

City Council
Agenda Memo



City Council
Meeting Date: 5/14/2015

TO: David A. Vela, Interim City Manager

**FROM: Jon James, AICP
Director of Planning and Development Services**

SUBJECT: First reading of an ordinance amending the Land Development Code to create and adopt standards for a Lake Fort Phantom Hill Overlay zone; and setting a public hearing for May 28, 2015.

GENERAL INFORMATION

The Lake Fort Phantom Hill Area Plan (Lake Plan) was approved by the City Council on January 12, 2009. The plan established a vision of the lake area as a unique place within the City that would benefit from customized and higher development standards. The intent of the plan was to integrate and exploit both natural and developed assets of the area in ways that would protect and showcase its future potential.

The proposed overlay district is intended to implement standards envisioned within the Lake Plan. The overlay will over time influence development to balance competing interests and ensure that the lake develops as envisioned in the Lake Plan. Stakeholders, including the Neighborhood Association, have been actively included in the development of the overlay throughout this process.

The overlay is currently following a two-step adoption process. This first step is an amendment of the Land Development Code text creating these standards. The second step will be the application of these standards to specific areas of land. The decision on the overlay district boundary itself will have an equally significant impact on how the area ultimately develops and on the effectiveness/need for various provisions. The two issues are distinct but interrelated.

City Staff, the Lake Association, and the Planning and Zoning Commission spent many meetings over many months to work through many issues and to develop the ordinance as presented. While there is general agreement on virtually all of the ordinance, Staff has highlighted two sections of the ordinance that we believe warrant additional discussion by the Council.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Calk, Ellinger, McClarty, Rosenbaum, & Famble) and none opposed.

ATTACHMENTS

Ordinance

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

May 1, 2015

Item No. 06.01

Disposition by City Council

- Approved Ord/Res# _____
- Denied _____
- Other _____

City Secretary

AN ORDINANCE AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, part known as the "Land Development Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 14th day of May A.D. 2015.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 14th day of April, 2015, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 28th day of May, 2015, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 28th day of May, A.D. 2015.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT "A"

AMEND: Section 5.1.1.3 Definitions

ADD: Add definitions for 'Credit Access Business' and 'Marina'.

- (47) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (111) Marina: A facility for personally owned sailboats, yachts and small boats or watercraft, typically offering docking, fuel, supplies, repair, storage, boat chandlers or other related services; sometimes with restaurants or retail sales. A marina typically differs from a private dock in size, scope or scale and is not accessory to a single family dwelling.

ADD: Section 2.3.4.6 Lake Fort Phantom Hill (LFPH) Overlay Zone

ADD: Add regulations for the new Lake Fort Phantom Hill (LFPH) Overlay Zone.

Section 2.3.4.6 Lake Fort Phantom Hill (LFPH) Overlay Zone

Activities within this overlay district shall be governed by all regulations of the underlying zoning district, including regulations for site development, landscaping, signs, performance standards, etc., except where modified by the provisions of this Section.

- (a) **Purpose.** The primary purpose of this overlay district is to encourage high quality development and redevelopment within the district that meets the goals of the Lake Fort Phantom Hill Land Use Plan.

Development and redevelopment within this district should be compatible with lakeside development and support a unified community image consistent with the design guidelines of the LFPH Land Use Plan. Uses are intended to include residential, retail, restaurants, services, recreational, offices, educational and related uses. Development in the area should be of high quality with well-designed buildings and attractive landscaping in a pedestrian friendly environment. When questions of compatibility arise relating to site design, materials, or landscaping, it is the intent of this provision that the Director should consider the views of owners, residents, professionals or stakeholders in rendering decisions.

- (b) **Land Use.** Allowable uses within the overlay district shall be per the underlying zoning district, except as modified below.

- (1) The following uses are allowed only with a Conditional Use Permit, which shall only be granted for such uses that are compatible with the development goals of the overlay, including incorporating appropriate conditions to address elements such as building design, landscaping, screening, limitations or prohibitions on outdoor activities, and the like.

