

RESOLUTION NO. 20130627-075

WHEREAS, Lake Austin is a reservoir on the Colorado River impounded by the Tom Miller Dam within the limits of the City of Austin with multiple governmental and quasi-governmental bodies having concurrent jurisdiction; and

WHEREAS, in 1945 the State of Texas granted to Austin its rights to all the land in the Colorado River within the City limits of Austin and certain rights to impound, divert, and use the waters of the Colorado River; and

WHEREAS, the City currently draws its drinking water from Lake Austin, which also is the sole water supply reservoir for many households and Municipal Utility Districts near Lake Austin; and

WHEREAS, the City has the authority to regulate a variety of commercial and other uses, activities, and development on and around Lake Austin for the health, safety, general order and welfare of the public as well as to promote environmental and natural resource conservation and sustainability; and

WHEREAS, on May 24, 2012, the Austin City Council created a Lake Austin Task Force (LATF) to address the impact that commercial, residential, and recreational activity has had on Lake Austin; and

WHEREAS, the ordinance that accompanied the May 2012 Council action required that requests for environmental variances under City Code Section 25-8-41 on behalf of a property abutting or within 500 feet of the shoreline of Lake Austin be heard by Planning Commission while the LATF did its work; and

WHEREAS, the LATF was directed to include in its recommendations whether the code changes made in the May 2012 ordinance regarding environmental variances should be repealed, amended, or left in place; and

WHEREAS, in 1940 the Austin City Council established a five-member Lake Austin Navigation Board to oversee local regulation of private and commercial watercraft operating on Lake Austin; and

WHEREAS, this responsibility was consistent with the Parks and Recreation Department's oversight of recreational activities; and

WHEREAS, the Navigation Board's role has evolved over time; and

WHEREAS, the Parks and Recreation Board exercises authority over certain development approvals on Lake Austin; and

WHEREAS, the LATF finalized its recommendations on June 3, 2013 but a report has not yet been completed and submitted to the City Council; and

WHEREAS, the LATF came to consensus in recommending:

- The Parks and Recreation Board should not decide development variance requests;
- The Lake Austin Residential District (LA) zoning category contains important environmental protections as befits property within the 1000-foot geographic designation from the shoreline, but these protections fall away when properties are rezoned. The City should address this issue;

- Staff should consider revising the process for variance review. The LATF further recommended that for the near future, requests for development variances should be determined by the Board of Adjustment rather than the Parks and Recreation Board, and all requests for environmental variances (including those from City Code Chapter 25-8 Critical Environmental Feature protections, shoreline relocation, lake fill, and construction on slopes) should be reviewed by the Environmental Board for a recommendation to the Zoning and Platting Commission; and

WHEREAS, when the LATF dissolved by operation of its enabling ordinance, temporary provisions regarding applicable variance review protocol for Lake Austin properties reverted back to the pre-May 2012 process; and

WHEREAS, the potential exists for projects to move forward in ways contrary to the process recommended by the diverse group of stakeholders who served on the LATF; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to develop recommendations for preserving the environmental protections currently codified in the Lake Austin (LA) Residential District zoning for all properties within 1000 feet of the Lake Austin shoreline, regardless of the zoning for individual parcels, and to schedule these for Council action no later than September 1, 2013.

BE IT FURTHER RESOLVED:

Until such recommendations are codified, the City Manager is directed to either suspend rezoning properties from LA to a less-stringent zoning category, or to ensure that the environmental protections within the LA zoning are maintained in any proposed new zoning category.

BE IT FURTHER RESOLVED:

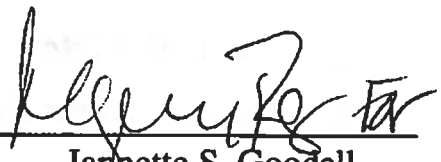
The City Manager is directed to consider a revision to the process for variance review requests from properties in proximity to Lake Austin whereby development variances be determined by the Board of Adjustment rather than the Parks and Recreation Board.

BE IT FURTHER RESOLVED:

For all properties within 1000 feet of Lake Austin shoreline, the Planning Commission shall act as the land use commission for dock, bulkhead, and shoreline variance requests granted under Chapter 25-2 (including Article 13) and environmental variance requests granted under Chapter 25-8 of the Land Development Code. If any code amendments or ordinance action be necessary to accomplish this direction, the City Manager is directed to initiate and present such items for Council action without delay.

