

**ORDINANCE 2017-XXX**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LONG BEACH, LAPORTE COUNTY, INDIANA ESTABLISHING REGULATIONS GOVERNING SEAWALLS AND SHORELINE VEGETATION**

**WHEREAS, on June 10, 2002, the Town Council of the Town of Long Beach, LaPorte County, Indiana (the "Town Council"), adopted a Zoning Code of the Town of Long Beach, LaPorte County, Indiana (the "Town"), which is located at Chapter 154 of the Long Beach Town Code; and**

**WHEREAS, Chapter 154 of the Long Beach Town Code remains in full force and effect; and**

**WHEREAS, in accordance with Ind. Code § \_\_\_\_\_ the Advisory Plan Commission of the Town has initiated an amendment to the Zoning Code to establish regulations concerning the construction of seawalls and removal of shoreline vegetation within the Town; and**

**WHEREAS, In conjunction with the Town's 2016 Comprehensive Plan Update and in recognition that the economic and environmental well-being of the Town of Long Beach is directly related to the protection of its Lake Michigan shoreline and in recognition that the scenic views of Lake Michigan are one of our communities most valued assets;**

**WHEREAS, it is the intent of the Ordinance to regulate seawalls and vegetation to minimize the adverse impacts of such activities and structures upon the Town's natural resources; and**

**WHEREAS, it is the intent of this Ordinance to apply these regulations in a matter that is sensitive to the property rights of the applicants and persons residing in lake front areas and the preservation of Lake Michigan; and**

**WHEREAS, this Ordinance has been drafted to protect the public health safety and welfare, preserve the natural beauty and attractiveness of the Town and Lake Michigan; and**

**WHEREAS, a public hearing has been held before the Town of Long Beach Advisory Plan Commission, which has certified its proposal to amend the text of the Zoning Code to the Long Beach Town Council. A copy of Advisory Plan Commission's written certification is attached hereto, incorporated herein and marked as Exhibit "A" to this Ordinance; and**

**WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning this text amendment to the Zoning Code; and**

WHEREAS, the Long Beach Town Council concurs with its Advisory Plan Commission and **has received** its proposal **regarding amending** the text of the Zoning Code; and

NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Town Council of Long Beach Town Indiana as follows:

The Town of Long Beach hereby establishes and adopts a new Chapter 154.200 to the Town of Long Beach's Zoning Code entitled "**Regulations Regarding Seawalls**" which shall read as follows:

**TITLES**

**154.200 Purpose and Intent**

**154.202 Definitions**

**154.203 Applicability**

**154.204 Uses Not Allowed**

**154.205 Encroachment**

**154.206 LOMA Letter Requirement**

**154.207 Shoreline Protection Structures**

**154.208 Vegetative Buffer Strips within the Coastal Zone**

**154.209 Site Plan Standards**

**154.211 Penalties**

**154.200 Purpose and Intent.**

The Town of Long Beach is committed to protecting life and property, reducing costs to the public, and minimizing damage to the natural resources of the coastal zone that might result from inappropriate development of environmentally sensitive areas. The purpose of [this Chapter](#) is based on the recognition that:

- The economic and environmental well-being of the Town of Long Beach is directly related to the protection of its Lake Michigan shoreline areas. These areas have traditionally been enjoyed by visitors and property owners alike.
- The Lake Michigan shoreline has unique physical, biological, economic and cultural attributes.
- Future land development and redevelopment should not be conducted at the expense of these attributes.
- Pollution, impairment and/or destruction of the shoreline areas should be minimized.

It is widely recognized that armored shore protection can have deleterious effects on beaches especially in areas like Long Beach which has a limited supply of natural beach replenishment

and decisions regarding shoreline development are best made by local communities with input from certified coastal engineers.

#### **154.202 Definitions**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates another meaning:

“Person” means any individual, firm, partnership, corporation, or other entity, including governmental entities.

“Seawall” means and refers to a protective wall or structure constructed along the shoreline used to prevent or otherwise protect property from shoreline erosion, swells or flooding.

