

# Late Backup

Item 59  
5/15/14  
Initiated by ~~B. Lloyd~~  
Law

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-1, 25-2, 25-5, 25-7,  
2 AND 25-8 RELATING TO THE LAKE AUSTIN ZONING DISTRICT AND THE  
3 REGULATION OF BOAT DOCKS, BULKHEADS, AND SHORELINE ACCESS.  
4

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:  
6

7 **PART 1.** City Code Section 25-1-46 (*Land Use Commission*) is amended to repeal  
8 Subsection (F).

9 **PART 2.** Subsections (B), (C), and (D) of City Code Section 25-2-551 (*Lake Austin (LA)*  
10 *District Regulations*) are amended to read:

11 (B) This subsection specifies shoreline setbacks [applies] in a Lake Austin (LA)  
12 district.

13 (1) The shoreline setback is:

14 (a) 75 feet; or

15 (b) 25 feet, if:

16 (i) the lot is located in a subdivision plat recorded before April 22,  
17 1982, or is a legal tract exempt from the requirement to plat;  
18 and

19 (ii) the distance between the shoreline and the front lot line, or the  
20 property line of a legal tract, is 200 feet or less.

21 (2) ~~(1)~~ A shoreline setback area is excluded from impervious cover  
22 calculations.

23 (3) ~~(2)~~ ~~[A permanent improvement]~~ No structures are allowed [is prohibited]  
24 in a shoreline setback area, except that: ~~[for]~~

25 (a) a bulkhead, retaining wall, [pier, wharf, boat house] dock, non-  
26 mechanized pedestrian access facility, or marina may be  
27 constructed and maintained in accordance with applicable  
28 regulations of this title; and

1 (b) an on-site sewage facility may be constructed and maintained in  
2 accordance with the applicable regulations of Chapter 15-5  
3 (Private Sewage Facilities)]~~, or a driveway to the structures].~~

4 [~~(3) Not more than 30 percent of the woody vegetation within a shoreline~~  
5 ~~setback area may be removed.]~~

6 [~~(4) Except for surveying or testing, vegetation within a shoreline setback area~~  
7 ~~may not be removed before a building permit is issued. For surveying or~~  
8 ~~testing, areas up to 15 feet wide may be cleared, and trees smaller than six~~  
9 ~~inches in diameter may be removed.]~~

10 [~~(5) Development is prohibited on land with a gradient that exceeds 35~~  
11 ~~percent. This prohibition does not apply to a fence, driveway, road or~~  
12 ~~utility that cannot be reasonably placed elsewhere, or a pedestrian facility.]~~

13 [~~(6) A sewage holding tank that is at least partially below ground level, or an~~  
14 ~~effluent disposal site, must be at least 100 feet horizontally from the~~  
15 ~~shoreline. A sewage facility drain field that uses soil as a filter medium~~  
16 ~~may not be located on land with a gradient of more than 15 percent.]~~

17 (C) This subsection specifies lot width and impervious cover restrictions in a Lake  
18 Austin (LA) district.

19 (1) If a lot fronts on a cul-de-sac and is [~~Except for a lot~~] included in a  
20 subdivision plat recorded after [~~before~~] April 22, 1982 or is exempt from  
21 the requirement to plat [~~a tract that is not required to be platted~~], [~~this~~  
22 ~~subsection applies in an LA district.~~]

23 [~~(1)]~~ [~~The shoreline setback is 75 feet.~~]

24 [~~(2)]~~ [~~A lot that fronts on a cul-de-sac~~] it must have:

25 (a) a chord width of not less than 33 feet at the front lot line;

26 (b) a width of not less than 60 feet at the front yard setback line; and

27 (c) a width of not less than 100 feet at all points 100 feet or more behind  
28 the front lot line.

29 (2)[~~(3)]~~ For a lot included in a subdivision plat recorded after April 22, 1982,  
30 [Impervious] impervious cover may not exceed:

31 (a) 20 percent, on a slope with a gradient of 25 percent or less;

- 1 (b) 10 percent, on a slope with a gradient of more than 25 percent and  
2 not more than 35 percent; or  
3 (c) if impervious cover is transferred under Subsection (D) [(E)], 30  
4 percent.

5 (3) For a lot included in a subdivision plat recorded before April 22, 1982, or  
6 a tract that is not required to be platted, impervious cover may not  
7 exceed:

- 8 (a) 35 percent, on a slope with a gradient of 15 percent or less;  
9 (b) 10 percent, on a slope with a gradient of more than 15 percent and  
10 not more than 35 percent;  
11 (c) 5 percent, on a slope with a gradient of more than 25 percent and  
12 not more than 35 percent; or  
13 (d) 40 percent, if impervious cover is transferred under Subsection  
14 (D).

15 (D) ~~[This subsection applies to a lot included in a subdivision plat recorded~~  
16 ~~before April 22, 1982 or a tract that is not required to be platted, and that is~~  
17 ~~located in an LA district.]~~

18 [(1)] ~~[The shoreline setback is:]~~

19 [(a)] ~~[75 feet; or]~~

20 [(b)] ~~[if the front line of the lot or tract is 200 feet or less from the~~  
21 ~~shoreline, 25 feet.]~~

22 [(2)] ~~[The lot or tract must comply with the front yard, street side yard, interior~~  
23 ~~side yard, and rear yard setback requirements applicable in an SF-2~~  
24 ~~district.]~~

25 [(3)] ~~[Impervious cover may not exceed:]~~

26 [(a)] ~~[35 percent, on a slope with a gradient of 15 percent or less;]~~

27 [(b)] ~~[10 percent, on a slope with a gradient of more than of 15 percent~~  
28 ~~and not more than 25 percent;]~~

29 [(c)] ~~[5 percent, on a slope with a gradient of more than 25 percent and~~  
30 ~~not more than 35 percent; or]~~

1                   ~~[(d)] [if impervious cover is transferred under Subsection (E), 40~~  
2                   ~~percent.]~~

3           ~~{(E)} [This subsection authorizes the transfer of impervious cover in a Lake~~  
4           ~~Austin (LA) district [In an LA district, a person may transfer impervious~~  
5           ~~cover in accordance with this subsection].~~

6           (1) Impervious cover may be transferred only:

7                   (a) between tracts within an LA district; and

8                   (b) from land with a gradient of 35 percent or less, to land with a  
9                   gradient of 15 percent or less.

