

# ANNOTATED AND PROPOSED CHANGES

## TITLE 8. - PARKS AND RECREATION.

### CHAPTER 8-1. - PARKS ADMINISTRATION.

#### ARTICLE 1. - GENERAL PROVISIONS.

##### § 8-1-1 - DEFINITIONS.

In this title:

- (1) APPROVAL means a permit, reservation agreement, or other written document that evidences an authorization by the department.
- (2) ATHLETIC FIELD means an area within a park designated as an athletic field by the director and used for athletic competition.
- (3) BOARD means the Parks and Recreation Board.
- (4) CAMPING means occupying a designated camping facility; erecting a tent or arranging bedding, or both for the purpose of, or in such a manner that will permit, remaining overnight; or the use of a trailer, camper, or other vehicle for the purpose of sleeping overnight.
- (5) CAMPSITE means a public recreation area designated for camping.
- (46) CITY VEHICLE means a motor vehicle owned by the City and operated by a City employee.
- (57) COMMERCIAL ACTIVITY means to advertise or provide a good, service, class, or instructional activity for compensation. This includes providing a good, service, class, or instructional activity without compensation but as an inducement or advertisement for a class or instructional activity for compensation.
- (68) COMPENSATION means any money, thing of value, payment, reward, tip, consideration, donation, gratuity, or profit paid to, accepted by, or received by a person.
- (79) DEPARTMENT means the Parks and Recreation Department.
- (810) DIRECTOR means the director of the Parks and Recreation Department.
- (911) NATURE PRESERVE means a parcel of land or place designated for the protection and preservation of wildlife, including a wildlife sanctuary, and unique ecological and scenic features.
- (4012) PARK means a parcel of land dedicated and used as parkland, or city-owned land used for a park or recreational purpose that is under the administrative control of the department.
- (4413) PUBLIC RECREATION AREA means a park, recreational facility, athletic field, building, swimming pool, playground, nature preserve, trail, dock, or greenbelt managed, maintained, or operated by the department or on the department's behalf.
- (14) PUBLIC USE means use by the public for an activity or special event that does not include commercial activity.

## ANNOTATED AND PROPOSED CHANGES

- (~~4215~~) RECREATION FACILITY means a facility owned or operated by the city and used primarily for recreational activity.
- (~~4316~~) SCHOOL DISTRICT/PLAYGROUND AREA means land jointly operated by the city and an independent school district that is developed, designated, and used for public recreation, school district recreation, or athletic activity.
- (~~4417~~) SOUND EQUIPMENT means loud speaker, microphone, public address system, amplification system, turntable, or other similar digital or analog device that amplifies a voice or other sound.
- (~~4518~~) SPECIAL EVENT means an activity that anticipates 1,000 or more attendees and is conducted pursuant to an approval that allows for the exclusive use of all or part of the public recreation area for the activity.
- (~~4619~~) SWIMMING POOL means a city swimming pool, wading pool, or spray pool.
- (~~4720~~) WATERCRAFT means a boat or other structure designed to float on water.

### § 8-1-2 - ~~ADMINISTRATION~~PURPOSE.

This title is adopted to govern the use of public recreation areas; and is intended to secure and preserve the fullest enjoyment of public recreation areas by the public. ~~The director shall administer and enforce this title.~~

### § 8-1-3 - ~~ENFORCEMENT~~AUTHORITY.

- (A) The director administers, implements, and enforces this title. At the director's request, another city department may assist with enforcing this title.
- (B) The director may close or restrict access to a public recreation area.
- (C) The director may adopt rules under Chapter 1-2 (*Adoption of Rules*) to implement, administer, and enforce this title.
- (D) In addition to the rules authorized in Subsection (C), the director may establish written guidelines for any specific public recreation area that addresses the needs, problems, or conditions that are specific to the public recreation area. The guidelines must be posted at the public recreation area and are effective when posted at the public recreation area.
- (E) Consistent with the procedures and requirements set forth in Chapter 9-1 (*Abandoned Property and Vehicles*), the director may impound a structure, personal property, motor vehicle, or watercraft found in violation of this title.
- (A) ~~Except as otherwise provided, a person who violates this title commits a misdemeanor punishable as provided by section 1-1-99 (*Offenses; General Penalty*).~~
- (B) ~~Proof of a culpable mental state is not required for conviction of an offense under this title.~~

~~(C) A structure or other personal property used in violation of Section 8-1-12(F) is subject to impoundment consistent with the procedures in Chapter 9-1 (*Abandoned Property Vehicles*).~~

§ 8-1-4 OFFENSES; PENALTIES.

(A) Except as otherwise provided in this title, a person who violates this title commits a misdemeanor punishable as provided by Section 1-1-99 (*Offenses; General Penalty*).

(B) A culpable mental state is not required and need not be proved for an offense punishable under this section.

(C) A structure or other personal property used in violation of Section 8-1-14(C) is subject to impoundment consistent with the procedures in Chapter 9-1 (*Abandoned Property and Vehicles*).

(D) A motor vehicle or watercraft found in violation of Subsection (C) or (D) of Section 8-1-11 (*Use of Public Recreation Areas Generally*) is subject to impoundment consistent with the procedures in Chapter 9-1 (*Abandoned Property and Vehicles*).

ARTICLE 2. - RESTRICTIONS ON PARK USE.

§ 8-1-11 - ~~DISRUPTION OF AUTHORIZED ACTIVITY PROHIBITED~~ USE OF PUBLIC RECREATION AREAS GENERALLY.

(A) Except as otherwise provided, a public recreation area is available for public use subject to:

(1) a requirement, if any, to obtain an approval;

(2) a requirement, if any, to pay an entrance fee, parking fee, or other fee; or

(3) a previous reservation.

(B) A person may not be present at a public recreation area outside of operating hours.

(C) Except as provided in the department's rules, the operating hours of a public recreation area are 5:00 a.m. to 10:00 p.m.

(D) It is an affirmative defense to a violation of Subsection (B) if at the time of the alleged violation, the person was present at a public recreation area because the person was participating in or attending an activity conducted in accordance with an approval.

(E) A person may not clear, harvest, excavate, gather, or remove wood, plants, or artifacts at a public recreation area without an approval.

## ANNOTATED AND PROPOSED CHANGES

(~~AF~~) A person may not knowingly disrupt an authorized activity conducted pursuant to an approval in a public recreation area.

(~~BG~~) A person may not remain in a public recreation area if the person is advised that the person's behavior is disruptive and the person is instructed to leave the property by a supervisor of the department.

(C) ~~In this section, "authorized activity" includes an activity conducted or provided pursuant to an approval.~~

Now in  
subsection  
(F)

### § 8-1-12 - APPROVAL ~~FOR TO USE~~ PUBLIC RECREATION AREA ~~USE REQUIRED~~.

(A) An approval is required for a person to reserve a public recreation area.

(B) A person may not fish, camp, or use a specific area in a public recreation area between 10:00 p.m. and 5:00 a.m. without an approval.

(C) A person may not conduct a special event in a public recreation area without an approval. ÷

(1) ~~reserve a public recreation area;~~

(2) ~~fish, camp, or use a specific area in a public recreation area between 10:00 p.m. and 5:00 a.m.; or~~

(3) ~~conduct a commercial activity or a special event in a public recreation area.~~

(~~BD~~) The director shall grant an approval unless the intended use would result in:

(1) the intended use is commercial activity or is a special event that includes a commercial activity; or

(2) the intended use would result in:

(a) a scheduling conflict;

(~~2b~~) traffic congestion;

(~~3c~~) damage to ~~park property~~ public recreation area or landscape;

(~~4d~~) a threat to public health, safety or welfare; or

(~~5e~~) a use inconsistent with the purpose of the public recreation area or nature preserve; or

(3) the public recreation is closed to public entry or otherwise restricted.

(~~C~~) ~~The director may establish written guidelines to:~~

(1) ~~approve an activity described in Subsection (A);~~

(2) ~~conduct an activity described in Subsection (A); or~~

(3) ~~reserve a public recreation area.~~

See Section 8-1-3  
(Authority)

(~~D~~) ~~An approval issued under this section is not a waiver, exception, or defense to a violation of a guideline established by the director or the requirements of the City Code.~~

## ANNOTATED AND PROPOSED CHANGES

(D), (E), and (I) are in Section 8-1-17 (Compliance Required)

- ~~(E) — A person must comply with an approval, including any conditions, department guidelines, or rules, and City Code requirements.~~
- ~~(F) — A person may not use a structure or other personal property for a commercial activity unless the structure or personal property is included in the approval.~~
- ~~(G) — A person may not board individuals from a park or dock managed, maintained, or operated by or on behalf of the department onto a watercraft used for a commercial activity without an approval.~~
- ~~(H) — A person may not disembark individuals from a watercraft used for a commercial activity onto a park or dock managed, maintained, or operated by or on behalf of the department without an approval.~~
- ~~(I) — A person must display an approval to a peace officer or City employee when requested.~~
- ~~(J) — Except as provided in Subsection (K), a person who fails to comply with Subsections (A), (E), (F), (G), (H), or (I) commits a misdemeanor offense punishable by a fine not to exceed \$500 and not less than \$100. A culpable mental state is not required, and need not be proved.~~
- ~~(K) — A person who fails to comply with Subsections (A), (E), (F), (G), (H), or (I) during a special event commits a misdemeanor offense punishable by a fine not to exceed \$500 and not less than \$200. A culpable mental state is not required, and need not be proved.~~

(F) to (H) are in Section 8-1-14 (Approval for Comm. Activity)

(J) and (K) are in Sections 8-1-18; 8-1-19.

