

ORDINANCE NO.

1 AN ORDINANCE RELATING TO THE WATERFRONT OVERLAY  
2 COMBINING DISTRICT AND WATERFRONT PLANNING ADVISORY  
3 BOARD; ADDING NEW CITY CODE SECTIONS 2-1-186, 25-2-710, 25-2-715,  
4 AND 25-2-716; AMENDING CITY CODE SECTIONS 25-2-713, 25-2-721, 25-2-  
5 731, 25-2-732, 25-2-733, 25-2-734, 25-2-735, 25-2-736, 25-2-737, 25-2-739, 25-2-740,  
6 25-2-7472, 25-2-743, 25-2-744, AND 25-2-745; AND AMENDING SECTIONS 1.2.4  
7 AND 4.3.4 OF CITY CODE CHAPTER 25-2, SUBCHAPTER E.

8  
9 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

10  
11 PART 1. City Code Chapter 2-1 (*City Boards*), Article 2 (*Boards*) is amended to add a  
12 new Section 2-1-186 to read as follows and to renumber existing Section 2-1-187 (*Zoning*  
13 *and Platting Commission*) accordingly:

14 § 2-1-186 WATERFRONT PLANNING ADVISORY BOARD.

- 15 (A) The Waterfront Planning Advisory Board should include a diverse membership  
16 drawn from the fields of urban design, environmental protection, architecture,  
17 landscape architecture, historic preservation, shoreline ecology, neighborhood  
18 conservation, civic art, and real property development.
- 19 (B) The purpose of the board is to provide recommendations to the city council and  
20 city boards that:
- 21 (1) assist in promoting excellence in the design, development, and protection  
22 of the City's waterfront; and
- 23 (2) help to provide a more harmonious interaction and transition between  
24 urban development and the parkland and shoreline of Lady Bird Lake  
25 and the Colorado River.
- 26 (C) The board shall provide the following recommendations:
- 27 (1) Project-level recommendations regarding proposed development within  
28 the Waterfront Overlay (WO) combining district, as required under  
29 Section 25-2-716 (*Review and Recommendation of the Waterfront*  
30 *Planning Advisory Board*).
- 31 (2) Planning-level recommendations regarding proposed amendments  
32 impacting the WO combining district, as required under Section 25-2-716  
33 (*Review and Recommendation of the Waterfront Planning Advisory*  
34 *Board*).

- 1 (3) Policy recommendations to help further the goals of the Town Lake  
2 Corridor Study, including but not limited to:
- 3 (a) filtering, reducing, and treating urban runoff;
- 4 (b) improving and protecting city creeks through updated corridor  
5 planning;
- 6 (c) regulating existing resource extraction, with the goal of restoring  
7 and revegetating the shoreline and improving public access;
- 8 (d) acquiring additional parkland and greenbelt along the Colorado  
9 River;
- 10 (e) integrating parkland acquisition with planning for roadway and  
11 other public improvements, with particular attention to the  
12 Montopolis area;
- 13 (f) securing additional public access easements along the shoreline  
14 from Longhorn Dam to the confluence of Walnut Creek;
- 15 (g) requiring better maintenance of riverfront shoreline and  
16 environmental impact studies for new development;
- 17 (h) ensuring compatibility of city land uses, programs, and  
18 construction projects with Lady Bird Lake;
- 19 (i) encouraging appropriate mixed-use and residential development  
20 along the waterfront and urban edge; and
- 21 (j) promoting and facilitating cooperation between neighbors and  
22 private landowners to better realize the potential of the City's  
23 waterfront; and
- 24 (4) Other recommendations, as required by the city council.  
25

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

- 28 (A) The Land Use Commission shall hold a public hearing on a zoning or rezoning  
29 application not later than the 60th day after the date the application is filed. The  
30 director of the Neighborhood Planning and Zoning Department shall give notice  
31 under Section 25-1-132(A) (*Notice Of Public Hearing*) of the public hearing. If  
32 the application includes property located within the Waterfront Overlay (WO)  
33 combining district, the director shall request a recommendation from the  
34 Waterfront Planning Advisory Board to be considered by the Land Use  
35 Commission at the public hearing. If the Board fails to make a