- Recreation – Outdoors (active)
- Vacation Travel Trailer Park
- Marina
- Commercial Boat Docks
- Fuel Sales

- Major or minor vessel repair
- Sale and rental of small boats, personal watercraft, boat parts and accessories
- Wind Energy Conversion Systems within 1,320 feet of the shoreline of Lake Fort Phantom Hill (1,636 mean sea elevation (MSL))

(2) The following uses are prohibited within the overlay district:

- Commercial Uses:
 - Animal Shelters, Kennels and Feedlots
 - Pet Grooming
 - Automotive Sales and Services
 - Pawn Shops
 - Payday or Title Lending Services/Credit Access Businesses
 - Tattoo Parlors
- Utilities:
 - Sanitary landfills
- Recreational/Entertainment Uses:
 - Zoo
 - Fairgrounds/Rodeo
 - Motorized Racing
 - Outdoor Gun Range
- Others:
 - Mobile Homes/Manufactured Homes

(c) **Utility Lines.** Service lines for utilities to primary and accessory structures shall be buried underground unless the line exceeds 150 feet of horizontal distance from a main line, in which case above ground provision shall be allowed beyond 150 feet.

(d) **Commercial Building Standards.** Standards for building design and materials shall be per the underlying zoning district, in addition to the following:

- (1) Any building shall include both horizontal and vertical articulation in the building design for the front façade.
- (2) Any building shall include visual enhancements providing architectural details such as building offsets and variation in color, texture, and materials. Such building details should be compatible with lakeside development and support a unified community image consistent with the design guidelines of the Lake Fort Phantom Hill Land Use Plan.
- (3) A minimum of fifty (50) percent of the façades of all primary and accessory structures shall be composed of wood, brick, stone, or similar materials.
- (4) The remaining area of the building face shall be limited to glass, stucco, stucco-like finishes, decorative block, concrete tilt-wall panels, or other similar materials.
- (5) Accessory structures shall be constructed of materials similar to that of the primary structure(s) except for marinas and boat storage buildings when located on a lot adjacent to the lake.

(6) Elevation plans shall be submitted with any required Site Plan for review and approval by the Planning Director. Any variation from the design requirements or materials listed above will be subject to review and may be permissible at the discretion of the Planning Director. Appeals shall be to the appropriate board or commission, in accordance with the Land Development Code, as amended

(e) **Setbacks.** All setbacks shall comply with the underlying zoning district except as modified below:

(1) Lakeside Setbacks: Lakeside development shall meet front setback requirements on lakeside lot lines, measured from the shoreline (1,636 MSL), unless granted a Special Exception by the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(f) **Landscaping Requirements.** All landscaping shall comply with the City of Abilene Land Development Code except as modified below:

(1) Residential

- i. All new residential construction and remodeling will be required to plant a minimum of two (2) trees between the home and the lake, and the home and the street. Residential construction without lake frontage will only be required the plantings between the home and the street.
- ii. Existing natural vegetation may be included to satisfy these requirements.
- iii. Appeals shall be to the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(2) Commercial

- i. All lakeside lot lines shall have landscaping equal to the required landscaping for commercial lots with street frontage, to include required interior landscaping. The landscape area shall be located on the lot line when possible but in all cases shall be at or above the spillway elevation (1,636 MSL). In case of a Special Exception granted regarding reduced setbacks, an alternative landscaping plan must be submitted for approval by the Planning Director.
- ii. Lakeside landscaping exceeding the minimum required by § (f)(2) i. above shall not interfere with the natural view shed of the lake.
- iii. Existing natural vegetation may be included in the Landscape Plan to satisfy these requirements.
- iv. All new landscaping will require a detailed landscape plan to be reviewed by the Planning Director for approval. Use of native plant species is encouraged. Appeals shall be to the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(g) **Fence, Screening and Buffering**

(1) Residential

- i. Solid (more than 50% opaque) fencing, walls, landscaping, or related structures, shall be allowed along side lot lines from the front setback line toward the lake to a point not exceeding 30 feet from the rear of the primary structure. Where adjacent parcels share a common lot line this point shall extend to the farthest complying point for either parcel. In no case however shall such fence be closer than 20 feet to the shoreline (1636' elevation).
- ii. Solid fencing extending between side lot lines shall similarly be allowed when said fencing complies with distance limitations applicable in §2.3.4.6 (g) (1) i. (above).

