

Rhoades, Wendy

From: Juan Penelas [REDACTED]
Sent: Wednesday, October 10, 2018 8:40 PM
To: Rhoades, Wendy
Subject: Ethics Complaint Filed October 10, 2018
Attachments: ERC Complaint_Duncan J.pdf

Re: Ethics Complaint Filed October 10, 2018

Complained Against – Commissioner James Duncan, City of Austin, Zoning and Planning Commission

Dear Wendy Rhoades,

I would like to bring the above-referenced Ethics Complaint I filed to your immediate attention in light of the upcoming agenda item C-814-86-023.01 Camelback PUD, scheduled before Council on October 18, 2018.

I am respectfully requesting the Council that they defer/postpone the discussion and vote on it until this ethics complaint is resolved.

Respectfully,

Juan M. Penelas

From: Rios, Myrna <Myrna.Rios@austintexas.gov>
Sent: Wednesday, October 10, 2018 12:23 PM
To: [REDACTED]
Cc: Rios, Myrna
Subject: Sworn Complaint

The attached sworn complaint was received on October 10, 2018 in the Office of the City Clerk. It was filed by Jaun M. Peneles against James Duncan. You are receiving a copy of the complaint because you were identified by the complainant as a person who may have been involved or aware of the alleged conduct. All parties have been notified.

Thank you,

Myrna Rios, CMC, TRMC | Deputy City Clerk
512-974-2504 | myrna.rios@austintexas.gov

Rhoades, Wendy

From: Hilton <keypal@austin.rr.com>
Sent: Friday, October 12, 2018 3:41 PM
To: Houston, Ora; Garza, Delia; Renteria, Sabino; Casar, Gregorio; Kitchen, Ann; Flannigan, Jimmy; Pool, Leslie; Troxclair, Ellen; Tovo, Kathie; Alter, Alison
Cc: Guerrero, Linda.h - BC; Rhoades, Wendy; Herrington, Chris; Johnston, Liz
Subject: RE: Council Letter ref: C814-86-023.01
Attachments: Final council letter BRNA+.pdf; DSD DETERMINATION.PDF; New Lake Austin Overlay 2014.pdf; New dock ordinance 2014.pdf

Please see attached:

Bunny Run Neighborhood Association - Concerning the Camelback Amended PUD Application

The Bunny Run Neighborhood's and Aqua Verde Neighborhood's (BRNA) continue to share our concerns on equality, scale/intensity of development, regulations and codes for the scenic, recreational and environmental benefits of Lake Austin. We have never been opposed to the overall development and have favored from the outset, the park donation and the "Champions" solution which benefits the neighbors along City Park Road and 2222. As good neighbors, and seeing the merits, we would like the Park and the Champion Tract Transaction to take place but are quite concerned over many elements of the most environmental sensitive component of this package. We believe the increased density, harm to the Cliffs, Rim Rock, Shoreline Environmental Factors and Lake Austin (our drinking water supply) outweigh other considerations in determining the superiority of this PUD Amendment.

- ☐ COA – Staff has listed 9 items as **Non- Superior Project Elements**
- ☐ The Environmental Board requested 24 conditions
- ☐ Planning and Zoning added another handful of conditions

The original 1987 PUD allowed 64 residential single-family lots vs. up to 325,000 sq. ft of commercial with a 250-seat restaurant, 200,000 sq. ft of mostly multifamily residential units including Hotel (and short-term rentals), Park Land, a mega-Dock, and mechanized access down a 200 ft cliff. The major additions and Land Use changes on this amendment vs. the original PUD make it a questionable judgment call. The applicant has worked with COA staff to some degree but continues to push back and wants to change or reinterpret codes instead of building within codes. Where are we now- 24 variances requested, we lost count of the modifications they want and 1/3 of the PUD notes deal with the Dock District.