10           (2) Land from which impervious cover is transferred ~~[may not be developed.~~  
11           ~~The land]~~ must ~~[either]~~ remain undisturbed, if the land exists in a natural  
12           ~~condition,~~ or be restored to a natural ~~[state]~~ condition as prescribed by the  
13           Environmental Criteria Manual.

14           (3) A transfer of impervious cover must be documented in a manner  
15           approved by the director and documented in the county deed records  
16           ~~[described in a restrictive covenant that runs with the land, is approved~~  
17           ~~by the city attorney, and is recorded in the county deed records].~~

18           (E) This subsection specifies additional development standards based on slope  
19           gradient in a Lake Austin (LA) district.

20           (1) On a slope with a gradient of more than 15 percent:

21                   (a) vegetation must be restored with native vegetation, as prescribed  
22                   by the Environmental Criteria Manual, if it is disturbed or removed  
23                   as a result of construction; and

24                   (b) construction uphill or downhill from the slope must comply with  
25                   the Environmental Criteria Manual.

26           (2) On a slope with a gradient of more than 35 percent, development is  
27           prohibited except for the construction of a fence, driveway, road or utility  
28           that cannot be reasonably placed elsewhere, or a non-mechanized  
29           pedestrian facility, such as a foot path, sidewalk, or stairs.

30  
31           **PART 3.** Subsections (G) and (H) of City Code Section 25-2-893 (*Accessory Uses for a*  
32           *Principal Residential Use*) is amended to read:

1 (G) A ~~[residential] dock[, pier, wharf, float, island, or other similar structure]~~ is  
2 permitted as an accessory use ~~[in an SF-6 or more restrictive district]~~ if the  
3 requirements of this subsection are met.

4 (1) A dock ~~and~~ may be located off-site.

5 (2) A dock may not include habitable space or living quarters or other  
6 elements not necessary to the function of a dock, such as space  
7 conditioning, sinks, toilets, or wastewater or potable water lines or  
8 connections.

9 (3) A dock may include only the following as appurtenances and means  
10 of access:

11 (a) a storage closet that meets the requirements of Subsection (A);

12 (b) a roof;

13 (c) a second floor;

14 (d) marine lockers;

15 (e) railings;

16 (f) a non-potable water pump and hose bib;

17 (g) electrical connections;

18 (h) lighting and fans;

19 (i) non-mechanized access, including a staircase, pedestrian  
20 bridge, gangway, and gates; and

21 (j) accessories or slips that may accommodate the mooring or  
22 storage of boats in compliance with the requirements of Section  
23 25-2-1176 (*Site Development Regulations for Docks, Marinas,*  
24 *and Other Lakefront Uses*).

25 (4) Only one dock is permitted for a principal residential use, even if the  
26 use is located on more than one lot.

27 (H) A use other than one described in this section is permitted as an accessory use if  
28 the director ~~[of the Neighborhood Planning and Zoning Department]~~ determines  
29 that the use is necessary, customary, appropriate, incidental, and subordinate to  
30 a principal use.  
31

1 **PART 4.** Subsection (D) of City Code Section 25-2-963 (*Modification and Maintenance*  
2 *of Noncomplying Structures*) is amended to read:

3 (D) The following requirements must be met in order to repair, reinforce, modify, or  
4 maintain a non-complying dock, bulkhead, or shoreline access as defined in  
5 Section 25-2-1172 (*Definitions*) [~~or to modify a noncomplying dock~~]:

6 (1) the use [~~Modification of a dock must comply with the following~~  
7 ~~requirements:~~]

8 [(a)] [~~the dock~~] must be an accessory use in compliance with Section  
9 25-2-893(G) (*Accessory Uses for a Principal Residential Use*) [~~to~~  
10 ~~a single family residence~~];

11 (2) except as allowed under Section 25-2-652 (*Restrictions on Development*  
12 *Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*):

13 (a) the location and footprint may not be altered; and

14 (b) the degree of noncompliance may not be increased [(b) ~~the~~  
15 ~~alteration must be confined within the existing footprint~~];

16 (3) [(e)] a survey of existing conditions must be included with the site plan  
17 or building permit application and must depict current elevations,  
18 contours, trees, and any other information required by the building  
19 official [~~the total footprint of the dock must be reduced by 50%~~];

20 [(d)] [~~the number of boat slips on the dock is reduced by 50%; and~~]

21 [(e)] [~~the alternation may not increase the degree to which the structure~~  
22 ~~violates a requirement that caused the structure to be~~  
23 ~~noncomplying.~~]

24 [(2)] [~~Repair, reinforcing, or maintaining a noncomplying dock, bulkhead, or~~  
25 ~~shoreline access must comply with the following requirements:~~]

26 (4) demolition is subject to the limitation in Subsection (B)(4) of this section;

27 (5) [(a)] dock structural components, including load bearing beams, walls,  
28 piers, and roofs, may be altered or replaced without reducing the legally  
29 existing length, height, or horizontal footprint of the dock, provided that  
30 the dock complies with:

31 (a) the limitation in Subsections (D)(7)-(8) of this section; and

1 (b) all other applicable regulations of Article 13 (Docks, Bulkheads,  
2 and Shoreline Access) and Section 25-2-893 (Accessory Uses for a  
3 Principal Residential Use) [no more than 50 percent of existing  
4 piles, pilings, or sheet pile or no more than 50 percent of the length  
5 of the dock, bulkhead, or shoreline access may be removed or  
6 replaced and];

7 (6) no increase is allowed to:

8 (a) the number of walls;

9 (b) the height, width or depth; or

10 (c) the number of slips or mooring capacity; and

11 [~~(b)~~] [the location, footprint, and degree of noncompliance of the  
12 structure is not altered;]

13 (7) for a dock, bulkhead, or shoreline access constructed after January 1,  
14 1984, the applicant must provide evidence of a prior permit authorizing  
15 the construction; and

16 (8) for a dock, bulkhead, or shoreline access constructed prior to January 1,  
17 1984, no unpermitted additions or alterations that occurred after January  
18 1, 1984 are allowed.