“Shoreline” means the upland and submerged areas immediately abutting Lake Michigan.

#### **154.203 Seawalls.**

(a) Seawall Permit. Any person desiring to construct a Seawall within the Town shall first apply for a Seawall permit prior to the installation of such Seawall. Application shall be made to the Town Building Commission. A review fee of \_\_\_\_\_ shall be paid at the time the application is submitted for review. The payment of such application fee shall in no way guarantee issuance of a Seawall Permit, and such fee is nonrefundable. No permit application will be accepted unless there is a principal use established on the property.

(b) Standards for Seawalls. All Seawalls must conform to the following standards:

- i. Seawalls must be constructed landward of the Ordinary High Water Mark for Lake Michigan.
- ii. Seawalls cannot be constructed in any conservation, drainage or utility easement.
- iii. Seawalls must have a minimum of 40% penetration below existing grade and no more than 3 to 1 slope facing waterward that is at least equal to the height of the wall above grade, as certified by plans signed and sealed by a qualified engineer.
- iv. Seawalls may only be constructed using the following materials including \_\_\_\_\_.

- v. Seawalls shall have a minimum side setback of \_\_\_\_\_ from the projected property line abutting the Shoreline.
- vi. No Seawall or other Shoreline Improvement may exceed a length of \_\_\_\_\_ feet.
- vii. No work shall be performed in easement areas established to provide for ingress, egress, drainage or utilities.
- viii. The minimum height of Seawalls and other Shoreline Improvements must exceed the normal high water elevation of Lake Michigan. No Seawall or other Shoreline Improvement shall stand more than \_\_\_\_\_ feet above the normal high water elevation of Lake Michigan provided that the Seawall or Shoreline Improvement does not unreasonably obscure the view from other waterfront properties.

(c) Seawall Applications. Seawall Application forms for Seawalls shall be available from the Town's Building Commission at Town Hall. All applications must also include a scale drawing(s), signed and sealed by a licensed professional engineer or architect, accompanied by five (5) copies thereof, that provides accurate information as to each of the following elements:

- i. An arrow shall be drawn to indicate the northerly direction of the property. Furthermore, the drawing shall indicate the scale to which the drawing was prepared. All drawings must be drawn utilizing an industry standard engineering scale.
- ii. The sealed drawing(s) must show the dimension of the property, and the length and location of the proposed Seawall; and identify the licensed contractor who will be installing or otherwise constructing such Seawall
- iii. The exact distance between the existing shoreline and the point where the Seawall is being proposed depicted in relation to a permanent landmark or structure (e.g. a house or large tree);
- iv. The exact distance of setbacks from adjacent property lines, the extension of those property lines into the water body, and an approximation of the distance of the proposed Seawall to any other existing Seawall located on either side of the property;
- v. A Shoreline Vegetation Survey for the areas to be cleared as part of the construction of the Seawall. The Survey shall be conducted by a certified horticulturist. The same horticulturist shall certify compliance with Section

154.204 where Shoreline Vegetation (as defined in Section 154.204) will be removed and replaced.

(d) Seawall Application Review. Seawall applications shall be reviewed and processed by the Building Commission pursuant to the following rules and regulations. Upon compliance with the following procedures and approvals of the Building Commission, the Town may issue a Seawall Permit for the proposed Seawall along with any conditions required to meet the requirements of this Section:

(e) Building permit required. Following the approval of an application for a Seawall, the applicant must obtain a building permit from the Town's Building Commission prior to commencing construction. Construction must be commenced and/or completed within the guidelines established by the Building Commission. Permits issued for Shoreline Improvements shall not substitute for any permitting requirements of any state or federal agencies but instead shall be cumulative to any necessary permits. The Town shall not permit the any Shoreline Improvements in any areas where state or federal regulations prohibit the construction, installation or implementation of such.

