



**City of Heath, Texas
Lake Ray Hubbard Take Area**

SUBLEASE PROGRAM

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I. Lake Ray Hubbard Take Area Defined

The City of Dallas built and owns Lake Ray Hubbard. The City of Dallas incorporated the lake into the City of Dallas corporate limits and maintains the lake as a reservoir. The Take Line is defined as the perimeter boundary of Dallas' property and Dallas' corporate limits. The Take Line is commonly the rear property line of an adjacent property-owner's property. The Take Area is defined as the land owned by the City of Dallas between the Take Line and the normal lake pool elevation of 435.5 mean sea level.

II. Take Area Lease Program Authority

The City of Heath and the City of Dallas entered into an Interlocal Agreement and Lease on November 4, 2004, providing for the lease of the Take Area from the City of Dallas to the City of Heath and the subsequent sublease of certain portions of the Take Area to adjacent residential property owners.

Commercial subleases shall be processed on an individual, case-by-case basis through the City Manager's Office and subject to approval by the City Council in coordination with the City of Dallas.

A blanket easement shall exist for all City of Heath and City of Dallas personnel and their vehicles and for public and utility service personnel and their vehicles for periodic inspections of the Take Area and for code enforcement, emergency or public safety matters or repairs.

III. Municipal Regulation in the Take Area

Through the Interlocal Agreement and Lease, the City of Dallas and the City of Heath established that the City of Heath would create and enforce zoning/land use regulations for the Take Area and that the City of Heath would assume enforcement powers of local ordinances in the Take Area and extending 40 feet out into the lake. The City of Dallas maintains municipal authority of the lake up to 40 feet from the lake's edge and maintains full authority for water quality and control throughout the Take Area.

IV. Purpose of the Residential Sublease Program

The Residential Sublease Program is intended to allow single-family parcels adjacent to the Lake Ray Hubbard Take Line to sublease designated portions of the Take Area for expanded recreational activity and enjoyment of the property. The Lake Edge Zoning District provides for subleasing while maintaining important regulations to preserve water quality, erosion control, public safety and view corridor protection.

The Residential Sublease Program is designed to provide a framework for the fair and equitable distribution of the Take Area subleases to eligible property owners without providing an advantage to any one person or entity.

V. Authority of Sublease Program Administration

The Take Area Sublease Program shall be administered by the City Manager's Office.

VI. Eligibility of Properties for Sublease

Residential property owners directly adjacent to the Take Area have the option, in most instances, to sublease a portion of the Take Area directly adjacent to their property. Properties, whose lakeside boundary consists of nothing more than a point, i.e. the frontage consists of a corner, will not be eligible to sublease the adjacent take area.

Otherwise eligible properties with outstanding financial obligations to the City of Heath will not be eligible for sublease until such obligations, including applicable fees and penalties, have been satisfied.

Residential properties directly adjacent to the Take Area may be eligible for sublease regardless of whether or not the adjacent property has been developed. If otherwise eligible, property owners of undeveloped property or property that does not contain a single-family residence or structure, may sublease; but, may not construct improvements other than erosion control.

VII. Subleased Take Area

A. A property-owner who subleases the Take Area may use the property in accordance with the City of Heath Lake Edge Zoning District Ordinance. A property-owner who subleases the Take Area may prohibit trespassing upon the subleased area.

B. Eligible properties in the Take Area that are not subleased by the adjacent property owners will remain within the City of Heath's leased area.

C. Portions of the Take Area that are designated public use areas, such as Terry Park, will not be eligible for sublease.

D. Portions of the Take Area adjacent to public streets, such as the portion of the Take Area adjacent to Scenic Drive in the Antigua Bay subdivision and to Windward Trail in the Cove Ridge Estates Subdivision will not be eligible for sublease.

E. The City of Heath reserves the right to designate a portion of the Take Area which is not currently subleased as ineligible for sublease if the City Council determines that the public interest is best served by maintaining the area within the City of Heath's leased area.

F. Pursuant to the Interlocal Agreement and Lease, any subleased area may not be further subleased.

VIII. Non-Subleased Take Area

An adjacent residential property-owner who does not sublease the Take Area may not restrict the public's access to the Take Area; provided that such access shall not be through, over or across the property owned by such property owner.

Personal property, structures and improvements placed in non-subleased portions of the Take Area can be removed by the City of Heath or the City of Dallas without prior notice. The owner of such items may be subject to charges to recover the cost of removal, fines, and other legal actions.

IX. Non-Conforming Land Uses within the Take Area

Non-Conforming Land Uses occurring within the Take Area, subleased or not, may not continue. There is no provision for grandfathered uses within the City of Heath Lake Edge Zoning District. An adjacent residential property owner responsible for or benefiting from the non-conforming use must take action to remove the non-conforming use, unless such non-conforming use was approved by the City of Dallas prior to the Dallas-Heath Interlocal Agreement.

