

AGENDA



Recommendation for Council Action

Austin City Council	Item ID	48564	Agenda Number	7.
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Meeting Date:	9/17/2015	Department:	Austin Water Utility
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Subject

Approve an ordinance amending City Code Chapter 6-5 related to the regulation of marine sanitation and protection of water quality.

Amount and Source of Funding

Fiscal Note

A fiscal note is not required.

Purchasing Language:

Prior Council Action:

August 29, 2013- Council approved a resolution that directed the City Manager to develop a process to ensure administration and enforcement of the existing water quality protections in City Code Chapter 6-5, which concern marine toilets, holding tanks and marinas.
 May 7, 2015- Council approved an ordinance amending City Code Chapter 6-5 relating to marine toilet requirements.

For More Information:

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Council Committee, Boards and Commission Action:

August 12, 2015- Unanimously approved by the Water and Wastewater Commission on a 9-0 vote. Recommendation Number 20150812-D12.
 September 2, 2015- Approved by the Environmental Board on a 9-0-0-2 vote with Commissioners Perales and Gooch absent. Recommendation Number 20150902-6B.

MBE / WBE:

Related Items:

Additional Backup Information

In 2013, the Council approved a resolution in response to recommendations of the Lake Austin Task Force. One of the specific items in the resolution directed the City Manager to develop a process to ensure administration and enforcement of the existing water quality protections in City Code Chapter 6-5, which includes some of the City's Water Quality regulations, including regulations that govern marine sanitation and discharges into the City's water supply from toilets on watercraft, or at marinas, and from boat pump-out facilities.

In response, staff is proposing revisions to portions of Chapter 6-5 of the Austin City Code regarding watercraft and marinas to address a number of issues. The current rules were originally adopted in 1968, but have not been updated to reflect how requirements have long been interpreted and administered by City staff, or to reflect state and federal regulations that have since been adopted that also regulate marine toilets and boat pump-out facilities.

If approved, the changes would help ensure administration and enforcement of existing water quality protections in Chapter 6-5, and would:

- Align the language in the Code to longstanding interpretations followed when the program was administered by the Health & Human Services Department;
- Establish necessary inspection and enforcement authority for the Director of Austin Water to administer the

regulations (currently, the Code grants that authority to the Health and Human Services Department);

- Update the regulations to better match similar state and federal regulations; and
- Clarify the rules to address identified missing definitions and other imprecise language.

Waste Removal from Excursion Boats. One core change in the proposed ordinance, which follows-up on a related May 7, 2015 Council action, addresses the pump-out of waste from excursion boats. Prior to Council action on May 7, the only method allowed for removing waste from boats was discharging into an on-shore disposal facility, i.e., discharging to a boat pump-out facility connected to either a septic tank or sewer. However, there is no on-shore disposal/boat pump-out facility on Lady Bird Lake and, as such, for more than 20 years, boat companies on Lady Bird Lake have been removing sewage waste from their boats by pumping it into permitted and registered waste hauler trucks, which are then taken to a wastewater treatment plant for disposal. This method of waste removal is equally safe, allowed under state law and a widely accepted practice in the wastewater management industry and throughout Austin (for example, with portable/chemical toilets used on construction sites, with grease traps at restaurants and any kind of sanitary sewer overflow). Additionally, other (existing) state and City regulations prohibit any discharge of wastewater from a boat into a body of water. Therefore, on May 7, the Council adopted an ordinance that deleted the language in the Code that limited waste removal to only on-shore disposal facilities, which opened up the option of removing waste through other methods, such as by a waste hauler. (See April 21, 2015 memo to Mayor and Council from Austin Water Director Greg Meszaros and Parks and Recreation Department Director Sara Hensley, which is included in the backup, for more information about the May 7 Council item.)

The currently proposed ordinance builds on the action taken by Council on May 7 by adding language to the Code to specifically allow boats to remove their waste by pumping it into a permitted and registered waste hauler truck. Similarly, the ordinance also adds another specific provision in Chapter 6-5 that would allow marinas to have their waste removed by waste haulers since that is also not permitted currently.

(Regarding the possibility of installing a boat pump-out facility on Lady Bird Lake, Austin Water and the Watershed Protection Department recommend against this, primarily due to the potential for flooding on Lady Bird Lake which could cause a sewage spill into the lake.)

Requirements regarding Toilets on Excursion Boats. The other notable change being proposed would amend the requirement for separate toilets for men and women on all excursion boats carrying more than 20 passengers by allowing at least one shared restroom per boat. This is in line with how regulations have been historically enforced and would better match existing practices and existing boat fleet configurations, which typically do not have more than one restroom per boat given space constraints, and which have shown to be sufficient and not problematic. Additionally, this proposed change would conform to other City Code requirements for gender-neutral restrooms.

The remaining proposed changes are more 'administrative' in nature and, like the aforementioned changes, should not substantially change how boat, marina or pump-out operators operate, and generally fit into the following categories:

- **Revisions to Administrative Authority** - Gives the Austin Water Director required authority to enforce requirements.
- **Updates to Match State and Federal Regulations** - Changes provisions to match requirements to Title 30 of the Texas Administrative Code, Chapter 321, Subchapter A (Boat Sewage Disposal) and Title 33 of the Code of Federal Regulations Part 159 (Marine Sanitation Devices).
- **Requirements for Providing Toilets at Marinas, Parks and Picnic Areas** – Amends requirements governing toilets at all commercial marinas, parks and picnic areas to match requirements in the City's Land Development Code and eliminates conflict with new City code requirements for gender-neutral restrooms.
- **Applicability of Permit Requirements** - Changes requirement to have a City of Austin Permit that currently applies to all watercraft, marinas and picnic areas in the planning jurisdiction. Proposed change would limit the permit requirement to owners or operators of Excursion Boats with Marine Sanitation Devices (MSDs) and owners or operators of boat pump-out facilities. Also creates exception to City of Austin permit requirement applicable to marinas with boat pump-out facilities permitted under LCRA Highland Lakes Ordinance and excursion boats operated at such marinas.
- **Miscellaneous** – Austin Water is proposing the addition of record-keeping requirements for affected boat companies and authority for Austin Water to require reports addressing waste removal for boat pump-out

facilities and excursion boats with a main sanitation device. The proposed record-keeping requirements are no different than other record-keeping requirements in other parts of the City Code governing sewage waste. Also, staff proposes strengthening the Right-of-Entry provision by creating an offense for denying or unreasonably delaying entry by City staff when warranted. This proposed change, if adopted, is similar to other Right-of-Entry provisions in other parts of City Code. Lastly, based on input from stakeholders, Austin Water will hold boat owners to the same standards required by the state, rather than create the utility's own inspection and permitting program. This relieves the customer of the duty to comply with two sets of standards (one administered by the state, and one administered by the city).

The proposed ordinance is attached. In an effort to address all identified concerns equitably, the ordinance has been vetted through a stakeholder process. Staff worked at an individual level with membership of the former Lake Austin Task Force and with boat, marina and boat pump-out owners and operators. In addition, two different stakeholder meetings were held. The feedback, comments and suggestions have been incorporated into the draft ordinance.