

ORDINANCE NO. 13-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AMENDING DIVISION 1, "GENERALLY", OF ARTICLE III, "BULKHEADS, DOCKS, PIERS, AND OTHER WATER RELATED STRUCTURES", OF CHAPTER 62 "WATERWAYS", BY AMENDING SECTION 62-51 "DEFINITIONS", BY ADDING A DEFINITION FOR MINOR REPAIRS; AND BY AMENDING SECTION 62-52, "PURPOSE", SECTION 62-54, "NONCONFORMITIES", SECTION 62-57, "AUTHORIZED OWNERS AND CONTRACTORS", AND SECTION 62-58, "SPECIAL APPROVAL FOR STRUCTURES IN MF OR LC DISTRICTS" BY ADDING 'BOAT LIFTING DEVICES'; AMENDING DIVISION 2, "PERMITS" OF ARTICLE III, "BULKHEADS, DOCKS, PIERS, AND OTHER WATER RELATED STRUCTURES", OF CHAPTER 62 "WATERWAYS", BY AMENDING SECTION 62-71, "BUILDING PERMITS REQUIRED TO REPAIR, ERECT, AND/OR INSTALL" BY ADDING 'BOAT LIFTING DEVICES', SECTION 62-74, "FEES", AND SECTION 62-76, "OBLIGATIONS OF PERMITTEE" BY ADDING 'BOAT LIFTING DEVICES' AND BY ADDING AN EXCEPTION FOR MINOR REPAIRS, AND BY CLARIFYING THAT LAND USE LICENSES ARE NOT REQUIRED FOR MINOR REPAIRS; AMENDING DIVISION 4, "DESIGN AND MATERIALS FOR SEAWALLS, BULKHEADS, SLOPE PROTECTION AND OTHER RELATED STRUCTURES" OF ARTICLE III, "BULKHEADS, DOCKS, PIERS, AND OTHER WATER RELATED STRUCTURES", OF CHAPTER 62 "WATERWAYS", BY DELETING SECTION 62-111 "PERMITS REQUIRED"; AMENDING DIVISION 5 "MISCELLANEOUS REQUIREMENTS", OF ARTICLE III, "BULKHEADS, DOCKS, PIERS, AND OTHER WATER RELATED STRUCTURES", OF CHAPTER 62 "WATERWAYS", BY AMENDING SECTION 62-133, "BULKHEADS, DOCKS, PLATFORMS OR OTHER WATER RELATED STRUCTURES", AND SECTION 62-134, "WATERWAY ZONES" BY ADDING 'BOAT LIFTING DEVICES'; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

**WHEREAS**, the Town Council has reviewed the sections of the Town Code related to waterways;  
and

**WHEREAS**, changes to the Town Codes are needed to encourage maintenance of bulkheads, docks, piers, boat lifting devices and other water related structures; and

**WHEREAS**, the Town Council has determined that minor repairs to bulkheads, docks, piers, boat lifting devices and other water related structures could be performed by the property owner; and

**WHEREAS**, minor repairs to bulkheads, docks, piers, boat lifting devices and other water related structures, may not be severe enough to require the additional costs associated with obtaining a Land Use License; and

WHEREAS, the Town Council finds it to be in the public interest to make certain amendments to said sections of the Town Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AS FOLLOWS:

**SECTION 1.** Section 62-51, "Definitions," of Division 1, "Generally" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding the following definition:

**Sec. 62-51. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Minor repair means a repair of 15% or less of area, made with similar materials only. There will be no charge for a minor repair permit. Note: Replacement of pilings must be made by a licensed contractor.

**SECTION 2.** Section 62-52, "Purpose," of Division 1, "Generally" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting devices' as follows:

**Sec. 62-52. - Purpose.**

This article is enacted to require meaningful design requirements and restrictions for bulkheads, docks and piers, boat lifting devices and other related water structures in order to ensure the health, safety and welfare of the town's residents.

**SECTION 3.** Section 62-54, "Nonconformities," of Division 1, "Generally" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting devices' as follows:

**Sec. 62-54. - Nonconformities.**

- (a) *Intent.* Within the zones established by this chapter or amendments adopted subsequent thereto, there exist nonconformities to docks, platforms, boat lifting devices and other water related structures. It is the intent of this section to provide for the continuation of those nonconformities which were lawful prior to the adoption of this chapter, or amendment thereto, but which would be prohibited, regulated or restricted under the terms of this chapter or any subsequent amendment. It is the intent of this article to allow those nonconformities to continue until they are removed under the terms of this chapter, but not to encourage their survival. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded, replaced, restored or reconstructed.