Lake Austin (LA) ZONING OVERLAY DISTRICT and Ordinance No. 20140626-113 **RELATING TO THE LAKE AUSTIN ZONING DISTRICT AND THE REGULATION OF BOAT DOCKS, BULKHEADS, AND SHORELINE ACCESS:** established *"to protect the scenic, recreational, and environmental benefits of Lake Austin by restricting the scale and intensity of development near the lake."* (Attached for reference)

This new set of codes/rules were put in place in 2014 to protect the Lake **as a result of years of study by the Lake Austin Task Force!**

This ordinance set a 1000' LA development overlay adding to present environmental codes. It included regulation for shoreline setback, impervious cover, slope, stating no mechanized access, etc. Not every area along the lake is accessible or entitled to development.

The applicant has asked to modify, redefine or take a position of exception against most of these codes and regulations. Basically throwing out/shredding these codes applicable to every other lake property. 20 out of 57 PUD notes are concerning the Dock District. Taking exception to these codes will set up new precedence's essentially opening the flood gates to applicants that demand equality and those that have been denied permits per the codes and regulations.

Parks: The City of Austin requires the developer donate “x” amount of parkland in a PUD by code. This is by far the superior part of this PUD amendment plan! One Park of dedicated land includes the environmental run off reserve. Indications at PARD include intent to dedicate a beautiful and scenic cliff side park as well. No survey or legal description of the cliff park was provided. However, a map submitted indicates: Applicant dedicated all of Hidden Valley Lots 2 through 5 and portions of Lots 1, 6 through 9 to the City as parkland. The remaining residential lots, part of 9 and all of 10-12 are proposed to be re-zoned Commercial Use (CU) and Preserve Open Space (P OS). *[PUD note #1 states “A 9.53 acre dedicated park and a 16.56 acres (10.713 Acres Land and 5.847 acres of water) dedicated park shall be provided, subject to a Parkland Dedication Improvement Agreement. (26.09 acres)]*

Are we to understand that the Applicant wants to deprive the shoreline portion from the citizens so he may apply it to the mega dock calculations? **If so, this would deny public shoreline access and rights.** In essence it would be double dipping and reducing the Park Land dedication amount.

Dock: No application filed and no perpetual use rights nor a common area that fronts the lake exists.

In 2016, (re-affirmed on September 2018), the **DSD** (COA-Development Service Department) **determined** that “a boat dock **could be allowed** for each single-family residential lot with frontage on the Lake (approx. 12) **assuming a single-family residence is either existing or permitted concurrently with the boat dock, and a site plan** and any required variances for the boat dock are **approved**. Which it appeared likely environmental **variances would be necessary for access to some or all dock**”. (See Attached)

The applicants interpretation states that “boat docks are allowed under the 1987 Plan” because though it “does not expressly state that boat docks are specifically permitted, such expressed permission was not necessary. Moreover, boat docks are also not prohibited anywhere in the 1987 PUD Land Use Plan.”, i.e. Howard letter June 15, 2018. Going back to the DSD’s 2016 letter - **“Neither the approved PUD site plan or the approved preliminary plan identify boat docks on the property and include the following notes:**

7) Common areas shall be installed and maintained by the Homeowners Association and be used for park recreational, social, access and established utility.

19) Construction in common areas other than proposed amenities shown or listed shall be restricted.

Mechanized Access: Mechanized Access is against current codes. No engineered plans, subdivision plans, site plans or a dock application is on file or has been submitted for the Dock or any access down the cliff. All of which contain compounded environmental elements that need more than a changing conceptual presentation and a line on a map. Have they considered a tunnel, gondola or a craned chair lift (Bosun’s chair) as options? Some areas are just not meant to be developed.

Any fitting or attachment of structures down a steep bluff or cliff is going to need a firm foundation and we are unsure of the disturbances to the Lake and surrounding area will be. This is why mechanized access has been determined not acceptable and against code. Tree roots, Rim Rock and other environment features will be destroyed. How are the holes going to be bored? How is the machinery, cement and equipment going to get there and not disturb the environmental sensitive area?