### § 8-1-13 - FEE FOR PARK USE; EXCEPTION.

- (A) Except as provided in this section, a person shall pay a fee or charge established by ordinance for the use of a public recreation area or a recreational facility.
- (B) A vehicle entry fee may not be charged to:
- (1) a vehicle bearing a current license plate issued to a veteran with disabilities under Section 502.254 ( *Veterans with Disabilities* ) of the Texas Transportation Code and the driver of the vehicle; or
  - (2) a person holding a current state parklands passport issued under Section 13.018(a)(2) ( *State Parklands Passport* ) of the Texas Parks and Wildlife Code.
- (C) Notwithstanding any other provision in the Code, a City employee presenting a valid City identification card may not be charged a fee for:
- (1) parking at Zilker Park;
  - (2) admission to:
    - (a) a City pool facility;
    - (b) Lake Walter E. Long Park; and
    - (c) Emma Long Metropolitan Park.

## ANNOTATED AND PROPOSED CHANGES

### ~~§ 8-1-14 - USE OF PUBLIC RECREATION AREAS DURING CERTAIN HOURS PROHIBITED APPROVAL FOR COMMERCIAL ACTIVITY.~~

~~(A) A person may not conduct a commercial activity or a special event that includes commercial activity in a public recreation area without an approval.~~

~~(B) The director may grant an approval required in Subsection (A) if:~~

~~\_\_\_\_ (1) the approval will not:~~

~~\_\_\_\_ (a) create a scheduling conflict;~~

~~\_\_\_\_ (b) create traffic congestion;~~

~~\_\_\_\_ (c) cause damage to the public recreation area; or~~

~~\_\_\_\_ (d) result in a threat to public health, safety, and welfare; and~~

~~\_\_\_\_ (2) the commercial activity is consistent with the public of the public recreation area; and~~

~~\_\_\_\_ (3) the requested public recreation area is not closed to public entry or otherwise restricted.~~

~~(C) A person may not use a structure or other personal property for a commercial activity unless the structure or personal property is included in the approval.~~

~~(D) A person may not board individuals from a park or dock managed, maintained, or operated by, or on behalf of, the department onto watercraft used for a commercial activity without an approval.~~

~~(E) A person may not disembark individuals from a watercraft used for a commercial activity onto a park or dock managed, maintained, or operated by, or on behalf of, the department without an approval.~~

~~(A) Except as provided in Subsection (B), the operating hours of a public recreation area are 5:00 a.m. to 10:00 p.m.~~

~~(B) The director may adopt operating hours for a public recreation area by rule. Operating hours adopted pursuant to this subsection are effective when posted at the public recreation area.~~

~~(C) When considering operating hours for a trail, the director should consider whether the trail was established for the purpose of contributing to the City's transportation infrastructure.~~

~~(D) A person may not be present at a public recreation area outside of operating hours.~~

~~(E) It is an affirmative defense to a violation of Subsection (D) if at the time of the alleged violation, the person was present at a public recreation area because the person was participating in or attending an activity conducted in accordance with an approval granted by the department.~~

(A),(D),(E)  
are in  
Section  
8-1-11;  
(B) and (C)  
are in  
Section  
8-1-3

## § 8-1-15 - LIMITS ON SPECIAL EVENTS.

- (A) For purposes of this section, special event days do not include days to set up and take down a special event.
- (B) Except as provided in Subsections (D) and (E), the Council establishes the maximum number of special event days for the following public recreation areas:
- (1) Zilker Metropolitan Park is 24 per calendar year;
  - (2) Festival Beach at Edward Rendon Senior Metropolitan Park is 17 per calendar year; and
  - (3) Auditorium and Vic Mathias Shores at Town Lake Metropolitan Park is 17 per calendar year.
- (C) As of June 8, 2017, the reoccurring special events and days used are:
- (1) Zilker Metropolitan Park:

Reoccurring Special Event	Days Used
Trail of Lights 5k	1
Trail of Lights Event Nights	14
Zilker Park Kite Festival	1
Zilker Garden Festival	2
Blues on the Green	4
Zilker Relays	1
ACL Festival	6

- (2) Festival Beach at Edward Rendon Senior Metropolitan Park:

Reoccurring Special Event	Days Used
Heart of Texas Regatta	2

## ANNOTATED AND PROPOSED CHANGES

Texas Vegefest	1
Bengali New Year Celebration	1
Texas Rowing Championships	2
Dragon Boat Races	2
Cinco de Mayo	2
Hot Sauce Festival	1
Pride Festival	1
Diez y Seis	2
Craft Brewer's Festival	1
Head of the Colorado	1
Celtic Festival	2
Ice Cream Festival	1

(3) Auditorium and Vic Mathias Shores at Town Lake Metropolitan Park:

Reoccurring Special Event	Days Used
SXSW Music Festival	3
Urban Music Festival	2
Austin Reggae Festival	3
Capitol 10k	1
Austin Food and Wine Festival	2



Sunshine Run 5k and 10k	1
Cap Tex Tri	1
4 <sup>th</sup> of July	1
Tri Rock Austin	1
Austin Marathon Relay	1
Fun, Fun, Fun Festival	3
New Year's Eve	1

- (D) Council authorizes the continued use of the public recreation areas for the number of special event days described in Subsection (C). If a reoccurring special event described in Subsection (C) does not occur in substantially the same form after the effective date of this section, the City Manager may not allow the special event days to be used by a different special event until the number of days used per calendar year is less than maximum established in Subsection (B).
- (E) In addition to the days authorized in Subsection (B)(3), the City Manager may authorize single day non-reoccurring special events to take place at Auditorium and Vic Mathias Shores at Town Lake Metropolitan Park for a municipal purpose if the total number of special event days does not exceed 25 per calendar year. In evaluating a request described by this subsection, the City Manager must consider the following factors:
- (1) a scheduling conflict at the public recreation area or with adjacent properties;
  - (2) traffic congestion;
  - (3) potential damage to park property or landscape;
  - (4) potential threat to public health, safety or welfare;
  - (5) availability of city resources required to permit and to provide services to the special event; and
  - (6) availability of other public recreation areas for the special event.
- (F) Nothing in this section limits the City Manager's authority to establish a maximum number of special event days that may be used at other public recreation areas.

Section 8-1-16 is new.

Sections 8-1-17; 8-1-18; 8-1-19 are the result of re-arranging requirements in Chapter 8-1.

§ 8-1-16 ANIMAL RESTRICTIONS.

- (A) This section applies to a nature preserve, swimming pool, an indoor recreational facility, building, and any other recreation facility the director designates by rule.
- (B) In this section, animal includes, but is not limited to, fowl, livestock, miniature livestock, and small animals.
- (C) An owner or handler may not allow an animal to be present in a public recreation area described in Subsection (A) except:
  - (1) as required by the Americans With Disabilities Act (ADA); or
  - (2) when an approval authorizes an animal to be present in a public recreation area.
- (D) It is an affirmative defense to a violation of this section, if at the time of the alleged violation, the animal was present pursuant to an approval.

§ 8-1-17 COMPLIANCE WITH APPROVAL IS REQUIRED.

- (A) An approval issued under this title is not a waiver, exception, or defense to a violation of a rule, guideline, or City Code requirement.
- (B) A person must comply with an approval, including any conditions, department guidelines, rules, and City Code requirements.
- (C) A person shall display an approval to a peace officer or City employee when requested.

§ 8-1-18 PENALTY.

- (A) Except as provided in Section 8-1-19 (*Penalty During a Special Event*), a person commits a misdemeanor offense punishable by a fine not to exceed \$500 and not less than \$100 if the person fails to comply with:
  - (1) Section 8-1-12 (*Approval to Use Public Recreation Area Required*); or
  - (2) Section 8-1-4 (*Approval for Commercial Activity*).
- (B) A culpable mental state is not required and need not be proved for an offense punishable under this section.

## ANNOTATED AND PROPOSED CHANGES

### § 8-1-19 PENALTY DURING A SPECIAL EVENT.

(A) A person commits a misdemeanor offense punishable by a fine not to exceed \$500 and not less than \$200 if, during a special event, the person fails to comply with:

(1) Section 8-1-12 (*Approval to Use Public Recreation Area*); or

(2) Section 8-1-14 (*Approval for Commercial Activity*).

(B) A culpable mental state is not required and need not be proved for an offense punishable under this section.

### ARTICLE 3. - RESTRICTIONS ON USE OF MOTOR VEHICLE IN A PARK.

#### § 8-1-31 - USE OF MOTOR VEHICLES IN ~~PARKS~~PUBLIC RECREATION AREAS.

- (A) Except as provided in Subsections (B) and (D), a person may not drive a motor vehicle or motor driven device in a public recreation area.
- (B) A person may drive a motor vehicle on a public roadway and in a parking area of a public recreation area.
- (C) The director may authorize a person to use a motor vehicle or motor driven device in a park or playground.
- (D) Except for a city vehicle, a person must apply to the director for an approval to use a motor vehicle in a park or playground.
- (E) In making a determination under Subsection (C), the director shall consider:
  - (1) potential damage to the park or playground;
  - (2) noise; and
  - (3) public safety and welfare.
- (F) A person must display the approval to a peace officer or City employee when requested.

