

are intended for public use, the applicant, depending upon the zoning classification of his/her property, may have to request a special exception permit from the planning and zoning board and city commission. All applications must also include a scale drawing(s), signed and sealed by a licensed professional engineer or architect, accompanied by five copies thereof, that provides accurate information as to each of the following elements:

- (1) An arrow shall be drawn to indicate the northerly direction of the property. Furthermore, the drawing shall indicate the scale to which the drawing was prepared and the name of the lake or water body on which the shoreline improvements will be located. All drawings must be drawn utilizing an industry standard engineering scale.
  - (2) The sealed drawing(s) must show the dimensions of the property, and the length and location of the proposed dock, seawall, or any other shoreline improvements; and identify the licensed contractor who will be installing or otherwise constructing such improvements.
  - (3) The exact distance between the existing shoreline and the point where the shoreline improvement is being proposed depicted in relation to a permanent landmark or structure (e.g., a house or large tree).
  - (4) The exact distance of setbacks from adjacent property lines, the extension of those property lines into the water body, and an approximation of the distance of the proposed shoreline improvements to the closest existing docks, seawalls, or any other existing shoreline improvements or alterations located on either side of the property.
  - (5) The floor elevation of the proposed dock, and the floor and roof elevation of any boat house or other structure connected to the dock.
  - (6) The depth of the water at the end of the proposed dock.
  - (7) The drawings must include a survey prepared by a Florida Registered Surveyor that indicates the precise location of the normal high water elevation and all existing conservation easements, conservation tracts, and conservation areas.
  - (8) The drawings shall further be accompanied by all necessary clearance letter(s) and/or permit(s) from the St. Johns River Water Management District ("SJRWMD").
- (d) *Application review.* Shoreline improvement applications shall be reviewed and processed by the building department and the engineering department pursuant to the following rules and regulations with additional review to be conducted by the planning and zoning department. Upon compliance with the following procedures and approval of the building, engineering, and zoning departments, the city may issue a permit for the proposed improvement along with any conditions required to meet the requirements of this division:
- (1) *Notice to neighboring property owners.* Upon receipt of an application, the city shall send notices by first class mail to the owners of properties located within 300 feet of the parcel to be served by the shoreline improvement. All such notices shall require that written comments concerning the proposed improvements be sent to the city within 15 days following the date the notices were sent.
  - (2) *Building permit application.* All requests for building permits for a dock, seawall, or other shoreline improvements must meet the following requirements in order to be approved:
    - i. Docks and seawalls shall have a minimum side setback of 15 feet from the projected property line abutting the shoreline, unless such requirement is reduced by variance, which shall be subject to review by the engineering department and the approval of the planning and zoning board and city commission.

- ii. The length and configuration of docks or seawalls and other shoreline improvements shall be designed to assure that the applicant's reasonable use of such improvements will not unreasonably interfere with the riparian or littoral rights of other persons and property owners to use and access the lake. The length of a boat dock, seawall, or other shoreline improvement must be measured from the normal high water elevation on the shoreline as established in relation to a fixed landmark, object or permanent structure on the lot. Consideration will be given to the length and configuration of other existing docks, seawalls, and improvements abutting the lake or waterway and any other applicable policies or restrictions established by the city or state. No work shall be performed in easement areas established to provide for ingress, egress, drainage, or utilities. Under no circumstances shall a permit for the construction of a dock or seawall be utilized to construct any structures or facilities intended for residential habitation. No dock, seawall, or other shoreline improvement may exceed a length of 100 feet when measured waterward from the normal high water elevation.
- iii. The minimum height of docks, seawalls, and other shoreline improvements must exceed the normal high water elevation. No dock, seawall, or other shoreline improvement shall stand more than 13 feet above the normal high water elevation, provided that the dock does not unreasonably obscure the view of the adjoining water body when viewed from other waterfront properties. Docks may be equipped with roofs but cannot be enclosed about the sides, regardless of whether such enclosure is constructed from walls, fencing, screening, latticework, or fabric; however, transparent mesh screens shall be allowed to protect against insect intrusion.
- iv. Docks, seawalls, and other shoreline improvements, shall not impair or impact wetlands or riparian zones unless all necessary permits are obtained from the city, the Saint John's River Water Management District, the Florida Department of Environmental Protection, and any other state or federal agencies having regulatory jurisdiction over the affected property.
- v. No dock, walk, deck, or other similar shoreline improvement shall have a surface area exceeding 1,000 square feet. Docks, decks and walkways are not permitted to have more than one story, including without limitation, a walkway or useable platform above or upon the roof of any boat house.
- vi. The application must address standards for docks on canals, rivers, streams, or waterbodies measuring less than 200 feet wide to avoid restricting the navigability of such waters.
- vii. All shoreline improvement applications shall be accompanied by professionally prepared drawings of the proposed improvements that are signed and sealed by a professional engineer or architect.
- viii. Shoreline improvements cannot be located in easement areas provided for ingress, egress, drainage or utilities.
- ix. Walkways, docks, patio and decks located landward of the NHWE shall not exceed 25 percent of the rear setback area.
- x. No permit for a shoreline improvement shall be issued if the application demonstrates a reasonable potential that any of the following