#### **154.204 Shoreline Vegetation.**

(a) Findings, purposes and objectives. Shoreline vegetation is necessary for the health and viability of shoreline of Lake Michigan. Shoreline vegetation protects water quality and shoreline habitat, preserves the scenic and aesthetic character, and controls Shoreline erosion and flooding. Wave action will cause extensive erosion particularly where soils have been destabilized by removal of shoreline vegetation. Shoreline vegetation should be protected from substantial clearing. In order to protect the public health, safety and welfare, preserve the natural beauty and attractiveness of the waters of Lake Michigan, this Section is hereby enacted as a measure to protect the legitimate public interest by regulating the clearing or removal of shoreline vegetation.

(b) Definitions. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

“Clearance” means the alteration of or removal of Shoreline Vegetation by chemical treatment, mechanical or non-mechanical uprooting or removal or removal or addition of soil above a shoreline.

“Shoreline Vegetation” means aquatic or wetland vegetation naturally occurring in the shoreline environments of Indiana, including, but not limited to, those plants listed

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(c) Shoreline Vegetation Permit. All persons desiring to perform or cause to be performed any Clearance of Shoreline Vegetation shall be required to obtain a Shoreline Vegetation Clearance Permit conforming to the procedures and standard set forth in this Section. The Shoreline Vegetation Permit shall be obtained before the Clearance of Shoreline Vegetation commences. Each applicant must address and include the following information in an application (applications shall be made available through the Building Commission) for Shoreline Vegetation Clearance Permit and abide by the following rules:

- i. The application must state the percentage of the existing Shoreline Vegetation proposed to be removed and/or soil to be removed or added;
- ii. The application must include a written Shoreline Vegetation Survey for the areas where Shoreline Vegetation is to be cleared or removed. The Shoreline Vegetation Survey shall be conducted and prepared by a certified horticulturist. The Shoreline Vegetation Survey shall to the maximum extent possible include an itemization of all Shoreline Vegetation proposed to be cleared. The Shoreline Vegetation Survey shall also show both the location of all existing Shoreline Vegetation prior to construction and all replacement Shoreline Vegetation proposed to be planted after construction is complete.
- iii. The application must state the name of the licensed contractor that will be responsible for the removal and replacement of the Shoreline Vegetation.

(d) Required Replacement of Shoreline Vegetation. All Shoreline Vegetation approved to be cleared or removed shall be replaced with Shoreline Vegetation that is substantially similar in terms of the location, amount and species after construction is complete.

(e) Exemptions. This Section and the requirement to obtain a Shoreline Vegetation Permit shall not apply to the following:

- i. Emergency repairs on public or private projects necessary for the preservation of life, health or property, where taken to implement and accomplish the beneficial purposes of these regulations as set forth herein under such circumstances where it would be impractical to obtain approval from the Town prior to making such emergency repairs.
- ii. Any activities otherwise exempt pursuant to Indiana and federal law.

Codification. The Sections of this Ordinance shall be codified and made part of the Town of Long Beach Code of Ordinances and all sections and subsections may be renumbered or re-lettered as necessary to achieve such purposes.

Conflicts. In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance shall control to the extent of such conflict. To the extent that the provisions of this Ordinance refer to, provide for otherwise authorize application of standards, requirements, or decisions of the town and/or other governmental authority or authorities, the Building Commission shall determine which standard, requirement, or decision applies based on the context of such, subject to appeal to the Board of Zoning Appeals.

Severability. It is the intent of the Town Council of the Town of Long Beach, LaPorte County, Indiana, and is hereby provided, that if any section, subsection, sentence, clause or phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

Effective Date. This Ordinance shall become effective upon adoption by the Town Council.

ALL OF WHICH IS PASSED AND ADOPTED by the Town Council of the Town of Long Beach, LaPorte County, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

**LONG BEACH TOWN COUNCIL**

By:

\_\_\_\_\_  
Peter Byvoets, President

\_\_\_\_\_  
Robert Lemay

\_\_\_\_\_  
Joy Schmitt

\_\_\_\_\_  
Jane Neulieb

Nick Meyer

ATTEST:

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William deFuniak : Clerk-Treasurer