to exclude the premises of Mill Creek Reservoir of any person found violating the terms and provisions of this Ordinance.

Liability of City

The City shall in no event be liable to any person due to the loss of or damage to any property that may be placed in or upon Mill Creek Reservoir nor shall the City be liable in any event to any person due to personal injuries or loss of life that may be sustained by any person in or upon Mill

Creek Reservoir. Any person entering in or upon Mill Creek Reservoir shall do so at his sole risk, and shall not be privileged to enter or remain in or upon Mill Creek Reservoir save and except under the terms and provisions of this Ordinance and such other applicable ordinances, resolutions and regulations that have been or may hereafter be adopted by the City.

ARTICLE II
FISHING & HUNTING

Commercial Fishing Prohibited

No person shall engage in commercial fishing of any kind. No person shall use or operate a boat of any kind or description in the waters of the Reservoir for the purpose of catching and taking fish or game for market or sale.

Fishing Prohibited Near Intake Structure

It shall be unlawful for any person to fish within a 200-foot radius of the water intake structure.

Bowfishing of Carp

It shall be unlawful for any person to bow fish for carp from any city-owned lake.

Other Statutes to Apply

All Federal, State, and County Fishing Laws and Statutes shall apply on all City Property.

Causing Hazard to Boats

It shall be unlawful for any person to attach any glass, metal, or other solid floating object hazardous to boats, to any trotline, gang hook, or fish net set out in the waters of Mill Creek Reservoir. Flexible plastic bottles or foam floats shall not be a hazard to boats.

Use of Metal Line, Cable Prohibited

It shall be lawful for any person to place or extend any metal line or cable in, over, on, or across the water of Mill Creek Reservoir or any of its tributaries.

Nets, Trotlines, Etc. – General

It shall be unlawful to fish with any type of nets, trotlines, or traps.

Same – Removal

Any trotline, net, or similar apparatus, set out on or in the waters of Mill Creek Reservoir or its tributaries is hereby declared to be a nuisance, endangering the health, safety and welfare of the general public; and any law enforcement officer or authorized personnel shall be authorized to immediately remove and take possession of such trotline, net, or similar apparatus, in order to abate such nuisance.

Hunting

Except as provided in this section, it shall be unlawful for a person to carry, transport, shoot, discharge, or hunt with a bow, crossbow, slingshot, gun, firearms or any type of weapon in, on, over, across or upon Mill Creek Reservoir or any City property adjacent thereto.

Bows and arrows may be used for fishing only in accordance with Texas Parks & Wildlife Department Regulations.

There shall be no hunting other than duck hunting during open duck season, and then only with a shotgun from areas designated by the City of Canton as hunting areas. (See Exhibit A)

Duck Blinds

It shall be unlawful for any person, firm or corporation to construct any blind or blinds for the purpose of killing or taking ducks in the waters of Mill Creek Reservoir.

ARTICLE III
WATER SKIING AND PERSONAL WATERCRAFT

The following is prohibited on the waters of Mill Creek Reservoir, otherwise known as Canton City Lake:

A. The pulling of any person behind a boat on any object designed or operated in such a manner to carry one or more persons, including but not limited to, skiing, tubing, or boarding.

B. The use of personal watercrafts. Personal Watercraft is defined as any type of motorboat which is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside a vessel, including but not limited to, jet skis.

ARTICLE IV
BOATS AND BOATING

Texas Water Safety Act Adopted by Reference

The Texas Water Safety Act (and any amendment thereto) is hereby adopted by reference and shall be followed as if set out verbatim in this Ordinance. Any acts not specifically mentioned herein are governed by the Texas Water Safety Act.

Permit Required

It shall be unlawful for any person to operate or cause to be operated, any boat upon the waters owned or controlled by the City unless such boat has first met all requirements of the Texas Water Safety Act and there has been obtained a City of Canton launch permit. Such permits shall be issued by the Canton Police Department at a cost of $25 for a one year period or $3 for a one-day launch permit; however, launch permits shall be free to the citizens of Canton, Texas.

