

ORDINANCE NO. 20140626-113

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

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

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

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

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

(1) The shoreline setback is:

(a) 75 feet; or

(b) 25 feet, if:

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

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

(2) [(4)] A shoreline setback area is excluded from impervious cover calculations.

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

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

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

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

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

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

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

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

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

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

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

- ~~(a) a chord width of not less than 33 feet at the front lot line;~~
- ~~(b) a width of not less than 60 feet at the front yard setback line; and~~
- ~~(c) a width of not less than 100 feet at all points 100 feet or more behind the front lot line.~~

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

- ~~(a) 20 percent, on a slope with a gradient of 25 percent or less;~~
- ~~(b) 10 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent; or~~
- ~~(c) if impervious cover is transferred under Subsection (D) [(E)], 30 percent.~~

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

(a) 35 percent, on a slope with a gradient of 15 percent or less;

(b) 10 percent, on a slope with a gradient of more than 15 percent and not more than 35 percent;

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

(d) 40 percent, if impervious cover is transferred under Subsection (D).

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

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

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

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

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

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

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

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

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

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

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

(1) Impervious cover may be transferred only:

- (a) between tracts within an LA district; and
 - (b) from land with a gradient of 35 percent or less, to land with a gradient of 15 percent or less.
- (2) Land from which impervious cover is transferred [~~may not be developed. The land~~] must [~~either~~] remain undisturbed, if the land exists in a natural condition, or be restored to a natural [state] condition as prescribed by the Environmental Criteria Manual.
- (3) A transfer of impervious cover must be documented in a manner approved by the director and documented in the county deed records [~~described in a restrictive covenant that runs with the land, is approved by the city attorney, and is recorded in the county deed records~~].
- (E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district.
- (1) On a slope with a gradient of more than 15 percent:
 - (a) vegetation must be restored with native vegetation, as prescribed by the Environmental Criteria Manual, if it is disturbed or removed as a result of construction; and
 - (b) construction uphill or downhill from the slope must comply with the Environmental Criteria Manual.
 - (2) On a slope with a gradient of more than 35 percent, development is prohibited except for the construction of a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs.

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

- (G) A [~~residential~~] dock[~~, pier, wharf, float, island, or other similar structure~~] is permitted as an accessory use [~~in an SF-6 or more restrictive district~~] if the requirements of this subsection are met.
- (1) A dock [and] may be located off-site.
 - (2) A dock may not include habitable space or living quarters or other elements not necessary to the function of a dock, such as space conditioning, sinks, toilets, or wastewater or potable water lines or connections.

- (3) A dock may include only the following as appurtenances and means of access:
- (a) a storage closet that meets the requirements of Subsection (A);
 - (b) a roof;
 - (c) a second floor;
 - (d) marine lockers;
 - (e) railings;
 - (f) a non-potable water pump and hose bib;
 - (g) electrical connections;
 - (h) lighting and fans;
 - (i) non-mechanized access, including a staircase, pedestrian bridge, gangway, and gates;
 - (j) non-mechanized recreational equipment, such as slides or swings; and
 - (k) accessories or slips that may accommodate the mooring or storage of boats in compliance with the requirements of Section 25-2-1176 (*Site Development Regulations for Docks, Marinas, and Other Lakefront Uses*).
- (4) Only one dock is permitted for a principal residential use, even if the use is located on more than one lot.

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

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

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

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

- ~~[(a)] [the dock] must be an accessory use in compliance with Section 25-2-893(G) (Accessory Uses for a Principal Residential Use) [to a single family residence];~~
- (2) except as allowed under Section 25-8-652 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long):
- (a) the location and footprint may not be altered; and
- (b) the degree of noncompliance may not be increased ~~[(b) the alteration must be confined within the existing footprint];~~
- (3) ~~[(e)] a survey of existing conditions must be included with the site plan or building permit application and must depict current elevations, contours, trees, and any other information required by the building official [the total footprint of the dock must be reduced by 50%];~~
- ~~[(d)] [the number of boat slips on the dock is reduced by 50%; and]~~
- ~~[(e)] [the alternation may not increase the degree to which the structure violates a requirement that caused the structure to be noncomplying.]~~
- ~~[(2)] [Repair, reinforcing, or maintaining a noncomplying dock, bulkhead, or shoreline access must comply with the following requirements:]~~
- (4) demolition is subject to the limitation in Subsection (B)(4) of this section;
- (5) ~~[(a)] dock structural components, including load bearing beams, walls, piers, and roofs, may be altered or replaced without reducing the legally existing length, height, or horizontal footprint of the dock, provided that the dock complies with:~~
- (a) the limitation in Subsections (D)(7)-(8) of this section; and
- (b) all other applicable regulations of Article 13 (Docks, Bulkheads, and Shoreline Access) and Section 25-2-893 (Accessory Uses for a Principal Residential Use) [no more than 50 percent of existing piles, pilings, or sheet pile or no more than 50 percent of the length of the dock, bulkhead, or shoreline access may be removed or replaced and];
- (6) no increase is allowed to:
- (a) the number of walls;
- (b) the height, width or depth; or

