

BCC Mtg. August 30, 2022

Effective Date: January 1, 2023

ORDINANCE NO. 2022-31

**AN ORDINANCE AFFECTING ORANGE COUNTY,
FLORIDA BY AMENDING THE ORANGE COUNTY CODE,
CHAPTER 15, ARTICLE IX, DIVISIONS 1 AND 2
PERTAINING TO DOCK CONSTRUCTION; AND
PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
ORANGE COUNTY:**

Section 1. Amendments; In General. Article IX, Chapter 15, Divisions 1 and 2 of the Orange County Code is hereby amended as set forth in Sections 2 and 3 below, with additions being shown as underlined and deletions being shown as ~~strike-throughs~~.

Section 2. Amendments to Article IX, Chapter 15, Division 1, Generally. Article IX, Chapter 15, Division 1, of the Orange County Code is amended to read as follows:

CHAPTER 15

ARTICLE IX. DOCK CONSTRUCTION

DIVISION 1. GENERALLY

Sec. 15-321. Short title.

This article ~~is shall be~~ known and may be cited as the “~~Construction of Dock~~ Construction Ordinance.”

Sec. 15-322. Policy, purpose, intent and scope.

(a) An intent of the board of county commissioners is to protect and enhance the county’s surface waters ~~water bodies~~ so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing.

(b) ~~Water bodies~~ Surface waters in the county provide important habitat and functions to fish and wildlife. Orange County ~~County’s~~ ~~water bodies~~ surface waters contain littoral areas that are significant and productive in the maintenance and preservation of aquatic plants and animals. Additionally, these littoral areas effectively assimilate

nutrients in the sediment and water column, as well as stabilize soils affected by wave action and erosional forces.

(c) Dock construction involves activities that may cause pollution to surface waters. ~~water bodies~~. Additionally, activities associated with docks may cause pollution to ~~water bodies~~ surface waters.

(d) A purpose of this article is to regulate dock construction, including dock repairs, ~~which for the purposes of this article includes dock repairing~~, within unincorporated areas of the county ~~county~~, in order to minimize adverse impacts of such activities upon the natural resources of the county. ~~The county may regulate dock construction activities pursuant to the provisions of this article, in areas not described in this paragraph upon execution of an interlocal agreement by the county and the municipality.~~

(e) A purpose of this article is to regulate the construction of docks such that the navigation of ~~water bodies~~ surface waters is not unreasonably impeded.

(f) An ~~The~~ intent of the board of county commissioners is to apply these regulations in a manner sensitive to the riparian rights and ~~other~~ property rights of the applicant, the riparian rights and ~~other~~ property rights of other waterfront property owners, and the rights of the public to the traditional uses and enjoyment of ~~water bodies~~ surface waters in the county.

(g) The board of county commissioners recognizes that the cumulative and secondary impacts of docks may adversely affect the water quality of ~~the water bodies~~ surface waters, as well as the functions ~~the water bodies~~ surface waters provide to fish and other wildlife. The reduction in water quality and functions to fish and other wildlife will result in ~~the a~~ decline in the recreational value of ~~the water body~~ surface waters. Therefore, it is an ~~the~~ intent of the board of county commissioners and a ~~the~~ purpose of this article to regulate dock construction in a manner that addresses cumulative and secondary impacts.

(h) An ~~The~~ intent of the board of county commissioners is that the environmental protection officer shall be responsible for the interpretation of this article.

Sec. 15-323. Definitions.

The following words, terms, ~~and~~ ~~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:

Access walkway means that portion of the dock that commences on the upland parcel and terminates at the junction with the terminal platform. Dock accessories, including kayak and canoe storage racks, or other cantilevered structures designed to store non-motorized craft, are not to be included in the calculation of access walkway width if no part of the accessory extends below the normal high water elevation.

Boat. Refer to vessel.

Board means the Board of County Commissioners of Orange County, Florida.

Building official means for unincorporated Orange County, the Orange County Building Official as defined in section ~~9-11~~ 9-1; and for incorporated Orange County, the principal enforcing officer for the building code within the particular municipality.

Dock means any permanently fixed or floating structure extending from the upland into the water, capable of use for vessel mooring and other water-dependent recreational activities. The term “dock” also includes any floating structure, boat lift or mooring piling, detached from the land, capable of use for mooring vessels ~~or and/or~~ for other water-dependent recreational activities. The term “dock” also includes any area adjacent to the dock designated for mooring purposes when a mooring feature, including but not limited to a piling or buoy anchored to the lake bottom, is utilized to moor a vessel of any type. This term ~~excludes~~ ~~does not include~~ any vessel that is not permanently docked, moored, or anchored.

Dock accessory means an item that is added to an access walkway or terminal platform that makes the dock more useful, versatile, or attractive, including but not limited to bumpers, brackets, mooring arms, lighting, kayak racks, benches, stairs, or canoe racks. A dock accessory does not substantially preempt the use of the water or shoreline and is not included in the calculation of the access walkway width or terminal platform size if no part of the accessory (excluding stairs) extends below the normal high water elevation.

Dock accessory structure means an item that preempts the use of the water or shoreline, including but not limited to floating vessel platforms, personal watercraft lifts, shore stations, or any recreational item.

