

**ORDINANCE NO. 20090611-074**

**AN ORDINANCE RELATING TO THE WATERFRONT OVERLAY COMBINING DISTRICT AND WATERFRONT PLANNING ADVISORY BOARD; ADDING NEW CITY CODE SECTIONS 2-1-186, 25-2-710, AND 25-2-715; AMENDING CITY CODE SECTIONS 25-2-713, 25-2-721, 25-2-731, 25-2-732, 25-2-733, 25-2-734, 25-2-735, 25-2-736, 25-2-737, 25-2-739, 25-2-740, 25-2-742, 25-2-743, 25-2-744, AND 25-2-745; AND AMENDING SECTIONS 1.2.4 AND 4.3.4 OF CITY CODE CHAPTER 25-2, SUBCHAPTER E.**

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

**PART 1.** City Code Chapter 2-1 (*City Boards*), Article 2 (*Boards*) is amended to add a new Section 2-1-187 to read as follows and to renumber existing Section 2-1-187 (*Zoning and Platting Commission*) accordingly:

**§ 2-1-187 WATERFRONT PLANNING ADVISORY BOARD.**

- (A) The Waterfront Planning Advisory Board should include a diverse membership drawn from the fields of urban design, environmental protection, architecture, landscape architecture, historic preservation, shoreline ecology, neighborhood conservation, civic art, and real property development.
- (B) The purpose of the board is to provide recommendations to the city council and city boards that:
  - (1) assist in promoting excellence in the design, development, and protection of the City's waterfront; and
  - (2) help to provide a more harmonious interaction and transition between urban development and the parkland and shoreline of Lady Bird Lake and the Colorado River.
- (C) The board shall provide the following recommendations:
  - (1) Project-level recommendations regarding proposed development within the Waterfront Overlay (WO) combining district, as required under Section 25-2-715 (*Review and Recommendation of the Waterfront Planning Advisory Board*).
  - (2) Planning-level recommendations regarding proposed amendments impacting the WO combining district, as required under Section 25-2-715 (*Review and Recommendation of the Waterfront Planning Advisory Board*).

- (3) Policy recommendations to help further the goals of the Town Lake Corridor Study, including but not limited to:
  - (a) filtering, reducing, and treating urban runoff;
  - (b) improving and protecting city creeks through updated corridor planning;
  - (c) regulating existing resource extraction, with the goal of restoring and revegetating the shoreline and improving public access;
  - (d) acquiring additional parkland and greenbelt along the Colorado River;
  - (e) integrating parkland acquisition with planning for roadway and other public improvements, with particular attention to the Montopolis area;
  - (f) securing additional public access easements along the shoreline from Longhorn Dam to the confluence of Walnut Creek;
  - (g) requiring better maintenance of riverfront shoreline and environmental impact studies for new development;
  - (h) ensuring compatibility of city land uses, programs, and construction projects with Lady Bird Lake;
  - (i) encouraging appropriate mixed-use and residential development along the waterfront and urban edge; and
  - (j) promoting and facilitating cooperation between neighbors and private landowners to better realize the potential of the City's waterfront.
- (4) Policy recommendations to update the goals of the Town Lake Corridor Study, including integrating parkland acquisition with planning for roadway and other public improvements, with particular attention to the area east of Longhorn Dam to the city limit line.
- (5) Other recommendations, as required by the city council.

**PART 2.** Subsection (A) of City Code Section 25-2-282 (*Land Use Commission Public Hearing and Recommendation*) is amended to read:

- (A) The Land Use Commission shall hold a public hearing on a zoning or rezoning application not later than the 60th day after the date the application is filed. The director of the Neighborhood Planning and Zoning Department shall give notice under Section 25-1-132(A) (*Notice of Public Hearing*) of the public hearing. If

the application includes property located within the Waterfront Overlay (WO) combining district, the director shall request a recommendation from the Waterfront Planning Advisory Board to be considered by the Land Use Commission at the public hearing. If the Board fails to make a recommendation as required under Section 25-2-715 (*Review and Recommendation of the Waterfront Planning Advisory Board*), the Land Use Commission or accountable official may act on the application without a recommendation from the Board.

