

Proposed draft changes - 7/28/10

This document presents the full text of affected sections of current code with proposed changes indicated to demonstrate how proposed code changes might appear in context

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Black Text– Existing code to remain unchanged

Red – **Proposed existing code to be deleted**

Green – **Proposed language to be added**

ARTICLE 13. ~~BOAT DOCKS~~, BULKHEADS, AND SHORELINE ACCESS

§ 25-2-1171 APPLICABILITY.

- (A) This article applies to a structure or development:
- (1) in Lake Austin, Lady Bird Town Lake, or Lake Walter E. Long;
 - (2) along the shore of Lake Austin in the area below 504.9 feet above mean sea level;
 - (3) along the shore of Lady Bird Town Lake below 435 feet above mean sea level; ~~or~~
 - (4) along the shore of Lake Walter E. Long; or
 - (5) used for access to areas described in this Subsection

(B) The building official, director of Planning and Development Review Department and ~~the~~ director of the Parks and Recreation Department shall implement and enforce this article.

Source: Section 13-2-791(a) and (d); Ord. 990225-70; Ord. 031211-11.

§ 25-2-1172 DEFINITIONS.

In this article:

- (1) BULKHEAD means a revetment or wall constructed with the purpose of stabilizing or modifying the shoreline.
- (2) CONSTRUCT includes placing or replacing a structure and structurally altering an existing structure.
- (3) DOCK includes a wharf, pier, float, floating dock, island, boat dock or other similar structure.
- (4) NORMAL POOL ELEVATION means:
 - (a) for Lake Austin, 492.8 feet above mean sea level;
 - (b) for Lady Bird Town 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) SHORELINE means the line where the edge of the water meets the land at normal pool elevation.
- (7) SHORELINE ACCESS means improvements constructed to provide a means of approaching the shoreline such as stairs, lifts, trams, incline elevators or escalators.

Source: Section 13-2-790; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1173 PERMIT REQUIRED FOR ~~DOCK~~ CONSTRUCTION.

(A) A person may not modify a shoreline or construct a dock, bulkhead or shoreline access unless the person first obtains a site plan and building permit, as applicable and pays the applicable a permit fee set by ordinance.

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

(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 ~~building official~~ 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 Parks and Recreation Board has approved a site plan that clusters the residential ~~boat~~ docks on one or more lots in the subdivision.

(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 this Code.

(F) Where an inspection is required by State law, neither a Certificate of Compliance nor a final inspection may be issued for shoreline access unless the applicant has submitted an inspection report, signed by a QEI-1 inspector registered with the Texas Department of Licensing and Regulation, stating that all applicable state regulations have been met.

Source: Sections 13-2-791 and 13-2-794; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1174 STRUCTURAL REQUIREMENTS.

(A) A dock must:

(1) comply with the requirements of Chapter 25-12, Article 1 (*Uniform Building Code*) and the Building Criteria Manual; and

(2) be braced to withstand pressure of wind and water when boats are tied to the dock.

(B) A floating dock must be supported by solid displacement flotation devices with durable nonferrous protective coverings. The flotation material must be securely attached to the dock and must be capable of withstanding prolonged exposure to wave action and weather.

(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 ~~of stacked stone, natural rock rip rap, concrete, steel pilings or wallings, or aluminum~~. A bulkhead with a greater than 45 degree vertical slope for any portion greater than one foot in height ~~smooth vertical surface~~ is not permitted on or adjacent to the shoreline ~~main body~~ of a lake listed in section 25-2-1171 (Applicability) unless the shoreline is located within an existing man-made channel less than 50 feet in width. ~~The surface of a wall or bulkhead constructed on the main body of a lake must be designed to minimize wave return and reduce wave action.~~ Capturing or recapturing of land is not permitted on a lake listed in section 25-2-1171 (Applicability).

(D) 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 10 (*Dangerous Buildings Code*), at the owner's expense; and

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

Source: Section 13-2-792; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1176 REGULATIONS.

(A) A site plan must comply with this 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.