~~*Enclosed dock* means a dock which has any portion of its structure completely or partially enclosed with walls and/or doors. Screened enclosures and storage lockers shall not be included in this definition.~~

Environmental protection commission (EPC) means the commission created and established pursuant to section 15-29.

Environmental protection officer means the Orange County official as defined in section 15-32.

EPD means the Orange County Environmental Protection Division.

Institutional means a non-residential parcel designated and zoned for public uses, government, schools, or religious organizations, such as churches.

Maintenance means the act of keeping the dock in a safe and useable condition consistent with original design specifications.

Mooring area means an area adjacent to any permanently fixed or floating structure where a vessel may be secured.

Normal high water elevation (NHWE) means the landward edge of any natural surface water ~~body~~ during normal hydrological conditions, as determined by the public works director ~~county engineer~~ or according to article IX of chapter 30.

Person has the same meaning as set forth in section 1-2 and includes ~~means any individual, firm, partnership, corporation, or other entity, including~~ governmental entities.

Principal structure means the building or structure in which the principal use of the parcel or lot is conducted. A dock cannot ~~shall~~ ~~not~~ be the principal structure on a parcel or lot unless the parcel or lot is within a residential subdivision and has been designated as recreation or a similar common area or open space tract on the plat, commercial, institutional, or is government-owned property.

Principal use means a use of the upland parcel for residential, commercial, institutional, or governmental purposes. At a minimum, a principal use must ~~shall~~ be established by the issuance of a building permit for a principal structure. For the exception where a dock is allowed as the principal structure, no building permit will be required to establish the principal use, however, a building permit must be obtained prior to any construction of the dock.

Private dock means a dock that, ~~which~~ may be used by only those persons living in a single-family residence on the upland parcel and their usual and customary guests.

Projected property line means a continuation of, and extension to, ~~the upland~~ a property line where it intersects with the NHWE. In cases of privately owned bottomland, that is, non-sovereignty submerged lands underlying a surface water, ~~water body~~, the

projected property line is the ~~actual~~ property line as described in the deed for the property.

Public dock means a dock ~~that which~~ is ~~subject to public accessible by members of the public.~~ Docks associated with commercial establishments and activities, and governmental or and non-governmental institutions, and private organizations are included in the definition of public dock.

Repair means to restore a dock structure to the original design specifications ~~of a dock structure~~, including the replacement of the entire dock or portions of the dock.

Riparian rights means those rights incident to lands bordering upon navigable waters, ~~as recognized by the courts of this state and common law~~ defined in section 253.141, Florida Statutes.

Satisfactory evidence of title means a warranty deed or a current title insurance policy issued by a title insurance company authorized to do business in the State of Florida, or an opinion of title prepared by a member of the Florida Bar, covering title to lands involved and indicating, at least, such minimum interest in the applicant that which may entitle the applicant to the relief sought.

Semi-private dock means a dock ~~that, which~~ may be used by a group of residents living in a subdivision or multi-family development and their usual and customary guests, or by the membership of a private club or organization and their usual and customary guests. Semi-private docks must not be used by the general public.

Shoreline means the edge of a body of water measured at the ~~normal high water elevation (NHWE).~~

Terminal platform means that portion of a dock beginning at the terminal end of the access walkway. The terminal platform includes the area occupied by accessory structures that are fixed to or located adjacent to the platform. The terminal platform must ~~shall~~ be designed for the mooring and launching of vessels or other water-dependent activities. The size calculation for the terminal platform ~~does not~~ includes any uncovered area adjacent to the dock with pilings designated for mooring purposes.

Vessel is synonymous with boat, as referenced in section 1(b), article VII of the Florida Constitution and includes every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water. The term vessel does not distinguish between motorized and non-motorized. Vessel does not mean a seaplane on the water.

Waters means and includes, but is not limited to, rivers, lakes, streams, waterways, bays, springs, impoundments, inlets, canals, and all other waters or bodies of water, whether natural or artificial, located in Orange County.

Water-dependent activity means any activity ~~that~~which can only be conducted on, in, over, or adjacent to, water areas because the activity requires direct access to the surface water-body for transportation or recreation, and where the use of the water is an integral part of the activity.

~~USGS means the United States Geological Survey.~~

Sec. 15-324. ~~Permits~~ Dock construction permits required.

Unless expressly exempted in section 15-346, any person desiring to construct ~~or repair~~ a dock or modify an existing dock ~~shall~~must first receive a permit from the environmental protection officer authorizing the construction or modification activity~~repair of the dock~~. Floating docks or structures installed in Orange County are subject to the regulations in this article and in general will be treated similar to fixed docks for the purposes of this article, unless expressly exempted by section 403.813, Florida Statutes.

Sec. 15-325 Fees.

By resolution, the board ~~may~~may, from time to time, establish fees ~~to be~~ applicable to all permits, variances, waivers, appeals, or other regulatory activities authorized in this article. Fees for dock construction permits, variances, waivers, appeals, or other regulatory activities set forth in the county's fee directory will~~shall~~ remain in force until modified by the board.

Secs. 15-326—15-340. Reserved.

Section 3. Amendments to Article IX, Chapter 15, Division 2, Permits. Article IX,

Chapter 15, Division 2, of the Orange County Code is amended to read as follows:

DIVISION 2. PERMITS

Sec. 15-341. Permit application and procedures.

(a) *Generally.* Dock construction permit ~~and repair~~ application forms are available at the ~~environmental protection division~~ EPD office and on the county's website. Applicants must submit applications for dock construction ~~or repair~~ permits ~~to the county~~

~~environmental protection division. EPD and Applicants must pay an~~
~~a non-refundable application-processing fee at the time the~~
~~application is submitted for review. Review of the permit~~
~~application will not begin until the application fee is paid in full and~~
~~payment does not.~~ Payment of such application fee shall in no way
guarantee issuance of a dock construction permit, and such fee is
~~non-refundable.~~ No permit application shall be submitted unless
there is a principal use established on the property.

- (b) Applications ~~must~~ shall contain the following information:
- (1) The original signature(s) of the property owner(s) ~~of upon~~
~~which~~ the upland portion of the parcel where the dock is to
be constructed;
 - (2) The original signature(s) of the applicant(s), if the applicant
is not the property owner;
 - (3) Satisfactory evidence of title;
 - (4) Documentation showing riparian rights for the parcel, such
as ~~an any legal instrument~~ indicating ownership extends to
the shoreline or legal permission to construct or modify a
dock and use of the submerged lands;
 - (5) A copy of a survey of the real property ~~that which~~ accurately
depicts current conditions;
 - (6) ~~Four (4) sets of a A~~ site plan depicting the exact location of
the proposed dock, ~~and shall include~~ that includes the
following:
 - a. An arrow indicating the northerly direction of the scale
~~that to which~~ the sketch or drawing was prepared and the
name of the water body (surface water) ~~that upon which~~
~~the proposed dock structure or renovation~~ is to be
located;
 - b. The exact distance between the existing shoreline, ~~at at~~
the point where the dock is to be constructed or is
currently located, and a permanent object or marker (e.g.,
house, tree, ~~USGS~~ United States Geological Survey
benchmark) to be used as a reference point;
 - c. The exact setback distance from ~~adjacent the~~ property
lines and projected property lines to all portions of the
dock;
 - d. Floor and roof elevations of the ~~proposed or existing~~
dock;
 - e. The current water depth at the end of the ~~proposed or~~
~~existing dock and, and~~ at all proposed mooring locations;

- f. The length of the ~~proposed or existing~~ dock, as measured from the ~~normal high water elevation (NHWE)~~ to the point most waterward of the NHWE;
 - g. The NHWE ~~as established by the county~~;
 - h. The location of any conservation easement ~~area~~ areas or wetland ~~and wetlands~~ within twenty (20) feet from any portion of the dock;
 - i. A description of submerged and emergent vegetation types ~~identified~~ occurring within the area described in paragraph 15-341(b)(6)h. ~~Private dock applicants may request EPD to assist with identifying vegetation types;~~ and
 - j. Location of lifts, hoists, mooring pilings, ~~and~~ mooring areas, and dock accessory structures.
- (7) A statement indicating whether any portion of the dock will be ~~docks are~~ located on abutting properties;
 - (8) A mitigation plan offsetting adverse impacts to ~~the surface waters,~~ conservation easement ~~areas~~ areas, or wetlands, resulting from the construction or modification of the terminal platform or access walkway as may be required under this ~~articles X, XI, and XIII, of chapter 15;~~
 - (9) A description of sediment and erosion control measures to be used during construction or modification ~~and/or repair~~ of the dock. These measures must be depicted on the site plan; and
 - (10) Indicate whether the proposed dock is for public, semi-private, or private use. (If the proposed dock is for public or semi-private use, approval of a special exception may be required through the board of zoning adjustment and the board. The application must demonstrate that the property is appropriately zoned prior to permit issuance.)
 - (11) An applicant ~~Applicants~~ may submit the following information with their applications:
 - a. A request for a variance or waiver ~~under~~ pursuant to section 15-350.
 - b. If applicable to the waiver request, an original, Original, signed and notarized letter ~~letters~~ of no objection from the abutting or affected shoreline property owner(s) ~~owners~~ ~~when applicable~~. The letter of no objection must identify the waiver request on the site plan and construction plan for the proposed dock and a copy of

the site plan and construction plan must be attached to the letter.

Sec. 15-342. Conditions for issuance of dock construction permits.

To obtain a dock construction permit, the following criteria must be satisfied:

(a) The dock must be designed and constructed to be open to the environment and without opaque walls, solid panels, or fencing, except for partial walls less than thirty-six (36) inches in height. See-through insect mesh screening is allowed for enclosing the dock.

(b) The dock must only extend shall extend only to the point where reasonable water depth for vessel mooring and access to navigable water is achieved. A reasonable water depth may be defined by a determination that the dock does not extend further than the nearest permitted docks (within three hundred (300) feet or three (3) abutting lots) or a maximum of five (5) feet of water depth as measured from the NHWE, unless the natural conditions of the surface water necessitate a greater dock length for water depth to achieve reasonable mooring conditions. The dock length necessary to achieve a reasonable water depth must not create a navigation hazard, as determined by EPD or law enforcement. The maximum water depth allowed for mooring areas is five feet, as measured from the NHWE, unless the natural conditions of the water body necessitate a greater water depth to allow reasonable mooring conditions. The dock must have a minimum mooring depth of twenty-four (24) inches, as measured from the NHWE, to prevent bottom scouring.

(c) The dock must shall not adversely affect the rights of other persons or other and property owner's owners' use of, and access to, the surface water body or constitute a navigation hazard, as determined by EPD or law enforcement. No work should be done within areas, which that constitute easements for ingress or egress or for drainage unless authorized by the county.

(d) Docks and dock accessory structures are prohibited for Under no circumstances shall a permit for construction of a dock be utilized to construct any facilities to be used for residential purposes or other non-water dependent non-water-dependent activities. Dock accessory structures are prohibited within wetlands.

(be) The maximum allowable square footage of the terminal platform shall not exceed the square footage of ten is the calculation of twelve (12) times the linear shoreline frontage, for the first seventy five (75) feet of shoreline and five times the linear shoreline

~~frontage for each foot in excess of seventy-five (75) feet, not to exceed a maximum of~~ not to exceed one thousand (1,000) square feet.

(ef) Access walkways shall be limited to ~~a five-foot-five (5) feet~~ in width. Impacts to wetlands and surface waters must ~~shall~~ be avoided to the greatest extent practicable. Access walkways traversing any wetland ~~must~~ shall be elevated a minimum of three (3) feet above the ground surface. The environmental protection officer may require an access walkway be elevated above the ~~three-foot above ground surface~~ minimum elevation to further minimize ~~or avoid~~ impacts to wetlands. Portions of access walkways over wetlands or surface waters shall be designed no higher than the nearest permitted docks (within three hundred (300) feet or three (3) abutting lots), unless the natural conditions of the surface water necessitate a greater walkway height to achieve reasonable access to the terminal platform. Access walkways may not extend over or across coves, bays or canals unless there are no practicable alternatives that allow access to the terminal platform or navigable water.

(g) Board spacing on the structure should ensure light penetration underneath.

(dh) The floor elevation ~~must~~ shall be a minimum of one (1) foot above the established control elevation or NHWE.

(ei) The maximum allowable roof height ~~is~~ shall be no higher than twelve (12) fifteen (15) feet above the floor elevation.

(fj) ~~There shall be no fish cleaning~~ Fish cleaning stations, wet bars, living quarters, or other similar facilities ~~over wetlands or other surface waters or~~ are prohibited on docks ~~the dock~~.

~~(g) Enclosed docks are prohibited.~~

~~(hk)~~ Generally, the construction of more than one (1) dock per ~~residential lot is not allowed; however, permitted. However, one a~~ dock may be permitted on each surface water body to which ~~that a residential lot has frontage on~~ if there is no navigable connection between the surface waters ~~water bodies~~.

(il) Docks ~~must~~ shall be designed to accommodate vessel use without bottom scouring or propeller dredging.

(jm) There ~~must not be any~~ shall be no dredging or filling associated with construction of the dock ~~and boat shelter~~, other than that required for the installation of the actual pilings for the dock.

(n) On Outstanding Florida Waters, a reasonable demonstration that dock pilings will not cause degradation of ambient water quality consistent with rules 62-302.300 and 62-302.700, F.A.C.

Acceptable measures could include, but not be limited to, wrapping pilings or using polymer coated pilings that have been installed or treated in a manner that will prevent the leaching of constituents contained in treated wood, or using alternative materials such as concrete or recycled plastic pilings.

Sec. 15-343. ~~Additional conditions of issuance of permits for permits of private docks.~~

(a) ~~On Private docks on~~ lots or parcels having a shoreline frontage of one hundred (100) feet or less ~~than seventy-five (75) feet, docks, including designated mooring areas, must shall~~ have a minimum side setback ~~side setback~~ of ten (10) feet from any property line or the projected property line.

(b) ~~On Private docks on~~ lots or parcels having a shoreline frontage of ~~seventy-five (75) feet or greater than one hundred (100) feet, including designated mooring areas, docks shall must~~ have a minimum side setback of fifteen (15) ~~twenty-five (25)~~ feet from any property line or the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the environmental protection division. Certain lots or parcels may be able to meet the minimum setback distance at the shoreline, however, when the projected property lines converge due to an irregular lot shape, a proposed dock may not meet the minimum setback distance at some point along the projected property line. At the point where the distance between the projected property lines is equal to or less than seventy-five (75) feet, the minimum setback shall be ten feet. Waivers from side setback requirements may be granted by the environmental protection officer if a notarized letter of no objection to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the waiver. All other waivers to the minimum side setback requirement shall be granted in accordance with the provisions of section 15-350.