- (c) the number of slips or mooring capacity; and
- ~~[(b) [the location, footprint, and degree of noncompliance of the structure is not altered;]~~
- (7) for a dock, bulkhead, or shoreline access constructed after January 1, 1984, the applicant must provide evidence of a prior permit authorizing the construction; and
- (8) for a dock, bulkhead, or shoreline access constructed prior to January 1, 1984, no unpermitted additions or alterations that occurred after January 1, 1984 are allowed.
- ~~[(3)] [Demolition is subject to the limitation in Subsection (B)(4) of this Section.]~~

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

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

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

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

PART 7. City Code Section 25-2-1172 (*Definitions*) is amended to add new definitions of “personal watercraft” and “cluster dock” to read as follows, to amend the definitions of “dock” and “motorboat” to read as follows, to delete the definition of “residential dock,” and to renumber the remaining definitions accordingly:

- (2) CLUSTER DOCK means a dock not used for commercial purposes that is associated with:
 - (a) dwelling units in a multi-family development with lake frontage; or
 - (b) principal residential structures in a subdivision with perpetual use rights to a common area that fronts a lake.
- (3) DOCK includes a wharf, pier, float, floating dock, island, boat dock, boat slip, boat lift, stationary platform, or other similar structure.
- (4) MOTORBOAT means a watercraft propelled by an internal combustion engine or electric motor.

(5) NORMAL POOL ELEVATION means:

- (a) for Lake Austin, 492.8 feet above mean sea level;
- (b) for Lady Bird Lake, 429 feet above mean sea level; and
- (c) for Lake Walter E. Long, 554.5 feet above mean sea level.

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

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

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

(6) PERSONAL WATERCRAFT includes jet skis and means a type of motorboat 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 the vessel and that is less than 13 feet in length.

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

§ 25-2-1173 PERMIT REQUIRED FOR CONSTRUCTION.

(A) A person may not modify a shoreline or construct or modify a dock, bulkhead, or shoreline access unless the person first obtains a site plan, except as otherwise allowed under Section 25-5-2 (*Site Plan Exemptions*), and building permit~~[, as applicable,]~~ and pays the applicable ~~[permit fee set]~~ fees established by ordinance. A site plan required under this section must be signed and sealed by a licensed professional engineer and must include all information required by the director responsible for administering this chapter.

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

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

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

~~[(1)] [the lot was platted and recorded before August 26, 1976, and perpetual rights to use the water frontage of the lot were granted or~~

~~conveyed to one or more owners of other lots in the subdivision before June 23, 1979; or]~~

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

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

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

§ 25-2-1174 STRUCTURAL REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A dock that extends 50 feet or more from the shoreline must have light stations from the shoreline to the end of the dock at intervals

of not more than 25 feet, except that a light station may not be located within 8 feet of the shoreline.

- (c) A dock that has a shoreline length of at least 25 feet but less [~~not more~~] than 50 feet must have a light station located at each end of the dock on the side farthest from the shoreline.
 - (d) A dock that has a shoreline length of 50 feet or more must have light stations located at intervals of not more than 25 feet along its length.
 - (e) Light stations are [~~also~~] required at each end of the dock on the side farthest from the shoreline.
- (C) A light station required by this section must have a two-bulb fixture, with two working light bulbs that emit at least 112 lumens and not more than 400 lumens [rated between 7 ½ and 25 watts, inclusive]. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.

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

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

- (A) A [~~A site plan~~] dock or similar structure must comply with the requirements of this subsection [section]. [A city official may not approve for final inspection a structure that does not conform to the requirements of Title 25 of the City Code, including this section].
- (1) A dock may extend up to 30 feet from the shoreline, except that the director may require a dock to extend a lesser or greater distance from the shoreline if deemed necessary to ensure navigation safety.
 - (2) The length of a dock from the shoreline may not exceed 20% of the lake channel, as measured from the shoreline where the dock is located and continuing to the opposite shoreline.
 - (3) A dock may not be constructed closer than 10 feet to the side property line, regardless of the side-yard setback generally applicable within the base zoning district.