19 [~~(3)~~] [Demolition is subject to the limitation in Subsection (B)(4) of this  
20 Section.]

21  
22 **PART 5.** City Code Section 25-2-964 (*Restoration and Use of Damaged or Destroyed*  
23 *Noncomplying Structures*) is amended to add a new Subsection (C) to read:

24 (C) This section does not apply to loss of land resulting from wave action behind  
25 a bulkhead on Lake Austin.

26  
27 **PART 6.** Subsection (B) of City Code Section 25-2-1171 (*Applicability*) is amended to  
28 read:

29 (B) The director [~~building official or the director~~] of the Planning and  
30 Development Review Department shall implement and enforce this article.

31  
32 **PART 7.** City Code Section 25-2-1172 (*Definitions*) is amended to add new definitions  
33 of “personal watercraft” and “cluster dock” to read as follows, to amend the definitions of

1 "dock" and "motorboat" to read as follows, to delete the definition of "residential  
2 dock," and to renumber the remaining definitions accordingly:

3 (2) CLUSTER DOCK means a dock not used for commercial purposes that is  
4 associated with:

5 (a) dwelling units in a multifamily development with lake frontage; or

6 (b) principal residential structures in a subdivision with perpetual use rights  
7 to a common area that fronts a lake.

8 (3) DOCK includes a wharf, pier, float, floating dock, island, boat dock, boat slip,  
9 boat lift, stationary platform, or other similar structure.

10 (4) MOTORBOAT means a watercraft propelled by an internal combustion engine  
11 or electric motor.

12 (5) NORMAL POOL ELEVATION means:

13 (a) for Lake Austin, 492.8 feet above mean sea level;

14 (b) for Lady Bird Lake, 429 feet above mean sea level; and

15 (c) for Lake Walter E. Long, 554.5 feet above mean sea level.

16 ~~[(5)] [RESIDENTIAL DOCK means a dock that provides a stationary landing for:]~~

17 ~~[(a)] [fishing or swimming; or]~~

18 ~~[(b)], [anchoring, mooring, or storing not more than one vessel.]~~

19 (6) PERSONAL WATERCRAFT includes jet skis and means a type of motorboat  
20 specifically designed to be operated by a person or persons sitting, standing or  
21 kneeling on the vessel rather than in the conventional manner of sitting or  
22 standing inside the vessel and that is less than 13 feet in length.

24 **PART 8.** City Code Section 25-2-1173 (*Permit Required for Construction*) is amended  
25 to repeal Subsection (D) and to amend Subsections (A) and (B) to read as follows:

26 **§ 25-2-1173 PERMIT REQUIRED FOR CONSTRUCTION.**

27 [(A) A person may not modify a shoreline or construct or modify a dock, bulkhead,  
28 or shoreline access unless the person first obtains a site plan, except as otherwise  
29 allowed under Section 25-5-2 (Site Plan Exemptions),] and building permit[~~as~~  
30 ~~applicable,~~] and pays the applicable [~~permit fee set~~] fees established by  
31 ordinance. A site plan required under this section must be signed and sealed by

1 a licensed professional engineer and must include all information required by the  
2 director responsible for administering this chapter.

3 ~~[(B)] [The building official or the director of the Parks and Recreation Department~~  
4 ~~shall require the applicant to place an identification or registration tag on a~~  
5 ~~dock. A person may not remove a tag placed under this subsection.]~~

6 ~~(B)~~~~(C)~~ A permit obtained under this section shall be prominently displayed at the  
7 construction site until the final inspection and approval by the building official.

8 ~~[(D)] [The director of the Planning and Development Review Department may not~~  
9 ~~approve an application for a permit for the construction of more than two~~  
10 ~~residential docks or other similar structures on a single lot zoned MF-1 or more~~  
11 ~~restrictive, unless:]~~

12 ~~[(1)] [the lot was platted and recorded before August 26, 1976, and~~  
13 ~~perpetual rights to use the water frontage of the lot were granted or~~  
14 ~~conveyed to one or more owners of other lots in the subdivision~~  
15 ~~before June 23, 1979; or]~~

16 ~~[(2)] [the Planning Commission has approved a site plan that clusters the~~  
17 ~~residential docks on one or more lots in the subdivision.]~~

18 ~~(C)~~~~(E)~~ If a permit is required under this section and is not obtained before  
19 construction begins, the required fee is increased by an amount established by  
20 ordinance. Payment of the additional fee does not relieve a person from  
21 complying with the requirements of this title [Code].

22  
23 **PART 9.** City Code Section 25-2-1174 (*Structural Requirements*) is amended to read as  
24 follows:

25 **§ 25-2-1174 STRUCTURAL REQUIREMENTS.**

26 (A) In addition to other applicable requirements of this title, a [A] dock must:

27 (1) comply with the requirements of Chapter 25-12 (*Technical Codes*),  
28 including Article 1 (*Building Code*) [~~(*Uniform Building Code*)~~], Article 7  
29 (*Fire Code*), and the Building Criteria Manual; [and]

30 (2) be designed and constructed in a manner that does not pose a hazard to  
31 navigation safety;

32 (3) be braced to withstand pressure of wind and water when boats are tied to  
33 the dock[-]; and

1           (3) ~~[(B) A floating dock must]~~ if the dock is a floating dock, be supported by  
2           solid displacement flotation devices, with durable nonferrous protective  
3           coverings that are ~~[-The flotation material must be]~~ securely attached to  
4           the dock and ~~[must be]~~ capable of withstanding prolonged exposure to  
5           wave action and weather.