Speed

The speed of every boat or other craft around and near docks or other landing places and in channels shall be reduced so as to avoid disturbing such docks and landing places and boats and to prevent the washing of channel banks. In no event shall any craft be operated at a speed greater than is reasonable and prudent under the circumstances then existing. When such craft is within 150 feet of swimming areas, public launching ramp, dock, boat house, fishing pier or other structures, or person engaged in fishing or within 100 feet of any shoreline, the craft should leave no visible wake except in case of an emergency.

Tow Boats

It shall be unlawful for any person engaged in towing of any type boat, barge or other device to come within one hundred (100) feet of any other boat or craft, with the exception of passage through a connecting channel.

Muffling Devices

It shall be unlawful to operate a boat propelled in whole or in part by gas, gasoline or naphtha unless the same is provided with a Coast Guard Approved muffler. The discharge of cooling water through the exhaust of an inboard engine shall be considered an adequate muffling device.

Traffic Rules

The channel of Mill Creek Reservoir will be used in a manner that is reasonable and prudent to the conditions. All coves, docks and launch areas are no-wake, idle only zones.

Water Intake Stations

It shall be unlawful for any person to anchor, moor, or stop a boat within 200 feet of any water intake station.

Life Preservers

All children 12 years of age or younger shall be required to wear a U.S. Coast Guard Approved life preserver at all times.

Anchoring at Piers, Buoys, Etc.

It shall be unlawful for any boat or barge to anchor or tie up at any posted sign, buoy or barrel of the waters of Mill Creek Reservoir or its tributaries except in case of emergency.

Unattended Boats

Except in cases of emergency, it shall be unlawful for any person to leave a boat unattended on the waters of Mill Creek Reservoir or any of its tributaries.

Obstruction of Ramps

It shall be unlawful for any person to block or swim in any public boat loading ramp leading to the waters of Mill Creek Reservoir or its tributaries except while loading or unloading a boat.

Removal from Lake

The City of Canton, acting by and through authorized personnel, may require the removal of any boat or other craft from Mill Creek Reservoir if such boat or other craft is in an unsafe operating condition. In the event of non-compliance by the owner to such order, the craft will be removed from the lake by the City of Canton and the owner will be assessed all costs.

Barges

It shall be unlawful for any person, firm or corporation to place any barge-type craft on Mill creek Reservoir which is not supported by polyester foam flotation units, unsinkable drums, metal pontoons, or fiberglass pontoons permanently attached to the vessel by a mechanical device.

It shall be unlawful for any person to place barrels, pontoons or other such containers upon or in the waters of Mill Creek Reservoir except of the use described above. The City of Canton may employ such devices for markers or other similar uses.

Abandoned Barges or Boats

Any barge or boat subject to registration and inspection under the provisions of these rules which shall be found upon the waters of Mill Creek Reservoir or upon any public property immediately adjacent thereto and which shall not have affixed thereto a currently valid registration sticker issued pursuant to this Ordinance shall be deemed to be an abandoned barge or boat.

Authorized personnel of the City of Canton may take into custody any abandoned barge or boat found upon the water or any public property immediately adjacent to Mill Creek Reservoir.

When any abandoned barge or boat shall be taken into custody under the authority of these rules, the authorized personnel shall notify within ten (10) days thereof, by registered or certified mail, return receipt requested, the last known registered owner and all lienholders of record that the barge or boat has been taken into custody. The notice shall describe the barge or boat by size, color and general description and shall set forth the location of the facility where the barge or boat is being held, and shall further inform the owner and any lienholder of their right to reclaim the barge or boat within thirty (30) days after the date of the notice upon payment of all towing, preservation and storage charges resulting from placing the barge or boat in custody and upon paying the required registration and inspection fees as may be required by these rules. The notice shall further state that the failure of the owner or lienholders to exercise their right to reclaim the barge or boat within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the barge or boat and their consent to the sale of the abandoned barge or boat at a public auction.