(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 Parks and Recreation Department shall determine, after receiving the recommendation of the Parks and Recreation Board, 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 Parks and Recreation Board 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 Parks and Recreation Board 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 Parks and Recreation Board has approved a site plan that clusters the boat docks on one or more lots in the subdivision.

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

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

(G) This subsection applies to a marina area or common area.

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

(2) Sanitation facilities must be provided 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) Septic tanks and sewage holding tanks may not be located within 100 feet of an area below the normal pool elevation.

(3) The facility operator shall provide for the on-site collection of garbage at the marina or common area.

(a) 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, or Lady Bird ~~Town~~ Lake, or Lake Walter E. Long, except under a license agreement approved by the council.

(1) The Parks and Recreation Board 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*).

(I) Construction of a boat ramp is prohibited.

Source: Section 13-2-795; Ord. 990225-70; Ord. 031120-44; Ord. 031211-11.

§ 25-2-1177 DOCKS EXEMPT FROM CITY LICENSING REQUIREMENTS.

(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 ~~Town~~ Lake, or Lake Walter E. Long if it is constructed in accordance with this article and Chapter 25-12, Article 1 (*Uniform Building Code*).

(B) This section does not limit the review of a site plan for construction of a dock.

Source: Section 13-2-796; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1179 ENVIRONMENTAL PROTECTION.

(A) 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.

(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.

(C) Containers of hazardous materials, fuel, oil, herbicides, insecticides, fertilizers or other pollutants may not be stored on residential docks extending into or above Lake Austin, Lady Bird Lake, or Lake Walter E. Long.

(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.

Source: Section 13-2-798; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1066 SCREENING REQUIREMENTS.

(A) A person constructing a building shall screen each area on a property that is used for a following activity from the view of adjacent property that is in an urban residence (SF-5) or more restrictive zoning district:

- (1) off-street parking;
- (2) the placement of mechanical equipment;
- (3) storage; or
- (4) refuse collection.

(B) A person constructing shoreline access, as that term is defined in section 25-2-1172 (Definitions), shall screen the shoreline access from the view of property that is in an urban residence (SF-5) or more restrictive zoning district. A person may comply with this Subsection by providing vegetation and tree canopy as prescribed by rule. The owner must maintain the screening provided under this section.

(C) A person may comply with Subsection (A) by providing a yard, fence, berm, or vegetation. If a fence is provided, the height of the fence may not exceed six feet, except as otherwise permitted by Section 25-2-899 (*Fences As Accessory Uses*).

(D) The owner must maintain a fence, berm, or vegetation provided under this section.

Source: Section 13-2-736(c); Ord. 990225-70; Ord. 031211-11.

§ 25-5-2 SITE PLAN EXEMPTIONS.

(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 that the applicant submit information necessary to make a determination under this subsection. The director may require an applicant to revise a previously approved site plan under Section 25-5-61 (*Revisions To Released Site Plans*).

(B) A site plan is not required for the following development:

(1) construction or alteration of a single-family residential, single-family attached residential, duplex residential, two-family residential, or secondary apartment special use structure, or an accessory structure, if:

(a) not more than one principal residential structure is constructed on a legal lot or tract; and

(b) a proposed improvement is not located in the 100 year flood plain, or the director determines that the proposed improvement will have an insignificant effect on the waterway;

(2) removal of a tree not protected by this title;

(3) interior alteration of an existing building that does not increase the square footage, area, or height of the building;

(4) construction of a fence that does not obstruct the flow of water;

(5) clearing an area up to 15 feet wide for surveying and testing, unless a tree more than eight inches in diameter is to be removed;

(6) restoration of a damaged building that begins within 12 months of the date of the damage;

(7) relocation or demolition of a structure or foundation covering not more than 10,000 square feet of site area under a City demolition permit, if trees larger than eight inches in diameter are not disturbed and the site is not cleared;

(8) development in the extraterritorial jurisdiction that is exempt from all water quality requirements of this title; or

(9) placement of a commercial portable building on existing impervious cover if the building does not impede or divert drainage and the site complies with the landscaping requirements of this title.

(C) Except for a change of use to an adult oriented business, a site plan is not required for a change of use if the new use complies with the off-street parking requirements of this title.