It’s really astounding how the applicant can ask for so many modifications to codes in a PUD without providing necessary information to make computations for analysis in a prudent fashion. **We do not want a development that will or has the potential to environmentally compromise Codes and Regulations that were meant to defend and protect.**

BRNA requests that, if you are going to approve the PUD Amendment regardless, at a minimum we would like for you minimize the Lake Austin footprint, and reduce the number of boat slips to a range of 12 to 24, (which is staff recommendation based on a range between current code and the 86 PUD code). We suggest extraordinary environmental safe guards in the site development process! We further suggest that access be through keyway gated for residents only (Public, rentals, timeshare, restaurant, hotel guests and other uses that would generate money be considered commercial activities and forbidden). Deed Restrictions need to be put in place for future generations such as, “thereon boat dock shall be used for resident recreational purposes and for no other purpose.”

The decisions from this meeting will form a precedence that will effect development from dam to dam on Lake Austin.

Respectfully Submitted,
BRNA Association - Director
Aqua Verde Association, Inc. - President
Hilton Puckett
keypal@austin.rr.com

Addendum NOTES - CAMELBACK DEVELOPMENT:

TRAFFIC:

The Courtyard and LP 360 is a failed intersection because it's just too close to the bridge for present day traffic. TxDot has already decided that they will put a bridge over LP360 to join Courtyards East and West. This will be done in conjunction with 2222 intersection improvements. This will close off the present access to the scenic overlook and TxDot is happy the developer is providing a place for the site sears and tour busses to enjoy his view approx. 450 feet up river.

<http://www.loop360project.com/rm222-courtyarddr.htm>

The developer of the CamelBack tract has proposed installing some temporary fixes of shaving back the cliff and adding a double right from the Courtyard West going South on LP360. They also have discussed installing a double left on LP360 into Courtyard West so as to try to keep the traffic from choking off north bound 360 traffic (to one lane) at the bridge. Initially, there will be intense construction traffic for about 4- 5 years on that project. The large trucks and heavy equipment will more than fill up those turn lanes during the construction phase.

When the project is complete you will have traffic added to LP360 transferred from the Champion Tract exchange, approximately 325,000 sq.ft. of commercial space including a 250 seat Restaurant (2-3 seating's plus employees and service vehicles) and Multiple office buildings. Additionally there will be 200 residential units (vague on build out of how many single family houses, multi- family, short-term rentals there are), there is also talk of a 80 room hotel and the developers estimate 250 cars a day from the public access cliff park.

The original PUD had 64 single family Homes – this increase in traffic is far from superior from the original PUD!

Scenic Viewpoint:

Multiple references are made to the iconic view on the bluff. Most visitors are really trespassing on the LP360 TxDot right of way to enjoy that view and take pictures.. Scott Mann owns the 300' west of the TxDot ROW. So the Camelback Tract doesn't really share the same view we see over and over in the Airport and many day to day presentations. Don't get me wrong, Camelback area does have a marvelous view.

TxDot has already decided that they will put a bridge over LP360 to join Courtyards East and West. This will be done in conjunction with 2222 intersection improvements.

This will close off the present access to the scenic overlook and a guard rail is proposed where people are parking now. TxDot is happy the developer is proposing providing a place for the sight seers and tour busses to enjoy the Camelback's parks view - approx. 450 feet up river.

Note: Many of us had to watch out to avoid the Motor Home parked in the no parking area below the cliff on LP360. They camped out there (even overnight) for 6 weeks while they gathered signatures.

We believe the majority of the citizens who have signed up supporting the Camelback PUD, are mostly concerned with scenic views, parkland, traffic and density. **BRNA shares in, respects and embraces our neighbor's opinions and positions**, seeking only to include protection against the environmental and safety impacts of Camelback on the lakeside.

