

- property line if written consent from the adjoining property owners is submitted with the permit application.
- (3) *Rear yards.* Fences and walls in rear yards may be a maximum of six feet in height.
- Option 1:* With the submission of a scaled drawing indicating the location and dimensions of the fence or wall overlaid on a sealed survey, the fence or wall can be located on the property line.
- Option 2:* Without the submission of a scaled drawing indicating the location and dimension of the fence or wall overlaid on a sealed survey, the fence or wall must be located at least six inches from the property line.
- Option 3:* Without the submission of a scaled drawing indicating the location and dimension of the fence or wall overlaid on a sealed survey, the fence or wall may be located on the property line if written consent from the adjoining property owners is submitted with the permit application.
- If the city determines there is a potential conflict with a proposed residential fence or wall that is adjacent to commercial or industrial property, the city will evaluate the appropriate alternative to provide necessary screening from the commercial or industrial property.
- (4) Fences adjacent to alleyways. Fences may be located no closer than four feet from the edge of pavement of an alley, or the unpaved right-of-way of the alley (rear yard or side yard) providing the fence is a maximum of four feet in height and the fence is semi-opaque. Fences that are greater than four feet in height (but no greater than six feet in height) and are fully opaque may be constructed adjacent to an alley (rear or side yard) providing the fence is no closer than eight feet from the edge of pavement of the alley. Driveways to alleyways may be gated providing the gate does not swing open toward the alley.
- (5) *General.* All fences must be installed with the smooth side or most finished side facing out towards the adjacent property. All fences and walls must be outside the triangle of visibility.
- (b) *Enclosure of swimming pools and spas.*
- (1) Fencing or enclosing of swimming pools shall additionally comply with the adopted version of the Florida Building Code, Section 424, Swimming Pools and Bathing Places.
- (2) All gates or doors opening through such enclosure shall be equipped with a self closing and self latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Screen enclosures shall be located at least five feet from the side or rear property line or outside of any utility or drainage easement whichever is greater.
- (3) No permanent structures (such as concrete pool decks) are permitted in utility easements. Fences are allowed uses in utility easements provided this construction does not interfere with the utility improvements in the easement.
- (c) *Electric fences.* It shall be unlawful for any person to erect, install or maintain any electrically charged fence within the city, except that the building official may issue a permit for an electrically charged fence to retain animals upon proof that the fence will not be hazardous to life.
- (d) *Barbed wire fencing.* For the purpose of these regulations, barbed wire includes concertina wire, razor wire, or any similar device.
- Notwithstanding the above regulations, it shall be unlawful for any person to erect, construct or maintain any barbed wire fencing within the city except:
- (1) Not more than three courses of barbed wire not to exceed one additional foot in height to the fence may be installed above

the top line of a six-foot chain link fence. Barbed wire may only be used in the following zoning districts:

- a. I-2;
- b. I-1; and
- c. C-2 with a special exception.

Regardless of the zoning district, no barbed wire may be used in locations without a special exception permit that are:

- d. Visible to a residential zoned property; or
- e. Within 20 feet of a public road.

Existing nonconforming situations—All existing nonconforming barbed wire as of the date of this subsection [July 14, 2011] shall be considered vested and may be allowed to remain.

- (2) Barbed wire fences which comply with state statutes may be erected, constructed and maintained on premises zoned for agricultural uses.

(e) *Fences creating safety hazards.* It shall be unlawful for any person to erect, install, or maintain a fence which obscures clear view of traffic at intersections or driveways or which creates a safety hazard to pedestrians or vehicular traffic.

(f) *Permits.* It shall be unlawful for any person to install, erect, construct, relocate or alter a fence within the city without first obtaining a permit from the building division. No permit shall be issued if the building inspector determines that the proposed fence does not meet any of the requirements of this section. A sketch or design of the proposed fence, including a description of materials to be used and specification of height, shall be submitted with the application for a permit.

(g) *Application of section to existing fences.* This section does not apply to fences in existence before the effective date of the ordinance from which this section derives, except that on sale or transfer of the property upon which a nonconforming fence is located, such fence shall be made to conform to the requirements of this section or shall be removed within 30 days of closing or transfer.

(h) *Chain linked fence.* Notwithstanding the above regulations, all new chain linked fences that are visible from either a public road or from a residential or commercial property must be coated in green, black, or brown vinyl. The exceptions to this requirement are:

- (1) Existing chain link fences;
- (2) Chain linked fences on single family or duplex residential property; or
- (3) New chain linked fences that receive specific permission by the planning and zoning board to be uncovered.

(i) *Subdivision walls and/or buffers.* All new perimeter lots in new subdivisions that back up to a public right-of-way must have some type of screen wall, fence, vegetative screen, or buffer at the time of final plat approval. The construction of said improvements must be approved by the planning and zoning board at the time of preliminary plat approval. Height of the screen wall shall be six feet from the finished grade of the location of the wall. These improvements shall provide both a desirable buffer for the residents of the subdivision from the street as well as provide an aesthetic buffer for the motorist. This can be accomplished with the installation of berms, walls and/or vegetation. In general, compliance with this section will require a brick facade wall (or berm or considerable amount of open space such as a golf course), hedges, canopy trees (at 50-foot spacing) and understory trees (at two trees per 50 feet). Inset sections of perimeter walls for landscaping are allowed. The following are not considered adequate buffers for compliance with this section:

- Chain linked fences.
- Wood fences.
- Painted or untreated block walls.
- Insufficient planting area for maturing landscaping.

Maintenance of these improvements will be the responsibility of the homeowners' association and must be clearly defined on the final plat.

(j) *Retention ponds.* All retention ponds that are required to have chain link fencing by St. John's River Water Management District must be

coated in green, brown, or black vinyl. The exception to this requirement are retention ponds that:

- (1) Are not visible from any public right-of-way or from a commercial or residential property; or
- (2) If the owner of the retention pond fencing receives specific permission by the planning and zoning board.

(k) *Maintenance.* All fences, walls or other similar structures erected in any residential district shall be maintained by the property owner. Property owners shall be responsible for maintaining the appearance of the fence, wall, hedge or other similar structure in a manner that there are no missing boards or slats, cracks, open gaps, leaning sections, crooked posts, missing blocks or bricks, cracked or crumbling blocks or bricks and to maintain the structural integrity of the fence, wall or similar structure.

(Code 1988, § 24-102; Ord. No. 99-48, § I, 7-22-99; Ord. No. 04-12, § 1, 4-8-04; Ord. No. 11-13, § 2, 7-14-11)

Sec. 118-1298. Visual and aural buffers.

A visual and aural buffer with a minimum width of five feet measured at right angles to the property line shall be required along the entire length of side and rear lot lines, except where such lot lines abut a street or waterfront, by any commercial or hotel or motel use abutting a residential district, by any service station abutting any adjacent use, by any industrial use abutting any adjacent use, and by any mobile home park abutting any adjacent use. This buffer shall be required over and above the rear and side yards for each zone.

(Code 1988, § 24-103)

Sec. 118-1299. Buffering material.

Buffering materials shall consist of decorative fencing or walls not to exceed the height of six feet or decorative trees and shrubs. Buffers shall be attractively landscaped and neatly maintained and shall otherwise be unoccupied except for permitted utilities. Buffering is to provide adequate reciprocal visual and aural screening

and protect property values on adjacent land uses and shall not be less than 80 percent opaque.

(Code 1988, § 24-104)

Secs. 118-1300—118-1309. Reserved.

DIVISION 8. ACCESSORY BUILDINGS AND ACCESSORY STRUCTURES

Sec. 118-1310. Generally.

(a) *Definitions.* For the purpose of this section, the following will be used as definitions:

Accessory buildings. An accessory building for both residential and nonresidential development is defined as a building that:

- (1) Is detached from the principal building;
- (2) Is clearly a supplementary use to the principal building;
- (3) The total square footage of all accessory buildings are less than 50 percent of the size of the principal building; and
- (4) Is not intended for human habitation.