#### § 8-1-32 - RESERVED.

#### § 8-1-33 - PARKING RESTRICTIONS AND APPROVAL.

- (A) The director may restrict motor vehicle parking at a public recreation area.
- (B) A person must apply for a permit to park in a place designated as "reserved for patrons" or "special event parking" on a form approved by the director.
- (C) The director may authorize a city vehicle, or a motor vehicle operated by an agent of the City to park in a place that is restricted under Subsection (A) or restricted under Section 12-5-44 ( *Parking at a Public Recreation Area* ).

## ANNOTATED AND PROPOSED CHANGES

### § 8-1-34 - IMPOUND OF MOTOR VEHICLE OR WATERCRAFT FOUND DURING CERTAIN HOURS.

- (A) Except as provided in Subsection (B), the director may remove or impound a motor vehicle or watercraft found in a public recreation area between 10:00 p.m. and 5:00 a.m.
- (B) The director may not remove or impound a motor vehicle or watercraft owned by a person authorized under 8-1-14(B) ( *Use of Parks During Certain Hours Prohibited* ), to operate the motor vehicle or watercraft in the park.
- (C) The director shall impound a motor vehicle or watercraft that cannot be safely and promptly removed by its owner if the owner is in violation of Section 8-1-14 ( *Use of Parks During Certain Hours Prohibited* ).
- (D) The owner of a motor vehicle or watercraft impounded under this section may reclaim the motor vehicle or watercraft in accordance with Chapter 9-1 ( *Abandoned Property and Vehicles* ) of the Code.
- (E) If the director cannot determine the identity of the owner of a motor vehicle or watercraft impounded under this section no later than the 10th day after the date of impound, the director shall publish a notice of impound, including the procedure necessary to obtain a hearing, in a newspaper of general circulation.
- (F) If the owner of an impounded motor vehicle or watercraft cannot be identified or waives the right to a hearing, the city manager may dispose of the impounded motor vehicle or watercraft in accordance with Chapter 9-1 ( *Abandoned Property and Vehicles* ) of the Code.
- (G) The director or city manager may dispose of an unclaimed motor vehicle impounded under this section as an abandoned vehicle under Chapter 9-1 of the Code ( *Abandoned Property and Vehicles* ).

### ARTICLE 4. - ~~RESTRICTIONS ON AMPLIFIED SOUND~~SOUND EQUIPMENT.

#### Division 1. - ~~Permit Procedure~~USE OF SOUND EQUIPMENT.

#### § 8-1-41 - ~~USE OF SOUND EQUIPMENT~~APPLICABILITY.

- (A) Except as provided in Subsection (B) of this section, the use of sound equipment in a public recreation area is governed by this article.
- (B) ~~If the director determines that an event to be held on city parkland is likely to be attended by 7,500 or more people on any day, the use of sound equipment is governed by Chapter 9-2 ( *Noise and Amplified Sound* ). This requirement does not apply if, in the judgment of the music office, the event is not primarily geared towards music and any music included will be incidental to the main purpose of the event.~~The use of sound equipment is governed by Chapter 4-20 ( *Special Events* ) if the special event on parkland requires a permit under Section 4-20-20 ( *Permit Required; Exceptions* ).

#### § 8-1-42 - PERMIT REQUIRED.

A person must obtain a permit from the director to use sound equipment in a public recreation area.

## ANNOTATED AND PROPOSED CHANGES

### § 8-1-43 - APPLICATION PROCEDURE AND FEE.

To use sound equipment in a public recreation area, a person must complete and file an application with the director on a form approved by the director, and pay the application fee established by ordinance.

### § 8-1-44 - ISSUANCE OF PERMIT.

- (A) Except as provided in this Section and in Section 8-1-52 ( *Restriction on Location of Sound Equipment* ) and Section 8-1-45 ( *Late Night Extension* ), the director may issue a permit for use of sound equipment between 10:00 a.m. and 10:00 p.m.
- (B) For parks located within the Grove Planned Unit Development, generally located at the intersection of Bull Creek Road and West 45th Street, the director may issue a permit for use of sound equipment between 10:00 a.m. and 9:00 p.m. for Sunday through Thursday and between 10:00 a.m. and 9:30 p.m. for Friday, Saturday, or a national holiday.

### § 8-1-45 - LATE NIGHT EXTENSION.

The director may issue a permit for use of sound equipment between 10:00 p.m. and 11:00 p.m. if the sound equipment is:

- (1) used or operated on a permanently constructed bandstand;
- (2) used or operated in a building during an approved activity; or
- (3) more than 600 feet from any residential property.

### Division 2. - Restrictions.

### § 8-1-51 - RESTRICTION ON SOUND LEVEL.

A person may not operate sound equipment that produces sound in excess of 85 decibels between 10:00 a.m. and 10:00 p.m. or 80 decibels between 10:00 p.m. and 2:00 a.m., as measured at the lesser of:

- (1) 100 feet in front of the sound equipment; or
- (2) the boundary to the public recreation area in front of the sound equipment.

### § 8-1-52 - RESTRICTION ON LOCATION OF SOUND EQUIPMENT.

A person may operate sound equipment located more than 100 feet, but within 600 feet from residential property between:

- (1) 10:00 a.m. and 8:00 p.m. Sunday through Thursday; or
- (2) 10:00 a.m. and 10:00 p.m. Friday or Saturday.

### § 8-1-53 - SPECIAL RESTRICTION AT AUDITORIUM SHORES.

A person may not operate sound equipment at Auditorium Shores that produces sound in excess of 80 decibels when a measurable northerly wind is blowing, as measured at the lesser of:

## ANNOTATED AND PROPOSED CHANGES

- (1) 210 feet in front of the sound equipment; or
- (2) the nearest point from the sound equipment to the north curb of Riverside Drive.

### ARTICLE 5. - TOWN LAKE PARK.

#### Division 1. - General Provisions.

##### § 8-1-61 - REGULATION.

Chapter 25-2, Subchapter C, Article 3, Division 6 (*Waterfront Overlay District Requirements for Town Lake Park*) of the Code applies to this article.

##### § 8-1-62 - BOARD REVIEW OF AGREEMENT OR RESERVATION OF PARK LAND.

- (A) A use agreement or management agreement under this section means a written agreement between the city and a person that authorizes the person to develop and maintain land dedicated for park purposes by deed or ordinance in Town Lake Park for public recreation.
- (B) Except as provided in Subsection (C), the board shall review a new use agreement, management agreement, or reservation of park land in Town Lake Park and shall make a recommendation on the agreement or reservation to the director, the city manager, or the council.

##### § 8-1-63 - BOARD PARTICIPATION IN WATER QUALITY PLANNING.

The board shall participate in the development of a plan by the Environmental Board and Planning Commission to protect or improve the water quality in ~~Town Lake~~Lady Bird Lake if the plan requires a change to the Town Lake Park Plan.

#### Division 2. - Concessions in Town Lake Park.

##### § 8-1-71 - CONCESSIONS AUTHORIZED.

If authorized by the director, a person may operate a food or beverage, rental, or service concession in Town Lake Park.

##### § 8-1-72 - BOATING CONCESSIONS.

- (A) Subject to the restrictions in this section and authorization by council, a person may operate a concession for a boating activity on ~~Town Lake~~Lady Bird Lake and the Colorado River adjacent to Town Lake Park.
- (B) On ~~Town Lake~~Lady Bird Lake, between Tom Miller Dam and Lamar Boulevard, a person must obtain a concession:
  - (1) to rent to the public a boat designed for recreational rowing, including a canoe, kayak, racing shell, or rowboat;

## ANNOTATED AND PROPOSED CHANGES

- (2) to operate an excursion boat; or
- (3) to maintain a landing for an excursion boat that is not a permanent mooring.
- (C) On ~~Town Lake~~Lady Bird Lake, between Lamar Boulevard and Congress Avenue, a person must obtain a concession:
  - (1) to rent to the public a boat that requires little or no skill to operate, including a paddleboat;
  - (2) to operate an excursion boat; or
  - (3) to maintain a permanent mooring for an excursion boat.
- (D) On ~~Town Lake~~Lady Bird Lake, between Congress Avenue and Longhorn Dam, a person must obtain a concession:
  - (1) to rent to the public a boat designed for recreational rowing, including a canoe, kayak, racing shell, or rowboat;
  - (2) to operate an excursion boat; or
  - (3) to maintain a landing for an excursion boat that is not a permanent mooring.
- (E) In the river basin immediately upstream from Longhorn Dam, a person must obtain a concession to rent a sailboat to the public.
- (F) On the Colorado River, between Longhorn Dam and U.S. Highway 183, a person must obtain a concession to rent a boat designed for recreational rowing that can withstand swiftly flowing water and fluctuating water levels, including a kayak, canoe, rowboat, or fishing boat to the public. A person may not obtain a concession to rent inflatable flotation devices.

