

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2, SUBCHAPTER C, ARTICLE 13 RELATING TO DOCKS, BULKHEADS, AND SHORELINE ACCESS; AMENDING SECTION 25-2-963 REGARDING NONCOMFORMING STRUCTURES; AMENDING SECTION 25-2-1006 RELATING TO SCREENING; AMENDING SECTION 25-5-2 RELATING TO SITE PLAN EXEMPTIONS; AMENDED SECTION 25-5-3 RELATING TO SMALL PROJECTS; AND AMENDING SECTION 25-8-92 RELATING TO CRITICAL WATER QUALITY ZONE BOUNDARIES.**

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

**PART 1.** City Code Chapter 25-2, Subchapter C, Article 13 (*Boat Docks*) is amended to replace all references to Town Lake with Lady Bird Lake.

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

**§ 25-2-963 MODIFICATION AND MAINTENANCE OF NONCOMPLYING STRUCTURES.**

- (A) Except as provided in Subsections (B), ~~[and]~~ (C), and (D) of this section, a person may modify or maintain a noncomplying structure.
- (B) The following requirements must be met in order to modify, maintain, or alter a non-complying residential structure:
  - (1) Demolition or removal of walls must comply with the following requirements:
    - (a) No more than fifty percent of exterior walls and supporting structural elements of the existing structure may be demolished or removed, including load bearing masonry walls, and in wood construction, studs, sole plate, and top plate. For purposes of this subsection, exterior walls and supporting structural elements are measured in linear feet and do not include the roof of the structure or interior or exterior finishes.
    - (b) Replacement or repair of structural elements, including framing, is permitted if required by the building official to meet minimum health and safety requirements.

- (2) Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.
- (3) For any residential use other than a single-family use in an SF-3 or more restrictive zoning district, the following requirements must be met in order to add square footage or convert accessory space into conditioned or habitable space:
  - (a) If the lot is non-complying with current lot size or lot width requirements, the cost of improvements may not exceed 20 percent of the value of the structure before the improvements.
  - (b) Compliance with current parking and occupancy regulations is required.
- (4) If a noncomplying portion of a structure is demolished, it loses its noncomplying status and may only be rebuilt in compliance with current code.
- (C) Except as provided in Subsections [~~(D)~~ and] (E) and (F) a person may not modify or maintain a noncomplying structure in a manner that increases the degree to which the structure violates a requirement that caused the structure to be noncomplying.
- (D) The following requirements must be met in order to repair, reinforce, or maintain a non-complying dock, bulkhead, or shoreline access as defined in Section 25-2-1172 (Definitions):
  - (1) 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;
  - (2) the location, footprint, and degree of noncompliance of the structure is not altered; and
  - (3) demolition is subject to the limitation in Subsection (B)(4) of this section.
- (E)[~~(D)~~]A person may increase the height of a building that is a noncomplying structure based on a height requirement of this title if:
  - (1) the increase is made to a portion of the building that:
    - (a) does not exceed the existing maximum height of the building; and

- (b) complies with the yard setback requirements of this title;
- (2) the increase does not exceed 15 percent of the existing maximum height of the building; and
- (3) after modification, the height of the modified portion of the building does not exceed the existing maximum height of the building.

(F)~~(E)~~ A person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if:

- (1) the modified portion of the building:
  - (a) does not extend further into the required yard setback than the existing noncomplying portion of the building, except for a vertical change in finished floor elevation allowed under Subsection (B)(2) of this section;
  - (b) unless located in a street side yard, is not greater in height than the existing noncomplying portion of the building, except for a vertical change in finished floor elevation allowed under Subsection (B)(2) of this section; and
  - (c) complies with the height requirements of this title; and
- (2) the additional length of a modified portion of the building does not exceed the lesser of 50 percent of the length of the noncomplying portion of the building or 25 feet measured from the existing building and parallel to the lot line.