**PART 3.** City Code Chapter 25-2, Article 3 (*Additional Requirements for Certain Districts*), Division 8 (*Waterfront Overlay District and Subdistrict Regulations*), Subpart A (*General Provisions*) is amended to add a new Section 25-2-710 to read:

**§ 25-2-710 GOALS AND POLICIES.**

Decisions by the accountable official and city boards regarding implementation of this Division shall be guided at all stages by the goals and policies of the Town Lake Corridor Study, including but not limited to the following:

- (A) Ensure that zoning decisions in the Colorado River corridor achieve the highest degree of land use compatibility by:
  - 1. eliminating industrial uses from the confluence of Longhorn Dam;
  - 2. phasing out resource extraction;
  - 3. providing the public visual and physical access to the Colorado River.
- (B) Protect, enhance, and interpret natural values and environmentally sensitive areas of the Colorado River Corridor through:
  - 1. appropriate mitigation for new development affecting identified landforms; and
  - 2. maintenance of natural shorelines and bluffs along the waterfront, except where otherwise required by subdistrict regulations or for necessary stabilization.
- (C) Recognize the potential of the waterfront as an open space connector, form-shaper of urban development, and focal point for lively pedestrian-oriented mixed uses as defined by the subdistrict goals of the Town Lake Corridor Study.

**PART 4.** City Code Section 25-2-712 (*Definitions*) is amended to add the following new definitions and to renumber the remaining definitions accordingly:

- (2) BOARD means the Waterfront Planning Advisory Board.

- (7) TOWN LAKE CORRIDOR STUDY means the planning document published by the City of Austin in 1985 and formally approved by City Council Resolution No. 851031-19.

**PART 5.** City Code Section 25-2-713 (*Variances*) is amended to read:

**§ 25-2-713 VARIANCES.**

- (A) An applicant may submit a request for [The Land Use Commission may grant] a variance from the following requirements [of] to the Waterfront Planning Advisory Board for review:
- (1) Section [Sections] 25-2-692 (Waterfront Overlay (WO) Subdistrict Uses)[7];
  - (2) Section 25-2-721 (Waterfront Overlay (WO) Combining District Regulations) [7]; or
  - (3) Subpart C (Subdistrict Regulations), except that no variance may be granted from restrictions on maximum height.
- (B) The board may recommend approval of the variance after determining that:
- (1) the proposed project and variance are consistent with the goals and policies of the Town Lake Corridor Study, including environmental protection, aesthetic enhancement, and traffic; and
  - (2) the variance is the minimum required by the peculiarities of the tract.
- (C)[(B)] The following requirements apply if the board recommends approval of a variance under Subsection (B) of this section:
- (1) The director shall forward the board's recommendation to the Land Use Commission, which shall consider the recommendation and the variance application at the next regularly scheduled meeting for which notice can be timely provided.
  - (2) The Land Use Commission shall grant or deny the variance based on the criteria in Subsection (B) of this section.
  - (3) An interested party may appeal the Land Use Commission's grant or denial of a variance [under Subsection (A)] to the council under the requirements of Chapter 25-1, Article 7, Division 1 (Appeals).
- (D) The following requirements apply if the Board recommends denial of a variance under Subsection (B) of this section:

- (1) The applicant may appeal the Board's recommendation to the city council under the requirements of Chapter 25-1, Article 7, Division 1 (Appeals). The council shall consider the Board's recommendation and the variance application at the next regularly scheduled meeting for which notice can be timely provided.
- (2) The council shall grant or deny the variance based on the criteria in Subsection (B) of this section.