Addendum NOTES - CAMELBACK DEVELOPMENT QUESTIONABLE SUPERIORITY:

❑ NO ENVIRONMENTAL SUPERIORITY MEASURE CAN BE MADE ON THE PROPOSED DEVELOPMENT IN THE DOCK ZONE

- ❑ Under the PUD Amendment -Applicant will no longer has any residential or common area Lake Front Lots and there is no history or application on file indicating any perpetual rights
- ❑ **Going from 12 docks (24 Slips) with each having a 4ft access touching land to 600 feet of dock that you are going to need a moving sidewalk to get to the other end - is not- superior, unprecedented and could be considered beyond the intent of the Cluster Dock code.**
- ❑ A dock may extend up to 30 feet from the shoreline, except if deemed necessary to ensure navigation safety. § 25-2-1176(A)(1) *Applicant “wants to redevelop the wetlands” –they have been Stewarts of that land for a number of years which would be more than enough time for the wetland and native brush to grow back if a management plan was ever implemented. All up and down the lake Dock owners have contoured their docks to the shoreline and move a rock or two to comply to code.*
- ❑ **Using a bucket system to transfer the environmental sensitive Dock District impervious cover to above the cliff is not – superior.** § 25-551(C)(2), § 25-551(D), § 25-2-551(E)(2)
- ❑ **Allowing a mechanized access prohibited by Code.** The foundation and supports as well as the Precedent is far reaching!
- ❑ **The base zoning district of the PUD is Hidden Valley Phase “C”. 12 single family lake front lots- (improbable that all 12 would ever build a dock under falling rim rock)- there should be a 10 foot gap between property lines per code and for fire safety reasons.** § 25-2-1176 (A)
- ❑ **THE PROPOSED DOCK ZONE AND ASSOCIATED APPARATUS COULD BE A NAVIGATIONAL, ENVIRONMENTAL AND SAFETY HAZARD WAITING TO HAPPEN.**
- ❑ **Variance/modifications impact and compromise cut and fill, slope construction, flood evacuation, fire safety, falling cliff rock safety, and run off from shoreline structures**
- ❑ **In the event of a 100 year flood event or mechanical failure, the proposed shoreline improvements will be an environmental disaster waiting to happen.**
- ❑ **Fire Safety – porting gasoline and other flammable liquids via the mechanical access**
- ❑ **Dark Sky Lighting will not mitigate the glare and reflection off the lake from the mechanical access. Glare and reflection off mechanical access will impair boater's vision and depth perception which will blind boaters at night.**
- ❑ **ALLOWING RIGHTS TO BE TRANSFERRED TO SUCH A DEGREE IT WILL MAKE THE DOCK** approximately as long as the span of the PENNY BACK BRIDGE (600'). Will the next applicant ask for more? Across the lake there is 42 dock lots, what if they combined?
- ❑ **NOISE POLLUTION – A NON-HYDRAULIC MECHANICAL ACCESS AND OUTDOOR MUSIC.** No mechanical device is silent. Sound will resonate up and down the lake and echo off of the cliffs
- ❑ **Perpetual potential environmental hazard** from effluent, grey water, solid waste, wet-wells, boat gas and lift station.
- ❑ **No plan of mitigating runoff from the 5000 sq. ft. Clubhouse, pump house, mechanical access, impervious walkway, all at the waters-edge.**
- ❑ **Proposed dock extension of 60' or 75' into the lake does not ensure navigational safety, it creates a navigational hazard. (Code is 30') (code § 25-2-1176 (A)(1))**
- ❑ **In applicant's Updated Environmental Resource Inventory, Sec 12, applicant stated no wastewater lines are proposed within the Critical Water Quality Zone.**
- ❑ **Allowing exclusion of impervious cover consideration for elements of the Dock District**
- ❑ **Allowing the use of a bucket system for impervious cover in the Dock District (transfer of impervious cover to other areas of the project)**
- ❑ **Champion Tract: Even though highly popular among the neighbors along City Park Road and 2222 - Actually the Champion Tract is just a PUD note and not physical connected nor listed in the Land Use plans of the Camel Back Amendment. It should not be a consideration in determining that the Camelback PUD Amendment superiority. Basically taking runoff from the Bull Creek Watershed and moving it to the Lake Austin Water Shed.**