Examples include storage buildings, residential green houses, detached garages, etc. Attached accessory buildings must comply with all setbacks and zoning regulations of the principal structure.

Accessory structures. An accessory structure is a structure that does not provide shelter from the elements. Examples include swimming pools and pool screening and decking, Bar-B-Q pits, decks, etc. Not included in the definition of accessory structures and not regulated by this division of code are driveways, fences, walls, bird baths, decorative ponds, and at grade patios.

Greenhouses. A greenhouse is a building constructed for the primary purpose of cultivation, growing, and protection of plants.

(b) *General requirements.* In general, accessory buildings and structures must be located in the rear or side yards and must be five feet from the property lines. Accessory buildings and structures cannot be located within any easements. Accessory buildings and structures located in the street side of a corner lot must comply

with the side yard setbacks of the principal building. Accessory buildings must be constructed simultaneously with, or following, the construction of the principal building, and shall not be used until after the principal building has been erected.

Accessory buildings shall be designed to blend aesthetically with the principal building. Detached accessory building walls shall not exceed nine feet in height, and roof peaks shall not exceed 12 feet in height. No accessory building may be located in the front yard or within any recorded easement. No more than two such accessory buildings may be located on any lot.

(c) *Setback and separation requirements for detached accessory buildings.*

(1) *Accessory buildings—160 square feet or less.* Accessory buildings that are detached from the principal building and are 160 square feet or less shall be:

- a. Located no less than five feet from a side or rear property line, and have the same sideyard setback as the principal building when located on the street side of a corner lot;
- b. Be closer than four feet to any other accessory building on the same lot; and
- c. Shall not be allowed to project beyond the established front building line of the principal building.

(2) *Accessory buildings—Greater than 160 square feet.* An accessory building greater than 160 square feet shall comply with the above requirements with the following exceptions:

- a. An accessory building greater than 160 square feet must comply with all the setback requirements of the principal structure.
- b. An accessory building greater than 160 square feet must be separated from the principal structure by a minimum of ten feet.

c. An accessory building greater than 160 square feet shall not occupy more than 25 percent of the rear yard.

(3) *Open carports.* Detached or attached open carports consisting of a roof and members for support, shall be located in either the front or side yard and must comply with all the setbacks of the principal building of the zoning district of the property.

(4) *Location criteria.* No accessory building may be located in the front yard.

(d) *Accessory structures.* All accessory structures (i.e. structures that do not offer shelter from the weather such as Bar-B-Q pits, decks, swimming pools, residential dog houses, etc.) are required to comply with the location criteria and setbacks regulations as identified for accessory buildings. With the exception of the sideyard of the street side of a corner lot, attached and detached pools, pool screens, and pool decking may be located up to five feet of the side and rear property lines.

(e) *Prohibited accessory buildings and structures.* The following accessory buildings and structures are prohibited in all zones:

1. Tents (when used over a two-week period) unless approved by the city commission.
2. Trailers and mobile homes (when used as an accessory building).
3. Shipping containers (except on a temporary basis on an active construction site).

(f) *Lot coverage.* The area of accessory buildings is included in the total lot coverage calculations. This total area must not exceed the maximum lot coverage as identified in the specific zoning district.

(g) *Greenhouses shall be considered only by special exception.* All greenhouses shall be designed to blend aesthetically with the principal building and shall be constructed of permanent building materials such as metal, glass or wood although composite materials may be considered. Greenhouses shall not be constructed of temporary

materials such as plastic, visqueen or cloth. Also, fiberglass shall not be used in the construction of greenhouses.

(h) *Storage buildings—160 square feet or less.* Construction or installation of storage buildings that are 160 square feet or less in area shall not require submission of building plans, but shall be subject to all other relevant requirements under this section, the city code, and the Florida Building Code, as may be applicable.

(Ord. No. 98-56, § 1, 9-24-98; Ord. No. 15-41, § 2, 5-28-15; Ord. No. 18-34, § 2, 8-23-18)

Secs. 118-1311—118-1319. Reserved.