If the identity of the last registered owner cannot be determined, or the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in a newspaper of general circulation in Van Zandt County, Texas, shall be sufficient to meet all requirements of notice pursuant to these rules. Such notice by publication may contain multiple listings of abandoned barges or boats. Any such notice shall be within the time requirements prescribed for notice by registered or certified mail and shall have the same contents required for a notice by registered or certified mail.

If any abandoned barge or boat has not been reclaimed by the owner or lienholders as provided for herein, the City of Canton shall sell the abandoned barge or boat by advertised bids. The purchaser of the barge or boat shall take title to the barge or boat free and clear of all liens and claims of ownership, shall receive a sales receipt from the City of Canton and shall be entitled to register the purchased barge or boat as provided for herein. From the proceeds of the sale of an abandoned barge or boat, the City of Canton shall reimburse itself for the expenses of the sale, the cost of towing, preserving and storing the barge or boat which resulted from placing the abandoned barge or boat in custody, and all notice of publication incurred pursuant to these rules. Any remainder from the proceeds of a sale shall be held for the owner of the barge or boat or entitled lienholder for ninety (90) days, and then shall be deposited in a special fund which shall remain available for payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned barges or boats in custody whenever the proceeds from a sale of such other abandoned barges or boats are insufficient to meet these expenses and costs.

In the event there are no purchasers of the barge or boat at a public auction held pursuant to these rules, the City of Canton shall purchase same for its accrued costs of conducting the auction, towing, preserving, storage and all notice and publication costs incurred, and any disposal of same, including the destruction thereof, as may be proper under the circumstances.

Miscellaneous

It shall be unlawful for any person, firm or corporation to place or maintain a toilet on any boat or barge except unattached portable chemical toilets. Such toilet must be approved by authorized personnel before being taken aboard the craft.

It shall be the responsibility of the owner to keep all barges and boats properly moored. There shall be a fee levied by the City of Canton of $100.00 for reclaiming a derelict boat and $150.00 for reclaiming a derelict barge.

Operation of all craft shall be subject to all provisions of the Texas Water Safety Act as it now exists or hereafter may be amended, and to all state acts, statutes and regulations applicable to the operation and control of water craft.

ARTICLE V
GENERAL & MISCELLANEOUS

General

AREAS FOR LEASE: There shall be set aside certain areas adjacent to Mill Creek Reservoir for development by the City as public parks and picnic areas.

DAM: It shall be unlawful for any person to operate an automobile, motor scooter or motorcycle upon the dam of Mill Creek Reservoir. Foot traffic and fishing are prohibited on the dam.

BOW FISHING: a method of **fishing** that uses specialized archery equipment to shoot and retrieve **fish**. **Fish** are shot with a barbed arrow that is attached with special line to a reel mounted on the **bow**.

RAW WATER INTAKE TOWER: It shall be unlawful for any person to come within a 200-foot radius of the water intake tower.

ROADS: The maximum speed limit on all lake roads constructed by the City of Canton shall be 30 m.p.h. or slower as marked and it shall be unlawful for any person to drive an automobile, motorcycle or other motor vehicle thereon in excess of the applicable maximum speed limit.

ROADWAY: the portion of a highway, other than the berm or shoulder, that is improved, designed or ordinarily used for vehicular travel

PARKING OF MOTOR VEHICLES: It shall be unlawful for any person to leave unattended any motor vehicle with a boat trailer in tow within fifty (50) feet of the water of Mill Creek Reservoir unless in a properly-designated area for public parking, and it shall be unlawful to park vehicles in any designated safety or turn around zone except where necessary for loading or unloading a boat.

SIGNS AND MARKERS: Authorized personnel of the City of Canton shall place signs and markers on the waters of Mill Creek Reservoir and the public lands adjacent thereto as are required to mark and specify the restricted areas as provided in this Ordinance and for informational purposes to assist users in compliance with the terms of this Ordinance.