6           (C) ~~[A retaining wall, bulkhead, or other erosion protection device must be~~  
7           ~~constructed to minimize wave return and wave action by using design and~~  
8           ~~materials prescribed by rule.]~~ A bulkhead with a greater than 45 degree vertical  
9           slope for any portion greater than one foot in height is not permitted on or  
10          adjacent to the shoreline of a lake that is subject to this article, ~~[listed in Section~~  
11          ~~25-2-1171 (Applicability)]~~ unless the shoreline is located within an existing  
12          man-made channel.

13          ~~[(D)] [A retaining wall, bulkhead, or other erosion protection device may not capture~~  
14          ~~or recapture land on a lake listed in Section 25-2-1171 (Applicability), unless~~  
15          ~~capturing or recapturing the land is required to restore the land to the lesser of]:~~

16                   ~~[(1)] [the shoreline as it existed 10 years from the date of application, with~~  
17                   ~~documentation as prescribed by rule, or]~~

18                   ~~[(2)] [the lakeside boundary of the subdivided lot line.]~~

19          ~~[(E)] [On a determination by a city official or employee that a dock has become, or is~~  
20          ~~in imminent danger of becoming, structurally unsound, the building official:]~~

21                   ~~[(1)] [shall take action to declare the dock a hazard;]~~

22                   ~~[(2)] [shall abate the hazard under Chapter 25-12, Article 9 (Property~~  
23                   ~~Maintenance Code), at the owner's expense; and]~~

24                   ~~[(3)] [may impose a lien on the affected property for the collection of the~~  
25                   ~~expense.]~~

26  
27          **PART 10.** Subsections (B) and (C) of City Code Section 25-2-1175 (*Lighting and*  
28          *Electrical Requirements*) are amended to read:

29          (B) This subsection applies to a dock that extends more than eight feet from the  
30          shoreline. In this subsection, the distance that a dock extends from a shoreline  
31          is measured perpendicular to the shoreline, and the shoreline length of a dock is  
32          the length of a dock measured parallel to the shoreline.

33          (1) A dock must be continuously lighted with amber lights between sunset  
34          and sunrise each day.

1 (2) A dock must have at least one light station. Except as otherwise provided  
2 in this subsection, the light station must be located on the end of the dock  
3 and on the side that is farthest from and parallel to the shoreline. The  
4 light must be visible to a properly approaching watercraft.

5 (3) A dock that extends 30 feet or more from the shoreline, or that has a  
6 shoreline length of 25 feet or more, must have at least one light station on  
7 each side of the dock that does not face the shoreline.

8 (4) The requirements of this [This] paragraph apply [applies] if the director  
9 [of the Parks and Recreation Department] determines that a dock  
10 described in Subsection (B)(3) may be a navigational hazard between  
11 sunset and sunrise.

12 (a) A dock that extends less than 50 feet from the shoreline must have  
13 a light station half way between the shoreline and the end of the  
14 dock that is farthest from the shoreline.

15 (b) A dock that extends 50 feet or more from the shoreline must have  
16 light stations from the shoreline to the end of the dock at intervals  
17 of not more than 25 feet, except that a light station may not be  
18 located within 8 feet of the shoreline.

19 (c) A dock that has a shoreline length of at least 25 feet but less [not  
20 more] than 50 feet must have a light station located at each end of  
21 the dock on the side farthest from the shoreline.

22 (d) A dock that has a shoreline length of 50 feet or more must have  
23 light stations located at intervals of not more than 25 feet along its  
24 length.

25 (e) Light stations are [also] required at each end of the dock on the  
26 side farthest from the shoreline.

27 (C) A light station required by this section must have a two-bulb fixture, with two  
28 working light bulbs that emit at least 112 lumens and not more than 400 lumens  
29 [rated between 7 ½ and 25 watts, inclusive]. Light bulbs or bulb covers must be  
30 amber, and white light may not radiate from the fixture. Weatherproof lamp  
31 holders and junction boxes are required. Each light fixture must be wired with  
32 a switch operated by a photoelectric cell so that the lights will operate  
33 automatically during the hours that the dock is required to be lighted by this  
34 section.  
35

1 **PART 11.** City Code Section 25-2-1176 (*Regulations*) is amended to read:  
2

3 **§ 25-2-1176 SITE DEVELOPMENT REGULATIONS FOR DOCKS, MARINAS,**  
4 **AND OTHER LAKEFRONT USES.**

5 (A) A ~~[A site plan]~~ dock or similar structure must comply with the requirements of  
6 this subsection [section]. ~~[A city official may not approve for final inspection a~~  
7 ~~structure that does not conform to the requirements of Title 25 of the City Code,~~  
8 ~~including this section].~~

9 (1) A dock may extend up to 30 feet from the shoreline, except that the  
10 director may require a dock to extend a lesser or greater distance from the  
11 shoreline if deemed necessary to ensure navigation safety.

12 (2) The length of a dock from the shoreline may not exceed 20% of the lake  
13 channel, as measured from the shoreline where the dock is located and  
14 continuing to the opposite shoreline.

15 (3) A dock may not be constructed closer than 10 feet to the side property  
16 line, regardless of the side-yard setback generally applicable within the  
17 base zoning district.

18 (4) The width of a dock measured parallel to the shoreline of the lot or tract  
19 where the dock is proposed, and including all access and appurtenances,  
20 may not exceed:

21 (a) 20 percent of the shoreline width, if the shoreline width exceeds 70  
22 feet;

23 (b) 14 feet, if the shoreline width is no greater than 70 feet.