### § 8-1-73 - DEPARTMENT REPORT AND BOARD RECOMMENDATIONS.

- (A) In October of each year, the director shall deliver a report to the board and the Environmental Board on the concessions granted under this division.
- (B) A report prepared under this section shall include:
  - (1) the name of each concession operating in Town Lake Park;
  - (2) an income and expenditure statement for each concession;
  - (3) the total number of boats rented on ~~Town Lake~~Lady Bird Lake; and
  - (4) a statement describing any environmental or other problem that is caused or created by a concession.
- (C) Not later than the 30th day after receipt of a report under this section, the board and the Environmental Board shall make a recommendation to the council regarding:
  - (1) creation, continuation, or termination of a concession;
  - (2) the status of each existing concession; and
  - (3) the issuance of a request for proposal for a concession under this division.

§ 8-1-74 - REVIEW OF A PROPOSAL SEEKING A CONCESSION.

A representative from the board, the Environmental Board, and the Design Commission may evaluate each proposal received in response to a request for proposals for a boating concession authorized under 8-1-72 ( *Boating Concessions* ). The representatives shall make a joint recommendation to the council on the grant of a concession under this article.

ARTICLE 7. - PARKS BURNING RESTRICTION.

§ 8-1-91 - DEFINITIONS.

In this Article:

- (A) The term "BURN" or "BURNING" means the ignition, maintenance, or use of a combustible material which could create flames or sparks that could result in a fire. This includes, but is not limited to, welding, lighting campfires or matches, use of equipment other than an approved propane- fueled appliance to grill or bar-b-que food, and use of any tool or substance that could create a flame or spark, but does not include fireworks displays that have been properly permitted by the Fire Department and that are conducted in compliance with the terms and requirements of a permit issued by the Fire Department.
- (B) The term "COMBUSTIBLE MATERIAL" means any material that is capable of catching fire.
- (C) The term "SMOKE" or "SMOKING" means lighting, inhaling, exhaling, burning, holding, carrying or discarding any lighted or incompletely extinguished cigar, cigarette, pipe, weed, or plant.

§ 8-1-92 - PARKS BURNING RESTRICTION AUTHORITY.

- (A) The city manager or the director may issue a parks burning restriction for parks and nature preserves when it is determined that a significant fire hazard or a wildfire danger exists. The city manager or the director shall determine when the parks burning restriction ends.
- (B) Issuance of a parks burning restriction results in the immediate and automatic suspension of all temporary designated smoking areas for any permit for or prior authorization of a special event at a park, nature preserve, or any location, land, or facility, under the administrative control or management of the director.
- (C) No exemptions related to any activity in parks for smoking, burning, or fire hazard shall be available under City Code Section 10-6-3(A)(9), 10-6-3(A)(10), or 10-6-3(A)(11) when a parks burning restriction is in effect. The only exclusions from applicability of this article during a parks burning restriction are stated in City Code Section 8-1-94(C).

§ 8-1-93 - NOTICES.

- (A) Notice of parks burning restriction. The director shall post notice of a parks burning restriction on the city website, at public entrances, and in heavy traffic areas of each park and nature preserve. In addition, the director shall issue a notice to local media.



## ANNOTATED AND PROPOSED CHANGES

- (B) Notice of termination of parks burning restriction. The director shall post notice of the termination of a parks burning restriction on the city website. In addition, the director shall remove the notices of the parks burning restriction in parks and nature preserves, and shall issue a notice to local media.

### § 8-1-94 - OFFENSE.

- (A) A person commits an offense if the person performs any of the following activities in a park, nature preserve, or any location, land, or facility under the administrative control or management of the director while a parks burning restriction is in effect:
- (i) smokes.
  - (ii) burns a combustible material or engages in an activity which creates a risk of a flame or spark that could result in a fire.
- (B) For purposes of (A)(ii) above, a person may not burn a combustible material in a park or nature preserve even if the material is contained within an enclosure which is intended to contain all flames or sparks.
- (C) This ordinance does not apply to a person who burns a combustible material if the burn:
- (i) is conducted by a prescribed burn manager certified under Section 153.048, Texas Natural Resources Code, and meets the standards of Section 153.047, Texas Natural Resources Code;
  - (ii) is performed by city employees, city contractors, or utility employees in the performance of their official duties;
  - (iii) involves actions taken by public safety employees in the performance of their official duties that are necessary to the delivery of those services; or
  - (iv) is part of a fireworks display that has been properly permitted by the Fire Department and that is conducted in compliance with the terms and requirements of the Fire Department's permit.

### § 8-1-95 - PENALTY.

#### (A) This article constitutes a fire safety regulation.

- ~~(AB)~~ A person who violates this ~~Article~~article commits a misdemeanor ~~criminal offense~~. ~~An offense under this Article is punishable by a fine upon conviction not to exceed \$500 unless proof of a culpable mental state is pled, in which case the fine upon conviction shall not to exceed \$2,000. Proof of a culpable mental state is expressly waived and need not be proved when a fine of \$500 or less is sought for the offense.~~

- ~~(BC)~~ Each act or omission which violates this article ~~a prohibition of this chapter and each omission which violates a duty imposed by this chapter~~ is a separate offense ~~chargeable as a separate violation~~.

#### (D) A culpable mental state is not required, and need not be proved, for fines of \$500 or less.

- ~~(CE)~~ This section is cumulative of other laws providing enforcement authority. If the City files a criminal action, it is not precluded from pursuing any other action or remedy.

CHAPTER 8-2. - SWIMMING POOL USE.

§ 8-2-1 - DEFINITIONS.

In this chapter:

- (1) AGENCY means an organization that provides supervised care for children including a state school or hospital, summer day camp, or private school.
- (2) CAREGIVER means an agency, day care center, or private swim class.
- (3) CUSTODIAN means a parent, guardian, or person authorized by a parent or guardian to have custody of a minor child.
- (4) DAY CARE CENTER means a person or organization that provides care for six or more children.
- (5) GROUP ACTIVITY means recreational swimming or swim instruction.
- (6) NON-SWIMMING MINOR means a child less than 12 years old who is unable to complete a beginner skill swim test endorsed or used by the American Red Cross.
- (7) PRIVATE SWIM CLASS means a person or organization that regularly teaches swimming to an individual or group.

§ 8-2-2 - ~~ASSIGNMENT OF SWIMMING POOL FOR GROUP USE~~SWIMMING POOL USE.

(A) ~~A caregiver must obtain the director's approval to conduct a group activity at a swimming pool.~~A person may not conduct a group activity or a private swim class at a swimming pool without an approval.

(B) The director may assign a specific swimming pool where the group activity or private swim class may occur.

(~~BC~~) ~~To make an assignment under this section~~In making an assignment, the director may consider: ~~the following:~~

- (1) the size of a swimming pool;
- (2) the time of day requested for group activity;
- (3) the anticipated number of swimmers at a swimming pool;
- (4) the number of children under the supervision of a caregiver; and
- (5) the availability of lifeguards.

§ 8-2-3 - REQUIRED ADULT SUPERVISION FOR GROUP USE.

(A) Except as provided in Subsection (B), a caregiver conducting a group activity shall provide adult supervision during recreational swimming in a swimming pool at a minimum as follows:

- (1) one adult for every two children four years old or younger;

## ANNOTATED AND PROPOSED CHANGES

- (2) one adult for every eight children between the ages of five and seven years old; and
- (3) one adult for every 12 children between the ages of eight and 12 years old.
- (B) A caregiver conducting a group activity shall provide adult supervision during recreational swimming in a wading pool at a minimum as follows:
  - (1) one adult for every two children two years old or younger;
  - (2) one adult for every five children three years old; and
  - (3) one adult for every 12 children four years old or older.
- (C) A caregiver conducting a swim lesson shall provide adult supervision during the lesson at a minimum as follows:
  - (1) a day care center shall provide:
    - (a) one adult for every six children four years old or younger; and
    - (b) one adult for every 10 children five years old or older; and
  - (2) a private swim class shall provide one adult for every five children four years old or older.
- (D) Each adult supervisor required under this section shall be appropriately attired for swimming and must be in the water during the time a child under the person's supervision is in the water.
- (E) If an agency or day care center has more adult supervisors present than required under this section, the additional adult supervisors may be in the area adjacent to the swimming pool.

### § 8-2-4 - CERTIFICATION AND AGE REQUIREMENT FOR ADULT SUPERVISOR.

- (A) A person who supervises children for an agency or day care center must obtain the following certification:
  - (1) community water safety with water module or equivalent, re-certified at least every three years;
  - (2) community cardiac pulmonary resuscitation or equivalent, re-certified annually; and
  - (3) community first aid or equivalent, re-certified at least every three years.
- (B) During any time that a child under the care of an agency or day care center is in a swimming pool, at least one certified adult supervisor for the agency or day care center must be at least 18 years old.
- (C) An agency or day care center shall file copies of the certifications for each adult supervisor with the department, before using a swimming pool for a group activity.

### § 8-2-5 - RESTRICTIONS ON PRIVATE SWIM CLASS.

A person teaching a private swim class must:

- (1) be a certified American Red Cross water safety instructor or the equivalent;
- (2) file a copy of the certification required under this section with the director before the person teaches a class in a swimming pool; and

## ANNOTATED AND PROPOSED CHANGES

- (3) be appropriately attired for swimming and must be in the water during the time a child under the person's supervision is in the water.