**PART 6.** City Code Chapter 25-2 (Zoning), Article 3 (Additional Requirements for Certain Districts), Division 8 (Waterfront Overlay District and Subdistrict Regulations), Subpart A (General Provisions) is amended to add a new Section 25-2-715 to read:

**§ 25-2-715 REVIEW AND RECOMMENDATION OF THE WATERFRONT PLANNING ADVISORY BOARD.**

- (A) The Waterfront Planning Advisory Board shall provide a recommendation to the Land Use Commission regarding each of the following approvals required for a proposed development within the Waterfront Overlay combining district:
  - (1) a site plan under Subsection 25-2-721(A) (*Waterfront Overlay (WO) Combining District Regulations*) or 25-5-142(1) (*Land Use Commission Approval*);
  - (2) a zoning or rezoning application under Section 25-2-282 (*Land Use Commission Public Hearing and Recommendation*);
  - (3) a proposed amendment to Title 25 that directly impacts the Waterfront Overlay combining district; and
  - (4) a proposed amendment to the comprehensive plan that directly impacts the Waterfront Overlay combining district.
- (B) The board shall consider a request for review and recommendation under Subsection (A) at the earliest meeting for which notice can be timely provided and shall base its recommendation on the goals and policies of the Town Lake Corridor Study.
- (C) Copies of administrative site plans submitted within the Waterfront Overlay shall be provided to the board to assist in maintaining a comprehensive understanding of all development activity affecting the waterfront. Review and recommendation under Subsection (A) is not required for administrative site plans.
- (D) The board shall review a request for a variance from regulations applicable to the Waterfront Overlay combining district as required under Section 25-2-713 (*Variances*).

**PART 7.** City Code Section 25-2-721 (*Waterfront Overlay (WO) Combining District Regulations*) is amended to read:

- (A) This subsection provides requirements for review and approval of site plans.
- (1) Approval of a site plan by the Land Use Commission is required if an applicant requests a waiver from a requirement of this part under Section 25-2-713 (*Variances*).
  - (2) Review of a site plan by the director of the Parks and Recreation Department is required before the site plan may be approved. The director of the Parks and Recreation Department shall determine:
    - (a) whether the site plan is compatible with adopted park design guidelines; and
    - (b) if significant historic, cultural, or archaeological sites are located on the property.
  - (3) The Land Use Commission shall request a recommendation from the Waterfront Planning Advisory Board before approving or denying a site plan within the Waterfront Overlay combining district and shall consider the recommendation provided by the board. If the board fails to make a recommendation as required under Section 25-2-715 (*Review and Recommendation of the Waterfront Planning Advisory Board*), the Land Use Commission may approve or deny the site plan without a recommendation.
  - (4) The Land Use Commission shall request a recommendation from the Environmental Board before approving or denying a site plan within the Waterfront Overlay combining district and shall consider the recommendation provided by the board. If the Environmental Board fails to make a recommendation, the Land Use Commission may approve or deny the site plan without a recommendation.

**PART 8.** City Code Section 25-2-731 (*Auditorium Shores Subdistrict Regulations*) is amended to add a new Subsection (F) to read:

- (F) The maximum height is:
- (1) for structures located in the primary setback, the lower of 25 feet or the maximum height allowed in the base zoning district; and
  - (2) for structures located in the secondary setback, the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 9.** City Code Section 25-2-732 (*Balcones Rock Cliff Subdistrict Regulations*) is amended to add a new Subsection (F) to read:

- (F) The maximum height is the lower of 35 feet or the maximum height allowed in the base zoning district.

**PART 10.** City Code Section 25-2-733 (*Butler Shores*) is amended to add a new Subsection (H) read:

- (H) The maximum height is:
  - (1) for structures located north of Barton Springs Road, the lower of 96 feet or the maximum height allowed in the base zoning district; and
  - (2) for structures located south of Barton Springs Road, the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 11.** City Code Section 25-2-734 (*East Riverside Subdistrict Regulations*) is amended to add a new Subsection (D) to read:

- (D) The maximum height is the lower of 96 feet or the maximum height allowed in the base zoning district.

**PART 12.** City Code Section 25-2-735 (*Festival Beach Subdistrict Regulations*) is amended to add anew Subsection (E) to read:

- (E) The maximum height is the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 13.** Subsection (D) of City Code Section 25-2-736 (*Lamar Subdistrict Regulations*) is amended to read:

- (D) For a structure located within 140 feet of the Johnson Creek centerline, the maximum height is the lower of 35 feet or the maximum height allowed in the base zoning district. For all other structures, the maximum height is the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 14.** City Code Section 25-2-737 (*Montopolis/River Terrace Subdistrict Regulations*) is amended to add anew Subsection (D) to read:

- (D) The maximum height in the secondary setback is the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 15.** Section 25-2-740 (*Red Bluff Subdistrict Regulations*) is amended to add a new Subsection (E) to read:

- (E) The maximum height within the secondary setback is the lower of 35 feet or the maximum height allowed in the base zoning district.

**PART 16.** Section 25-2-741 (*South Lakeshore Subdistrict Regulations*) is amended to add a new Subsection (C) to read:

- (C) The maximum height is the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 17.** Section 25-2-742 (*South Shore Central Subdistrict Regulations*) is amended to add a new Subsection (G) to read:

- (G) The maximum height is:
  - (1) for structures located between the primary and secondary setback lines, the lower of 35 feet or the maximum height allowed in the base zoning district;
  - (2) for structures located south of Riverside Drive between South Congress Avenue and East Bouldin Creek, the lower of 45 feet or the maximum height allowed in the base zoning district;
  - (3) for structures located within 100 feet of the right-of-way of South Congress Avenue or South First Street, the lower of 60 feet or the maximum height allowed in the base zoning district; and
  - (4) for structures located in all other areas of the subdistrict, the lower of 96 feet or the maximum height allowed in the base zoning district.

**PART 18.** Section 25-2-743 (*Travis Heights Subdistrict Regulations*) is amended to add a new Subsection (E) to read:

- (E) The maximum height is:
  - (1) for structures located between the shoreline of Lady Bird Lake and Riverside Drive, the lower of 45 feet or the maximum height allowed in the base zoning district; and
  - (2) for structures located elsewhere in the subdistrict, the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 19.** Section 25-2-744 (*University/Deep Eddy Subdistrict Regulations*) is amended to add a new Subsection (F) to read:

- (F) The maximum height is the lower of 60 feet or the maximum height allowed in the base zoning district.

**PART 20.** Section 25-2-745 (*Zilker Park Subdistrict Regulations*) is amended to add a new Subsection (E) to read:

- (F) The maximum height is the lower of 45 feet or the maximum height allowed in the base zoning district.

**PART 21.** City Code Section 25-5-143 (*Director's Report*) is amended to add a new Subsection (C) to read:

- (C) If the site plan application includes property located within the Waterfront Overlay (WO) combining district, the director shall request a recommendation from the Waterfront Planning Advisory Board to be presented to the Land Use Commission with the director's report required under this section.

**PART 22.** Subchapter E (*Design Standards and Mixed Use*) of City Code Chapter 25-2 (*Zoning*) is amended to amend Subsection (B) of Section 1.2.4 (*Conflicting Provisions*) to read:

- B. The following provisions supersede the requirements of this Subchapter to the extent of conflict:
  - 1. The following provisions of Chapter 25-2:
    - a. Subchapter C, Article 3 (*Additional Requirements for Certain Districts*);
    - b. Subchapter C, Article 4 (*Additional Requirements for Certain Uses*);
    - c. Subchapter C, Article 10 (*Compatibility Standards*);
    - d. Provisions applicable to the Hill Country Roadways; and
  - 2. Regulations applicable to a:
    - a. Barton Springs Zone overlay district;
    - b. Conditional overlay (CO) combining district;
    - c. Central urban redevelopment (CURE) combining district;
    - d. Neighborhood conservation (NC) combining district;
    - e. Neighborhood plan (NP) combining district;
    - f. Planned development area (PDA) combining district;
    - g. Planned unit development (PUD) district;

- h. Waterfront overlay (WO) district [~~except that the redevelopment provisions of this Subchapter in Sections 2.3.1., *Internal Circulation Systems for Large Sites*, and 4.3., *Vertical Mixed Use Buildings*, shall apply to the WO district~~]; or
- i. North Burnet/Gateway overlay (NB/GO) district.