DAMAGE TO SIGNS, MARKERS, CANOPIES, PICNIC TABLES, ETC.: It shall be unlawful for any person to deface, destroy or other damage any sign, marker, canopy, picnic table or other structure on the waters of Mill Creek Reservoir or in the public lands immediately adjoining Mill Creek Reservoir or its tributaries.

WATER SOURCES: It shall be unlawful to obtain water from Mill Creek Reservoir.

MISCELLANEOUS:

A. It shall be unlawful for any person to keep or harbor any livestock or fowls on City property of Mill Creek Reservoir.

B. It shall be unlawful for any person to cut any trees or brush on any City-owned property at Mill Creek Reservoir without the approval of the City of Canton. Sod shall not be disturbed unnecessarily.

C. No special privileges of any kind or sort shall be issued any person or group that will deviate from rules and regulations set forth by the City Council.

D. All rules and regulations adopted by the City of Canton for the Mill Creek Reservoir property shall be available at the Canton Police Department in Canton, Texas.

E. It shall be unlawful for any person to make any use whatsoever of the property belonging to another at Mill Creek Reservoir without the owner's permission.

F. It shall be unlawful for any person to dump trash, brush or garbage of any kind in Mill Creek Reservoir or on property adjoining Mill Creek Reservoir.

G. Ingress and egress across city-owned land from privately-owned land to a Mill Creek Reservoir Road or public road is prohibited except by formal contractual agreement approved by the City Council of the City of Canton, Texas.

H. No alcoholic beverages may be sold or consumed upon the waters or upon the adjoining land of Mill Creek Reservoir.

I. It shall be unlawful to operate any vehicle or motorbike except on designated roadways and designed parking facilities of Mill Creek Reservoir.

J. No overnight camping will be allowed on the water of Mill Creek Reservoir or the public lands immediately adjoining Mill Creek Reservoir.

K. No persons shall be allowed on the public lands immediately adjoining Mill Creek Reservoir or its tributaries between the hours of thirty (30) minutes following sunset and thirty (30) minutes prior to sunrise except for fishing, for which a permit must first be obtained from the Canton Police Department.

ARTICLE VI
PENALTIES & EXCEPTIONS

Penalty: Civil Actions

Any person violating any of the terms of this Ordinance and upon conviction thereof shall be subject to a fine not to exceed TWO HUNDRED AND NO/100 ($200.00) DOLLARS. Such penalty may be enforced in any court having jurisdiction thereof against any violation of this Ordinance and may also be enforced in the Municipal Court; in addition to such penalty, the right shall exist, on behalf of the public health of the City, for the authorized personnel or any person whose health may be affected thereby, to bring any cause of action in any competent court by way of injunction or otherwise against any person violating any of the terms of this Ordinance.

Exceptions

The City Council may grant exceptions to the provisions and regulations of this Ordinance where, in the sole discretion of the City Council, such exception is in the best interests of the people of the City of Canton.

ARTICLE VII
SAVINGS CLAUSE

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

ARTICLE VIII
CONFLICT CLAUSE

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

ARTICLE IX
EFFECTIVE DATE

This ordinance shall take effect from and after its publication one time in the official publication of the City of Canton, Texas, which publication shall contain the caption stating in summary the purpose of the Ordinance and the penalty for violation thereof.

PASSED AND APPROVED BY THE CANTON CITY COUNCIL THE 20th DAY OF FEBRUARY, 2018.