### § 8-2-6 - FEES FOR GROUP USE OF SWIMMING POOL.

- (A) A caregiver shall pay the fee established by ordinance before conducting a group activity.
- (B) The group use fee authorized in this section is in addition to any other fee established for use of a swimming pool.

### § 8-2-7 - REVOCATION OF POOL USE PRIVILEGE.

- (A) If a caregiver fails to comply with this chapter, the director may restrict or revoke the caregiver's authority to use a swimming pool for a group activity.
- (B) If the director determines that a caregiver has knowingly violated this chapter, the director shall revoke the caregiver's authority to use a swimming pool for a group activity for at least 30 but not more than 90 days.
- (C) If the director determines that a caregiver has violated this chapter more than once during a 24-month period, the director shall revoke the caregiver's authority for a minimum of one year.
- (D) The director shall deliver written notice of revocation of authority to use a swimming pool for a group activity to the caregiver.

### § 8-2-8 - RESTRICTION ON NON-SWIMMING MINOR.

- (A) This section does not apply to a child participating in a private swim class taught by a qualified instructor.
- (B) Except as provided in Subsection (C), the custodian of a non-swimming minor may not allow the non-swimming minor to enter a swimming pool.
- (C) If a non-swimming minor is accompanied by a person at least 14 years old capable of and responsible for supervision of the non-swimming minor, the custodian of the non-swimming minor may allow the child to enter a swimming pool.

## CHAPTER 8-3. - RESTRICTION ON FOOD, BEVERAGE, AND CONTAINERS.

### § 8-3-1 - ALCOHOLIC BEVERAGES PROHIBITED.

Except as otherwise provided in this chapter, Section 8-3-5 (~~Temporary Sales of Beverages and Food~~), a person may not knowingly sell, possess, or consume an alcoholic beverage in a public recreation area.:

- (1) ~~the fenced, enclosed area surrounding a swimming pool in a park, or within 100 feet of an unenclosed swimming pool in a park;~~
- (2) ~~a recreation facility or adjacent outdoor area that is part of the recreation facility including a field, playground, parking lot, play slab, or playscape;~~

## ANNOTATED AND PROPOSED CHANGES

- ~~(3) all or part of a park or playground designated by the director as being an area in which the sale, possession, or consumption of alcohol is prohibited;~~
- ~~(4) the playing area or dugout area of an athletic field;~~
- ~~(5) a school district/playground area; or~~
- ~~(6) a nature preserve.~~

### § 8-3-2 - ~~DESIGNATION OF PROHIBITION ON ALCOHOL~~ ALCOHOLIC BEVERAGES ALLOWED.

Alcoholic beverages are permitted:

- (1) in the spectating area of Krieg and Havins Softball Complexes;
- (2) at a golf course;
- (3) in a campsite, which is reserved for a specific person or event; or
- (4) when an approval authorizes the possession, sale, or consumption by a person or for an event at a public recreation area.

~~(A) The director may designate all or part of a park, playground, or nature preserve as an area in which the sale, possession, or consumption of alcohol is prohibited.~~

~~(B) In making a designation under Subsection (A), the director may consider:~~

- ~~(1) the nature and use of the area;~~
- ~~(2) the use of surrounding land;~~
- ~~(3) the relationship between the area and the surrounding community;~~
- ~~(4) a problem caused by sale, possession, or consumption of alcohol in the area; and~~
- ~~(5) other factors the director determines are relevant.~~

### § 8-3-3 — ~~SALE OF RESTRICTION ON SALE OF FOOD OR AND~~ BEVERAGES.

(A) A person may not sell food and beverages, including alcohol, in a public recreation area without an approval.

(B) The director may authorize the temporary sale of food and beverages, including alcohol, in a public recreation area.

(C) In making the decision, the director may consider:

- (1) the impact on surrounding neighborhood;

## ANNOTATED AND PROPOSED CHANGES

\_\_\_\_\_ (2) \_\_\_\_\_ problems related to the sale, possession, consumption of food or alcohol in the area;

\_\_\_\_\_ (3) \_\_\_\_\_ a clean-up agreement made by the person who requests an approval; and

\_\_\_\_\_ (4) \_\_\_\_\_ citizen input the director determines is relevant.

(D) In this section, the temporary sale of food and beverages includes a mobile food vendor who sells, offers for sale, or displays a food or beverage item.

~~Except as provided in this chapter, a person may not sell, offer for sale, or display food or beverages in a public recreation area.~~

### ~~§ 8-3-4 SALE BY MOBILE FOOD VENDOR.~~

~~A mobile food vendor may enter a public recreation area to sell, offer for sale, or display a food item, if the mobile food vendor:~~

- ~~(1) is on property licensed to the vendor by the city for the specific activities conducted by the vendor; or~~
- ~~(2) has obtained written authorization from the director for the specific activities conducted by the vendor under Section 8-3-5 ( *Temporary Sales of Beverages and Food* );~~

### ~~§ 8-3-5 TEMPORARY SALES OF BEVERAGES AND FOOD.~~

~~(A) Section 8-3-1 ( *Alcoholic Beverages Prohibited* ) does not apply to a person in an area subject to an authorization issued under this section.~~

~~(B) Based on the recommendation of the director, the city manager may authorize the temporary sale of food and beverages in a park or other public recreation area. An authorization issued under this subsection may not exceed a 48-hour period.~~

~~(C) The director may authorize the temporary sale, possession, or consumption of alcoholic beverages in a park or other public recreation area. An authorization issued under this subsection may not exceed a 48-hour period.~~

~~(D) In making a recommendation or decision, the director shall consider:~~

- ~~(1) the impact on the surrounding neighborhood;~~
- ~~(2) a problem related to the sale, possession, or consumption of alcohol;~~
- ~~(3) a clean-up agreement made by the person requesting the authorization; and~~
- ~~(4) citizen input determined relevant by the director.~~

### § 8-3-4 GLASS CONTAINERS PROHIBITED.

(A) Except as provided in Subsection (C), a person may not knowingly or intentionally possess a glass container in a public recreation area.

(B) For purposes of this section, a glass container does not include:

## ANNOTATED AND PROPOSED CHANGES

- (1) a glass-lined vacuum bottle or glass-lined picnic beverage cooler;
- (2) a baby bottle or baby food jar containing a produce for consumption by a baby; pr
- (3) a drug container holding an over-the-counter or prescription drug.
- (C) By department rule, the director may designate all or part of a park, recreational facility, or nature preserve as an area where glass containers are allowed.
- (D) In adopting a rule that allows glass containers, the director may consider:
  - (1) the nature and use of the area;
  - (2) the use of surrounding land;
  - (3) the relationship between the area and the surrounding community;
  - (4) a problem caused by the use of a glass container in the area; and
  - (5) other factors the director determines are relevant.

### ~~§ 8-3-6 GLASS CONTAINERS PROHIBITED IN CERTAIN AREAS.~~

- ~~(A) A person may not knowingly or intentionally possess a glass container in the fenced, enclosed area surrounding a swimming pool in a park, or within 100 feet of an unenclosed swimming pool in a park.~~
- ~~(B) Except as provided in Section 8-3-8 ( *Exception to Prohibition on Glass Container* ) a person may not knowingly or intentionally possess a glass container in:~~
  - ~~(1) a recreation facility or adjacent outdoor area that is part of the recreation facility including a field, playground, parking lot, play slab, or playscape;~~
  - ~~(2) all or part of a park, playground, or nature preserve designated by the director as being an area in which a glass container is prohibited;~~
  - ~~(3) the playing area or dugout area of an athletic field;~~
  - ~~(4) a school district/playground area; or~~
  - ~~(5) a lake, river, stream, shoreline, or beach.~~
- ~~(C) The director may adopt rules restricting possession of a glass container by a person in a park, public recreation area, or nature preserve located outside of the city limits that is under the administrative control of the department.~~

### ~~§ 8-3-7 DESIGNATION OF PROHIBITION ON GLASS CONTAINER.~~

- ~~(A) The director may designate all or part of a park, playground, or nature preserve as an area in which a glass container is prohibited.~~
- ~~(B) In making a designation under Subsection (A), the director may consider:~~

## ANNOTATED AND PROPOSED CHANGES

- ~~(1) the nature and use of the area;~~
- ~~(2) the use of surrounding land;~~
- ~~(3) the relationship between the area and the surrounding community;~~
- ~~(4) a problem caused by the use of a glass container in the area; and~~
- ~~(5) other factors the director determines are relevant.~~

### ~~§ 8-3-8 EXCEPTION TO PROHIBITION ON GLASS CONTAINERS.~~

~~Section 8-3-6 (Glass Containers Prohibited in Certain Areas) does not apply to:~~

- ~~(1) a glass-lined vacuum bottle or glass-lined picnic beverage cooler;~~
- ~~(2) a baby bottle or baby food jar containing a product for consumption by a baby;~~
- ~~(3) a drug container holding an over-the-counter or prescription drug; or~~
- ~~(4) a beverage container that requires a deposit.~~

### ~~§ 8-3-9 NOTICE OF PROHIBITIONS.~~

~~The department shall post a sign at the entrance to an area in which a person may not possess a glass container or sell, consume, or possess alcohol that notifies the public of the prohibition.~~

### ~~§ 8-3-10-5~~ - REVIEW OF PROHIBITIONS BY BOARD.

The board may annually review the director's determination and make a recommendation to the director regarding the director's ~~future~~ designation of the public recreation areas in which a person:

- (1) may not possess, sell, or consume alcohol~~may not possess a glass container;~~
- (2) may not possess, sell, or consume alcohol; may not possess a glass container; or
- (3) may temporarily sell food or alcohol beverages.