ADOPTED: June 27, 2013

ATTEST:


Jannette S. Goodall
City Clerk

ORDINANCE NO. 20120524-083

AN ORDINANCE CREATING THE LAKE AUSTIN TASK FORCE ("LATF"); DIRECTING THE CITY MANAGER TO WORK WITH LATF TO DEVELOP AND REPORT RECOMMENDATIONS FOR CHANGES RELEVANT TO LAKE AUSTIN; WAIVING CERTAIN REQUIREMENTS OF SECTION 25-1-502 RELATING TO AMENDMENTS OF TITLE 25; AND AMENDING THE CITY CODE TO PROHIBIT ENVIRONMENTAL ADMINISTRATIVE VARIANCES FOR DEVELOPMENT OF PROPERTIES ABUTTING OR WITHIN 500 FEET OF THE SHORELINE OF LAKE AUSTIN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The City Council finds that:

- (1) Lake Austin is a reservoir on the Colorado River impounded by the Tom Miller Dam within the limits of the City of Austin with multiple governmental and quasi-governmental bodies having concurrent jurisdiction.
- (2) In 1945 the State of Texas granted its rights to all the land in the Colorado River within the City limits of Austin, including the bed, banks, and islands therein, to the City of Austin.
- (3) Via Certificates of Adjudication, the State of Texas has granted to the City certain rights to impound, divert, and use the waters of the Colorado River within the city limits of Austin.
- (4) As the recognized owner of certain rights to Lake Austin and under its police powers and home-rule authority, the City has authority to regulate a variety of commercial and other uses, activities, and development on, around, and affecting Lake Austin and its components and features for the public health, safety, general order and welfare, environmental and natural resource conservation and sustainability, and for other good and justified cause.
- (5) The City currently draws its drinking water from Lake Austin, which also is the sole water supply reservoir for many riparian households and Municipal Utility Districts authorized by the City to serve subdivisions within proximity of Lake Austin.
- (6) The City regulates land development in and around Lake Austin and approval of administrative variances is discretionary but available solely in

those cases where specific determinations are made by the City and findings support the administrative variance.

- (7) Numerous citizens have raised multiple concerns about impacts and unintended consequences related to commercial, residential, recreational, and other use, activity, and development on and near Lake Austin, including, but not limited to: reports of substantial shoreline erosion, degradation of water quality and natural geologic features, unpermitted construction, development exceeding the scope of approved variances or permits, and inadequate enforcement mechanisms and regulatory remedies to control for existing violations and to prevent or deter future problems.
- (8) In response to concerns identified, in 2010 the Parks and Recreation Board and the Waterfront Planning Advisory Board passed resolutions requesting City Council assemble a multi-disciplinary body or task force to recommend methods and policies to provide reasonable use of Lake Austin while protecting the public health, safety and welfare, and the value and integrity of this natural resource asset of the City and its inhabitants.

PART 2. The Lake Austin Task Force ("LATF") is created to develop recommendations for future regulatory controls and enforcement mechanisms on and relevant to Lake Austin to promote, preserve, and protect this critical public asset. The LATF is directed to include in its recommendations whether the code changes made in this Ordinance regarding environmental variances should be repealed, amended, or left in place. The LATF expires upon the completion of its assigned task or one year after the effective date of this Ordinance, whichever is sooner.

PART 3. City Council directs the City Manager to provide necessary resources and technical assistance to the LATF.

PART 4. The LATF shall consist of 14 regular members and 3 ex-officio voting members to be appointed as follows:

- (1) Seven regular members from among the residents of the neighborhoods adjacent to and surrounding Lake Austin, one member appointed by each member of the Austin City Council;
- (2) Seven regular members appointed one by each member of the Austin City Council on the basis of the appointee's knowledge or expertise in environmental design, environmental management, or related subject matter expertise relevant to Lake Austin;
- (3) Three ex-officio voting members consisting of one representative from the Parks and Recreation Board; Environmental Board; and Water and

Wastewater Commission, selected by the members of the respective Board; and

- (4) Non-voting representatives invited by the City Manager from the Lower Colorado River Authority, the Texas Parks and Wildlife Department, and the Corps of Engineers.

PART 5. The City Manager is directed to report to the City Council LATF preliminary recommendations, anticipated additional needs, and timeline for finalizing recommendations not later than September 27, 2012.

PART 6. Section 25-1-46 (*Land Use Commission*) is amended to add a new subsection (F) to read:

§ 25-1-46 LAND USE COMMISSION.

- (F) The Planning Commission shall act as the land use commission for variances granted under Section 25-8-41(*Land Use Commission Variances*) if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally.

PART 7. Section 25-8-42 (*Administrative Variances*) subsection (A) is amended to read:

§ 25-8-42 ADMINISTRATIVE VARIANCES.

- (A) A variance under this section may not vary the requirements of Article 12 (*Save Our Springs Initiative*) and may not be granted for development of a property if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally.

PART 8. Section 25-8-281(Critical Environmental Features) subsection (D) is amended to read:

§ 25-8-281 CRITICAL ENVIRONMENTAL FEATURES.

- (D) The director may grant an administrative variance to a requirement unless any portion of the property that is the subject of the administrative variance abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally. An applicant for a variance must demonstrate that the proposed measures preserve all characteristics of the critical environmental feature.

PART 9. The Council waives the requirements of City Code section 25-1-502 (*Amendment; Review*) relating to processing of amendments to City Code Title 25.

PART 10. This ordinance takes effect on June 4, 2012.

PASSED AND APPROVED

_____, May 24 _____, 2012

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§ _____
§ _____
Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk