

CITY OF ALAMEDA ORDINANCE No.____
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING
CHAPTER 30, SECTION 30-4.21 E, ESTUARY DISTRICT

BE IT ORDAINED by the City Council of the City of Alameda:

Findings:

In enacting this Section, the City Council finds as follows:

1. The amendments maintain the integrity of the General Plan. The proposed amendments to the zoning ordinance related to the use of submerged lands ensure appropriate use of submerged lands consistent with the General Plan Land Use Element and Open Space and Recreation Element policies regarding public and private use of waterways and adjacent shorelines. The proposed amendments to the E, Estuary District Zoning will permit only water-related uses within the Tidal Canal (e.g. boathouses, boat docks, etc.) and will require that all future improvement projects be subject to subsequent discretionary review and approval by the City.
2. The amendments will support the general welfare of the community. The proposed amendments ensure that these lands are used in a manner that supports the general welfare and that all future proposals for changes to the physical environment will be subject to discretionary and environmental review.
3. The amendments are equitable. The proposed amendments will apply to all private and public owners of submerged lands and ensure that all the interests of the general public are considered whenever new structures or uses are proposed on these lands.
4. The amendment to the E, Estuary District is necessary to ensure that submerged lands removed from federal ownership are limited in use to water-dependent uses, subject to subsequent discretionary review and approval by the City, as more particularly described in the revised E, Estuary District.

Section 1. Section 30-4.21 E Estuary District is hereby amended as shown in Exhibit A. (Underlined text is new text to be added):

Section 2. Severability Clause. It is the declared intent of the City Council of Alameda that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provision of this ordinance.

Section 3. CEQA. This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby will not result in a significant impact to the environment. On June 1, 2016, the City published a Draft Initial Study/Negative Declaration ("IS/ND") for the OIHTC Project in accordance with the California Environmental Quality Act ("CEQA"), which addresses all potential environmental impacts associated with the proposed transfer and subsequent transfers into private ownership, amendments to the E, Estuary District, and the proposed subdivision map application. On July 11, 2016, the Planning Board held a public hearing and recommended the Negative Declaration and the draft zoning amendments.

Section 4. This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

Draft Zoning Amendments.**30-4.21 - E, Estuary District.**

a. General. The following specific regulations, and the general rules set forth in subsection section 30-4.15, shall apply in all E Districts as delineated and described in the zoning maps. ~~It is intended that this district classification be applied in areas in the Alameda and described as follows: those submerged lands between the City Limits to the north, the mouth of San Leandro Bay at the eastern end of the Tidal Canal on the east as defined by the intersection of Fernside Avenue and Thompson Avenue, the Oakland Estuary on the west as defined by the western end of Alameda Point, and the Mean Higher High Water Line on the south. It is intended that this district classification be applied in areas in the Oakland Estuary and Tidal Canal,~~ and that the regulations established will promote and protect the environment and water-dependent uses in such districts.

b. Definitions.

1. Boat House: shall mean a small structure constructed on or near water for the purpose of housing boats and/or boating or other maritime-related equipment and accessories.
2. City Limits: shall mean the boundary of the City of Alameda's jurisdiction.
3. Mean Higher High Water (MHHW) Line: shall mean the average height of the higher high waters (high tide) over a 19-year period.
4. Oakland Estuary: shall mean the waterway between the cities of Alameda and Oakland, starting from the Tidal Canal on the east to the mouth of the estuary on the west.
5. Tidal Canal: shall mean the Oakland Inner Harbor Tidal Canal that was dredged by the Corps between approximately 1884 -1905 and includes the waterway between the cities of Alameda and Oakland from the Oakland Estuary to the west to the mouth of San Leandro Bay on the east.

c. Uses Permitted. None.d. Uses Requiring Use Permits.

1. ~~In the area between the Channel Line and the City limits, no structures are permitted.~~
2. ~~In the area between the Channel Line and the Pier and Bulkhead Line, water-dependent uses such as marinas, docking and seaport~~

All proposed development within the E District, including:

1. Uses
 - a) Marinas,
 - b) Boat houses, docks, and piers,
 - c) Seaport distribution facilities, including boat repair and other marine services and similar uses, provided such uses are consistent with the zoning district on the inland upland portion of the parcel ~~shall be reviewed by the Planning Board for their appropriateness in a specific location and for other factors such as safety, congestion, noise, visual obstruction and environmental considerations.~~ as

applicable or adjacent parcel and subject to the required findings required by subsection 2 of this section.

4.d) Bridges, tubes, and other structures and facilities required for the movement of people, energy or materials between the City of Alameda and the City of Oakland.

e) Uses and facilities determined by the Planning Board or Zoning Administrator determined to be substantially similar in character and scale to the uses and facilities described in subsection (a) through (d) above.

2. Findings. In addition to the findings in subsection 30-21.3, the Planning Board or Zoning Administrator may authorize the issuance of a ~~use permit~~ Use Permit only if the following additional findings can be made:

a) The ~~development proposal~~ will not create any additional impairments to navigational safety in the ~~Channel~~ Oakland Estuary or the Tidal Canal.

~~(b) The development will not create additional visual impairment.~~

~~(c) The development proposal is consistent with the aviation safety requirements of the General Plan.~~

b) The proposal is appropriate for the specific location and potentially significant safety, congestion, noise, visual obstruction and other environmental impacts have been considered and addressed.

c) The proposed use(s) is/are water-dependent and is/are consistent with the public trust, as applicable.

d) The proposed use(s) will not cause degradation to water quality in the ~~Channel~~ Oakland Estuary or the Tidal Canal, or to water-related habitat.

e) The proposal, as conditioned, shall be required to obtain any other discretionary approvals required by other regulatory or resource agencies, as applicable.

f) The proposed use(s) will not impair or impede the use or enjoyment of neighboring properties, including the use of existing docks.

g) The footprint of any new structures included in the proposal must be located entirely within the existing property owned by or under the control of the applicant.

3. Conditions. The approval of a Use Permit shall be contingent upon the acceptance and observance of specified conditions, including but not limited to the following:

a) All title information, leases and City permits shall be complete, accurate and maintained up-to-date.

~~(b) Public access to and along the shore shall be provided, unless inappropriate because of safety considerations. Where public access is not provided on-site the developer shall make an equivalent contribution to the development of public access off the site.~~

~~(c) For any proposed structure, including those existing structures that require upgrade, which extends beyond the Pierhead and Bulkhead Line, environmental review and public notification will be required prior to City approval.~~

~~(d)~~

a)b) For commercial marinas, the applicant shall also comply with all other requirements of subsection 30-4.9(c)(15) of the Zoning Ordinance.

- c) The applicant shall comply with all other environmental mitigations determined to be necessary through the environmental documentation and public review process.
- d) The applicant shall comply with [any](#) setbacks required by the U.S. Army Corps of Engineers for channel dredging and maintenance activities for both fixed structures and moored vessels.
- b)e) The applicant shall maintain the perimeter slope in accordance with City standards.

e. Minimum Height, Bulk and Space Requirements. ~~All regulations of the district covering the portion of the parcel inboard of the Pier and Bulkhead Line shall apply. Appropriate height, bulk and setback requirements for the proposal shall be established as a condition of the Use Permit and shall be in conformance with the required findings established by subsection 3, the conditions required by subsection 4, and the requirements in 30-5, as applicable.~~

(Ord. No. 2662 N.S. § 1)

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the ____ day of _____, 2016, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2016.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Janet C. Kern, City Attorney
City of Alameda