- (b) *Annexation of nonconformities.* Any nonconformity, which is created as a result of annexation of lands into the town, shall be allowed to remain, to the extent that this chapter allows.
- (c) *Repairs and maintenance.* Routine repairs and maintenance of nonconforming docks, platforms, boat lifting devices and other water related structures, which are necessary to maintain safety may be permitted. Such repairs and maintenance shall include only the following: electrical fixtures and wiring, plumbing and plumbing fixtures, decking or roofs and other boat coverings. All work performed shall be accomplished through the issuance of a valid building permit.
- (d) *Replacement or restoration of use.* If any existing nonconforming dock, platform, boat lifting device or other water related structure, as provided for in this article, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of 50 percent or more of the replacement or restoration value of the dock, platform or other water related structure at such time of destruction, or to an extent of more than 50 percent of the square footage of the physical structure, whichever is greater, such dock, platform, boat lifting device or other water related structure shall not be replaced nor shall such structure be reconstructed unless brought into full compliance with the provisions of this chapter.
- (e) *Abandonment or discontinuance of use.* The abandonment or discontinuance of a nonconforming dock, platform, boat lifting device or other water related structure for a period of time which exceeds 30 calendar days shall immediately render the nonconforming status of the nonconforming dock, platform, boat lifting device or other water related structure null and void.

**SECTION 4.** Section 62-57, "Authorized owners and contractors", of Division 1, "Generally" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting devices' as follows:

**Sec. 62-57. - Authorized owners and contractors.**

Bulkheads, docks, piers, platforms, boat lifting devices and other approved related water structures, shall be owned and contracted for only by the upland landowners.

**SECTION 5.** Section 62-58, "Special approval for structures in multifamily (MF) or limited commercial (LC) districts.", of Division 1, "Generally" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting devices' as follows:

**Sec. 62-58. - Special approval for structures in MF or LC districts.**

Bulkheads, docks, piers and , boat lifting devices and platforms shall not be permitted in multifamily (MF) or limited commercial (LC) districts without prior approval of the zoning board of adjustment.

**SECTION 6.** Section 62-71, "Building permits required to repair, erect, and/or install", of Division 2, "Permits" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding an exception for minor repairs as follows:

**Sec. 62-71. - Building permits required to repair, erect, and/or install.**

(a) Owner must engage the services of a qualified and experienced contractor and that contractor must secure a building permit for the installation of new docks, piers, platforms, boat lifting devices or other water related structures or for major repairs to existing docks, piers, platforms, boat lifting devices or other water related structures. The only exception is a minor repair which must be permitted and can be completed as an owner/builder project. The Contractor shall submit to the Town construction drawings sealed by an engineer licensed in the state of Florida and if appropriate, must comply with the Town's Owner/Builder disclosure statement. All construction, including structural components such as sheathing and deadman supports, shall be inspected and approved by the Town. If said construction does not comply with the building code requirements, it shall be removed by the owner.

~~(a) Owner/builder permits will not be issued for installation of new docks, piers, platforms, or other water related structure except for minor repairs only, and for the installation of bulkheads on single family residential property when the property line extends into the waterway and said bulkhead will be installed completely within the boundaries of said property. The owner/builder shall submit to the town construction drawings sealed by a registered Florida Professional Engineer and comply with the town's owner/builder disclosure statement. All construction, including structural components such as sheathing and deadman supports, shall be inspected and approved by the town. If said construction does not comply with the building code requirements, it shall be removed by the owner/builder.~~

~~(b) Docks, piers, platforms and related water structures shall require a building permit.~~

~~(c) Boat lifting devices shall require a building permit.~~

~~(d) All other waterside structures shall require a building permit.~~

**SECTION 7.** Section 62-74, "Special approval for structures in multifamily (MF) or limited commercial (LC) districts", of Division 2, "Permits" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding an exception for minor repairs as follows:

**Sec. 62-74. - Fees.**

Fees for permits required by this article shall be determined as provided by the building code, based on the valuation of the work- with the following exception:

- (a) There will be no charge for a minor repair permit if the repair is of 15% or less of area, made with similar materials only.