- iii. All other fencing shall be at least 50% non-opaque and composed of chain link or decorative wrought-iron or similar materials except that:
 - 1. Solid (100%) opaque screening shall nonetheless be allowed: around pool, hot tub, deck, spa, or similar outside areas when such screening does not exceed 25% of the lot shoreline (1,636 MSL) distance or does not obstruct more than 25% of the parcel's viewshed as observed from the lake, and;
 - 2. Columns and decorative masonry elements may be added so long as such features do not conflict with the 50% non-opaque requirement nor constitute a significant visual barrier.
- iv. Landscaping and vegetation beyond the point where opaque fencing is allowed shall not create a visual screen. Said vegetation shall be spaced or maintained so that no more than 50% opacity is achieved.
- v. Fencing or landscaping not meeting the standards listed above (i-iii) may be approved with a special exception issued by the Board of Adjustment. In evaluating such requests the Board shall take special note of the potential visual impacts for views of and from the lake.
- vi. Fencing, walls or related structures shall not exceed six (6) feet in height except where the Planning Director or designee determines natural topographic conditions warrant minor variations
- vii. No fencing shall be constructed upon or protrude over public property.
- viii. All fencing must be consistent with the design guidelines of the Lake Fort Phantom Hill Land Use Plan as determined by the Planning Director.

(2) Commercial

- i. Facilities for power, air conditioning, mechanical equipment, and solid waste handling shall be screened by an opaque wall or fence. Roof-mounted facilities shall be screened using materials that are consistent with the structure to which they are attached.
- ii. Except for subsection i. (above), Fencing, walls, landscaping, or related structures between a principal building and the lake shall be at least 50% non-opaque.
- iii. Fencing walls or related structures shall not exceed six (6) feet in height except where the administrative official determines natural topographic conditions warrant minor variations.
- iv. No fencing shall be constructed upon or protrude over public property.
- v. All fencing must be consistent with the design guidelines of the Lake Fort Phantom Hill Land Use Plan as determined by the Planning Director.

(h) Parking

(1) Residential

- i. Two off-street residential parking spaces are required for all single family dwellings.
- ii. Recreational vehicles, trailers, boats, or similar equipment may be parked along any public street where vehicular parking is allowed on Saturday, Sunday, and on any official federal, state or city holiday.

(2) Commercial

- i. Parking shall be oriented such that buildings shall be between the parking and the lake shore to the extent feasible. Head-in parking spaces that face toward the lake surface shall be screened by opaque fencing or live plant material achieving a minimum mature height of 3 feet.

- (i) **Signage Requirements.** The City of Abilene Sign Regulations (See Chapter 4, Division 8) shall apply within the overlay district, except as modified below:

- (1) Signs should be designed in a manner that matches the overall architectural and aesthetic features of the primary and surrounding development consistent with the intended image for lakeside development in the design guidelines of the Lake Fort Phantom Hill Land Use Plan.
- (2) One sign per wall per principal structure shall be permitted with the following restrictions:
 - i. Non-illuminated wall signs shall have a maximum area of 20% of the wall. Illuminated wall signs shall have a maximum area of ten (10) percent of the area of the wall,
 - ii. Illumination is permitted but shall not project light or glare on adjacent property, roadways, and Fort Phantom Hill Lake,
 - iii. Physical and graphic motion shall not be permitted on any sign viewable from the lake,
 - iv. Electronic message signs may not be located on any façade visible from the lake,
 - v. All wall signs shall be connected to the wall in a permanent manner,
 - vi. No wall sign shall protrude from the surface of the wall at a distance greater than eighteen (18) inches.
- (3) Free standing signs for single business
 - i. The maximum height of a single business sign shall be twenty-five (25) feet.
 - ii. A single business signage shall have an area not in excess of one-hundred (100) square feet.
- (4) When more than one business is present on a site, grouped signage shall be used with the following requirements:
 - i. For sites zoned commercial, with an area of twenty thousand (20,000) square feet or greater, the maximum height of grouped signage shall be forty (40) feet.
 - ii. For sites zoned commercial, with an area less than twenty thousand (20,000) square feet, the maximum height of grouped signage shall be twenty-five (25) feet.
 - iii. When a group sign is used, a maximum area equal to two (2) square feet of signage per lineal foot of street frontage of the lot shall be permitted. The total group sign shall have an area not in excess of two hundred (200) square feet.
- (5) If the property is a corner lot, one sign shall be allowed per street frontage and the maximum area for all free standing signs shall not exceed two hundred (200) square feet in total area, with the exception of group signs which shall not exceed four hundred (400) square feet in area.
- (6) Signage Oriented Toward Lake. Directional signs, navigation signs or similar identification signs less than six square feet in area and designed or intended for marine traffic shall not count against sign area requirements specified in subsection (h)(4) or (h)(5) above. Said signs may only be internally illuminated and shall not flash, change color, or project on adjacent properties
- (7) Temporary Signs. Temporary signs shall be prohibited within the overlay district except for temporary events or activities occurring upon the property within thirty (30) days of the date of the signed application permit filed with the City. Said sign(s) shall be limited to no more than three (3) per year per street frontage of a location, which shall be removed promptly upon conclusion of such event or activity.
- (8) Prohibited Signs.
 - i. Off-site signs with the exception of off-site group signs.