(c) Storage lockers ~~shall be~~ are limited to a cumulative maximum of sixty-five (65) cubic feet. Storage lockers must not ~~shall not~~ be used to store boat maintenance or and/or repair equipment or and materials, fuel, fueling equipment, and or hazardous materials or hazardous wastes. ~~Storage lockers are prohibited on semi-private docks and public docks.~~

Sec. 15-344. ~~Additional conditions of issuance of permits for permits of semi-private and public docks.~~

(a) Semi-private and public docks, including designated mooring areas, must shall have a minimum side setback ~~side setback~~

of twenty-five (25) feet from any property line or the projected property line, unless such requirement is reduced by an appropriate waiver, which shall be reviewed by the environmental protection division. ~~Final approval of a side setback waiver under this provision shall be granted in accordance with the provisions of section 15-350.~~

~~(b) Semi-private docks shall not be used by the general public.~~

~~(eb) All storage facilities shall be located on the upland parcel. Storage lockers are prohibited on semi-private and public docks.~~

~~(d) Applicants for semi-private docks for use in subdivisions or planned developments must provide a conservation easement or other restriction, on a form acceptable to the board, of the appropriate length along the affected riparian shoreline to prohibit the construction of additional docks that would exceed the maximum allowed for private docks under this article.~~

Sec. 15-345. ~~Additional conditions of issuance of permits for public docks.~~ Reserved.

~~(a) Docks shall have a minimum side setback of twenty five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver, which shall be reviewed by the environmental protection division. Final approval of the side setback waiver shall be granted in accordance with the provisions of section 15-350.~~

~~(b) All storage facilities shall be located on the upland parcel.~~

Sec. 15-346. ~~Dock maintenance and repair; and minor modifications.~~

~~(a) *Dock maintenance and repair, generally.* Docks ~~shall~~ must be maintained in a safe and useable condition. All maintenance and repair activities must maintain the original design and original footprint of the dock, as approved in the boat dock construction permit. If the design and footprint of the dock will change as a result of a maintenance or repair activity, approval of a minor modification or a new permit will be required. The owner of property on which a dock is located is responsible for maintaining a dock in safe and useable condition. Best management practices must be used during all maintenance and repair activities to prevent soil erosion and water quality violations in the project area. Information on best management practices may be obtained from ~~the environmental protection division~~ EPD.~~

(b) Owner's duty to repair, replace, or remove unsafe structures. The owner(s) of property where a dock is located must promptly repair, replace, or remove a dock structure, or part(s) of the structure, that because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or if for any other reason is likely to partially or completely collapse, or some portion of the foundation or underpinning of the structure is likely to or has failed.

~~(b) Maintenance and repair of docks permitted by Orange County.~~ When maintenance and repair of docks permitted under this article involves the repair or replacement of pilings, or other portions of the dock at or below the water surface, the permit holder shall provide written notice to the environmental protection officer of the proposed maintenance and repair activities at least ten days prior to initiating the maintenance or repair activity. The notice must be provided on the notification form that may be obtained at the environmental protection division. At a minimum, the permit holder must identify the permit number, physical address of the property on which the dock is located, name of the permit holder, or current owner of the property if not the original permit holder, a description of the proposed maintenance or repair, and the date that the permit holder intends to commence the activity. Repairs that do not involve activity at or below the water surface are allowed without notice or permit. All maintenance and repair activities must maintain the original design and original footprint of the dock, as approved in the county permit.

~~(c) Repair of unpermitted "grandfathered" docks constructed on or before December 19, 1988.~~ The repair of unpermitted docks constructed on or before December 19, 1988, requires a permit issued under this article. Applications for the repair of docks constructed without a dock construction permit prior to December 19, 1988, shall contain the information required in paragraphs 15-341(b)(1), (2), (5), (6), (9) and (10). It is intended that docks constructed before December 19, 1988, be allowed to remain as constructed.

(d) Maintenance of unpermitted "grandfathered" docks constructed on or before December 19, 1988. Docks constructed on or before December 19, 1988, are allowed to remain as originally constructed. Maintenance activities of unpermitted docks constructed on or before December 19, 1988, do not require a permit under this article, unless repair or replacement occurs to more than fifty (50) percent of the dock if the maintenance activities do not include repair or replacement of pilings or portions of the dock at or below the water surface.

~~(ed) Maintenance, modification, or and-repair of unpermitted docks constructed after December 19, 1988. Maintenance-A permit under this article is required prior to maintenance, modification, or and-repair of unpermitted docks that were constructed after December 19, 1988, shall be treated as the construction of a new dock and shall be required to obtain a dock construction permit prior to initiating construction, including demolition.~~

~~(fe) Minor modifications to permitted—docks. Minor modifications to existing permitted structures or for unpermitted “grandfathered” docks (including but not limited to roof additions, terminal platform additions less than twenty-five (25) square feet, or changing the layout of a boat slip), must be approved by the environmental protection officer. The applicant must submit a request for the proposed deviation-change or minor modification to the original site plan to the environmental protection officer for consideration. Additional information may be requested from the applicant in order to complete the review. Minor modifications must comply with the provisions of this article. Any modification that will may require a variance or waiver of any provision of this article ordinance cannot shall not be considered a minor modification. Any modification that increases the size of the terminal platform shall not be considered a minor modification. The environmental protection officer may require notification of abutting shoreline property owners of the application for minor modification.~~

Sec. 15-347. Notification of adjacent property owners and comments.

(a) The environmental protection officer will send notice of receipt of an application for variance ~~or waiver~~ under the provisions of this article by certified mail to the owners of ~~the~~ shoreline properties situated within three hundred (300) feet of the property ~~that on which~~ the proposed dock is to be located ~~on~~. For ~~a waiver request~~ ~~waiver requests to reduce side setback~~ ~~the side setback~~ requirements, the environmental protection officer will only send ~~such~~ notice to the ~~abutting~~ shoreline property owner(s) affected by the waiver request. The environmental protection officer may send ~~additional~~ notices to other shoreline property owners ~~as appropriate~~.

(b) The environmental protection officer will also send notice of receipt of ~~an~~ a boat dock application and a copy of the application to the Windermere Water and Navigation Control District Advisory Board or the Conway Water and Navigation Control District Advisory Board, where ~~applicable, appropriate~~, and may request comments from, and provide copies to, other county departments, agencies, ~~or~~ ~~or~~ governmental bodies.

(c) ~~All~~ With the exception of subsection 15-347(e), all notices provided in accordance with this section ~~will~~shall require that written comments ~~on the proposed dock~~ be sent to the environmental protection officer within ~~twenty-one (21)~~ ~~thirty-five (35)~~ calendar days of receipt of ~~such notices~~. notice. Objections to a waiver or variance request should detail the grounds of the objection and any impact or effect of the requested waiver or variance.

(d) Failure to return written comments within ~~twenty-one (21)~~ ~~thirty-five (35)~~ calendar days ~~will~~shall be presumed to indicate that no objections exist, provided that in cases where the addressee does not receive the notice, the environmental protection officer may make other reasonable efforts to notify the addressee.

(e) The Windermere Water and Navigation Control District Advisory Board and the Conway Water and Navigation Control District Advisory Board may submit to the environmental protection officer a recommendation to approve or deny applications for docks within their jurisdictions. Recommendations ~~shall~~must be approved by a majority of the advisory board at a public meeting, duly noticed and conducted in accordance with the Florida Sunshine Law, section 286.011, Florida Statutes, ~~as may be transferred or amended from time to time~~. Advisory board recommendations ~~shall~~must be submitted to the environmental protection officer within thirty-five (35) calendar days of receipt of notice.

Sec. 15-348. Decisions of the environmental protection officer.

(a) *Generally.* The decision of the environmental protection officer shall be in writing, and will include findings of fact material to the decision, and ~~shall~~ indicate the date of the decision. Copies of the decision will be sent to the ~~applicant-applicant~~, and ~~by certified mail to~~ those who previously filed written objections to the application and as applicable, to the Windermere Water and Navigation Control District Advisory Board or the Conway Water and Navigation Control District Advisory Board, ~~if appropriate~~. If no objections have been filed and the environmental protection officer's decision is to approve ~~has approved~~ the application, the approval ~~shall be~~is effective ~~immediately following the appeal provisions of section 15-349~~.

(b) *Decisions relating to new dock construction.* Upon receipt of comments from all parties that have been notified pursuant to this article, or upon the expiration of the ~~thirty-five (35) calendar day~~ period for written comments or ~~and~~ recommendations, when applicable, and following staff review of the complete dock application, the environmental protection officer shall approve,

deny, or approve with conditions, the application to construct the dock.

~~(c) *Decisions relating to applications to repair pursuant to section 15-346(b).* The environmental protection officer shall approve, deny, or approve with conditions, applications for repairs that meet the criteria set forth in section 15-346(b) following the staff review of a complete application.~~

~~(d) *Decisions relating to applications for minor modifications pursuant to paragraph 15-346(e)-section 15-346(f).* Following staff review of the request, the environmental protection officer will ~~shall~~ either: (1) render a decision stating that the request is non-substantial or insignificant and issue a letter authorizing modification of the permit; or (2) refer the request to the environmental protection commission EPC to make a recommendation regarding issuance of the permit modification. The environmental protection commission EPC shall render to the board a recommendation stating that the request is non-substantial or insignificant and recommending approval of the permit modification or that a new dock construction permit would be needed to authorize the applicant's request. The board may accept the EPC recommendation or call for a public hearing.~~

Sec. 15-349. Appeals ~~of from~~ decisions of the environmental protection officer.

~~(a) The appeal provisions in section 15-38 govern appeals of final decisions of the environmental protection officer under this article. The applicant, or parties who have previously filed written objections, may, within fifteen (15) calendar days of the decision of the environmental protection officer, file a written notice of appeal with the environmental protection officer. If no notice of appeal is received within the fifteen (15) calendar day period, then the prior ruling of the environmental protection officer shall be final. If an appeal is taken, such appeal shall be heard by the environmental protection commission. The environmental protection commission shall render a recommendation to the board approving, approving with modifications, or denying the recommendation of the environmental protection officer. The recommendation of the environmental protection commission shall be provided to the board within twenty one (21) days, provided that if no meeting is scheduled within the 21 day period, then the recommendation shall be presented at the first meeting of the board following the expiration of the 21 day period. The board may accept the recommendation or call for a public hearing.~~

~~(b) Parties who have previously filed written objections and whose substantial interests are adversely affected by the recommendation of the environmental protection commission may appeal to the board within ten days of the rendering of the recommendation. The appeal shall be filed with the environmental protection officer and shall be scheduled for a public hearing before the board. The notice of the appeal will be provided to the applicant and to parties who have previously objected in writing. The board may affirm, reverse, or modify the decision of the environmental protection commission. The decision of the board shall be final.~~

~~(eb) For the purposes of this section, the terms-term “party” or “person” as used in section 15-38 do shall not include the Windermere Water and Navigational Control District Advisory Board, the Conway Water and Navigational Control District Advisory Board, other county departments, agencies, or governmental bodies.~~

~~(d) Notices of appeal filed pursuant to this section shall contain the following:~~

- ~~(1) A statement identifying the decision being appealed;~~
- ~~(2) The name, address, telephone number, and facsimile number (if any) of the person or persons appealing the decision (the “appellant”);~~
- ~~(3) A detailed statement asserting the grounds for appeal; and~~
- ~~(4) A statement describing with particularity each section and paragraph of this article the appellant contends requires reversal or modification of the decision.~~

~~(e) Failure to provide the information required in subsection 15-349(d) shall be a basis for dismissal of the appeal by the environmental protection officer. The environmental protection officer shall promptly give written notice to the appellant of the dismissal of the appeal and shall state the reasons for the dismissal. Dismissal of an appeal shall, at least once, be without prejudice to appellant’s filing an amended notice of appeal within fourteen (14) days of the date of the dismissal.~~

Sec. 15-350. Variance and waiver.

~~(a) Generally. Variances. An applicant may apply to EPD for a variance from a requirement of this article and must pay a non-refundable variance application processing fee. Review of the variance application will not begin until the fee is paid in full and payment does not guarantee approval of the variance request. At a minimum, the applicant must:~~

- (1) Identify the section(s) of this article that the applicant seeks a variance for and the extent of the requested variance;
 - (2) Describe the impact of the requested variance on the surface water and the environment;
 - (3) Explain the effect of the requested variance on any abutting or affected shoreline property owner(s);
 - (4) Describe how strict compliance with the section(s) of this article would impose a unique, unreasonable, and unintended hardship on the applicant; and
 - (5) Explain why the hardship is not self-imposed.
 - (6) The environmental protection officer, the EPC, or the board may require the applicant provide additional information necessary to carry out the purposes of this section.
- (b) *Variance procedure.* Except for variances granted pursuant to paragraph 15-350(f), the environmental protection officer shall render a recommendation to either approve, deny, or approve with conditions a variance application consistent with paragraph 15-350(c), and schedule a hearing on the variance application before the EPC. The EPC shall render a recommendation to the board to approve, approve with conditions, or deny the variance application. The recommendation of the EPC will be timely provided to the board and the board may accept the recommendation or call for a public hearing.
- (c) *Variance criteria.* A variance application may receive an approval or an approval with conditions if granting the variance:
- (1) Would not negatively impact the surface water or the environment or if there is a negative impact, sufficient mitigation is proposed pursuant to paragraph 15-350(d), if appropriate;
 - (2) Would not be contrary to the public interest;
 - (3) Where, owing to special conditions, compliance with the provisions herein would impose a unique and substantial hardship on the applicant;
 - (4) Where the environmental protection officer has determined that the hardship is not self-imposed on the applicant; and
 - (5) Would not be contrary to the intent and purpose of this article.
- (d) *Mitigation.* In addition to the requirements of paragraph 15-341(b)(8), the environmental protection officer may require mitigation appropriate for the variance and the extent of the requested variance.

- ~~(1) *Variances.* An application for variance from the requirements of this article shall be made to the environmental protection officer. At a minimum, the applicant shall identify the sections and paragraphs of this article from which the applicant seeks a variance and the extent of the requested variance. The applicant shall also describe (1) how strict compliance with the provisions from which a variance is sought would impose a unique and unnecessary hardship on the applicant the hardship cannot be self-imposed; and (2) the effect of the proposed variance on abutting shoreline owners. The environmental protection officer, environmental protection commission and the board may require of the applicant information necessary to carry out the purposes of this article. A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the granting of the variance would not be contrary to the intent and purpose of this article.~~
- ~~(i) The environmental protection officer may approve variances to the provisions of this ordinance to accommodate persons with disabilities or to comply with the Americans with Disabilities Act.~~
- ~~(ii) The environmental protection officer may approve variances to the provisions of this article in order to provide greater protection to the water bodies and shorelines than provided under this article.~~
- ~~(iii) Applicants may seek variances from the provisions of the ordinance not addressed in paragraphs (i) and (ii) above from the environmental protection commission.~~
- ~~(2) *Waivers.* An application for waivers from the requirements of sections 15-342(b), 15-343(b), 15-344(a) and 15-345(a) shall be made to the environmental protection officer. At a minimum, the applicant shall identify the sections and paragraphs of this article from which the applicant seeks a waiver and the extent of the requested waiver. The applicant shall also describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners. The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.~~

(e) *Waivers.* An applicant may apply to EPD for a waiver from the requirement of sections 15-343(a) or (b) or 15-344(a). At a minimum, the applicant must describe how the waiver would not negatively impact the environment and the effect of the proposed waiver on abutting shoreline owners. A waiver from the minimum side setback required may be granted by the environmental protection officer if it is determined there is no negative impact to the environment and a notarized letter of no objection to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the reduced side setback request. The environmental protection officer may require additional information as necessary to evaluate the waiver request. A waiver request that receives an objection from an abutting shoreline property owner will be scheduled before EPC consistent with paragraph 15-350(b).

