

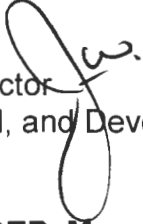


Interoffice Memorandum

AGENDA ITEM

January 25, 2022

TO: Mayor Jerry L. Demings
–AND–
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development
Services Department 

CONTACT PERSON: **David D. Jones, P.E., CEP, Manager
Environmental Protection Division
407-836-1406**

SUBJECT: March 8, 2022 – Work Session
Dock Construction Ordinance

Orange County's Dock Construction Ordinance (Chapter 15, Article IX) was last updated in 2004. Input received during an environmental charrette and other feedback received from stakeholders during the Mayor's Customer First Development Services initiative indicated that updating the ordinance should be a high priority.

At this work session, staff will present an overview of the current code and proposed changes, goals for the code update, public input, and proposed next steps. This work session will allow the Environmental Protection Division to obtain Board direction prior to coming back to the Board for the adoption hearing in Spring 2022.

This item is for informational purposes only; no action is required.

DDJ/JVW: jk

Attachment

10/10/10

ORDINANCE NO. 2021-_____

AN ORDINANCE 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 ~~and~~ scope.

(a) ~~The An~~ intent of the board of county commissioners is to protect and enhance the county’s 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 in the county provide important habitat and functions to fish and wildlife. Orange County ~~County~~’s water bodies

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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 ~~column~~, as well as stabilize soils affected by wave action and erosional forces.

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

(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 is not unreasonably impeded.

(f) 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 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, as well as the functions the water bodies provide to fish and other wildlife. The reduction in water quality and functions to fish and other wildlife will result in the decline of ~~in~~ the recreational value of the water body. Therefore, it is 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) 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:

80 *Access walkway* means that portion of the dock that commences
81 on the upland parcel and terminates at the junction with the terminal
82 platform. Dock accessories, including kayak and canoe storage
83 racks, or other cantilevered structures designed to store non-
84 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.

86 *Boat.* Refer to vessel.

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

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

94 *Dock* means any permanently fixed or floating structure
95 extending from the upland into the water, capable of use for vessel
96 mooring and other water-dependent recreational activities. The term
97 “dock” also includes any floating structure, boat lift or mooring
98 piling, detached from the land, capable of use for mooring vessels
99 or and/or for other water-dependent recreational activities. The term
100 “dock” also includes any area adjacent to the dock designated for
101 mooring purposes when a mooring feature, including but not limited
102 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.

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

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

118 ~~*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~~
120 ~~definition.~~

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

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

126 *EPD* means the Orange County Environmental Protection
Division.

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

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

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

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

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

142 *Principal structure* means the building or structure in which the
principal use of the parcel or lot is conducted. A dock ~~cannot shall~~
144 ~~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
146 recreation or a similar common area or open space tract on the plat,
commercial, institutional, or is government-owned property.

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

156 *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.

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

162 line is the ~~actual~~ property line as described in the deed of the
163 property.

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

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

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

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

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

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

Terminal platform means that portion of a dock beginning at the
190 terminal end of the access walkway. The terminal platform includes
the area occupied by accessory structures that are fixed to or located
191 adjacent to the platform. The terminal platform ~~must~~ ~~shall~~ be
designed for the mooring and launching of vessels or other water-
192 dependent activities. The size calculation for the terminal platform
193 ~~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),
198 article VII of the Florida Constitution and includes every description
of watercraft, barge, and airboat used or capable of being used as a
200 means of transportation on water. The term vessel does not
distinguish between motorized and non-motorized. Vessel does not
201 mean a seaplane on the water.

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

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

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

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

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

224 **Sec. 15-325 Fees.**

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

234 **Secs. 15-326—15-340. Reserved.**

236 *Section 3. Amendments to Article IX, Chapter 15, Division 2, Permits.* Article IX,
238 Chapter 15, Division 2, of the Orange County Code is amended to read as follows:

240 **DIVISION 2. PERMITS**

242 **Sec. 15-341. Permit application and procedures.**

244 (a) *Generally.* Dock construction permit and repair application
forms are available at the ~~environmental protection division~~ EPD
246 office and on the county's website. Applicants must submit

248 applications for dock construction ~~or repair~~ permits to the county
249 ~~environmental protection division. EPD and Applicants must pay an~~
250 ~~a non-refundable application-processing fee at the time the~~
251 ~~application is submitted for review. Review of the permit~~
252 ~~application will not begin until the application fee is paid in full and~~
253 ~~payment does not~~ Payment of such application fee shall in no way
254 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.

256 (b) Applications ~~must shall~~ contain the following information:

257 (1) The original signature(s) of the property owner(s) ~~of upon~~
258 ~~which~~ the upland portion of the parcel where the dock is to
be constructed;

260 (2) The original signature(s) of the applicant(s), if the applicant
is not the property owner;

262 (3) Satisfactory evidence of title;

263 (4) Documentation showing riparian rights for the parcel, such
264 as ~~an any legal~~ instrument indicating ownership to the
shoreline or legal permission to construct or modify a dock
265 and use of the submerged lands;

266 (5) A copy of a survey of the real property ~~that which~~ accurately
267 depicts current conditions;

268 (6) ~~Four (4) sets of a~~ site plan depicting the exact location of
269 the proposed dock, ~~and shall include that includes~~ the
following:

270 a. An arrow indicating the northerly direction of the scale
271 ~~that to which~~ the sketch or drawing was prepared and the
272 name of the water body ~~that upon which the proposed~~
273 dock structure ~~or renovation~~ is to be located;

274 b. The exact distance between the existing shoreline, ~~at at~~
275 the point where the dock is to be constructed, ~~or or~~ is
276 currently located, and a permanent object or marker (e.g.,
277 house, tree, ~~USGS~~ United States Geological Survey
278 benchmark) to be used as a reference point;

279 c. The exact setback distance from ~~adjacent~~ the property
280 lines and projected property lines to all portions of the
281 dock;

282 d. Floor and roof elevations of the ~~proposed or existing~~
283 dock;

284 e. The current water depth at the end of the ~~proposed or~~
285 ~~existing~~ dock ~~and, and~~ at all proposed mooring locations;

- 288 f. The length of the ~~proposed or existing~~ dock, as measured
 290 from the ~~normal high water elevation (NHWE)~~ to the
 point most waterward of the NHWE;
- g. The NHWE ~~as established by the county~~;
- 292 h. The location of any conservation easement ~~area~~ areas or
 294 wetland and wetlands within twenty (20) feet from any
 portion of the dock;
- i. A description of vegetation types ~~identified~~ occurring
 296 within the area described in paragraph 15-341(b)(6)h.
 298 ~~Private dock applicants may request EPD to assist with
 identifying vegetation types; and~~
- j. Location of lifts, hoists, mooring pilings, ~~and~~ mooring
 300 areas, and dock accessory structures.
- 302 (7) A statement indicating whether any portion of the dock will
 be docks are located on abutting properties;
- 304 (8) A mitigation plan offsetting adverse impacts to ~~the surface
 waters, conservation easement areas~~ areas, or wetlands,
 306 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;
- 308 (9) A description of sediment and erosion control measures to
 310 be used during construction or modification and/or repair of
 the dock. These measures must be depicted on the site plan;
 and
- 312 (10) Indicate whether the proposed dock is for public, semi-
 314 private, or private use. (If the proposed dock is for public or
 semi-private use, approval of a special exception may be
 316 required through the board of zoning adjustment and the
 board. The application must demonstrate that the property is
 appropriately zoned prior to permit issuance.)
- 318 (11) ~~An applicant~~ Applicants may submit the following
 information with their applications:
- 320 a. A request for a variance ~~or waiver under~~ pursuant to
 section 15-350.
- 322 b. If applicable to a variance request, an original, Original,
 324 signed and notarized letter(s) ~~letters~~ of no objection from
 the abutting or affected shoreline property owner(s)
 326 ~~owners when applicable~~. The letter of no objection must
 328 identify 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.