24 (5) The footprint of a dock, including the portion of a cut-in slip, attached  
25 access structures, or roof overhang, may not exceed:

26 (a) 1,200 square feet for a dock that is accessory to a principal  
27 residential use;

28 (b) for a cluster dock, 600 square feet multiplied by:

29 (i) the number of dwelling units in a multifamily development;  
30 or

31 (ii) the number of principal residential structures in a  
32 subdivision, if:

1                   the dock will be located in a common area that fronts  
2                   Lake Austin or Lady Bird Lake; and

3                   lots within the subdivision have perpetual use rights to  
4                   the common area.

5                   (6) A dock may not exceed 30 feet in height as measured from the highest  
6                   point of the structure above the normal pool elevation of the lake.

7                   (7) No portion of a dock may be enclosed, except for an enclosed storage  
8                   closet that is:

9                   (a) limited to no more than 48 square feet for each principal residential  
10                   use associated with the dock; and

11                   (b) oriented to minimize cross sectional area perpendicular to flow.

12                   (8) The dock must be designed and constructed to meet the following  
13                   requirements:

14                   (a) except for storage closets permitted under Paragraph (6), no more  
15                   than one wall per floor may consist of solid structural supports or  
16                   building materials;

17                   (b) except for solid structural components allowed under Paragraph  
18                   8(a), solid and mesh materials used for enclosure, including lattice,  
19                   wire panels, and screening, must be at least 66 percent open; and

20                   (c) no framing materials that are capable of being converted to support  
21                   walls or windows may be used.

22                   (9) The number of motorboats anchored, moored, or stored on a dock may  
23                   not exceed:

24                   (a) two, for a principal residential use utilizing an individual dock that  
25                   is not part of a cluster dock; or

26                   (b) the number of single-family or multifamily residential units that:

27                   (i) have a perpetual right to use of a cluster dock located in a  
28                   common area of the residential subdivision or multi-family  
29                   development; and

30                   (ii) do not utilize a dock other than a cluster dock.

1           (10) For purposes of determining the total number of motorboats that may be  
2           anchored, moored, or stored on a dock or over water, one personal  
3           watercraft is equivalent to one-half of a motorboat.

4           ~~[(B)] [A dock or other structure must be constructed so that it is not a hazard to~~  
5           ~~navigation or safety.]~~

6           ~~[(1)] [The director of the Planning and Development Review Department shall~~  
7           ~~determine, after receiving the recommendation of the Planning~~  
8           ~~Commission, the distance that a proposed dock may extend into a body~~  
9           ~~of water without constituting a hazard.]~~

10          ~~[(2)] [A dock may not extend more than 30 feet from the shoreline unless the~~  
11          ~~Planning Commission determines that the dock will not create a hazard~~  
12          ~~and approves the construction of the dock.]~~

13          ~~[(C)] [A fence may not extend into the water beyond the shoreline unless the fence~~  
14          ~~was part of a commercial livestock operation, other than raising domestic pets,~~  
15          ~~existing on April 17, 1994. A fence permitted under this subsection:]~~

16                   ~~[(1)] [must be constructed of smooth wire or mesh;]~~

17                   ~~[(2)] [may not extend more than 40 feet beyond the shoreline;]~~

18                   ~~[(3)] [must include a navigation buoy indicating "DANGER", in~~  
19                   ~~accordance with the Texas Water Safety Act, installed at the end of~~  
20                   ~~the fence, unless the fence does not extend further beyond the~~  
21                   ~~shoreline than an immediately adjacent dock; and]~~

22                   ~~[(4)] [must be removed if the livestock operation ceases.]~~

23          ~~[(D)] [Approval of the Planning Commission is required for a structure, other than a~~  
24          ~~retaining wall:]~~

25                   ~~[(1)] [to be constructed or altered within 10 feet of a side property line; or]~~

26                   ~~[(2)] [except as provided in Subsection (E), that has a width, measured~~  
27                   ~~parallel to the shoreline, greater than 20 percent of the shoreline width~~  
28                   ~~of the lot or parcel of land on which the structure is to be constructed.]~~

29          ~~[(E)] [Subsection (D)(2) does not apply if:]~~

30                   ~~[(1)] [the lot was platted and recorded before August 26, 1976, and a perpetual right~~  
31                   ~~to use the water frontage of the lot was granted to the owner of another lot in~~  
32                   ~~the subdivision before June 23, 1979; or]~~

1           ~~[(2)] [the Planning Commission has approved a site plan that clusters the boat docks~~  
2           ~~on one or more lots in the subdivision.]~~

3           ~~[(F)] [The number of residential docks may not exceed:]~~

4           ~~[(1)] [twice the number of lots in the subdivision that have lake frontage on Lake~~  
5           ~~Austin or Lady Bird Lake; or]~~

6           ~~[(2)] [the number of lots in the subdivision, if:]~~

7           ~~[(a)] [the subdivision has a common area that fronts on Lake Austin or Lady Bird~~  
8           ~~Lake; and]~~

9           ~~[(b)] [a perpetual right to use the water frontage of the common area has been~~  
10           ~~conveyed to a lot owner in the subdivision.]~~

11           ~~(B)[(G) This subsection applies to a]~~ A marina area or [common area] cluster dock  
12           must comply with the requirements of this subsection.

13           (1)   ~~[Except for a boat dock or a combined storage area on the water's edge,~~  
14           ~~a] A parking lot or permanent structure, other than a dock or a combined~~  
15           ~~storage area on the water's edge [including a parking lot], must be set~~  
16           ~~back at least 100 feet from the shoreline.~~

17           (2)   Sanitation facilities must be provided in accordance with the following  
18           requirements [for all marina and picnic areas].

19           (a)   Permanent sanitation facilities are required for a marina or  
20           common area with 10 or more boat slips.

21           (b)   Temporary or permanent sanitation facilities are required for a  
22           marina or common area with fewer than 10 boat slips [Septic tanks  
23           and sewage holding tanks may not be located within 100 feet of an  
24           area below the normal pool elevation].