(f) The environmental protection officer may approve or approve with conditions a variance to the provisions of this article to accommodate persons with disabilities or to comply with the Americans with Disabilities Act. The environmental protection officer may approve or approve with conditions a variance to the provisions of this article in order to provide greater protection to the surface water or shoreline than what is provided under this article. This may include an approval with a condition to provide additional mitigation beyond any required pursuant to paragraph 15-341(b)(8).

~~(b) *Procedure.* Except as otherwise provided in section 15-343(b), the environmental protection officer shall make a recommendation to approve, deny, or approve with conditions a variance or waiver application to the environmental protection commission. The environmental protection commission shall render to the board a recommendation to approve, approve with conditions, or deny the variance or waiver application. The recommendation of the environmental protection commission shall be provided to the board within twenty one (21) days, provided that if no meeting is scheduled within the twenty one day period, then the recommendation shall be presented at the first meeting of the board following the expiration of the 21-day period. The board may accept the recommendation or call for a public hearing.~~

Sec. 15-351. Building permit required.

Following the issuance of a dock permit, the permittee permit holder must obtain a building permit from the appropriate building official prior to commencing construction. The construction plan submitted as part of the building permit application must be the

construction plan approved by the environmental protection officer and incorporated into the dock permit. The provisions of the Florida Building Code ~~shall~~ apply to the construction, alteration, repair, modification, and demolition of docks under this article, and any associated electrical or plumbing system application as required by ~~for the required~~ building official prior to the commencement of work.

Sec. 15-352. Compliance checks.

(a) The permittee or permit holder ~~and/or~~ designated agent must submit a notice of completion to ~~the environmental protection division~~ EPD within thirty (30) days of completion of the construction ~~or repair~~ of the permitted structure so that a compliance check may be performed by ~~environmental protection division~~ EPD staff.

(b) With the notice of completion, the permittee ~~The permit holder and/or~~ designated agent must provide as-built drawings on a final survey, signed and sealed by an appropriate professional licensed by the State of Florida, ~~with the notice of completion.~~

(c) The compliance check will ~~shall~~ determine if the structure was built according to the plans and permit approved by the ~~environmental protection officer~~ division. The environmental protection officer is authorized to approve a non-substantial deviation from a permit condition for sections 15-342(a), (b), (e), (f), (h), (i), 15-343, and 15-344(a), based on the submitted as-built drawing, provided that no deviation exceeds three (3) percent of the permit requirement.

Sec. 15-353. Violations; penalties; enforcement.

(a) ~~It is shall be~~ unlawful for any person to violate any provision of this article, or any provision of any resolution enacted pursuant to the authority of this article. Any person who violates this chapter, or any provision of any resolution enacted pursuant to the authority of this article, may be prosecuted in accordance with chapter 11. Violations of this chapter, or any provision of any resolution enacted pursuant to the authority of this article, may be punished as provided in section 1-9.

(b) In addition to the enforcement and penalty provisions provided in paragraph 15-353(a), the county may avail itself of any other legal or equitable remedy available to it, including without limitation, injunctive relief or revocation of any permit involved.

(c) Any person violating this article will ~~shall~~ be liable for all costs incurred by the county in connection with enforcing this article

or any provision of any resolution enacted pursuant to this article, including without limitation, attorneys' fees and investigative and court costs.

(d) If the environmental protection officer determines that construction is occurring or has occurred without prior approval or not in accordance with a permit or this article, ~~these regulations~~, the environmental protection officer ~~may~~ shall promptly issue a written notice of violation to the applicant or permittee, ~~and/or~~ designated contractor, or property owner. The notice of violation ~~will~~ shall include a description of the site where the violation has occurred, ~~cite citation to the provision(s) provisions of this article, these regulations~~, general or special laws ~~that~~ which have been violated, and set forth the remedial action required by the county. Such remedial action may include submittal of revised drawings, ~~reapplication~~ submittal of an application for a permit or permit modification, removal of the dock or any offending portion thereof, and administrative and civil penalties. The environmental protection officer may impose additional penalties for environmental harm. Any person determined to have violated section 15-324 for failure to obtain a permit prior to constructing a dock or modifying an existing dock such that a variance or waiver would be required, may be subject to an additional administrative penalty in the amount of one dollar (\$1.00) per square foot of the entire structure. The administrative penalty as provided in this section is not intended to limit the judicial imposition of civil penalties in state court.

Sec. 15-354. Effect of permit.

Any permit issued under this article ~~cannot~~ shall not substitute for any permitting requirements of any state or federal agencies but will ~~shall~~ be cumulative to any environmental permits. The board shall not permit any dock in any surface water body where state or federal regulations prohibit such installation.

Secs. 15-355—15-360. Reserved.

Section 4. Effective Date. This ordinance shall become effective on January 1, 2023.

ADOPTED THIS 30th DAY OF August 2022.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