X. Survey of Take Area Sublease Boundaries

A sublessee who has established the boundaries of the proposed sublease area, as evidenced by an executed Sublease Boundary Agreement, shall submit a survey, prepared and signed by a licensed surveyor, of the proposed area, such survey utilizing state plane coordinates. The survey document shall include the Take Area boundaries, the boundaries of the adjacent-owned property, existing structures/improvements in the take area and the owners of properties adjacent to the proposed sublease area.

The City of Heath reserves the right to make corrections to survey errors.

XI. Take Area Sublease Boundaries

Take Area subleased boundaries will be proposed by the adjacent residential property-owner desiring to sublease the portion of the Take Area adjacent to their property. The City of Heath will not survey the Take Area to provide surveyed parcels for sublease. The City of Heath strongly encourages potential sublessees to negotiate the boundaries of the proposed subleased area with adjacent and interested sublessees.

A. Boundary Configuration

The boundaries of the Take Area portions eligible for sublease will generally consist of four sides: front (land-side), rear (water-side), and two sides (connecting the front to the rear boundary). In most instances, the boundaries will be determined as follows:

1. The water's edge (435.5 degrees mean sea level) will constitute one side, the rear or water-side, of the boundary.
2. The adjacent property owner's lakeside property line will constitute one side, the front or land-side, of the boundary.
3. The remaining two side boundaries of the proposed sublease area will generally be shared on either side with an adjacent property-owner.
4. Where applicable, sublease boundaries will generally be a straight extension of adjacent property boundaries.

B. Sublease Area Boundaries

In most instances, areas eligible for sublease will require the agreement of adjacent residential property-owners on both sides of the subleased area. Where possible, neighboring property owners will establish and present agreed-upon boundaries for subleasing the Take Area.

In the event that adjacent property-owners are unable to agree upon the sublease area boundaries, the parties may request assistance from city staff. If city staff is unable to assist the parties in resolving acceptable sublease area boundaries, dispute resolution may be sought as provided in Article XII below.

Note: agreements signed for City of Dallas permits for the installation of erosion control do not independently establish agreed boundaries for subleasing purposes.

XII. Sublease Area Boundaries - Dispute Resolution

- A. **Boundary Agreement.** Adjacent property-owners shall establish agreed-upon sublease area boundaries. Side boundaries will normally originate with the property corners of the property adjacent to the Take Area and extend to the water's edge. The property owners shall execute a Boundary Agreement.
- B. **Dispute Resolution with Staff Assistance.** If adjacent property-owners are unable to establish agreed-upon sublease area boundaries, they shall apply to the City for staff assistance in establishing sublease area side boundaries.
- C. **Dispute Resolution before Appeals Panel.** If adjacent property-owners are unable to establish agreed-upon sublease area boundaries utilizing city staff assistance, they may apply for informal dispute resolution by the Take Area Appeals Panel, who will be appointed by the City Council. The Take Area Appeals Panel shall consider the information presented by the affected property owners and the city staffs to establish sublease area boundaries. The Take Area Appeals Panel may consider historical information pertaining to maintenance and improvements of the proposed sublease area as well as adjacent Take Area boundaries.
- D. **Appeal to City Council.** The decision of the Take Area Appeals Panel may be appealed to the City Council. The decision of the City Council shall be final.

XIII. Permit Requirements for Improvements in the Take Area

Only property-owners who have executed a Residential Sublease of the Take Area with the City of Heath will be eligible to obtain permits for improvements, except for irrigation and erosion control, in the Take Area.

Permit, application and review fees shall be established in the City of Heath Fee Schedule attached to the Annual Budget of the City.

XIV. Residential Sublease Area Improvement Permit Requirements

Take Area Boat-Related Uses and Site-Related Uses have specific minimum area requirements established in the Lake Edge Zoning District Ordinance and variances will not be allowed. A listing of allowed Take Area Boat-Related Uses and Site-Related Uses is established in the Lake Edge Zoning District Ordinance. Barbeque pits and fences providing barriers between private and public leased areas require conditional use permits as defined in the Zoning Ordinance.

Permits for allowed uses may be submitted to the City Building Official upon the execution of a Residential Sublease of the Take Area. The permitting and inspection process for Take Area improvements shall follow the same regulations and procedures as building permits and inspections.

XV. Establishing Sublease Rates

It is the policy of the City Council that the Take Area Subleasing Program and its administration be funded entirely by Sublease revenue. The City Council will review annually the revenues and expenditures associated with the program and may adjust Sublease fees accordingly.