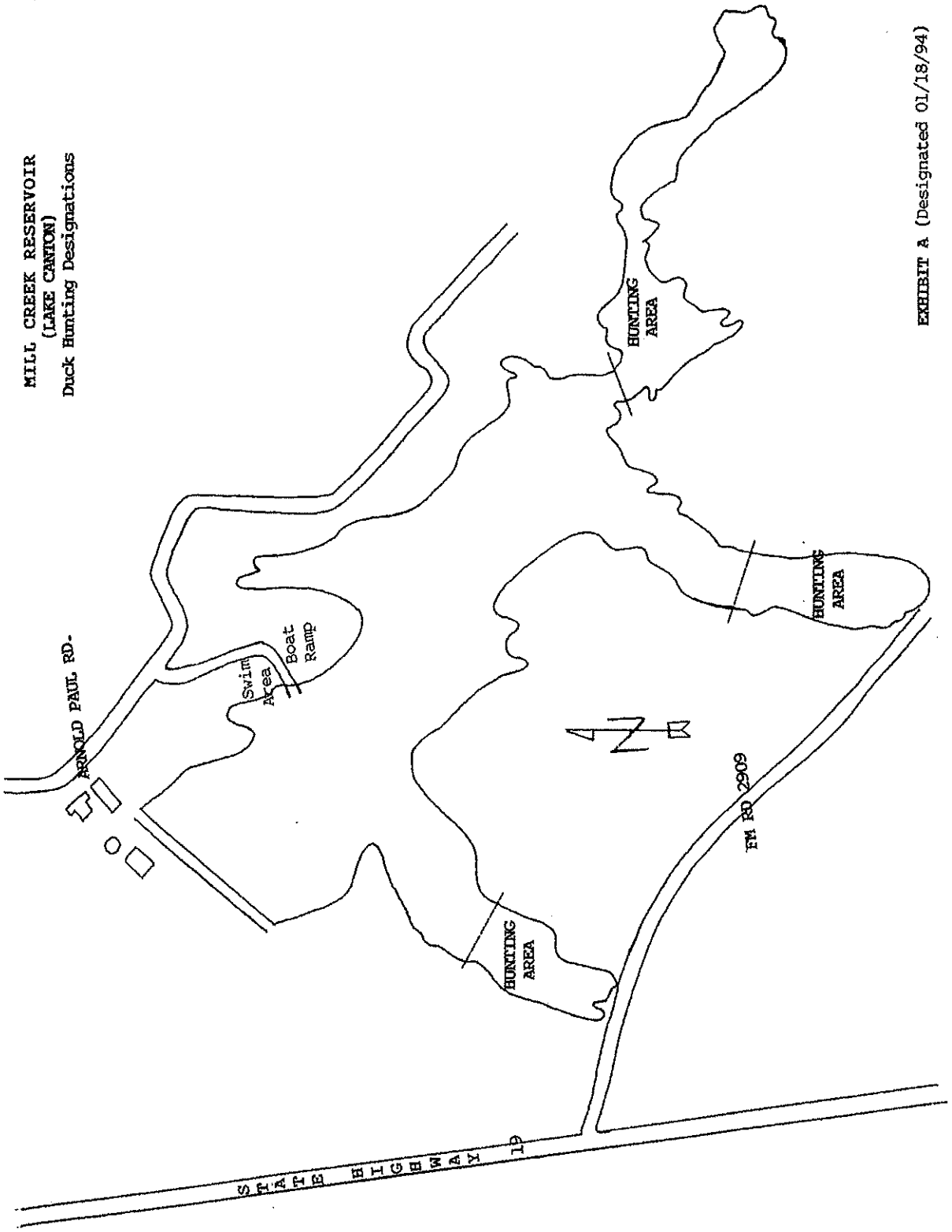
Lou Ann Everett, Mayor

ATTEST:

Debra Johnson, City Secretary

CITY OF CANTON, TEXAS

EXHIBIT"A" "a"


MILL CREEK RESERVOIR
(LAKE CANYON)
Duck Hunting Designations
EXHIBIT A (Designated 01/18/94)
ARNOLD PAUL RD.
Swim Area
Boat Ramp
HUNTING AREA
HUNTING AREA
HUNTING AREA
FM RD 2909
STATE HIGHWAY 19
N