**SECTION 8.** Section 62-76, "Obligations of permittee.", of Division 2, "Permits" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting device' and by clarifying that land use licenses are not required for minor repairs as follows:

**Sec. 62-76. - Obligations of permittee.**

The applicant or owner, as the permittee under this article, shall be required to:

- (1) Abide by the terms and conditions of this article and the permit issued to him;
- (2) Maintain any permitted use in good and safe condition, the ownership being the permittee's;
- (3) Hold and save the Town harmless from any and all damages, claims or liabilities which may arise from the use of the bulkhead, dock, pier, boat lifting device or other water related structure involved in the permit;
- (4) Allow inspection at any reasonable time by the building official to ensure that the permitted bulkhead, dock, pier, boat lifting device or other water related structure is maintained in safe condition at all times;
- (5) Accept full responsibility for any erosion to or shoaling along the land waterside to the permitted structure and adjacent lands thereto, directly or indirectly attributable to the permittee's use thereof and to repair or remove same at no expense to the town;
- (6) Provide such bonds and assurances as may be deemed necessary by the town as noted in section 62-73.
- (7) Obtain a Land Use License license from the Town town, if the bulkhead, dock, boat lifting device, platform or other water related structure is within Lake Clarke or a canal under the jurisdiction of the town. Minor repairs to the bulkhead, dock, boat lifting device, platform or other water related structure does not require a license from the town.

**SECTION 9.** Section 62-111, "Permits required", of Division 4, "Design and Materials for Seawalls, Bulkheads, Slope Protection and Other Related Structures" of Article III: "Bulkheads, Docks, Piers and

other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by deleting Section 62-111 in its entirety.

**Sec. 62-111. - Permits required.**

~~All seawalls, bulkheads, slope protection and other related structures must be designed, with all required plans to be signed and sealed by a professional engineer registered in the state. Two sets of signed and sealed plans shall be submitted to the building official along with an application for permit.~~

**SECTION 10.** Section 62-133, "Bulkheads, docks, platforms, or other water related structures—Additional requirements.", of Division 5, "Miscellaneous Requirements" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting devices' as follows:

**Sec. 62-133. - Bulkheads, docks, platforms, boat lifting devices or other water related structures—Additional requirements.**

(a) *Construction requirements.* All docks, and platforms, boat lifting devices or other related water structures to be constructed waterside of bulkheads or land in the lagoons, waterways, canals or other bodies of water in the town, shall be constructed in accordance with the requirements of this section.

- (1) Docks, and platforms, boat lifting devices or other water related structures shall not be constructed within five feet of the side property line of any lot having 50 feet or less frontage on the water.
- (2) Docks, and platforms, boat lifting devices or other water related structures shall not be constructed within ten feet of the side property line of any lot having greater than 50 feet frontage on the water.
- (3) The centerline of all docs shall be as perpendicular, as practical, to the shoreline or bulkhead line.
- (4) Minimum low member elevation of docks, platforms, etc. shall be two feet above maintained water elevation level.
- (5) No structure can be utilized as a dock, deck or patio if over five feet above maintained water elevation level or height flush with elevation of existing bulkhead cap, whichever is higher.
- (6) Maximum square foot of dock is not solely based on deck area; covered area of dock will be included in square foot configuration. Area of dock size is determined by zone.

- (7) Enclosed structures are not allowed on docks or platforms. The dock or any portion of the dock cannot be used as either temporary or permanent place of residence or for the mooring of vessels being used for temporary or permanent place of residence.
- (8) All docks, ~~and platforms,~~ boat lifting devices or other water related structures that extend over five feet perpendicular to the bulkhead wall or shoreline must have safety lighting. Marine grade solar lighting is acceptable.
  - a. Lighting shall be of shielded, cut-off design that minimizes light pollution to the surrounding areas.
  - b. Electrical service must be buried underground a sufficient depth of 18 inches or greater and must be within a protective sleeve.
  - c. Electrical service must also conform to requirements as provided in the current edition of the National Electric Code.
- (9) A license application fee in the amount established by town resolution and amended from time to time by resolution, will apply for all bulkheads, docks, platforms, boat lifts and other water related structures that are installed on town land that abuts and extends into waterways. This license application fee is charged to cover the costs incurred in connection with the license. This fee is in addition to the building permit fee.