**PART 23.** Subchapter E (*Design Standards and Mixed Use*) of City Code Chapter 25-2 (*Zoning*) is amended to amend Subsection (D) of Section 4.3.4 (*Development Bonuses*) to read:

D. Except for in the Barton Springs Zone or the Waterfront Overlay combining district, impervious cover existing as of the effective date of this Subchapter may be retained for redevelopment purposes for VMU buildings no taller than 60 feet and their accompanying structured parking, so long as the redevelopment meets current water quality standards and, for projects in the Drinking Water Protection Zone, the redevelopment incorporates the following measures to provide additional water quality benefits, pursuant to administrative rules to be developed by the Director of the Watershed Protection and Development Review Department:

1. Rainwater collection and reuse;
2. Pervious pavement;
3. Integrated pest management; and
4. Native and adapted landscaping.

**PART 24.** The City Manager is directed to work with the Waterfront Planning Advisory Board to:

- (A) Process code amendments necessary to implement Recommendation No. 4 in the Waterfront Overlay Task Force Final Report, attached as Exhibit A to Resolution No. 20090212-025, to establish a system for providing development bonuses, including but not limited to impervious cover, in exchange for community benefits. The amendments may include, but are not limited to, the following divisions of City Code Chapter 25-2 (*Zoning*), Subchapter C (*Use and Development Regulations*): Division 6 (*Waterfront Overlay District Requirements for Town Lake Park*), Division 7 (*Waterfront Overlay District and Subdistrict Uses*), and Division 8 (*Waterfront Overlay District Regulations*).
- (B) Provide a recommendation on whether a Planned Unit Development within the Waterfront Overlay combining district should be required to meet additional

requirements in order to establish that the development would be superior to development allowed under existing code.

- (C) The City Manager is further directed to work with the Waterfront Planning Advisory Board to provide recommendations on issues impacting the waterfront overlay combining district, including but not limited to:
- (1) areas where the Waterfront Overlay subdistrict heights are lower than the heights allowed by the base district zoning;
  - (2) how to increase the effectiveness of bonus provisions, based on research regarding where bonuses have been used successfully;
  - (3) how to incorporate urban design principles into site plans within the Waterfront Overlay; and
  - (4) the Waterfront Planning Advisory Board's scope of work.

**PART 25.** The following requirements apply to a Planned Unit Development (PUD):

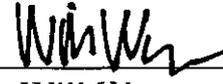
- (A) A PUD approved after the effective date of this ordinance is subject to the requirements of this ordinance. This does not limit a PUD's ability to modify the Waterfront Overlay.
- (B) Property located within an existing PUD on the date that this ordinance is adopted is not subject to the requirements of this ordinance if the property remains in the PUD, except that an amendment to an existing PUD is subject to the requirements of this ordinance if the amendment:
- (1) constitutes a "substantial amendment" under Section 3.1.2 (Substantial Amendment) of Chapter 25-2, Subchapter B, Article 2, Division 5 (Planned Unit Developments); and
  - (2) increases the size, scale, or density of development allowed within the PUD or further encroaches into the Waterfront Overlay setbacks.

**PART 26.** This ordinance takes effect on June 22, 2009.

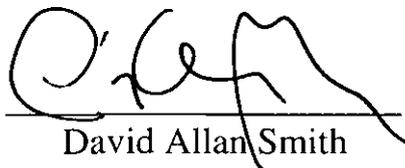
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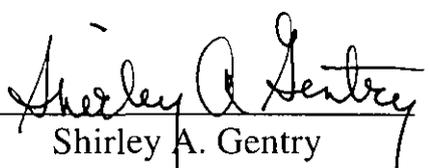
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Will Wynn  
Mayor

**APPROVED:**   
\_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:**   
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Shirley A. Gentry  
City Clerk