- (4) The width of a dock measured parallel to the shoreline of the lot or tract where the dock is proposed, and including all access and appurtenances, may not exceed:
- (a) 20 percent of the shoreline width, if the shoreline width exceeds 70 feet;
 - (b) 14 feet, if the shoreline width is no greater than 70 feet.
- (5) The footprint of a dock, including the portion of a cut-in slip, attached access structures, or roof overhang, may not exceed:
- (a) 1,200 square feet for a dock that is accessory to a principal residential use;
 - (b) for a cluster dock, 600 square feet multiplied by:
 - (i) the number of dwelling units in a multi-family development;
or
 - (ii) the number of principal residential structures in a subdivision, if:
 - the dock will be located in a common area that fronts Lake Austin or Lady Bird Lake; and
 - lots within the subdivision have perpetual use rights to the common area.
- (6) A dock may not exceed 30 feet in height as measured from the highest point of the structure above the normal pool elevation of the lake.
- (7) No portion of a dock may be enclosed, except for an enclosed storage closet that is:
- (a) limited to no more than 48 square feet for each principal residential use associated with the dock; and
 - (b) oriented to minimize cross sectional area perpendicular to flow.
- (8) The dock must be designed and constructed to meet the following requirements:
- (a) except for storage closets permitted under Paragraph (6), no more than one wall per floor may consist of solid structural supports or building materials;

- (b) except for solid structural components allowed under Paragraph 8(a), solid and mesh materials used for enclosure, including lattice, wire panels, and screening, must be at least 66 percent open; and
 - (c) no framing materials that are capable of being converted to support walls or windows may be used.
 - (9) The number of motorboats anchored, moored, or stored on a dock may not exceed:
 - (a) two, for a principal residential use utilizing an individual dock that is not part of a cluster dock; or
 - (b) the number of single-family or multi-family residential units that:
 - (i) have a perpetual right to use of a cluster dock located in a common area of the residential subdivision or multi-family development; and
 - (ii) do not utilize a dock other than a cluster dock.
 - (10) For purposes of determining the total number of motorboats that may be anchored, moored, or stored on a dock or over water, one personal watercraft is equivalent to one-half of a motorboat.
- ~~[(B)] [A dock or other structure must be constructed so that it is not a hazard to navigation or safety.]~~
- ~~[(1)] [The director of the Planning and Development Review Department shall determine, after receiving the recommendation of the Planning Commission, the distance that a proposed dock may extend into a body of water without constituting a hazard.]~~
- ~~[(2)] [A dock may not extend more than 30 feet from the shoreline unless the Planning Commission determines that the dock will not create a hazard and approves the construction of the dock.]~~
- ~~[(C)] [A fence may not extend into the water beyond the shoreline unless the fence was part of a commercial livestock operation, other than raising domestic pets, existing on April 17, 1994. A fence permitted under this subsection:]~~
 - ~~[(1)] [must be constructed of smooth wire or mesh;]~~
 - ~~[(2)] [may not extend more than 40 feet beyond the shoreline;]~~
 - ~~[(3)] [must include a navigation buoy indicating "DANGER", in accordance with the Texas Water Safety Act, installed at the end of]~~

~~the fence, unless the fence does not extend further beyond the shoreline than an immediately adjacent dock; and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) remove garbage in a timely manner and provide for the on-site collection of garbage at a [the] marina or common area[-]; and
- (b) [~~(a) At~~] provide at least one garbage can with a capacity of at least 32 gallons [is required] for each four picnic units and for each four boat slips.

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

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

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

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

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

- (1) was part of a commercial livestock operation, other than raising domestic pets, existing on April 17, 1994;
- (2) is constructed of smooth wire or mesh;
- (3) extends no more than 40 feet beyond the shoreline;
- (4) includes a navigation buoy indicating "DANGER", in accordance with the Texas Water Safety Act, installed at the end of the fence, unless the fence does not extend further beyond the shoreline than an immediately adjacent dock; and
- (5) must be removed if the livestock operation ceases.

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

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

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

- (A) A license agreement from the City is not required for a dock located [within the boundaries of a public drainage easement] along Lake Austin, Lady Bird Lake, or Lake Walter E. Long, regardless of any easements or other ownership rights held by the City [if it is constructed in accordance with this article and Chapter 25-12, Article 1 (*Uniform Building Code*)].
- (B) No living quarters or business, including a marina, may be constructed into or above a lake that is subject to this article, unless the city council approves a license agreement for the use after receiving a recommendation from the Land Use Commission.

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

§ 25-2-1179 ENVIRONMENTAL PROTECTION.