Rhoades, Wendy

From: Linseisen, Andrew
Sent: Wednesday, September 05, 2018 5:21 PM
To: Rhoades, Wendy
Cc: Rusthoven, Jerry; Herrington, Chris; Shaw, Chad; Simmons, Lee
Subject: Camelback Boat Docks
Attachments: C814-86-023 Hidden Valley PUD - George Adams Boat Dock Determination..pdf

Wendy,

Below is DSD's final determination relative to the approval of boat docks with the Camelback PUD. At this point I am not sure how this is to be included in the overall project report but please make sure this information is provided to the applicant and included with the case information. Thanks

Andy

We have completed a detailed review of the zoning ordinance, the approved PUD Site Plan, and files for this project including reviewing previous determinations / communications related to the vested rights to construct boat docks with this development. We found no additional information that would alter the previous determination about the rights to boat docks on this property as outlined in the attached email from the Development Services Department on February 18, 2016.

Accordingly, DSD had determined that the approved PUD / Preliminary Plan entitles each single-family residential lot with frontage on the lake, approximately 12 lots, to one boat dock assuming a single family residence is either existing or permitted concurrently with the boat dock and a site plan and any required variances for the boat dock are approved. Based on the topography of the property a variance from the applicable 1984 Lake Austin Watershed Ordinance regulations may be required to obtain access to some or all of the docks.

Andrew J. Linseisen, P.E., CNU-A
Assistant Director
[City of Austin Development Services Department](#)
One Texas Center, 7th Floor
505 Barton Springs Road
Office: 512-974-2239



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We want to hear from you! Please take a few minutes to complete our [online customer survey](#).

Nos gustaría escuchar de usted. Por favor, tome un momento para [completar nuestra encuesta](#).

From: [Adams, George](#)
To: [\[REDACTED\]](#)
Cc: [Eric deYoung](#); [Lesniak, Chuck](#); [Linseisen, Andrew](#); [Johnston, Liz](#); [Galati, Donna](#); [Guernsey, Greg](#)
Subject: C814-86-023 Hidden Valley PUD - Draft response. Please review.
Date: Thursday, February 18, 2016 2:36:18 PM
Importance: High

Mr. Armbrust,

I am following up on our meeting of January 20, 2016 regarding your question on whether boat docks are permitted per the Hidden Valley PUD (C814-86-023). We have reviewed the zoning ordinance, the approved PUD Site Plan, and files for this project. The ordinance zoning the property PUD (871203-E) states "development of the "P.U.D." Planned Unit Development District herein described shall be accomplished in accordance with the site plan submitted and approved by both the City Planning Commission and the City Council, which is on-file in the Office of Land development Services of the City of Austin."

Neither the approved PUD site plan or the approved preliminary plan identify boat docks on the property and include the following notes:

7) Common areas shall be installed and maintained by the Homeowners Association and be used for park recreational, social, access and established utility.

19) Construction in common areas other than proposed amenities shown or listed shall be restricted.

We have also found no discussion of boat docks or a community boat dock in the engineer's reports, staff comments, meeting minutes or in any other material in the file. Based on this information we have determined that a boat dock could be allowed for each single-family residential lot with frontage on the lake (approximately 12 lots) assuming a single family residence is either existing or permitted concurrently with the boat dock, and a site plan and any required variances for the boat dock are approved. Based on the topography of the property it appears likely environmental variances would be necessary for access to some or all docks.

Please feel free to contact me if you have questions.

Thanks
George Adams, CNU-A
Assistant Director
City of Austin
Development Services Department

(512) 974-2146

(512) 974-2269 Fax

Please note new e-mail: george.adams@austintexas.gov

ORDINANCE NO. 20140626-114

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 TO ESTABLISH A LAKE AUSTIN ZONING OVERLAY DISTRICT.