(b) *Other requirements.*

- (1) Only one dock or pier shall be constructed on the waterside of one lot.
- (2) Docks and piers shall only be constructed on the waterside of those lots having a structure upon the lot without prior approval of the zoning board of adjustment.
- (3) A maximum of three watercraft shall be moored at any one private dock or pier. Watercraft must be owned by persons residing on the property.
- (4) Commercial watercraft shall not be moored at any public or private dock or pier.
- (5) ~~As determined by the building official,~~ Unsightly, or badly deteriorated bulkheads, docks, piers, boat lifting devices or related water structures shall be repaired or removed within one month of written notice ~~from the building official.~~ Failure of the owner to repair or remove same after expiration of written notice ~~from the building official~~ shall subject the owner to the penalties as outlined in section 62-53.
- (6) The commercial use of docks, dock spaces or piers for any purpose whatsoever shall be specifically prohibited.
- (7) Pesticides, fuel, oil, or other petroleum products, including paints, thinners and solvents cannot be stored on docks, platforms or other water related structures.

**SECTION 11.** Section 62-134, "Waterway zones", of Division 5, "Miscellaneous Requirements" of Article III: "Bulkheads, Docks, Piers and other water related structures" of Chapter 62, "Waterways" of the Code of Ordinances of the Town is hereby amended by adding 'boat lifting devices' as follows:

**Sec. 62-134. - Waterway zones.**

The waterways located within the town are divided into five separate zones. Each zone's regulations are related to width of the water in that zone. These regulations are adopted to protect the public's health, safety and general welfare. A copy of the map depicting these zones is on file with the town clerk for review during normal business hours.

In addition to the requirements listed in Chapter 62, all docks, platforms, boat lifting devices or other water related structures must meet the following requirements within each of the specified five zones:

(1) *Zone #1—Lake Clarke Non Restrictive Zone.*

- a. Must conform to all **of the Town of** Lake Clarke Shores codes applicable to water related structures.
- b. Maximum length perpendicular to shoreline shall be 30 feet. Maximum length includes the moored vessel.
- c. Maximum total area of dock to be 500 square feet.

(2) *Zone #2—Lake Clarke Restrictive Zone.*

- a. Must conform to all **of the Town of** Lake Clarke Shores codes applicable to water related structures.
- b. Maximum length perpendicular to shoreline shall be 15 feet. Maximum length includes the moored vessel.
- c. Maximum total area of dock to be 300 square feet.

(3) *Zone #3—C-51 Canal on the eastern side of Lake Clarke Shores.*

- a. Must conform to regulations as set forth by South Florida Water Management District with the following restrictions:
  1. Must conform to all **of the Town of** Lake Clarke Shores codes applicable to water related structures.
  2. Maximum length perpendicular to shoreline shall be 30 feet. Maximum length includes the moored vessel.
  3. Maximum total area of dock to be 750 square feet.

(4) *Zone #4—Canals under the jurisdiction of Lake Worth Drainage District.*



- a. Must conform to all **of the Town of** Lake Clarke Shores codes applicable to water related structures.
- b. Must conform to regulations as set forth by Lake Worth Drainage District.

(5) *Zone #5—Canals under the jurisdiction of Lake Clarke Shores and Mango Lake.*

- a. Must conform to all **of the Town of** Lake Clarke Shores codes applicable to water related structures.
- b. Maximum length perpendicular to shoreline shall be 15 percent of the width of waterway or 12 feet, whichever is more restrictive. Maximum length includes the moored vessel.
- c. Maximum total area of dock to be 350 square feet.

**SECTION 12.** The provisions of this Ordinance will be made a part of the Code of Ordinances of the Town of Lake Clarke Shores, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION 13.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of the Ordinance.

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**SECTION 14.** The provisions of this Ordinance shall become effective immediately upon adoption.

PASSED this 14<sup>th</sup> day of May, 2013, on first reading.

PUBLISHED this 20<sup>th</sup> day of June, 2013 in Lake Worth Herald/Coastal Observer

PASSED AND ADOPTED this 9<sup>th</sup> day of July, 2013, on second and final reading.

**TOWN OF LAKE CLARKE SHORES, FLORIDA**

	FOR	AGAINST
BY: <u>[Signature]</u> Valentin Rodriguez Jr., Mayor	<u>X</u>	_____
<u>[Signature]</u> Robert M. W. Shalhoub, Vice Mayor	<u>X</u>	_____
<u>[Signature]</u> Gregory Freebold, President Pro Tem	<u>X</u>	_____
<u>[Signature]</u> Malcolm K. Lewis, Council Member	<u>X</u>	_____
<u>[Signature]</u> Thomas C. Mayes Jr., Council Member	<u>/</u>	_____

**ATTEST:**

By: Mary Pinkerman  
Mary Pinkerman, Town Clerk

Ordinance #13-01  
Sponsored by: The Town Council