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

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

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

340 (b) The dock ~~must only extend~~ shall extend only to the point
where reasonable water depth for vessel mooring and access to
342 navigable water is achieved. A reasonable water depth may be
defined by a determination that the dock does not extend any further
344 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
346 as measured from the NHWE, unless the natural conditions of the
water body necessitate a greater water depth to allow reasonable
348 mooring conditions. The dock length necessary to achieve a
reasonable water depth must not create a navigation hazard, as
350 determined by EPD or law enforcement. ~~The maximum water depth~~
allowed for mooring areas is five feet, as measured from the NHWE,
352 unless the natural conditions of the water body necessitate a greater
water depth to allow reasonable mooring conditions. The dock must
354 have a minimum mooring depth of twenty-four (24) inches, as
measured from the NHWE, to prevent bottom scouring.

356 (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,
358 the water body or constitute a navigation hazard, as determined by
EPD or law enforcement. No work should be done within areas;
360 which that constitute easements for ingress or egress or for drainage
unless authorized by the county.

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

368 (e) The maximum allowable square footage of the terminal
platform shall not exceed the square footage of ten is the calculation
370 of fifteen (15) times the linear shoreline frontage, for the first
seventy five (75) feet of shoreline and five times the linear shoreline
372 frontage for each foot in excess of seventy five (75) feet, not to
exceed a maximum of not to exceed one thousand five hundred
(1,500) (1,000) square feet. In addition to the requirements of

374 paragraph 15-341(b)(8), EPD will require mitigation for a terminal
376 platform in excess of one thousand (1,000) square feet as established
using the uniform mitigation assessment methodology provided in
chapter 62-345, F.A.C.

378 (ef) Access walkways ~~are shall be~~ limited to ~~a five-foot-six (6)~~
380 feet in width. Impacts to wetlands must shall be avoided to the
greatest extent practicable. Access walkways traversing any wetland
382 or platted upland buffer must shall be elevated a minimum of three
384 (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 or upland buffers.

386 (g) Boards used to construct the surface of the structure, whether
388 landward or waterward of the NHWE, must not exceed eight (8)
inches in width and must be spaced at least one-quarter (1/4) inch
390 apart. Board spacing on the structure should allow light penetration
underneath.

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

394 (ei) The maximum allowable roof height is shall be no higher
than twelve (12) fourteen (14) fifteen (15) feet above the floor
elevation.

396 (fj) ~~There shall be no fish-cleaning Fish-cleaning~~ stations, wet
398 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.~~

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

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

408 (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.

410 (n) On Outstanding Florida Waters or Outstanding National
412 Resources, a reasonable demonstration that dock pilings will not
cause degradation of ambient water quality consistent with rules
414 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

416 will prevent the leaching of constituents contained in treated wood,
418 or using alternative materials such as concrete or recycled plastic
pilings.

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

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

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

446 (eb) Storage lockers ~~shall be~~ are limited to a cumulative
448 maximum of sixty-five (65) cubic feet. Storage lockers must not
~~shall not~~ be used to store boat maintenance or ~~and/or~~ repair
450 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.~~

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

456 (a) Semi-private and public docks, including designated
mooring areas, must shall have a minimum side setback-side setback
458 of twenty-five (25) feet from any property line or the projected
property line, unless such requirement is reduced by an appropriate
460 waiver, which shall be reviewed by the environmental protection
division. Final approval of a side setback waiver under this

462 ~~provision shall be granted in accordance with the provisions of~~
~~section 15-350.~~

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

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

470 ~~(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.~~

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

476 ~~(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.~~

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

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

488 ~~(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~~
490 ~~footprint of the dock, as approved in the boat dock construction~~
492 ~~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~~
494 ~~dock is located is responsible for maintaining a dock in safe and~~
~~useable condition. Best management practices must be used during~~
496 ~~all maintenance and repair activities to prevent soil erosion and~~
~~water quality violations in the project area. Information on best~~
498 ~~management practices may be obtained from the environmental~~
~~protection division-EPD.~~

500 ~~(b) *Owner's duty to repair, replace, or remove unsafe*~~
~~structures. The owner(s) of property where a dock is located must~~
502 ~~promptly repair, replace, or remove a dock structure, or part(s) of~~
~~the structure, that because of dilapidation, deterioration, decay,~~
504 ~~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.