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

PART 1. City Code Chapter 25-2, Subchapter A, Article 2, Division 6 (*Combining Districts and Overlays*) is amended to renumber Section 25-2-178 (*University Neighborhood Overlay District Purpose and Boundaries*) as Section 25-2-179 and to add a new Section 25-2-180 to read:

§ 25-2-180 LAKE AUSTIN (LA) OVERLAY DISTRICT.

(A) The purpose of the Lake Austin (LA) overlay district is to protect the scenic, recreational, and environmental benefits of Lake Austin by restricting the scale and intensity of development near the lake.

(B) The boundaries of the Lake Austin (LA) overlay district include land that is located within 1,000 feet of the shoreline of Lake Austin, as defined under Section 25-2-551 (*Lake Austin (LA) District Regulations*) and is:

- (1) located within the Lake Austin (LA), Interim Lake Austin (I-LA), Development Reserve (DR), Planned Unit Development (PUD), Rural Residential (RR), or Interim Rural Residential (I-RR) base zoning district on or after June 24, 2014; or
- (2) located on a site of one acre or more that is:
 - (i) comprised of two or more lots aggregated on or after June 24, 2014; and
 - (ii) zoned or rezoned single family residence large lot (SF-1), single family residence standard lot (SF-2), family residence (SF-3), single family residence small lot (SF-4A), single family residence condominium site (SF-4A), urban family residence (SF-5), or townhouse and condominium residence (SF-6) base zoning district.

(C) In the event of a conflict, the regulations applicable to a Planned Unit Development (PUD) zoning district control over the regulations prescribed in Section 25-2-647.

(D) The official map of the Lake Austin Overlay district is on file with the Planning and Development Review Department, which shall resolve any uncertainty regarding the boundary of the district.

PART 2. City Code Chapter 25-2, Article 3, Subchapter C, Division 5 (*Combining and Overlay Districts*) is amended to add a new Section 25-2-647 to read:

§ 25-2-647 LAKE AUSTIN (LA) OVERLAY DISTRICT REGULATIONS.

Development within the Lake Austin (LA) overlay district must comply with the regulations applicable to the LA zoning district under Section 25-2-551 (*Lake Austin (LA) District Regulations*) and the minimum lot size, minimum lot width, and setbacks applicable to the LA zoning district under section 25-2-491 (*Site Development Regulations*).

PART 3. This ordinance takes effect on July 7, 2014.

PASSED AND APPROVED

_____, June 26, 2014

§
§
§ _____
Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

ORDINANCE NO. 20140626-113

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

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

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

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

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

(1) The shoreline setback is:

(a) 75 feet; or

(b) 25 feet, if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Impervious cover may be transferred only:

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

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

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

(3) A dock may include only the following as appurtenances and means of access:

- (a) a storage closet that meets the requirements of Subsection (A);
- (b) a roof;
- (c) a second floor;
- (d) marine lockers;
- (e) railings;
- (f) a non-potable water pump and hose bib;
- (g) electrical connections;
- (h) lighting and fans;
- (i) non-mechanized access, including a staircase, pedestrian bridge, gangway, and gates;
- (j) non-mechanized recreational equipment, such as slides or swings; and
- (k) accessories or slips that may accommodate the mooring or storage of boats in compliance with the requirements of Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses).

(4) Only one dock is permitted for a principal residential use, even if the use is located on more than one lot.

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

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

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

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

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

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

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

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

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

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

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

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

(5) NORMAL POOL ELEVATION means:

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

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

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

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

(6) PERSONAL WATERCRAFT includes jet skis and means a type of motorboat specifically designed to be operated by a person or persons sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel and that is less than 13 feet in length.

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

§ 25-2-1173 PERMIT REQUIRED FOR CONSTRUCTION.