(G)~~(F)~~ Subsection (F)~~(E)~~ applies to each yard setback requirement with which the existing building does not comply.

(H)~~(G)~~ A person may modify a noncomplying building once under Subsection (E)~~(D)~~ and once under Subsection (F)~~(E)~~. This section does not prohibit a person from modifying a building along more than one yard setback as part of a single project.

**PART 3.** City Code Chapter 25-2, Subchapter C, Article 13 (*Boat Docks*) is amended to change the title as follows:

**ARTICLE 13. [BOAT] DOCKS, BULKHEADS, AND SHORELINE ACCESS.**

**PART 4.** Section 25-2-1171 (*Applicability*) of the City Code is amended to read:

**§ 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 the Planning and Development Review Department, and [~~the~~] director of the Parks and Recreation Department shall implement and enforce this article.

**PART 5.** Section 25-2-1172 (*Definitions*) of the City Code is amended to read:

**§ 25-2-1172 DEFINITIONS.**

In this article:

- (1) BULKHEAD means a revetment or wall constructed for the purpose of stabilizing or modifying the shoreline.
- (2) CONSTRUCT includes placing or replacing a structure and structurally altering an existing structure.
- ~~(3)~~[(2)] DOCK includes a wharf, pier, float, floating dock, island, boat dock or other similar structure.
- ~~(4)~~[(3)] 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)~~[(4)] 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) [(5)] 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.

**PART 6.** Section 25-2-1173 (*Permit Required for Dock Construction*) of the City Code is amended to read:

**§ 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.

**PART 7.** Section 25-2-1174 (C) (*Structural Requirements*) of the City Code is amended to read:

- (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~~[smooth vertical surface]~~ 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 ~~[main body]~~ shoreline 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.]~~

**PART 8.** Section 25-2-1174 (*Structural Requirements*) of the City Code is amended to add a new Subsection (D) and redesignate the remaining Subsections accordingly:

- (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:
- (1) to preserve a tree with a diameter of 8 inches or more, measured four and one-half feet above grade; or
- (2) to restore the land to the lesser of:
- (a) the shoreline as it existed 10 years from the date of application, with documentation as prescribed by rule, or
- (b) the lakeside boundary of the subdivided lot line.

**PART 9.** Section 25-2-1176 (*Regulations*) of the City Code is amended by amending Subsections (A) and (F) and adding a new Subsection (I) to read:

- (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.
- (F) The number of ~~[boat]~~ residential docks may not exceed:
- (1) twice the number of lots in the subdivision that have lake frontage on Lake Austin or 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 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.

(I) Construction of a boat ramp is prohibited.

**PART 10.** Section 25-2-1179 (*Environmental Protection*) of the City Code is amended to add new Subsections (C) and (D) to read:

- (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.
- (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.

**PART 11.** Section 25-2-1066 (*Screening Requirements*) of the City Code is amended to add a new Subsection (B) and redesignate the remaining Subsections accordingly.

- (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.

**PART 12.** Section 25-5-2 (*Site Plan Exemptions*) of the City Code is amended to add new Subsections (K) and (L) to read:

- (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) 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*).

**PART 13.** Section 25-5-3 (*Small Projects*) of the City Code is amended to add a new Subsection (C) and redesignate the remaining Subsection accordingly:

- (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.

**PART 14.** Section 25-8-92 (*Critical Water Quality Zones Established*) of the City Code is amended to add a new Subsection (B) and to redesignate the remaining Subsections accordingly:

- (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.

**PART 15.** This ordinance takes effect on \_\_\_\_\_, 2010.

**PASSED AND APPROVED**

\_\_\_\_\_, 2010      § \_\_\_\_\_  
   § \_\_\_\_\_  
   § \_\_\_\_\_  
   § \_\_\_\_\_  
   Lee Leffingwell  
   Mayor

**APPROVED:** \_\_\_\_\_  
Karen M. Kennard  
Acting City Attorney

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