1 recommendation as required under Section 25-2-716 (*Review and*  
2 *Recommendation of the Waterfront Planning Advisory Board*), the Land Use  
3 Commission or accountable official may act on the application without a  
4 recommendation from the Board.  
5

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

9 **§ 25-2-710 GOALS AND POLICIES.**

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

- 13 (A) Ensure that zoning decisions in the Colorado River corridor achieve the highest  
14 degree of land use compatibility by:
- 15 1. eliminating non-industrial uses from the confluence of Longhorn Dam;
  - 16 2. phasing out resource extraction;
  - 17 3. providing visual and physical access to the Colorado River.
- 18 (B) Protect, enhance, and interpret natural values and environmentally sensitive  
19 areas of the Colorado River Corridor through:
- 20 1. appropriate mitigation for new development affecting identified  
21 landforms; and
  - 22 2. maintenance of natural shorelines and bluffs along the waterfront, except  
23 where otherwise required by subdistrict regulations or for necessary  
24 stabilization.
- 25 (C) Recognize the potential of the waterfront as an open space connector, form-  
26 shaper of urban development, and focal point for lively pedestrian-oriented  
27 mixed uses.  
28

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

- 31 (2) BOARD means the Waterfront Planning Advisory Board.
- 32 (7) TOWN LAKE CORRIDOR STUDY means the planning document published  
33 by the City of Austin in 1985 and formally approved by City Council  
34 Resolution No. 851031-19.  
35

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

2 **§ 25-2-713 VARIANCES.**

3 (A) An applicant may submit a request for [The Land Use Commission may grant]  
4 a variance from the following requirements [øf] to the Waterfront Planning  
5 Advisory Board for review:

6 (1) Section [Sections] 25-2-692 (*Waterfront Overlay (WO) Subdistrict*  
7 *Uses*)[;];

8 (2) Section 25-2-721 (*Waterfront Overlay (WO) Combining District*  
9 *Regulations*) [;]; or

10 (3) Subpart C (*Subdistrict Regulations*), except that no variance may be  
11 granted from restrictions on maximum height.

12 (B) The Board may recommend approval of the variance after determining that:

13 (1) the proposed project and variance are consistent with the goals and  
14 policies of the Town Lake Corridor Study, including environmental  
15 protection, aesthetic enhancement, and traffic; and

16 (2) the variance is the minimum required by the peculiarities of the tract.

17 (C)[(B)] The following requirements apply if the Board recommends approval of a  
18 variance under Subsection (B) of this section:

19 (1) The director shall forward the Board's recommendation to the Land Use  
20 Commission, which shall consider the recommendation and the variance  
21 application at the next regularly scheduled meeting for which notice can  
22 be timely provided.

23 (2) The Land Use Commission shall grant or deny the variance based on the  
24 criteria in Subsection (B) of this section.

25 (3) An interested party may appeal the Land Use Commission's grant or  
26 denial of a variance [under Subsection (A)] to the council under the  
27 requirements of Chapter 25-1, Article 7, Division 1 (*Appeals*).

28 (D) The following requirements apply if the Board recommends denial of a variance  
29 under Subsection (B) of this section:

30 (1) The applicant may appeal the Board's recommendation to the city  
31 council under the requirements of Chapter 25-1, Article 7, Division 1  
32 (*Appeals*). The council shall consider the Board's recommendation and  
33 the variance application at the next regularly scheduled meeting for  
34 which notice can be timely provided.

1                   (2) The council shall grant or deny the variance based on the criteria in  
2                   Subsection (B) of this section.  
3

4       **PART 6.** City Code Chapter 25-2 (*Zoning*), Article 3 (*Additional Requirements for*  
5       *Certain Districts*), Division 8 (*Waterfront Overlay District and Subdistrict Regulations*),  
6       Subpart A (*General Provisions*) is amended to add a new Section 25-2-716 to read:

7       **§ 25-2-716 REVIEW AND RECOMMENDATION OF THE WATERFRONT**  
8       **PLANNING ADVISORY BOARD.**

9       (A) The Waterfront Planning Advisory Board shall provide a recommendation to  
10       the Land Use Commission or accountable official regarding each of the  
11       following approvals required for a proposed development within the Waterfront  
12       Overlay combining district:

13       (1) Review by the Land Use Commission of:

14               (a) a site plan under Subsection 25-2-721(A) (*Waterfront Overlay*  
15               *(WO) Combining District Regulations*) or 25-5-142(1) (*Land Use*  
16               *Commission Approval*);

17               (b) a zoning or rezoning application under Section 25-2-282 (*Land*  
18               *Use Commission Public Hearing and Recommendation*);

19               (c) a proposed amendment to Title 25 that directly impacts the  
20               Waterfront Overlay combining district; and

21               (d) a proposed amendment to the comprehensive plan that directly  
22               impacts the Waterfront Overlay combining district.

23       (2) Review of an administrative site plan by the accountable official under  
24       Chapter 25-5, Article 2 (*Administrative Site Plans*).

25       (B) The Board shall review a request for a variance from regulations applicable to  
26       the Waterfront Overlay combining district as required under Section 25-2-713  
27       (*Variances*).

28       (C) The Board shall consider a request for review and recommendation under this  
29       section at the earliest meeting for which notice can be timely provided and shall  
30       base its recommendation on the goals and policies of the Town Lake Corridor  
31       Study.  
32

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

35       (A) This subsection provides requirements for review and approval of site plans.

- 1 (1) Approval of a site plan by the Land Use Commission is required if an  
2 applicant requests a waiver from a requirement of this part under Section  
3 25-2-713 (*Variances*).
- 4 (2) Review of a site plan by the director of the Parks and Recreation  
5 Department is required before the site plan may be approved. The  
6 director of the Parks and Recreation Department shall determine:
- 7 (a) whether the site plan is compatible with adopted park design  
8 guidelines; and
- 9 (b) if significant historic, cultural, or archaeological sites are located  
10 on the property.
- 11 (3) The Land Use Commission or accountable official shall request a  
12 recommendation from the Waterfront Planning Advisory Board before  
13 approving or denying a site plan and consider the recommendation  
14 provided by the board. If the Board fails to make a recommendation as  
15 required under Section 25-2-716 (*Review and Recommendation of the*  
16 *Waterfront Planning Advisory Board*), the Land Use Commission or  
17 accountable official may grant or deny the approval without a  
18 recommendation from the Board.

19  
20 **PART 8.** City Code Section 25-2-731 (*Auditorium Shores Subdistrict Regulations*) is  
21 amended to add a new Subsection (F) to read:

22 (F) The maximum height is:

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

27  
28 **PART 9.** City Code Section 25-2-732 (*Balcones Rock Cliff Subdistrict Regulations*) is  
29 amended to add a new Subsection (F) to read:

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

32  
33 **PART 10.** City Code Section 25-2-733 (*Butler Shores*) is amended to add a new  
34 Subsection (H) read:

35 (H) The maximum height is:

1 (3) for structures located north of Barton Springs Road, the lower of 96 feet  
2 or the maximum height allowed in the base zoning district; and

3 (4) for structures located south of Barton Springs Road, the lower of 60 feet  
4 or the maximum height allowed in the base zoning district.

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

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

9  
10 **PART 12.** City Code Section 25-2-735 (*Festival Beach Subdistrict Regulations*) is  
11 amended to add anew Subsection (E) to read:

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

14  
15 **PART 13.** Subsection (D) of City Code Section 25-2-736 (*Lamar Subdistrict*  
16 *Regulations*) is amended to read:

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

21  
22 **PART 14.** City Code Section 25-2-737 (*Montopolis/River Terrace Subdistrict*  
23 *Regulations*) is amended to add anew Subsection (D) to read:

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

26  
27 **PART 15.** Section 25-2-740 (*Red Bluff Subdistrict Regulations*) is amended to add a  
28 new Subsection (E) to read:

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

31  
32 **PART 16.** Section 25-2-741 (*South Lakeshore Subdistrict Regulations*) is amended to  
33 add a new Subsection (C) to read:

34 (C) The maximum height is the lower of 60 feet or the maximum height allowed in  
35 the base zoning district.  
36

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

3 (G) The maximum height is:

- 4 (1) for structures located between the primary and secondary setback lines,  
5 the lower of 35 feet or the maximum height allowed in the base zoning  
6 district;
- 7 (2) for structures located south of Riverside Drive between South Congress  
8 Avenue and East Bouldin Creek, the lower of 45 feet or the maximum  
9 height allowed in the base zoning district;
- 10 (3) for structures located within 100 feet of the right-of-way of South  
11 Congress Avenue or South First Street, the lower of 60 feet or the  
12 maximum height allowed in the base zoning district; and
- 13 (4) for structures located in all other areas of the subdistrict, the lower of 96  
14 feet or the maximum height allowed in the base zoning district.  
15