(D) Except for an adult oriented business, a site plan is not required for construction that complies with the requirements of this subsection.

(1) The construction may not exceed 1,000 square feet, and the limits of construction may not exceed 3,000 square feet, except for the following:

- (a) enclosure of an existing staircase or porch;
- (b) a carport for fewer than ten cars placed over existing parking spaces;
- (c) a wooden ground level deck up to 5,000 square feet in size that is for open space use;
- (d) replacement of a roof that does not increase the building height by more than six feet;
- (e) remodeling of an exterior facade if construction is limited to the addition of columns or awnings for windows or entrance ways;
- (f) a canopy over an existing gas pump or paved driveway;
- (g) a sidewalk constructed on existing impervious cover;
- (h) replacement of up to 3,000 square feet of building or parking area lost through condemnation, if the director determines that there is an insignificant effect on drainage or a waterway; or
- (i) modification of up to 3,000 square feet of a building or impervious cover on a developed site if the modification provides accessible facilities for persons with disabilities.

(2) The construction may not increase the extent to which the development is noncomplying.

(3) The construction may not be for a new drive-in service or additional lanes for an existing drive-in service, unless the director determines that it will have an insignificant effect on traffic circulation and surrounding land uses.

(4) A tree larger than eight inches in diameter may not be removed.

(5) The construction may not be located in the 100 year flood plain, unless the director determines that it would have an insignificant effect on the waterway.

(E) A site plan is not required for minor site development, minor construction, or a change of use that the director determines is similar to that described in Subsections (B), (C), and (D) of this section.

(F) A site plan is not required for construction of additional facilities at an existing public primary educational facility or public secondary educational facility in the zoning jurisdiction or in a municipal utility district in which City building permits are required.

(G) A site plan is not required for construction of a new public primary educational facility or public secondary educational facility in the zoning jurisdiction.

(H) A site plan is not required for the construction of subdivision infrastructure in accordance with approved subdivision construction plans.

(I) The exemptions provided by Subsections (C) and (D) do not apply to a bed and breakfast residential use established after October 1, 1994.

(J) The exemptions provided by this section do not apply to a telecommunications tower described in Subsection 25-2-839(F) or (G) (*Telecommunication Towers*).

(K) 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, Article 13.

(L) A site plan is not required for maintenance of a dock, bulkhead, or shoreline access under the following conditions:

(1) the existing dock, bulkhead, or shoreline access was legally constructed; provided that simple re-decking will be allowed for all docks;

(2) no variance from City Code is required;

(3) no city board or commission approval is required;

(4) there will be no change in the existing footprint of the dock, bulkhead, or shoreline access; and

(5) there will be no removal, addition, or replacement of existing or new piles, pilings, or sheet pile, unless the dock, bulkhead, or shoreline access complies with the requirements of Title 25 of the City Code.

§ 25-5-3 SMALL PROJECTS

- (A) The director shall determine whether a project is a small project described in this section.
- (B) The following are small projects:
- (1) construction of a building or parking area if the proposed construction:
 - (a) does not require a variance from a water quality regulation;
 - (b) does not exceed 5,000 square feet of impervious cover; and
 - (c) the construction site does not exceed 10,000 square feet, including the following areas:
 - (i) construction;
 - (ii) clearing;
 - (iii) grading;
 - (iv) construction equipment access;
 - (v) driveway reconstruction;
 - (vi) temporary installations, including portable buildings, construction trailers, storage areas for building materials, spoil disposal areas, erosion and sedimentation controls, and construction entrances;
 - (vii) landscaping; and
 - (viii) other areas that the director determines are part of the construction site;
 - (2) construction of a storm sewer not more than 30 inches in diameter that is entirely in a public right-of-way or an easement;
 - (3) construction of a utility line not more than eight inches in diameter that is entirely in a public right-of-way;
 - (4) construction of a left turn lane on a divided arterial street;
 - (5) construction of street intersection improvements;
 - (6) widening a public street to provide a deceleration lane if additional right-of-way is not required;
 - (7) depositing less than two feet of earth fill, if the site is not in a 100 year floodplain and the fill is not to be deposited within the dripline of a protected tree;
 - (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 is not required; or
 - (9) construction of a retaining wall, if the wall is less than 100 feet in length and less than eight feet in height, and the back fill does not reclaim a substantial amount of land except land that has eroded because of the failure of an existing retaining wall;
 - (10) minor development that the director determines is similar to that described in Subsections (B)(1) through (9) of this section;
 - (11) the replacement of development that is removed as a result of right-of-way condemnation; and
 - (12) the construction of a telecommunications tower described in Subsection 25-2-839(F) or (G) (*Telecommunication Towers*).
- (C) Notwithstanding any other provisions in this Section, construction of Shoreline Access, as defined in Section 25-2-1172, that exceeds 50 feet in length and is constructed on slopes exceeding 35% gradient does not constitute a small project.
- (D) For a small project, the director may waive a submittal requirement that the director determines is not essential to demonstrate compliance with this title. The director shall maintain a record of submittal requirements that are waived under this subsection.