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~~(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.~~

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~~(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.~~

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~~(dc) 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.~~

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~~(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~~

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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 adding to the roof, adding to the terminal platform 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 variance 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 application for variance 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~~ governmental bodies.

(c) 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 (20) thirty five (35) calendar days of receipt of ~~such~~ notice, notices. Objections to a

594 variance request should detail the grounds of the objection and any
595 impact or effect of the requested variance.

596 (d) Failure to return written comments within ~~twenty (20) thirty-~~
597 ~~five (35) calendar~~ days ~~will shall~~ be presumed to indicate that no
598 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.

600 (e) The Windermere Water and Navigation Control District
601 Advisory Board and the Conway Water and Navigation Control
602 District Advisory Board may submit to the environmental protection
603 officer a recommendation to approve or deny an application for
604 variance applications for docks within their jurisdictions.
605 Recommendations ~~shall must~~ be approved by a majority of the
606 advisory board at a public meeting, duly noticed and conducted in
607 accordance with the Florida Sunshine Law, section 286.011, Florida
608 Statutes, ~~as may be transferred or amended from time to time.~~
609 Advisory board recommendations ~~shall must~~ be submitted to the
610 environmental protection officer within ~~twenty (20) thirty five (35)~~
611 ~~calendar~~ days of receipt of notice.

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

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

626 (b) *Decisions relating to new dock construction.* Upon receipt
627 of comments from all parties that have been notified pursuant to this
628 article, or upon ~~the~~ expiration of the ~~twenty (20) thirty five (35)~~
629 ~~calendar~~ day period for written comments or and recommendations,
630 when applicable, and following staff review of the complete dock
631 application, the environmental protection officer shall approve,
632 deny, or approve with conditions, the application to construct the
633 dock.

634 (c) ~~*Decisions relating to applications to repair pursuant to*~~
635 ~~*section 15-346(b).*~~ The environmental protection officer shall
636 approve, deny, or approve with conditions, applications for repairs

638 that meet the criteria set forth in section 15-346(b) following the
staff review of a complete application.

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

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

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

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

684 ~~may affirm, reverse, or modify the decision of the environmental~~
685 ~~protection commission. The decision of the board shall be final.~~

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

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

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

702 (e) ~~Failure to provide the information required in subsection 15-~~
703 ~~349(d) shall be a basis for dismissal of the appeal by the~~
704 ~~environmental protection officer. The environmental protection~~
705 ~~officer shall promptly give written notice to the appellant of the~~
706 ~~dismissal of the appeal and shall state the reasons for the dismissal.~~
707 ~~Dismissal of an appeal shall, at least once, be without prejudice to~~
708 ~~appellant’s filing an amended notice of appeal within fourteen (14)~~
709 ~~days of the date of the dismissal.~~

710 **Sec. 15-350. ~~Variances and waiver.~~**

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

- 717 (1) Identify the section(s) of this article that the applicant seeks
718 a variance for and the extent of the requested variance;
719 (2) Describe the impact of the requested variance on the water
720 body and the environment;
721 (3) Explain the effect of the requested variance on any abutting
722 or affected shoreline property owner(s);
723

726 (4) Describe how strict compliance with the section(s) of this
article would impose a unique, unreasonable, and
unintended unnecessary hardship on the applicant; and

728 (5) Explain why the hardship is not self-imposed.

730 (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.