25           (3)   A [The] facility operator [shall] must:

26           (a)   remove garbage in a timely manner and provide for the on-site  
27           collection of garbage at a [the] marina or common area[-]; and

28           (b)   ~~[(a) At]~~ provide at least one garbage can with a capacity of at least  
29           32 gallons [is required] for each four picnic units and for each four  
30           boat slips.

31           ~~[(b)] [The facility operator shall remove garbage in a timely manner.]~~

1 ~~[(H) A business or a living quarter may not be constructed on a pier or similar~~  
2 ~~structure extending into or above Lake Austin, Lady Bird Lake, or Lake Walter~~  
3 ~~E. Long, except under a license agreement approved by the council.]~~

4 ~~[(1) [The Planning Commission shall make a recommendation to the council~~  
5 ~~on each license agreement.~~

6 ~~[(2) [A structure built under a license agreement must comply with the~~  
7 ~~lighting requirements of Section 25-2-1175 (Lighting And Electrical~~  
8 ~~Requirements).]~~

9 (C) A fence may not extend into the water beyond the shoreline unless the fence:

10 (1) was part of a commercial livestock operation, other than raising domestic  
11 pets, existing on April 17, 1994;

12 (2) is constructed of smooth wire or mesh;

13 (3) extends no more than 40 feet beyond the shoreline;

14 (4) includes a navigation buoy indicating "DANGER", in accordance with  
15 the Texas Water Safety Act, installed at the end of the fence, unless the  
16 fence does not extend further beyond the shoreline than an immediately  
17 adjacent dock; and

18 (5) must be removed if the livestock operation ceases.

19 ~~(D)[(H)]~~ Construction of a boat ramp is prohibited.

20  
21 **PART 12.** City Code Section 25-2-1177 (*Dock Exempt from City Licensing*) is amended  
22 to read:

23 **§ 25-2-1177** **[DOCKS EXEMPT FROM] CITY LICENSING REQUIREMENTS**  
24 **FOR DOCKS, MARINAS AND OTHER LAKEFRONT USES.**

25 (A) A license agreement from the City is not required for a dock located [~~within the~~  
26 ~~boundaries of a public drainage easement~~] along Lake Austin, Lady Bird Lake,  
27 or Lake Walter E. Long, regardless of any easements or other ownership rights  
28 held by the City [if it is constructed in accordance with this article and Chapter  
29 25-12, Article 4 (Uniform Building Code)].

30 (B) No living quarters or business, including a marina, may be constructed into or  
31 above a lake that is subject to this article, unless the city council approves a  
32 license agreement for the use after receiving a recommendation from the Land  
33 Use Commission.

1 (C) ~~(B)~~ This section does not waive or modify:

- 2 (1) any applicable requirements of this title, including the use and site  
3 development regulations of this subchapter; or
- 4 (2) the City's property interests in the easements and lakebeds identified  
5 in Subsection (A), including the right to:
- 6 (a) require the immediate removal of a dock or other encroachment  
7 that poses a navigation hazard, as authorized by this article; or
- 8 (b) require a license agreement for docks or other encroachments  
9 into lands over which the City holds an easement or fee simple  
10 ownership [limit the review of a site plan for construction of a  
11 dock].

13 **PART 13.** City Code Chapter 25-2, Subpart C, Article 13 (*Docks, Bulkheads, and*  
14 *Shoreline Access*) is amended to repeal Section 25-2-1178 (*Fire Protection*) and to  
15 amend Section 25-2-1179 (*Environmental Protection*) to read:

16 **§ 25-2-1179 ENVIRONMENTAL PROTECTION.**

- 17 (A) In addition to other applicable requirements of this title, a dock, bulkhead, or  
18 shoreline access must be designed, constructed, and maintained in accordance  
19 with the applicable requirements of this subsection.
- 20 (B) A retaining wall, bulkhead, or other erosion protection device must be designed  
21 and constructed to minimize wave return and wave action in accordance with  
22 the Environmental Criteria Manual.
- 23 (C) A marine fuel facility or service station must comply with the requirements of  
24 Chapter 6-2 (*Hazardous Materials*) and shall be designed, maintained, and  
25 operated in a manner that prevents the spilling or leaking of fuel or petroleum  
26 products into the water.
- 27 (D)~~(B)~~ The maintenance and repair of watercraft shall be performed in a manner that  
28 prevents discharge of fuel, oil, or other pollutants into the water.
- 29 (E)~~(C)~~ Containers of hazardous materials, fuel, oil, herbicides, insecticides,  
30 fertilizers or other pollutants may not be stored on docks extending into or  
31 above Lake Austin, Lady Bird Lake, or Lake Walter E. Long.

1 (F)[D] Construction of shoreline access structures must minimize disturbance to  
2 woody and herbaceous vegetation, preserve the tree canopy, and replace  
3 herbaceous ground cover to the extent practicable.

4 (G) A marina or marine fuel service facility or service station must provide  
5 adequate fire protection approved by the Fire Chief of the Austin Fire  
6 Department in accordance with the Fire Code and National Fire Protection  
7 Association standards for marinas and boatyards.  
8

9 **PART 14.** City Code Chapter 25-2, Subchapter C, Article 13 (*Docks Bulkheads, and*  
10 *Shoreline Access*) is amended to add a new Section 25-2-1180 to read:

11 **§ 25-2-1180 ENFORCEMENT AND REGISTRATION.**

12 (A) On a determination by a city official or employee that a dock has become or is  
13 in imminent danger of becoming structurally unsound, the building official:

14 (1) shall take action to declare the dock a hazard;

15 (2) shall abate the hazard under Chapter 25-12, Article 9 (*Property*  
16 *Maintenance Code*), at the owner's expense; and

17 (3) may impose a lien on the affect property to recover the cost of abatement.

18 (B) An applicant must place a registration tag on a boat dock in a manner  
19 prescribed by the ~~[building official]~~ director of the Code Compliance  
20 Department. A person may not remove a tag required to be placed on a dock  
21 under this subsection.