## CHAPTER 8-5. - WATERWAY ACCESS AND USE.

### ARTICLE 1. - GENERAL PROVISIONS.

#### § 8-5-1 - DEFINITIONS.

In this chapter:

- (1) DESIGNATED OFFICIAL means a ~~park police~~peace officer employed by the city, ~~city police officer, officer or~~ employee of the Watershed Protection ~~and Development Review~~ Department, or the health authority.
- (2) HOUSEBOAT means a flat-bottomed or nearly flat-bottomed watercraft that is fitted for sleeping, cooking, cruising, or recreation. The term includes a barge or raft with an enclosed structure.



## ANNOTATED AND PROPOSED CHANGES

- (3) INFLATABLE FLOTATION DEVICE means an inner tube or other water recreational form or apparatus that is inflated with air or foam and is non-navigable. This term includes inflatable chaise loungers, air mattresses, and other inflatable devices.
- (4) LAKE AUSTIN means the waters of the Colorado River and its tributaries impounded by Tom Miller Dam and located within the city.
- (5) LAKE LONG means Lake Walter E. Long, also known as Decker Lake.
- (6) MARINA has the meaning assigned to it by Section 25-2-4 ( *Commercial Uses Described* ).
- (7) MOTORBOAT means a watercraft propelled by an internal combustion engine or electric motor and includes a seaplane.
- (8) NAVIGABLE RECREATIONAL APPARATUS means an apparatus that is capable of being guided or steered against swiftly flowing and fluctuating water levels.
- (9) SWIM means swim, bathe, wade, and or otherwise immerse one's body in water.
- (10) ~~TOWN LAKE~~LADY BIRD LAKE means the waters of the Colorado River and its tributaries impounded by Longhorn Dam.
- (11) WATERCRAFT means a boat or other structure designed to float on water, and includes a barge, marina, or similar floating object.

### § 8-5-2 - NAVIGATION CONTROL ZONES.

- (A) Navigation control zones are established on Lake Austin, ~~Town Lake~~Lady Bird Lake, and Lake Long, including the creeks, sloughs, and coves appurtenant to the lakes. The navigation control zones and the regulations applicable in each zone are as follows:
  - (1) DANGER indicates a zone within which a person should use caution.
  - (2) FISHING ONLY indicates a zone in which a person may not use the water for a purpose other than fishing.
  - (3) KEEP OUT indicates a zone that a person may not enter.
  - (4) NO PROP BOATS indicates a zone in which a person may not operate a propeller-driven boat.
  - (5) NO SCUBA indicates a zone in which a person may not use a self-contained underwater breathing apparatus.
  - (6) NO SKIING indicates a zone in which a person may not use a watercraft to tow a person on water skis or a similar apparatus.
  - (7) NO SWIMMING indicates a zone in which a person may not enter the water, except in a watercraft or while skiing.
  - (8) SKIN DIVING ONLY indicates a zone in which a person may not use the water for a purpose other than skin diving.
  - (9) SKI ONLY indicates a zone in which a person may not enter the water or operate a watercraft except for the purpose of water skiing.

## ANNOTATED AND PROPOSED CHANGES

- (10) SLOW - NO WAKE indicates a zone in which a person may not operate a watercraft at a speed that creates a foaming or churning wake that curls or breaks.
- (B) The boundaries of the navigation control zones are depicted the "Navigation Control Zone Map" on file with the city clerk.
  - (1) Except as provided in Subsection (2), a navigation control zone boundary is formed by:
    - (a) a shoreline, dam, pier, or other structure to which it is adjacent;
    - (b) a perpendicular line from a shoreline, dam, pier, or structure to the nearest navigation buoy that marks the zone; or
    - (c) a straight line between adjacent navigation buoys that mark the zone.
  - (2) This paragraph applies to a navigation control zone that is indicated by a single navigation buoy or that has an unmarked boundary. The area immediately around a navigation buoy and from which the buoy can be read during daylight hours is included in the navigation control zone indicated by the buoy.

### § 8-5-3 - NAVIGATION BUOYS.

- (A) The city manager shall place navigation buoys in Lake Austin, ~~Town Lake~~Lady Bird Lake, and Lake Long to serve as navigation aids or mark navigation control zones.
- (B) A person may not:
  - (1) remove, relocate, deface, or tamper with a navigation buoy; or
  - (2) moor a boat to a navigation buoy.
- (C) A person shall comply with a regulation indicated by a navigation buoy.

## ARTICLE 2. - RESTRICTIONS DURING FLOODS.

### § 8-5-21 - WATERWAY BANS.

- (A) Except as provided by Subsection (B), the fire chief may ban recreational or commercial boating on, or recreational use of all, or a part of, a lake, river, creek, or other affected area after determining that flooding is occurring or likely to occur.
- (B) The director may ban recreational or commercial boating on, or recreational use of all, or a part of, Bull Creek or Barton Creek after determining that flooding is occurring or likely to occur.
- (C) In making a determination to order a ban, the fire chief and the director shall consider information available from the City's flood early warning system and recognized standards for issuing an advisory flood notice.
- (D) If the fire chief or the director orders a ban, the official ordering the ban shall:
  - (1) post the ban at city hall;
  - (2) post the ban on the city website; and

## ANNOTATED AND PROPOSED CHANGES

- (3) provide copies of the ban to local radio and television stations.
- (E) A ban is effective when posted on the city website.
- (F) A ban must include an expiration date that is not later than the fifth day after the posting date.
- (G) The fire chief or the director may issue another ban if flood conditions persist.

### § 8-5-22 - RESTRICTED AREAS.

- (A) Except as otherwise provided in this section, a person may not:
  - (1) enter or be on a lake, river, creek, or other area that is the subject of a ban issued in accordance with this article;
  - (2) enter or be on Lake Austin between Mansfield Dam and Loop 360 when three or more release gates of Mansfield Dam are open;
  - (3) enter or be on Lake Austin when four or more release gates of Mansfield Dam are open; or
  - (4) cross or attempt to cross a low water crossing that has been barricaded by the city.
- (B) Subsection (A) does not apply to a city, state, or federal official or employee performing an official duty.
- (C) Notwithstanding Subsections (A)(1), (A)(2), and (A)(3), the fire chief may permit a person to enter a restricted area after determining that the person has an ownership or possessory right in property located in the restricted area and that entry into the restricted area is required to remove or secure the property. The fire chief shall issue a permit allowing entry into the restricted area, and the permit holder shall display the permit on request to a city officer or employee responsible for the enforcing this article.

### § 8-5-23 - TAMPERING WITH BARRIER PROHIBITED.

A person may not tamper with or remove a barrier placed by the city to prevent entry into an area restricted under Section 8-5-22 (*Restricted Areas*). This prohibition does not apply to a city, state, or federal official performing an official duty.

## ARTICLE 3. - RECREATIONAL ACTIVITIES.

### § 8-5-41 - BOW FISHING.

- (A) Except as provided in Subsection (B), a person may not take or attempt to take fish from a stream, watercourse, creek, river, or lake using a bow and arrow.
- (B) A person may take or attempt to take carp, buffalo, gasper gou, gar fish, or Rio Grande trout from the Colorado River between the hours of 7:00 p.m. and 7:00 a.m. with a long bow using an arrow with solid shaft and a fishing point attached to a 50 pound test line. Bow fishing under this subsection is prohibited within 25 yards of a designated swimming area, in Barton Creek upstream from the Ranch Road 2244 bridge, and within ten yards of a boat dock or pier.

## ANNOTATED AND PROPOSED CHANGES

### § 8-5-42 - FISHING IN TOWN LAKE.

A person may not fish in the portion of ~~Town Lake~~Lady Bird Lake that is bounded by a line from the center of ~~Town Lake~~Lady Bird Lake to the mouth of Shoal Creek on the east, the shoreline of ~~Town Lake~~Lady Bird Lake on the north, the railroad bridge immediately west of Shoal Creek on the west, and center of ~~Town Lake~~Lady Bird Lake on the south.

### § 8-5-43 - FISHING FROM COLORADO RIVER BRIDGES.

A person may not fish from a bridge that crosses the Colorado River.

### § 8-5-44 - DIVING.

- (A) A person may not dive or jump from a bridge that crosses the Colorado River or Barton Creek.
- (B) A person may not dive in the area on Barton Creek known as "Campbell's Hole".

### § 8-5-45 - SLINGS AND WATER CANNONS.

- (A) A person on a watercraft on Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long may not possess, use, or assist in the use of a sling, slingshot, water cannon, or other device capable of a propelling a fluid filled balloon or other projectile.
- (B) A person within 150 yards of the shoreline of Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long may not use or assist in the use of a sling, slingshot, water cannon, or other similar device to propel a fluid filled balloon or other projectile toward the lake.