732 ~~(1) Variances. An application for variance from the~~
~~requirements of this article shall be made to the~~
734 ~~environmental protection officer. At a minimum, the~~
~~applicant shall identify the sections and paragraphs of this~~
736 ~~article from which the applicant seeks a variance and the~~
~~extent of the requested variance. The applicant shall also~~
738 ~~describe (1) how strict compliance with the provisions from~~
~~which a variance is sought would impose a unique and~~
740 ~~unnecessary hardship on the applicant the hardship cannot~~
~~be self imposed; and (2) the effect of the proposed variance~~
742 ~~on abutting shoreline owners. The environmental protection~~
~~officer, environmental protection commission and the board~~
744 ~~may require of the applicant information necessary to carry~~
~~out the purposes of this article. A variance application may~~
746 ~~receive an approval or approval with conditions when such~~
~~variance: (1) would not be contrary to the public interest; (2)~~
748 ~~where, owing to special conditions, compliance with the~~
~~provisions herein would impose an unnecessary hardship on~~
750 ~~the permit applicant; (3) that the hardship is not self-~~
~~imposed; and (4) the granting of the variance would not be~~
752 ~~contrary to the intent and purpose of this article.~~

754 (b) *Mitigation.* In addition to the requirements of paragraph 15-
341(b)(8), the environmental protection officer may require
756 mitigation appropriate for the variance and the extent of the
requested variance.

758 (c) *Procedure.* Except for variances granted pursuant to
paragraph 15-350(e) of (f), the environmental protection officer
760 shall either render a recommendation to approve, deny, or approve
with conditions a variance application consistent with paragraph 15-
762 350(d), and schedule a hearing on the variance application before
the EPC. The EPC shall render a recommendation to the board to
764 approve, approve with conditions, or deny the variance application.
The recommendation of the EPC will be timely provided to the
766 board and the board may accept the recommendation or call for a
public hearing.

768 (d) *Criteria.* A variance application may receive an approval or
an approval with conditions if granting the variance:

- 770 (1) Would not negatively impact the water body or the
772 environment or if there is a negative impact, sufficient
mitigation is proposed pursuant to paragraph 15-350(b), if
appropriate;
- (2) Would not be contrary to the public interest;
- 774 (3) Where, owing to special conditions, compliance with the
776 provisions herein would impose a unique and substantial
unnecessary hardship on the applicant;
- 778 (4) Where the environmental protection officer has determined
that the hardship is not self-imposed on the applicant; and
- 780 (5) Would not be contrary to the intent and purpose of this
article.
- 782 (i) ~~The environmental protection officer may approve~~
784 ~~variances to the provisions of this ordinance to~~
~~accommodate persons with disabilities or to comply with~~
~~the Americans with Disabilities Act.~~
- 786 (ii) ~~The environmental protection officer may approve~~
788 ~~variances to the provisions of this article in order to~~
~~provide greater protection to the water bodies and~~
~~shorelines than provided under this article.~~
- 790 (iii) ~~Applicants may seek variances from the provisions~~
~~of the ordinance not addressed in paragraphs (i) and (ii)~~
~~above from the environmental protection commission.~~
- 792 (2) ~~Waivers. An application for waivers from the requirements~~
794 ~~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~~
796 ~~minimum, the applicant shall identify the sections and~~
~~paragraphs of this article from which the applicant seeks a~~
798 ~~waiver and the extent of the requested waiver. The applicant~~
~~shall also describe (1) how this waiver would not negatively~~
800 ~~impact the environment, and (2) the effect of the proposed~~
~~waiver on abutting shoreline owners. The environmental~~
802 ~~protection officer and the board may require of the applicant~~
~~information necessary to carry out the purposes of this~~
~~article.~~
- 804 (e) The environmental protection officer may approve or
806 approve with conditions a variance to the provisions of this article
to accommodate persons with disabilities or to comply with the
808 Americans with Disabilities Act. The environmental protection
officer may approve or approve with conditions a variance to the
810 provisions of this article in order to provide greater protection to the
water bodies and shorelines than provided under this article. This

812 may include an approval with conditions to provide additional
mitigation beyond any required pursuant to paragraph 15-341(b)(8).