§ 25-8-92 CRITICAL WATER QUALITY ZONES ESTABLISHED.

- (A) A critical water quality zone is established along each waterway classified under Section 25-8-91 (*Waterway Classifications*).
- (1) The boundaries of a critical water quality zone coincide with the boundaries of the 100 year flood plain, except:
- (a) for a minor waterway, the boundaries of the critical water quality zone are located not less than 50 feet and not more than 100 feet from the centerline of the waterway;

- (b) for an intermediate waterway, the boundaries of the critical water quality zone are located not less than 100 feet and not more than 200 feet from the centerline of the waterway;
- (c) for a major waterway, the boundaries of the critical water quality zone are located not less than 200 feet and not more than 400 feet from the centerline of the waterway; and
- (d) for the main channel of Barton Creek, the boundaries of the critical water quality zone are located 400 feet from the centerline of the creek.

(2) Notwithstanding the provisions of Subsections (A)(1)(a), (b), and (c), a critical water quality zone does not extend beyond the crest of a bluff.

(B) Critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.

(C) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, and Town Lake.

(1) The shoreline boundary of a critical water quality zone:

- (a) for Lake Travis, coincides with the 681.0 foot contour line;
- (b) for Lake Austin, coincides with the 492.8 foot contour line; and
- (c) for Town Lake, coincides with the 429.0 foot contour line.

(2) The width of a critical water quality zone, measured horizontally inland, is:

- (a) 100 feet; or
- (b) for a detached single-family residential use, 75 feet.

(C) Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Town Lake.

(1) The shoreline boundary of a critical water quality zone coincides with the river's ordinary high water mark, as defined by Code of Federal Regulations Title 33, Section 328.3 (*Definitions*).

(2) The inland boundary of a critical water quality zone coincides with the boundary of the 100-year floodplain as delineated by the Federal Emergency Management Agency, except that the width of the critical water quality zone, measured horizontally inland, is not less than 200 feet and not more than 400 feet.

(D) In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by IH-35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.

(1) Except as limited by Paragraph (3), for a waterway whose 100 year flood plain has been delineated by the Federal Emergency Management Agency (FEMA):

(a) the boundaries of the critical water quality zone coincide with the boundaries of the flood plain as delineated by FEMA; or

(b) if the applicant has calculated the 100 year flood plain for the waterway and the City has approved the calculations, the boundaries of the critical water quality zone coincide with the boundaries of the calculated flood plain.

(2) Except as limited by Paragraph (3), for a waterway whose 100 year flood plain has not been delineated by FEMA:

(a) the boundaries of a critical water quality zone are located 100 feet from the centerline of the waterway; or

(b) if the applicant has calculated the 100 year flood plain for the waterway and the City has approved the calculations, the boundaries of the critical water quality zone coincide with the boundaries of the calculated floodplain.

(3) The boundaries of a critical water quality zone are located not less than 50 feet and not more than 400 feet from the centerline of the waterway.

Source: Sections 13-7-23(a), (b), (c), (d), (f), and (g); Ord. 990225-70; Ord. 990819-99; Ord. 031211-11; Ord. 20080228-116.