### § 8-5-46 - SWIMMING IN LAKE AUSTIN.

- (A) Except as otherwise provided in this section, a person may not swim in Lake Austin.
- (B) A person may swim:
  - (1) within 50 feet of the shoreline;
  - (2) in an officially designated swimming area; or
  - (3) while water skiing.
- (C) The prohibition of Subsection (A) does not apply to a person:
  - (1) performing an official duty as an officer or employee of the city;
  - (2) attempting to rescue or recover another person;
  - (3) performing dredging or construction work authorized by the city council; or
  - (4) participating in a public event or exhibition authorized by the city council.

### § 8-5-47 - SWIMMING IN LAKE LONG.

- (A) Except as otherwise provided in this section, a person may not swim in Lake Long.
- (B) Between the hours of 5:00 a.m. and 10:00 p.m. a person may swim:
  - (1) within 50 feet of the shoreline;

- (2) in an officially designated swimming area; or
- (3) while water skiing.
- (C) The prohibition of Subsection (A) does not apply to a person:
  - (1) performing an official duty as an officer or employee of the city;
  - (2) attempting to rescue or recover another person;
  - (3) performing dredging or construction work authorized by the city council; or
  - (4) participating in a public event or exhibition authorized by the city council.

§ 8-5-48 - SWIMMING IN ~~TOWN LAKE~~LADY BIRD LAKE.

A person may not swim in ~~Town Lake~~Lady Bird Lake. This prohibition does not apply to a person:

- (1) performing an official duty as an officer or employee of the city;
- (2) attempting to rescue or recover another person;
- (3) performing dredging or construction work authorized by the city council; or
- (4) participating in a public event or exhibition authorized by the city council.

§ 8-5-49 - SWIMMING IN BARTON CREEK.

- (A) A person may not swim in Barton Creek between the western dam of Barton Springs Pool and a point 100 yards west of the dam. This prohibition does not apply to a person:
  - (1) performing an official duty as an officer or employee of the city;
  - (2) attempting to rescue or recover another person; or
  - (3) performing dredging or construction work authorized by the city council.
- (B) An owner or handler of a dog may allow the dog to swim in Barton Creek between Lady Bird Lake and Barton Springs Pool. Section 3-4-1 ( *Unrestrained Dog Prohibited* ) does not apply to an owner or handler for purposes of this section.

§ 8-5-50 - SWIMMING IN THE COLORADO RIVER.

A person may not swim in the Colorado River between Longhorn Dam and U.S. Highway 183, unless the person is:

- (A) performing an official duty as an officer or employee of the city;
- (B) attempting to rescue or recover another person;
- (C) performing dredging or construction work authorized by Council; or
- (D) participating in a public event or exhibition authorized by Council.

## ANNOTATED AND PROPOSED CHANGES

### § 8-5-51 - INFLATABLE FLOTATION DEVICES.

A person may not operate, use, or otherwise ride in an inflatable flotation device on the Colorado River, between Longhorn Dam and U.S. Highway 183. This prohibition does not apply to a person:

- (A) performing an official duty as an officer or employee of the city;
- (B) attempting to rescue or recover another person;
- (C) performing dredging or construction work authorized by Council; or
- (D) participating in a public event or exhibition authorized by Council.

### ARTICLE 4. - WATERCRAFT.

#### Division 1. - Structural and Exhaust Requirements.

### § 8-5-61 - WATERCRAFT TO BE IN SOUND STRUCTURAL CONDITION.

- (A) The owner of a watercraft that is operated, moored, or otherwise used on the Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long shall maintain the watercraft in sound structural condition.
- (B) A designated official who becomes aware of a watercraft that may not be in sound structural condition shall notify the building official.
- (C) The building official shall conduct a public hearing in accordance with Section 8-5-102 (Public Hearing For Certain Violations) to determine whether the watercraft is in sound structural condition and whether it should be repaired or removed from the water.
- (D) Pending a hearing under Section 8-5-102 (Public Hearing For Certain Violations), a designated official may remove a watercraft from the water after determining that the watercraft is in unsound condition and poses an immediate threat to the health or safety of any person.

### § 8-5-62 - INBOARD MOTORBOAT EXHAUST REQUIREMENTS.

- (A) Except as provided in Section 8-5-64 ( *Motorboat Exhaust Systems During Special Events* ), this section prescribes requirements for a motorboat with an inboard internal combustion engine that is operated on Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long.
- (B) Except as provided in Subsection (C), a motorboat must have a muffler installed in the exhaust system.
- (C) A motorboat with an exhaust water manifold:
  - (1) may have baffle installed in the exhaust system instead of a muffler; or
  - (2) if the exhaust pipe goes through an original factory-designed transom, a riser may be installed in the exhaust system instead of a muffler or baffle.
- (D) A muffler, riser, baffle, or exhaust water manifold required by this section must be:
  - (1) designed for marine use;

## ANNOTATED AND PROPOSED CHANGES

- (2) a commercially made, over-the-counter stock item;
- (3) kept in good working order; and
- (4) capable of reducing exhaust noise.

### § 8-5-63 - OUTBOARD MOTORBOAT EXHAUST REQUIREMENTS.

Except as provided in Section 8-5-64 ( *Motorboat Exhaust Systems During Special Events* ), a motorboat with an outboard internal combustion engine that is operated on Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long must have the major portion of the motor exhaust expelled below the surface of the water.

### § 8-5-64 - MOTORBOAT EXHAUST SYSTEMS DURING SPECIAL EVENTS.

The city council may issue a permit for a special event, including a boat race, on Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long. During the event, a participant may operate a motorboat with any type of exhaust system.

Division 2. - Houseboats.

### § 8-5-71 - COMPLIANCE REQUIRED.

An owner or occupant of a houseboat on Lake Austin, ~~Town Lake~~Lady Bird Lake, or Lake Long shall comply with this division.

### § 8-5-72 - FLOTATION.

- (A) Except as otherwise provided in this section, a houseboat with multiple flotation chambers is prohibited on Lake Austin, ~~Town Lake~~Lady Bird Lake, and Lake Long.
- (B) The prohibition of Subsection (A) does not apply to a houseboat with air-filled flotation chambers if:
  - (1) the boat has at least two but not more than five separate chambers of monocoque construction; and
  - (2) the length of each chamber is at least 80 percent the length of the boat.
- (C) The prohibition of Subsection (A) does not apply to a houseboat with flotation chambers filled with solid buoyant material if:
  - (1) the buoyant material is protected against corrosion; and
  - (2) the building official approves the design.

### § 8-5-73 - LIGHTING.

The operator of a houseboat that is moored or anchored shall use the same lighting on the houseboat that is required for a boat dock of equal size.

### § 8-5-74 - EXEMPTIONS.

- (A) The city council may grant an exemption to a requirement or prohibition of this division.



## ANNOTATED AND PROPOSED CHANGES

- (B) The owner or operator of a houseboat may file an application for an exemption with the Board. The Board shall provide the city council with a recommendation regarding a requested exemption.
- (C) An exemption granted by the city council under this section must be in writing and state the time period during which it is effective.

### Division 3. - Lake Use by Watercraft.

#### § 8-5-81 - WATERCRAFT AND OTHER MOTORIZED CRAFT ON LAKE AUSTIN.

- (A) A person may not use or possess a jet ski, wet bike, motorized surfboard, or similar device on Lake Austin:
  - (1) from sunset on the Friday before Memorial Day until sunrise on the Tuesday after Memorial Day;
  - (2) from sunset on the Friday before Labor Day until sunrise on the Tuesday after Labor Day; or
  - (3) from sunset on July 3 until sunrise on July 5.
- (B) A person operating a motorboat on Lake Austin shall stay on the right side of the lake, except when assisting a downed water skier.
- (C) A person may not operate a watercraft on Lake Austin at a speed that is greater than reasonable and prudent under the existing circumstances.

#### § 8-5-82 - WATERCRAFT ON ~~TOWN LAKE~~LADY BIRD LAKE.

- (A) A person may not operate a watercraft in the portion of ~~Town Lake~~Lady Bird Lake that is bounded by a line from the center of ~~Town Lake~~Lady Bird Lake to the mouth of Shoal Creek on the east, the shoreline of ~~Town Lake~~Lady Bird Lake on the north, the railroad bridge immediately west of Shoal Creek on the west, and center of ~~Town Lake~~Lady Bird Lake on the south.
- (B) The city manager may restrict watercraft access to and use of ~~Town Lake~~Lady Bird Lake during special events.
- (C) Except as provided in this subsection, a person may not operate or assist in the operation of a motorboat or houseboat on ~~Town Lake~~Lady Bird Lake.
  - (1) The prohibition does not apply to a person:
    - (a) performing an official duty as an officer or employee of the city;
    - (b) performing dredging or construction work authorized by the city council;
    - (c) participating in a public event or exhibition authorized by the city council, other than boat racing; or
    - (d) operating a boat, other than a houseboat, powered by an electric motor that does not exceed five horsepower, between the hours of 5:00 a.m. and 10:00 p.m.
  - (2) The city council may permit a person to operate a motorboat on ~~Town Lake~~Lady Bird Lake to conduct tours or excursions or otherwise transport persons.