814 (f) The environmental protection officer may approve or
approve with conditions a variance to side setback requirements for
816 adjoining properties that share a common dock, if the adjoining
property owners record a legal instrument allowing each owner the
818 right to construct, repair, replace, access, and use the proposed
shared dock. The Orange County Attorney's Office must approve
820 the legal instrument as to form. Applications for each portion of the
proposed shared dock must be reviewed by EPD concurrently. This
822 provision will only apply when the internal property lines between
the property owners cross the proposed shared dock.

824 ~~(b) Procedure. Except as otherwise provided in section 15-~~
826 ~~343(b), the environmental protection officer shall make a~~
~~recommendation to approve, deny, or approve with conditions a~~
828 ~~variance or waiver application to the environmental protection~~
~~commission. The environmental protection commission shall render~~
830 ~~to the board a recommendation to approve, approve with conditions,~~
~~or deny the variance or waiver application. The recommendation of~~
832 ~~the environmental protection commission shall be provided to the~~
~~board within twenty one (21) days, provided that if no meeting is~~
834 ~~scheduled within the twenty one day period, then the~~
~~recommendation shall be presented at the first meeting of the board~~
836 ~~following the expiration of the 21 day period. The board may accept~~
~~the recommendation or call for a public hearing.~~

838 **Sec. 15-351. Building permit required.**

840 Following the issuance of a dock permit, the permittee permit
842 holder must obtain a building permit from the appropriate building
844 official prior to commencing construction. The construction plan
submitted as part of the building permit application must be the
846 construction plan approved by the environmental protection officer
and incorporated into the dock permit. The provisions of the Florida
848 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
850 for the required building official prior to the commencement of
work.

852 **Sec. 15-352. Compliance checks.**

854 (a) The permittee or permit holder and/or designated agent must
856 submit a notice of completion to ~~the environmental protection~~

858 ~~division-EPD~~ within thirty (30) days of completion of the
construction ~~or repair~~ of the permitted structure so that a compliance
860 check may be performed by ~~environmental protection division-EPD~~
staff.

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

866 (c) The compliance check will ~~shall~~ determine if the structure
was built according to the plans and permit approved by the
868 environmental protection officer ~~division~~.

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

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

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

884 (c) Any person violating this article will ~~shall~~ be liable for all
costs incurred by the county in connection with enforcing this article
886 or any provision of any resolution enacted pursuant to this article,
including without limitation, attorneys' fees and investigative and
court costs.

888 (d) If the environmental protection officer determines that
construction is occurring or has occurred without prior approval or
890 not in accordance with this article, ~~these regulations~~, the
environmental protection officer shall promptly issue a written
892 notice of violation to the applicant and/or designated contractor. The
notice of violation will ~~shall~~ include a description of the site where
894 the violation has occurred, cite citation to the provision(s) provisions
of this article, ~~these regulations~~, general or special laws that ~~which~~
896 have been violated, and set forth the remedial action required by the
county. Such remedial action may include submittal of revised
898 drawings, reapplication submittal of an application for a permit or
permit modification, removal of the dock or any offending portion
900 thereof, and administrative and civil penalties. Any person

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determined to have violated section 15-324 for failure to obtain a permit prior to constructing a dock or modifying an existing dock may be subject to an administrative penalty of \$500.00 in an amount not to exceed \$10,000. The administrative penalty as provided in this section is not intended to limit the judicial imposition of civil penalties in state court. Additional penalties may be assessed as determined by the environmental protection officer.

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 water body where state or federal regulations prohibit such installation.

Secs. 15-355—15-360. Reserved.

Section 4. Effective Date. This ordinance shall take effect pursuant to general law.

ADOPTED THIS ____ DAY OF _____, 2022.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners
By: _____
Jerry L. Demings
Orange County Mayor

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

By: _____
Deputy Clerk