conditions will occur as a result of the construction or installation of such improvement:

- a. Obstruction or impairment to navigability;
- b. Unreasonable impairment of the view of the water body from other waterfront properties;
- c. Hazardous or unsafe conditions; or
- d. Unreasonable interference with the riparian or littoral rights of other nearby property owners. In the context of this criterion, "unreasonable interference" shall include but not be limited to situations in which a proposed structure impedes access to or ingress and egress of boaters and swimmers from other nearby docks and shorelines; infringes upon or otherwise intersects commonly traveled boat routes or established watercraft channels; or creates an unusual configuration of the shoreline that restricts boating access within navigable sections of the waterway.

(e) *Building permit required.* Following the approval of an application for a proposed dock, seawall, or other shoreline improvement, the applicant must obtain a building permit from the city building department prior to commencing construction. Construction must be commenced and/or completed within the guidelines established by the building department.

(f) *Variances.* An application for a variance from the requirements of division 10, 11, or 12 of this article shall be made to the planning and zoning board simultaneous with the submission of a shoreline improvement application and any applicable permit and review fees and will follow the adopted variance procedures. When a variance is requested, the applicant shall also submit

to the city five sets of plans identifying the variance sought and setting forth those facts justifying the requested variance.

In addition to the criteria for variances established under section 180-131 of this Code, the planning and zoning board and city commission shall further consider the following as they specifically apply to variances issued for shoreline improvements, boat ramps, and shoreline alterations:

- (1) The average length and configuration of other docks or seawalls in the area;
- (2) The owner's right to enjoy reasonable use of his/her/its property;
- (3) The effects the improvements will have on navigability, safety, and the rights of adjoining property owners to enjoy the reasonable use of their properties;
- (4) The impact, if any, on the neighborhood and nearby properties;
- (5) Whether special conditions exist such that strict compliance with the provisions of this article would impose a unique and unnecessary hardship on the applicant;
- (6) The effect of the proposed variance on abutting shoreline property owners;
- (7) Whether the granting of the variance would be contrary to the intent and purpose of this article; and
- (8) Whether a variance is necessary to reach a water depth suitable for boating (i.e., usually five feet or more).

(g) *Appeals.*

- (1) *Permits.* The applicant or any person entitled to notice may appeal the approval or denial of an application for a shoreline improvement, boat ramp, or shoreline alteration permit to the city commission by filing a petition within ten days of such approval or denial. Such petition shall be submitted to the city manager or his/her designee in writing and set forth the reasons and evidentiary basis for overturning the approval or denial of the

requested permit. A timely filed appeal shall be heard by the city commission within 30 days of the date such appeal is filed with the city, although the city manager may authorize an extension of such 30-day period to 45 days.

- (2) *Variances and special exceptions.* Decisions of the planning and zoning board concerning variances and special exceptions related to the subject matter contained in divisions 10, 11, or 12 of this article may be appealed to the city commission in accordance with section 98-31 of this Code.
- (3) *Appeals from decisions of the city commission.* Appeals from the decisions of the city commission shall be made in accordance with section 98-32 of this Code.