- (A) In addition to other applicable requirements of this title, a dock, bulkhead, or shoreline access must be designed, constructed, and maintained in accordance with the applicable requirements of this subsection.
- (B) A retaining wall, bulkhead, or other erosion protection device must be designed and constructed to minimize wave return and wave action in accordance with the Environmental Criteria Manual.
- (C) A marine fuel facility or service station must comply with the requirements of Chapter 6-2 (*Hazardous Materials*) and shall be designed, maintained, and operated in a manner that prevents the spilling or leaking of fuel or petroleum products into the water.
- (D)[(B)] The maintenance and repair of watercraft shall be performed in a manner that prevents discharge of fuel, oil, or other pollutants into the water.
- (E)[(C)] Containers of hazardous materials, fuel, oil, herbicides, insecticides, fertilizers or other pollutants may not be stored on docks extending into or above Lake Austin, Lady Bird Lake, or Lake Walter E. Long.
- (F)[(D)] Construction of shoreline access structures must minimize disturbance to woody and herbaceous vegetation, preserve the tree canopy, and replace herbaceous ground cover to the extent practicable.

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

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

§ 25-2-1180 ENFORCEMENT AND REGISTRATION.

- (A) On a determination by a city official or employee that a dock has become or is in imminent danger of becoming structurally unsound, the building official:
- (1) shall take action to declare the dock a hazard;
 - (2) shall abate the hazard under Chapter 25-12, Article 9 (*Property Maintenance Code*), at the owner's expense; and
 - (3) may impose a lien on the affect property to recover the cost of abatement.
- (B) An applicant must place a registration tag on a boat dock in a manner prescribed by the ~~[building official]~~ director of the Code Compliance Department. A person may not remove a tag required to be placed on a dock under this subsection.
- (C) In addition to the actions authorized under this section, the building official may take any other authorized action to enforce the requirements of this article.

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

- (A) The director shall determine whether a project is exempt under this section from the site plan requirement of Section 25-5-1 (*Site Plan Required*). The director may require an ~~[that the]~~ applicant to submit information necessary to make a determination under this section or [subsection. ~~The director may require an applicant]~~ to revise a previously approved site plan under Section 25-5-61 (*Revisions To Released Site Plans*).
- (L) The exemptions provided by this section do not apply to the construction of a dock, bulkhead, or shoreline access as described in Chapter 25-2, Subchapter C, Article 13 (*Docks Bulkheads, and Shoreline Access*)~~[-], but~~
- ~~[(M)]~~ a [A] site plan is not required for the [to] repair [-, reinforce], maintenance, or modification of existing structures or improvements if [or maintain a dock, bulkhead, or shoreline access, or to modify a dock under] the applicable requirements of this subsection are met. [following conditions:]

- (1) A site plan is not required for simple re-decking of a dock.
- (2) A site plan is not required to modify a dock, or to maintain or repair a dock or shoreline access, if [the existing dock, bulkhead, or shoreline access]:
 - (a) the dock or shoreline access was legally constructed[; provided that simple re-decking will be allowed for all docks]; and
 - (b)~~(2)~~ the work proposed does not:
 - (i) require a [no] variance or other approval from a [from City Code is required; (3) no] city board or commission [approval is required];
 - (ii) [(4) there will be no] increase [in] the existing footprint of the dock[, bulkhead,] or shoreline access; [and]
 - (iii) add, change, or replace structural components, including load bearing beams or walls, piers, pilings; or
 - (iv) add new walls.
- ~~(5)~~ [the work is authorized under Section 25-2-963 (Modification and Maintenance of Noncomplying Structures) or Section 25-2-964 (Restoration and Use of Damaged or Destroyed Noncomplying Structures)].
- (3) A site plan is not required to repair a bulkhead if:
 - (a) the bulkhead was legally constructed;
 - (b) the repair does not exceed 25% of the bulkhead or portion of a bulkhead existing on a lot or tract; and
 - (c) no repair to the bulkhead was done without a site plan in the previous three years.
- (M) An exemption under this section does not waive applicable requirements for obtaining a building permit and may not include modifications to a non-complying structure, including repair or maintenance, except as provided under Chapter 25-2, Subchapter C, Article 8 (Noncomplying Structures).

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

- (B) The following are small projects:

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

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

§ 25-7-93 GENERAL EXCEPTIONS.