## ANNOTATED AND PROPOSED CHANGES

- (3) The city manager may permit a person to operate a motorboat on ~~Town-Lake~~Lady Bird Lake for engineering or scientific research.
- (4) The city manager may permit a person to operate a motorboat on ~~Town-Lake~~Lady Bird Lake after determining that the operation does not adversely affect the public safety or welfare, does not create excessive noise or pollution, and does not constitute a nuisance. A person who seeks a permit must file an application with the director on a form provided by the director. The director shall submit a completed application form to the city manager for approval or denial.
- (D) A person may not occupy a watercraft on ~~Town-Lake~~Lady Bird Lake for the purpose of sleeping between dusk and dawn or overnight habitation. The city council may grant an exemption to this prohibition after receiving a recommendation from the Board. An exemption must be in writing and state a time period during which the exemption is effective.
- (E) A person may not occupy or operate a watercraft on ~~Town-Lake~~Lady Bird Lake between the hours of 10:00 p.m. and 5:00 a.m. or permit a watercraft to remain on the lake during that time period. This prohibition does not apply to a person:
  - (1) performing an official duty as an officer or employee of the City;
  - (2) performing dredging or construction work authorized by the city council;
  - (3) participating in a public event or exhibition authorized by the city council;
  - (4) authorized to operate or occupy a watercraft or permit a watercraft to remain on the lake during the proscribed time period in accordance with Subsections (C)(2), (C)(3), or (C)(4) or Subsection (D); or
  - (5) authorized by contract or agreement to occupy a watercraft or permit a watercraft to remain on the lake during the proscribed time period.

### § 8-5-83 - WATERCRAFT ON LAKE LONG.

A person may not occupy or operate a watercraft on Lake Long between the hours of 10:00 p.m. and 5:00 a.m. or permit a watercraft to remain on the lake during that time period. This prohibition does not apply to a person:

- (1) performing an official duty as an officer or employee of the City;
- (2) performing dredging or construction work authorized by the city council;
- (3) participating in a public event or exhibition authorized by the city council; or
- (4) authorized by contract or agreement to occupy a watercraft or permit a watercraft to remain on the lake during the proscribed time period.

### ARTICLE 5. - ENFORCEMENT.

### § 8-5-101 - BOARDING A WATERCRAFT FOR INSPECTION.

- (A) This section prescribes the procedure by which a designated official may inspect a watercraft by boarding or cabin entry.

## ANNOTATED AND PROPOSED CHANGES

- (B) The designated official shall post a notice on the watercraft stating the date and time at which the designated official will inspect the watercraft and that the owner is required to be present. The inspection date shall be not sooner than the fifth day and not later than the tenth day after the date the notice is posted.
- (C) If the owner of the watercraft does not appear at the time designated for the inspection, the designated official shall post a second notice on the watercraft stating that the watercraft will be impounded and disposed of under Section 8-5-102 ( *Public Hearing For Certain Violations* ) unless the owner contacts the designated official and agrees to an inspection not later than the tenth day after the date the second notice is posted.

### § 8-5-102 - PUBLIC HEARING FOR CERTAIN VIOLATIONS.

- (A) Except as provided in Section 8-5-103 ( *Impound Of Watercraft* ), the building official may conduct a public hearing to determine whether the owner of a watercraft has violated Section 8-5-61 ( *Watercraft To Be In Sound Structural Condition* ), Section 8-5-72 ( *Flotation* ), Section 8-5-73 ( *Lighting* ), or Section 8-5-82 ( *Watercraft On ~~Town Lake~~Lady Bird Lake* ).
- (B) This subsection prescribes notice requirements.
  - (1) The building official shall provide not less than ten days' notice of a public hearing.
  - (2) The notice shall include the date, time, and location of the public hearing and a description of the alleged violations to be considered.
  - (3) The building official shall notify the watercraft's owner by mail or telephone if:
    - (a) the watercraft is currently registered with the state; or
    - (b) the building official can otherwise determine the owner's name and address.
  - (4) The building official shall post the notice on the watercraft if:
    - (a) the watercraft is not currently registered with the state and the building official cannot determine the name and address of its owner; or
    - (b) an attempt to notify to an owner under Subsection (3) did not succeed.
- (C) At the public hearing, the building official shall:
  - (1) determine whether notice was given in accordance with Subsection (B); and
  - (2) hear and consider the evidence.
- (D) The absence of the watercraft's owner does not prevent the building official from conducting the hearing.
- (E) The building official shall render a decision not later than the tenth day after the public hearing.
  - (1) If the building official determines that the owner of the watercraft did not commit the alleged violation, the building official shall dismiss the case.
  - (2) If the building official determines that the owner of the watercraft committed the violation:

## ANNOTATED AND PROPOSED CHANGES

- (a) the building official shall notify the owner of the determination in person, by mail, by telephone, or by posting a notice on the watercraft;
  - (b) the owner shall correct the violation not later than the tenth day after the date of the decision; and
  - (c) if the owner does not correct the violation by the prescribed date, the building official may impound the watercraft and dispose of it in accordance with Chapter 9-1 ( *Abandoned Property and Vehicles* ).
- (F) The owner of the watercraft may appeal the decision of the building official to the city council.
  - (1) The owner must file a notice of appeal with the city clerk no later than the 10th day after the date of the building official's decision.
  - (2) The city council shall hear the appeal at a public hearing no later than the 14th day after the date the notice of appeal was filed.
  - (3) Except as provided in Section 8-5-61(D) ( *Watercraft To Be In Sound Structural Condition* ) and Section 8-5-103 ( *Impound Of Watercraft* ), a designated official may not impound or remove the watercraft while an appeal is pending.
  - (4) If the city council determines that the owner of the watercraft did not commit the alleged violation, the city council shall dismiss the case.
  - (5) If the city council determines that the owner of the watercraft committed the violation:
    - (a) the owner shall correct the violation not later than the tenth day after the date of the determination; and
    - (b) if the owner does not correct the violation by the prescribed date, the building official may impound the watercraft and dispose of it in accordance with Chapter 9-1 ( *Abandoned Property and Vehicles* ) of the Code.
  - (6) The decision of the city council is final.

### § 8-5-103 - IMPOUND OF WATERCRAFT.

- (A) Except as provided in Subsection (B), the director may remove or impound a watercraft found in or on ~~Town Lake~~Lady Bird Lake or Lake Long between the hours of 10:00 p.m. and 5:00 a.m.
- (B) The director may not remove or impound a watercraft:
  - (1) permitted to operate during the prescribed period by Section 8-5-82(E) ( *Watercraft On Town Lake* ) or Section 8-5-83 ( *Watercraft On Lake Long* ); or
  - (2) that can be safely and promptly removed by its owner or operator.
- (C) The owner of a watercraft impounded under this section may reclaim the watercraft in accordance with Chapter 9-1 ( *Abandoned Property and Vehicles* ) of the Code.
- (D) If the director cannot determine the identity of the owner of a watercraft impounded under this section within 10 days of the date of impound, the director shall publish a notice of

## ANNOTATED AND PROPOSED CHANGES

impound, including the procedure necessary to obtain a hearing, in a newspaper of general circulation.

- (E) If the owner of an impounded watercraft cannot be identified or waives the right to a hearing, the city manager may dispose of an impounded watercraft in accordance with Chapter 9-1 ( *Abandoned Property and Vehicles* ).

### § 8-5-104 - PENALTY.

- (A) Except as otherwise provided in this section, a person who violates a provision of this chapter is subject to the penalty prescribed by Section 1-1-99 ( *Offenses; General Penalty* ).
- (B) A person who violates Section 8-5-22 ( *Restricted Areas* ) commits a misdemeanor punishable by a fine of not less than \$100. It is an affirmative defense that the person entered a restricted area to perform an emergency action, including a rescue, and that the action was immediately necessary for the protection of life or property.
- (C) A person who violates Section 8-5-23 ( *Tampering With Barrier Prohibited* ) commits a misdemeanor punishable by a fine of not less than \$200.
- (D) A person who violates Section 8-5-43 ( *Fishing From Colorado River Bridges* ) commits a misdemeanor punishable by a fine of not less than \$1 and not more than \$50.
- (E) A person who violates Section 8-5-44(A) ( *Diving* ) commits a misdemeanor punishable by a fine of not less than \$25 and not more than \$75.
- (F) A person who violates Section 8-5-62 ( *Inboard Motorboat Exhaust Requirements* ) or Section 8-5-63 ( *Outboard Motorboat Exhaust Requirements* ) commits a misdemeanor punishable by a fine of:
  - (1) not less than \$25 for a first offense;
  - (2) not less than \$50 for a second offense;
  - (3) not less than \$75 for the third offense; or
  - (4) not less than \$100 for an offense other than the first, second, or third.
- (G) A person who violates Section 8-5-81(C) ( *Watercraft and Other Motorized Craft on Lake Austin* ) commits a misdemeanor punishable by a fine of:
  - (1) not less than \$50 and not more than \$200 for a first offense; or
  - (2) \$200 for an offense other than the first.
- (H) A person who violates Section 8-5-61 ( *Watercraft To Be In Sound Structural Condition* ), Section 8-5-72 ( *Flotation* ), Section 8-5-73 ( *Lighting* ), or Section 8-5-82 ( *Watercraft On ~~Town Lake~~Lady Bird Lake* ) commits a misdemeanor punishable by a fine of not less than \$200.