(h) *Scope, effect of permit.* Permits issued for shoreline improvements, boat ramps, and shoreline alterations shall not substitute for any permitting requirements of any state or federal agencies but shall instead be cumulative to any necessary environmental permits. The city shall not permit any shoreline improvements, boat ramps, or shoreline alterations in any areas where state or federal regulations prohibit the construction, installation, or implementation of such. Valid permits from Florida Fish and Wildlife Commission (FWC) and/or Florida Department of Environmental Protection (FDEP) shall be in addition to city permitting requirements. (Ord. No. 11-20, § I, 9-21-11; Ord. No. 17-21, § 11, 8-24-17; Ord. No. 18-25, § 4, 11-8-18)

#### **Sec. 118-1324. Reserved.**

### **DIVISION 11. BOAT RAMPS**

#### **Sec. 118-1325. Definitions.**

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

*Boat ramp facility* means the boat ramp and any other improvements which may be required

or authorized by state or local regulations or this article to be built in conjunction with a particular type of boat ramp.

*Boat ramp* means any structure or clearing that extends waterward of the normal high water elevation or any structure or clearing upon which trailerable watercraft can be launched into or retrieved from a body of water. Regardless, this definition shall not apply to a homeowner who clears land which is the site of his personal residence in compliance with applicable regulations without building any structure or dredging or filling for the sole purpose of launching and retrieving his or her personal watercraft.

*Boat ramp facility permit* means a permit issued by the City of Winter Garden pursuant to the regulations contained herein, which permit, in conjunction with the required building permit(s), authorizes construction of a boat ramp facility. The permit shall automatically expire and reapplication shall be required in the event that construction of the boat ramp facility is not completed within one year of issuance of such a permit.

*Boat ramp facility site* means a duly platted lot or parcel of record which is the location of any boat ramp facility.

*Commercial boat ramp facility* means a boat ramp and any improvements required or authorized by state or local regulations to be built in conjunction therewith, the use of which is fee-based, open to equal public access, and intended to profit its owner, not including; (1) fees paid by any homeowner or condominium association for maintenance of common elements; or (2) fees imposed by any governmental or quasi-governmental entity. A commercial boat ramp facility shall also include any boat ramp used in connection with any commercial establishment where the boat ramp is used as an enhancement to the principal function of the basic facility, whether or not use of the boat ramp facility itself is fee-based or profit motivated, or both.

*Companion boat mooring docks* means a single mooring boat dock required or authorized to be built in conjunction with any boat ramp. A companion boat mooring dock may be permitted

as part of the boat ramp facility permit and shall not require a boat dock permit. However, the companion boat mooring dock shall require a separate building permit.

*Private boat ramp facility* means a boat ramp and, if applicable, any improvements required or authorized by state or local regulations to be constructed in conjunction therewith, other than a commercial boat ramp, which boat ramp and improvements are not the subject of unrestricted





public access to waters, and which are intended to be used, and are in fact used, only by those persons living in the single-family residence located at the boat ramp facility site and their usual and customary guests who are either in the company of the resident or using the resident's watercraft. It is intended that this type of facility be limited in scope of use. It is further intended that any application for a private boat ramp facility or semi-private boat ramp facility which is approved as such, but is in fact routinely used by individuals other than usual and customary guests of a private resident who are either in the resident's company or using the resident's watercraft, shall be considered an illegal use and be subject to revocation upon majority vote by the city commission.

*Projected property line* means a continuation of, and extension to, the upland property line into a body of water. In cases of privately owned bottomland, that is, non-sovereignty submerged lands underlying a water body, the projected property line is the actual property line.

*Public boat ramp facility* means a boat ramp and any improvements required by state or local regulations to be constructed in conjunction therewith, which provide the general public with unrestricted public access to waters.

*Semi-private boat ramp facility* means a boat ramp facility (other than a commercial, public or private boat ramp) along with a companion boat dock and any other improvements required by state or local regulations to be constructed in conjunction therewith, which are intended for the use of, and are in fact used by, a group of residents living in a subdivision or multifamily development, as the case may be, wherein a boat ramp facility is located or their usual and customary guests, but only if in the company of such residents.

*Unrestricted public access* means:

- (1) Open to any member of the general public at reasonable hours, free of charge; or
- (2) Operated by any governmental entity including, but not limited to, City of Winter Garden.