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

18 (E) The maximum height is:

- 19 (1) for structures located between the shoreline of Lady Bird Lake and  
20 Riverside Drive, the lower of 45 feet or the maximum height allowed in  
21 the base zoning district; and
- 22 (2) for structures located elsewhere in the subdistrict, the lower of 60 feet or  
23 the maximum height allowed in the base zoning district.  
24

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

27 (F) The maximum height is the lower of 60 feet or the maximum height allowed in  
28 the base zoning district.  
29

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

32 (F) The maximum height is the lower of 45 feet or the maximum height allowed in  
33 the base zoning district.  
34

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

- 1 (C) If the site plan application includes property located within the Waterfront  
2 Overlay (WO) combining district, the director shall request a recommendation  
3 from the Waterfront Planning Advisory Board to be presented to the Land Use  
4 Commission with the director's report required under this section.  
5

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

- 9 B. The following provisions supersede the requirements of this Subchapter to the  
10 extent of conflict:

- 11 1. The following provisions of Chapter 25-2:

- 12 a. Subchapter C, Article 3 (*Additional Requirements for Certain*  
13 *Districts*);  
14 b. Subchapter C, Article 4 (*Additional Requirements for Certain*  
15 *Uses*);  
16 c. Subchapter C, Article 10 (*Compatibility Standards*);  
17 d. Provisions applicable to the Hill Country Roadways; and

- 18 2. Regulations applicable to a:

- 19 a. Barton Springs Zone overlay district;  
20 b. Conditional overlay (CO) combining district;  
21 c. Central urban redevelopment (CURE) combining district;  
22 d. Neighborhood conservation (NC) combining district;  
23 e. Neighborhood plan (NP) combining district;  
24 f. Planned development area (PDA) combining district;  
25 g. Planned unit development (PUD) district;  
26 h. Waterfront overlay (WO) district [~~except that the redevelopment~~  
27 ~~provisions of this Subchapter in Sections 2.3.1., *Internal*~~  
28 ~~*Circulation Systems for Large Sites*, and 4.3., *Vertical Mixed Use*~~  
29 ~~*Buildings*, shall apply to the WO district)]; or  
30 i. North Burnet/Gateway overlay (NB/GO) district.  
31~~

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

4 D. Except for in the Barton Springs Zone or the Waterfront Overlay Combining  
5 District, impervious cover existing as of the effective date of this Subchapter  
6 may be retained for redevelopment purposes for VMU buildings no taller than  
7 60 feet and their accompanying structured parking, so long as the  
8 redevelopment meets current water quality standards and, for projects in the  
9 Drinking Water Protection Zone, the redevelopment incorporates the following  
10 measures to provide additional water quality benefits, pursuant to  
11 administrative rules to be developed by the Director of the Watershed  
12 Protection and Development Review Department:

- 13 1. Rainwater collection and reuse;
- 14 2. Pervious pavement;
- 15 3. Integrated pest management; and
- 16 4. Native and adapted landscaping.

17  
18 **PART 24.** The council manager is directed to process code amendments necessary to  
19 implement Recommendation No. 4 in the Waterfront Overlay Task Force Final Report,  
20 attached as Exhibit A to Resolution No. 20090212-025, to establish a system for  
21 providing development bonuses in exchange for community benefits. The amendments  
22 may include, but are not limited to, the following divisions of City Code Chapter 25-2  
23 (*Zoning*), Subchapter C (*Use and Development Regulations*): Division 6 (*Waterfront*  
24 *Overlay District Requirements for Town Lake Park*), Division 7 (*Waterfront Overlay*  
25 *District and Subdistrict Uses*), and Division 8 (*Waterfront Overlay District Regulations*).  
26

27 **PART 25.** This ordinance takes effect on \_\_\_\_\_, 2009.  
28

**PASSED AND APPROVED**

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\_\_\_\_\_, 2009

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_

David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_

Shirley A. Gentry  
City Clerk

DRAFT

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