22 (C) In addition to the actions authorized under this section, the building official may  
23 take any other authorized action to enforce the requirements of this article.  
24

25 **PART 15.** City Code Section 25-5-2 (*Site Plan Exemptions*) is amended to amend  
26 Subsections (A) and (L) and to add a new Subsection (M) read as follows:

27 (A) The director shall determine whether a project is exempt under this section from  
28 the site plan requirement of Section 25-5-1 (*Site Plan Required*). The director  
29 may require an ~~[that the]~~ applicant to submit information necessary to make a  
30 determination under this section or ~~[subsection. The director may require an~~  
31 ~~applicant]~~ to revise a previously approved site plan under Section 25-5-61  
32 (*Revisions To Released Site Plans*).

1 (L) The exemptions provided by this section do not apply to the construction of a  
2 dock, bulkhead, or shoreline access as described in Chapter 25-2, Subchapter C,  
3 Article 13 (*Docks Bulkheads, and Shoreline Access*)[-], but

4 [(M)] a [A] site plan is not required for the [to] repair [-reinforce], maintenance, or  
5 modification of existing structures or improvements if [or maintain a dock,  
6 bulkhead, or shoreline access, or to modify a dock under] the applicable  
7 requirements of this subsection are met. [following conditions:]

8 (1) A site plan is not required for simple re-decking of a dock.

9 (2) A site plan is not required to modify a dock, or to maintain or repair a  
10 dock or shoreline access, if [the existing dock, bulkhead, or shoreline  
11 access]:

12 (a) the dock or shoreline access was legally constructed[; provided  
13 that simple re-decking will be allowed for all docks]; and

14 (b)[(2)] the work proposed does not:

15 (i) require a [no] variance or other approval from a [from City  
16 Code is required; (3) no] city board or commission [approval  
17 is required];

18 (ii) [(4) there will be no] increase [in] the existing footprint of  
19 the dock[-, bulkhead,] or shoreline access; [and]

20 (iii) add, change, or replace structural components, including  
21 load bearing beams or walls, piers, pilings; or

22 (iv) add new walls.

23 [(5)] [the work is authorized under Section 25 2 963 (*Modification and*  
24 *Maintenance of Noncomplying Structures*) or Section 25 2 964  
25 *(Restoration and Use of Damaged or Destroyed Noncomplying*  
26 *Structures)*].

27 (3) A site plan is not required to repair a bulkhead if:

28 (a) the bulkhead was legally constructed;

29 (b) the repair does not exceed 25% of the bulkhead or portion of a  
30 bulkhead existing on a lot or tract; and

31 (c) no repair to the bulkhead was done without a site plan in the  
32 previous three years.

1           (M) An exemption under this section does not waive applicable requirements for  
2 obtaining a building permit and may not include modifications to a non-  
3 complying structure, including repair or maintenance, except as provided under  
4 Chapter 25-2, Subchapter C, Article 8 (Noncomplying Structures).  
5

6 **PART 16.** Subsection (B) of City Code Section 25-5-3 (*Small Projects*) is amended to  
7 read:

8           (B) The following are small projects:

- 9
- 10           (8) construction of a boat dock as an accessory use to a single-family  
11 residential use, duplex residential use, two-family residential use, or  
12 secondary apartment special use if shoreline modification or dredging of  
13 not more than 25 cubic yards is not required; or  
14

15 **PART 17.** Subsection (A) of City Code Section 25-7-93 (*General Exceptions*) is  
16 amended to read:

17 **§ 25-7-93 GENERAL EXCEPTIONS.**

18           (A) A site plan [development application] with a proposed building or parking area  
19 that encroaches on the 100-year floodplain may be approved if the encroachment is:

- 20           (1) a parking area that is smaller than 5,000 square feet or an unoccupied  
21 structure that has an area of less than 1,000 square feet, and the director  
22 determines that the proposed development:
- 23                   (a) will not have an adverse effect on the 100-year floodplain or  
24 surrounding properties; and
- 25                   (b) otherwise complies with the requirements of this title;
- 26           (2) a single-family or duplex residential structure in a subdivision:
- 27                   (a) recorded before September 25, 1983; and
- 28                   (b) in which only one residential structure is built on a single lot;
- 29           (3) a building authorized by a waterway development permit issued under  
30 Chapter 9-10 before September 25, 1983;
- 31           (4) a building in the 100-year floodplain of:
- 32                   (a) Lady Bird Lake; or

1 (b) the Colorado River downstream from Longhorn Dam[; or].

2 [(5)] [a boat dock in the 100 year floodplain of Town Lake, Lake Walter E.  
3 Long, or Lake Austin, and construction of the dock is otherwise  
4 permitted under this title.]  
5

6 **PART 18.** Subsection (B) of City Code Section 25-7-96 (*Exceptions in the 25-Year*  
7 *Floodplain*) is amended to read:

8 **§ 25-7-96 REQUIREMENTS IN THE 25-YEAR FLOODPLAIN.**

9 (B) A development application with a proposed building or parking area that  
10 encroaches on the 25-year floodplain may be approved if:

11 (1) the building or parking area is located on parkland, a golf course, or other  
12 public or recreational land;

13 (2) the building, if any, is either:

14 (i) a restroom or bath facility, concession stand, tool shed, or pump  
15 house, with an area of less than 1,000 square feet; or

16 (ii) a dock that is located in the 25-year floodplain of Lady Bird Lake,  
17 Lake Walter E. Long, or Lake Austin and constructed, or proposed  
18 to be constructed, in compliance with the regulations of this title;

19 (3) the parking area, if any, is smaller than 5,000 square feet; and

20 (4) the director determines that the proposed development:

21 (a) will not result in additional adverse flooding impact on other  
22 properties; and

23 (b) otherwise complies with the requirements of this title.  
24

25 **PART 19.** Subsection (B) of City Code Section 25-8-41 (*Land Use Commission*  
26 *Variances*) is amended to read:

27 (B) The Land Use Commission may grant a variance from a requirement of Section  
28 25-8-422 (*Water Quality Transition Zone*), Section 25-8-452 (*Water Quality*  
29 *Transition Zone*), Section 25-8-482 (*Water Quality Transition Zone*), Section  
30 25-8-652 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake,*  
31 *and Lake Walter E. Long*), or Article 7, Division 1 (*Critical Water Quality Zone*  
32 *Restrictions*), after determining that:

- 1 (1) the criteria for granting a variance in Subsection (A) are met;
- 2 (2) the requirement for which a variance is requested prevents a reasonable,  
3 economic use of the entire property; and
- 4 (3) the variance is the minimum change necessary to allow a reasonable,  
5 economic use of the entire property.  
6

7 **PART 20.** Subsection (A) of City Code Section 25-8-42 (*Administrative Variances*) is  
8 amended to read:

- 9 (A) A variance under this section may not vary the requirements of Article  
10 13 (*Save Our Springs Initiative*) [~~and may not be granted for development~~  
11 ~~of a property if any portion of the property abuts or is within 500 feet of the~~  
12 ~~shoreline of Lake Austin, measured horizontally].~~

13  
14 **PART 21.** Subsection (C) of City Code Section 25-8-261 (*Critical Water Quality Zone*  
15 *Development*) is amended to read:

- 16 (C) The requirements of this subsection apply along [Along] Lake Travis, Lake  
17 Austin, or Lady Bird Lake[-].

- 18 (1) A [a boat] dock, [pier, wharf,] bulkhead or marina, and necessary access  
19 and appurtenances, are [is] permitted in a critical water quality zone  
20 subject to compliance with Chapter 25-2, Subchapter C, Article 12  
21 (Docks, Bulkheads, and Shoreline Access). [; and]

- 22 (2) At least 50% of the area within 25 feet of the shoreline must be:

23 (a) preserved in a natural condition; or

24 (b) restored to a natural condition as prescribed by the Environmental  
25 Criteria Manual, if the vegetation is disturbed or removed for  
26 construction or other development activity, within the area of  
27 disturbance.

- 28 (3) Not more than 30 percent of the woody vegetation within the shoreline  
29 setback area as defined by Section 25-2-551 (*Lake Austin (LA) District*  
30 Regulations) and within the area defined by 25-2-180 (*Lake Austin (LA)*  
31 Overlay District) may be removed.

- 32 (4) Before a building permit may be issued or a site plan released, approval  
33 by the Watershed Protection Department is required for [of] chemicals

1 used to treat building materials that will be submerged in water is  
2 [required before a permit may be issued or a site plan released].  
3

4 **PART 22.** City Code Section 25-8-652 (*Fills at Lake Austin, Lady Bird Lake, and Lake*  
5 *Walter E. Long*) is amended to read:

6 **§ 25-8-652 RESTRICTIONS ON DEVELOPMENT IMPACTING ~~[FILLS AT]~~**  
7 **LAKE AUSTIN, LADY BIRD LAKE, AND LAKE WALTER E. LONG.**

8 (A) The requirements of this section apply to development on or adjacent to  
9 [Approval by the Planning Commission is required to place fill in] Lake  
10 Austin, Lady Bird Lake, or Lake Walter E. Long.

11 (B) Except as otherwise provided by this section, placing fill or dredging in a  
12 lake is prohibited.

13 ~~[(B)] [A person must file a written application with the Planning Commission for~~  
14 ~~an approval under this section.]~~

15 ~~[(C)] [This subsection applies to a development application that includes a~~  
16 ~~proposal to modify the shoreline of Lake Austin, Lady Bird Lake, or Lake~~  
17 ~~Walter E. Long; or dredge in or along that lake.]~~

18 ~~[(1)] [Before the director may approve the development application, the~~  
19 ~~director must submit the development application to the Parks and~~  
20 ~~Recreation Board.]~~

21 ~~[(2)] [The board shall review and comment on:]~~

22 ~~[(a)] [the navigational safety of the proposed development; and]~~

23 ~~[(b)] [the effect of the development on the recreational and natural~~  
24 ~~character of the lake.]~~

25 ~~[(3)] [The board may develop specific criteria for determining:]~~

26 ~~[(a)] [the navigational safety of a proposed development; or]~~

27 ~~[(b)] [the effect of a proposed development on the recreational and~~  
28 ~~natural character of Lake Austin, Lady Bird Lake, or Lake~~  
29 ~~Walter E. Long.]~~

30 (C) A retaining wall, bulkhead, or other erosion protection device may not capture  
31 or recapture land from a lake unless doing so is required to restore the shoreline

1 to whichever of the following boundaries would encroach the least into the  
2 lake:

3 (1) the shoreline as it existed 10 years prior to the date of application, with  
4 documentation as prescribed by the Environmental Criteria Manual; or

5 (2) the lakeside boundary of the subdivided lot line.

6 (D) A bulkhead may be replaced in front of an existing bulkhead once, if:

7 (1) the existing bulkhead was legally constructed; and

8 (2) construction of the replacement bulkhead does not change the location of  
9 the shoreline by more than 6 inches; and

10 (3) the director of the Watershed Protection Department determines that  
11 there is no reasonable alternative to replacement of the bulkhead in the  
12 location of the existing bulkhead.

13 (E) The director may approve less than 25 cubic yards of dredging in a lake if the  
14 dredging is necessary for navigation safety.

15  
16 **PART 23.** This ordinance takes effect on \_\_\_\_\_

17  
18 **PASSED AND APPROVED**

19  
20  
21  
22 \_\_\_\_\_, 2014

§  
§  
§

23  
24  
25 \_\_\_\_\_  
26 Lee Leffingwell  
27 Mayor

28 **APPROVED:** \_\_\_\_\_  
29 Karen M. Kennard  
30 City Attorney

31 **ATTEST:** \_\_\_\_\_  
32 Jannette S. Goodall  
City Clerk