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

- (1) a parking area that is smaller than 5,000 square feet or an unoccupied structure that has an area of less than 1,000 square feet, and the director determines that the proposed development:
 - (a) will not have an adverse effect on the 100-year floodplain or surrounding properties; and
 - (b) otherwise complies with the requirements of this title;
 - (2) a single-family or duplex residential structure in a subdivision:
 - (a) recorded before September 25, 1983; and
 - (b) in which only one residential structure is built on a single lot;
 - (3) a building authorized by a waterway development permit issued under Chapter 9-10 before September 25, 1983;
 - (4) a building in the 100-year floodplain of:
 - (a) Lady Bird Lake; or
 - (b) the Colorado River downstream from Longhorn Dam[; ~~or~~].
- ~~[(5)] [a boat dock in the 100-year floodplain of Town Lake, Lake Walter E. Long, or Lake Austin, and construction of the dock is otherwise permitted under this title.]~~

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

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

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

- (1) the building or parking area is located on parkland, a golf course, or other public or recreational land;
- (2) the building, if any, is either:
 - (i) a restroom or bath facility, concession stand, tool shed, or pump house, with an area of less than 1,000 square feet; or
 - (ii) a dock that is located in the 25-year floodplain of Lady Bird Lake, Lake Walter E. Long, or Lake Austin and constructed, or proposed to be constructed, in compliance with the regulations of this title;
- (3) the parking area, if any, is smaller than 5,000 square feet; and
- (4) the director determines that the proposed development:
 - (a) will not result in additional adverse flooding impact on other properties; and
 - (b) otherwise complies with the requirements of this title.

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

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

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

PART 20. Subsection (C) of City Code Section 25-8-261 (*Critical Water Quality Zone Development*) is amended to read:

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

- (1) A [a-boat] dock, [pier, wharf,] bulkhead or marina, and necessary access and appurtenances, are [is] permitted in a critical water quality zone

subject to compliance with Chapter 25-2, Subchapter C, Article 12 (Docks, Bulkheads, and Shoreline Access). [~~; and~~]

- (2) At least 50% of the area within 25 feet of the shoreline must be:
 - (a) preserved in a natural condition; or
 - (b) restored to a natural condition as prescribed by the Environmental Criteria Manual, if the vegetation is disturbed or removed for construction or other development activity, within the area of disturbance.
- (3) Not more than 30 percent of the woody vegetation within the shoreline setback area as defined by Section 25-2-551 (Lake Austin (LA) District Regulations) and within the area defined by 25-2-180 (Lake Austin (LA) Overlay District) may be removed.
- (4) Before a building permit may be issued or a site plan released, approval by the Watershed Protection Department is required for [øf] chemicals used to treat building materials that will be submerged in water is [required before a permit may be issued or a site plan released].

PART 21. City Code Section 25-8-652 (*Fills at Lake Austin, Lady Bird Lake, and Lake Walter E. Long*) is amended to read:

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

- (A) The requirements of this section apply to development on or adjacent to [Approval by the Planning Commission is required to place fill in] Lake Austin, Lady Bird Lake, or Lake Walter E. Long.
- (B) Except as otherwise provided by this section, placing fill or dredging in a lake is prohibited.
- ~~[(B)] [A person must file a written application with the Planning Commission for an approval under this section.]~~
- ~~[(C)] [This subsection applies to a development application that includes a proposal to modify the shoreline of Lake Austin, Lady Bird Lake, or Lake Walter E. Long; or dredge in or along that lake.]~~
- ~~[(1)] [Before the director may approve the development application, the director must submit the development application to the Parks and Recreation Board.]~~

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

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

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

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

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

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

(C) A retaining wall, bulkhead, or other erosion protection device may not capture or recapture land from a lake unless doing so is required to restore the shoreline to whichever of the following boundaries would encroach the least into the lake:

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

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

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

(1) the existing bulkhead was legally constructed; and

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

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

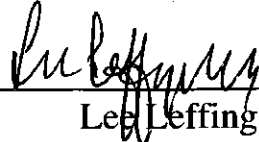
(E) The director may approve less than 25 cubic yards of dredging in a lake if the dredging is necessary for navigation safety.

PART 22. This ordinance takes effect on July 7, 2014.

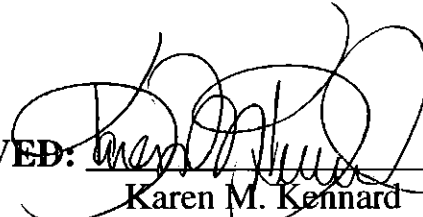
PASSED AND APPROVED

_____ June 26 _____, 2014

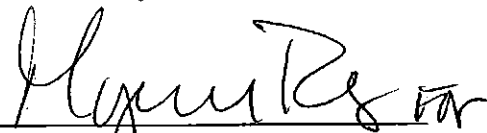
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Lee Leffingwell
Mayor

APPROVED: 

Karen M. Kennard
City Attorney

ATTEST: 

Jannette S. Goodall
City Clerk