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

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

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

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

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

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

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

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

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

§ 25-2-1174 STRUCTURAL REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (c) A dock that has a shoreline length of at least 25 feet but less ~~[not more]~~ than 50 feet must have a light station located at each end of the dock on the side farthest from the shoreline.
 - (d) A dock that has a shoreline length of 50 feet or more must have light stations located at intervals of not more than 25 feet along its length.
 - (e) Light stations are ~~[also]~~ required at each end of the dock on the side farthest from the shoreline.
- (C) A light station required by this section must have a two-bulb fixture, with two working light bulbs that emit at least 112 lumens and not more than 400 lumens ~~[rated between 7 1/2 and 25 watts, inclusive]~~. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Permanent sanitation facilities are required for a marina or common area with 10 or more boat slips.
 - (b) Temporary or permanent sanitation facilities are required for a marina or common area with fewer than 10 boat slips [~~Septic tanks and sewage holding tanks may not be located within 100 feet of an area below the normal pool elevation~~].
- (3) A [The] facility operator [shall] must:
- (a) remove garbage in a timely manner and provide for the on-site collection of garbage at a [the] marina or common area[-]; and
 - (b) [~~(a) At~~] provide at least one garbage can with a capacity of at least 32 gallons [is required] for each four picnic units and for each four boat slips.
 - (b) [~~The facility operator shall remove garbage in a timely manner.~~]
- ~~[(H) A business or a living quarter may not be constructed on a pier or similar structure extending into or above Lake Austin, Lady Bird Lake, or Lake Walter E. Long, except under a license agreement approved by the council.]~~
- ~~[(1)] [The Planning Commission shall make a recommendation to the council on each license agreement.~~
- ~~[(2)] [A structure built under a license agreement must comply with the lighting requirements of Section 25 2 1175 (Lighting And Electrical Requirements).]~~
- (C) A fence may not extend into the water beyond the shoreline unless the fence:
- (1) was part of a commercial livestock operation, other than raising domestic pets, existing on April 17, 1994;
 - (2) is constructed of smooth wire or mesh;
 - (3) extends no more than 40 feet beyond the shoreline;
 - (4) includes a navigation buoy indicating "DANGER", in accordance with the Texas Water Safety Act, installed at the end of the fence, unless the fence does not extend further beyond the shoreline than an immediately adjacent dock; and
 - (5) must be removed if the livestock operation ceases.
- ~~(D)~~[(4)] Construction of a boat ramp is prohibited.

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

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

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

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

§ 25-2-1179 ENVIRONMENTAL PROTECTION.

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

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

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

§ 25-2-1180 ENFORCEMENT AND REGISTRATION.

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

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

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

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

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

- (B) The following are small projects:

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

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

§ 25-7-93 GENERAL EXCEPTIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the existing bulkhead was legally constructed; and

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

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

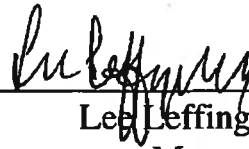
(E) The director may approve less than 25 cubic yards of dredging in a lake if the dredging is necessary for navigation safety.

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

PASSED AND APPROVED

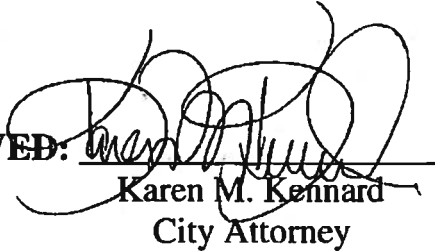
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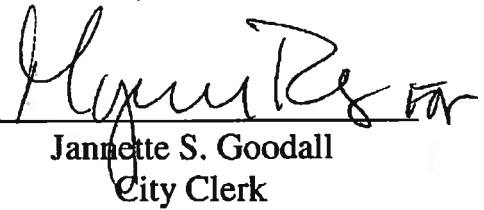

Lee Leffingwell

Mayor

APPROVED:


Karen M. Kennard
City Attorney

ATTEST:


Jannette S. Goodall
City Clerk