- ii. Portable or wheeled signs. Any such legally permitted sign in place within the district may continue as a non-conforming use for a period not to exceed two years from the date this overlay district became applicable to the subject property.

(j) Sidewalks and Trail System

- (1) Sidewalks shall not be required along any street within the overlay district.
- (2) Hike and bike facilities, including trails, lanes, paths, routes and associated amenities shall be required along street frontages, property lines or other areas in accordance with any adopted master plan of the City. Unless otherwise specified in the adopted plan, paths or trails shall be a minimum of 8' in width.

(k) Streets. In keeping with the rural nature of the area and the intent to preserve its unique character, streets within the district shall have a paved width of 24 feet without curbs (except ribbon curbing), gutters or paved shoulders based on the interim rural section standards.

(l) Lighting. All site lighting shall comply with the performance standards governing exterior illumination in the City of Abilene Land Development Code except as modified below:

(1) Consistent lighting fixtures shall be used throughout the overlay to enhance the Lake's vision and identity.

(2) Maximum luminaire height. The maximum permitted luminaire height shall be twenty-five (25) feet in all non-single-family districts, and thirty (30) feet in single-family districts. The height of both the pole and base shall be considered in the measurement of luminaire height.

(3) Outdoor light output total: Defined as the initial total amount of light, measured in lumens, from all lamps used in outdoor light fixtures. This includes all lights used for external illumination of signs, but does not include lights used to illuminate internal signs or luminous tubing used in neon signs. This excludes any light output from exempt lighting.

i. Total outdoor light output shall not exceed one-hundred thousand (100,000) lamp lumens per developed acre.

ii. For lamp types that vary in their output as they age (such as high pressure sodium, fluorescent and metal halide), the initial lamp output, as defined by the manufacturer, is the value to be used for calculation. For outdoor fixtures installed under canopies, buildings, overhangs or roof eaves, those within twenty (20) feet of the nearest edge are to be included in the total as though they produced only one-fifth (20%) of the lamp's rated initial lumen output. Such fixtures more than twenty (20) feet from the nearest edge are not to be included.

(4) New lighting in non-single-family areas shall comply with the lighting standards of this Land Development Code and in addition shall not directly illuminate waterways or the lake surface except that:

i. Lighting necessary to facilitate safe passage of watercraft near docks during nighttime hours shall be allowed so long as the total site illumination provision in (3)i is not exceeded

ii. Indirect lighting necessary to provide safe access to and egress from docks, piers and boat slips shall be allowed so long as the total site illumination provision in (3)i is not exceeded.

iii. Appeals shall be to the appropriate board or commission, currently the Board of Adjustment, in accordance with the Land Development Code, as amended.

(m) Navigability and Protection of Watercourses. All structures and objects that are to be constructed near or in water shall not have a negative impact on the water quality, natural habitat, scenic beauty and recreational resource of Lake Fort Phantom Hill. Improvements or modifications must satisfy applicable Army Corps of Engineers requirements in addition to any City standards.

- (1) No Walkway shall be allowed in excess of eight (8) feet in width or to extend to more than one structure.
- (2) The minimum setback of a dock structure from a projected side yard line shall be based on the width of the property at the 1,636 MSL line as follows:

<u>Lot width</u>	<u>Side setback</u>
0 to 50 feet	5 feet
More than 50 feet	10 feet

- (3) Common Ownership Docks. The regulations for setbacks apply to joint-ownership docks with the exception that docks may be extended over common side-use lines of the co-applicants.
- (4) Residential Dock Lighting. The minimum safety lighting allowed under these standards shall adequately define the presence of all structures located on or over the water surface and be lighted so as to clearly identify the walkway and the entire structure. Lighting shall be so located and configured or shielded so as not to present a hazard to navigation.

-END-