(Ord. No. 11-20, § II, 9-21-11)

## **Sec. 118-1326. Permit procedure and criteria.**

(a) *Application and supporting data.* Any person applying for a boat ramp permit shall be required to submit five copies of the application to the community development department—building division. No application shall be accepted unless accompanied by an application fee, as established by the city, which fee shall be nonrefundable, the payment of which does not guarantee issuance of a permit. Application forms shall be provided by the building division and shall require the following information, at a minimum:

- (1) Proof of applicable Florida Department of Environmental Protection permits for the proposed boat ramp and, if requested, the companion boat dock;
- (2) Proof of applicable U.S. Army Corps of Engineers permit for the proposed boat ramp and, if requested, companion boat dock;
- (3) If applicable, a copy of the submerged lands lease from the Florida Department of Natural Resources pertaining to the requested boat ramp and, if requested, the companion boat dock;
- (4) Satisfactory evidence of title to or extent of interest of the applicant in:
  - i. The riparian upland ownership; and
  - ii. The ownership of the submerged boat ramp facility site.

Regardless of the foregoing, a claim of ownership of the submerged part of the boat ramp facility site by the Florida Department of Natural Resources shall not preclude issuance of a boat ramp facility permit, provided that the applicant has complied with any applicable department of natural resources or other state or federal requirements necessary to allow use of such submerged lands;

- (5) A survey of the boat ramp facility site, including a depiction of all easements, rights-of-way, improvements and other encroachments. The survey shall depict the property at the time of permit application

and shall be prepared, signed and sealed by a surveyor registered in the State of Florida;

- (6) A site plan depicting the boat ramp facility and any other existing or proposed improvements (including parking spaces) at the boat ramp facility site. Such site plan shall also depict the normal high water elevation. A site plan for a semi-private boat ramp facility or commercial boat ramp facility must be prepared by a professional engineer licensed in the State of Florida;
- (7) Calculations regarding the amount of fill and excavation that will be required for construction of the boat ramp facility;
- (8) A list of materials that will be used to construct the boat ramp facility;
- (9) Cross section survey depicting slopes, elevations and depth profiles of the boat ramp facility;
- (10) Verification that the proposed boat ramp facility is a permitted use under applicable zoning regulations or has otherwise been approved by the planning and zoning board as a special exception;
- (11) Any applicable permitting fees which may be set from time to time by city commission by separate resolution;
- (12) A current tax map illustrating all upland property located within a 300-foot radius of the boundaries of the boat ramp facility site, including the names and mailing addresses of the owners of all such properties. If the application is for a public or commercial boat ramp facility, or for a semi-private boat ramp facility where launching of motorized boats would be allowed, the names and mailing addresses of the following upland owners is required:
  - i. If the proposed boat ramp facility is on a lake, all upland owners on the lake whereon the proposed boat ramp facility is to be located; or

- ii. If the proposed boat ramp facility site is on a canal or similar impoundment, all upland owners on the nearest lake which is navigably accessible from the canal or impoundment as well as those upland owners on the subject canal or impoundment.

(b) *General site performance criteria and requirements.*

- (1) No boat ramp facility of any kind shall be permitted without adequate stormwater management facilities which, in the opinion of the city engineer, are designed to effectively intercept all stormwater from the boat ramp above the normal high water elevation; however, all commercial boat ramp facilities and semi-private boat ramp facilities shall be required to have stormwater management facility designs consistent with the criteria contained in this chapter. The foregoing criteria are not intended to exempt the upland portion of the boat ramp site from any other applicable regulations regarding stormwater retention and mitigation.
- (2) No private or semi-private boat ramp shall be more than 15 feet in width.
- (3) In order to prevent boat prop scouring and littoral zone damage, no boat ramp facility, except for a private boat ramp facility, shall be permitted unless built in conjunction with a companion boat mooring dock.
- (4) A companion boat mooring dock shall have not more than one boat slip, unless constructed in conjunction with a commercial or public ramp facility.
- (5) To discourage boat maintenance and repairs at boat ramp facility sites, electrical outlets and lighting of any kind shall be prohibited within 100 feet of any boat ramp facility, except for a private boat ramp facility.
- (6) Public road access to any commercial or public boat ramp facility site is mandatory.