**DIVISION 9. ENVIRONMENTAL
PROTECTION OF DEVELOPING
PROPERTIES**

Sec. 118-1320. Listed species.

Prior to any land clearing or burning of more than one acre of agricultural or vacant land, the owner of said property must provide the city with an environmental audit that identifies whether the property contains any threatened or endangered species of wildlife as identified by the Federal Endangered Species Act of 1973 as amended

(50CFR17) or the State of Florida's list of animals designated as endangered, threatened, or species of special concern in accordance with Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C. This environmental audit must be prepared by a professional biologist experienced in survey of listed wildlife species. If any of the species listed exist, the developer must develop a relocation, mitigation, or habitat protection plan prior to any disturbance of the land. This relocation, mitigation, or habitat protection plan must comply with all state and federal regulations concerning the above listed species. Cluster development through a PUD process will be considered as a mitigation strategy.

(Ord. No. 05-47, § 2, 10-13-05)

Sec. 118-1321. Phase one site assessment.

Prior to the development or redevelopment of any property greater than ten acres in size, or prior to the redevelopment of any property ever used for industrial or heavy commercial land use, the owner must submit to the City of Winter Garden a phase one site assessment.

(Ord. No. 05-47, § 2, 10-13-05)

DIVISION 10. BOAT DOCKS, SEA WALLS, AND SHORELINE ALTERATION

Sec. 118-1322. 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:

Dock means (i) any permanently fixed or floating structure extending from the upland into the water, capable of being used to moor vessels and/or conduct other water-dependent recreational activities; (ii) any floating structure, boat lift, or mooring piling, detached from the land, that is capable of being used to moor vessels and/or conduct other water-dependent recreational activities; or (iii) any area adjacent to the dock designated or designed for mooring purposes. This term shall not include any vessel that is not permanently docked, moored, or anchored.

Normal high water elevation ("NHWE") shall mean and refer to the higher of (a) the landward edge of any natural surface water body during normal hydrological conditions, as determined by the City Engineer of Orange County, or (b) the minimum infrequent high (IH) water elevation established by the Saint John's River Water Management District ("SJRWMD").

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

Private dock means a dock (excluding public docks) intended to be used by only those persons residing on or owning the upland parcel served by such structure and the usual and customary guests of such persons.

Projected property line means a straight, linear continuation of, and extension to, the upland property line into a body of water. In cases in which bottomland is owned privately (i.e., non-sovereignty submerged lands underlying a water body), the projected property line is also the actual property line.

Public dock means a dock that is open to the public access, including docks that are owned or otherwise controlled by commercial establishments, governmental and non-governmental institutions, and private organizations. The fact that an entity may require a fee or membership to access the dock shall not alter the public character of the dock.

Riparian rights means and refers to those legally cognizable rights incident to lands bordering upon navigable waters, rivers, and streams.

Littoral rights means and refers to those legally cognizable rights incident to ownership of property abutting the shoreline of a lake, canal, pond or other waters.

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

Shoreline means the upland and submerged areas immediately abutting the normal high water elevation ("NHWE") as defined in this section.

Shoreline alteration means and refers to the construction, installation, or emplacement of structures and other improvements along or near the shoreline and used in connection with aquatic activities, including structures such as docks and seawalls, but excluding boat ramps as defined and regulated in division 11 of chapter 118 of this Code.

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.

(Ord. No. 11-20, § I, 9-21-11)

Sec. 118-1323. Shoreline improvements—Docks, seawalls, and other shoreline improvements.

(a) Any person desiring to construct shoreline improvements within the city shall first apply for a permit prior to the installation of such improvements. Application shall be made to the city building department. A review fee of \$100.00 shall be paid at the time the application is submitted for review. An additional engineer review fee (on a dollar for dollar basis) shall be charged to the applicant. The payment of such application fee shall in no way guarantee issuance of a shoreline improvement permit, and such fee is nonrefundable. No permit application will be accepted unless there is a principal use established on the property.

(b) *Standards for seawalls and docks.* All seawalls and docks must conform to the following standards:

(1) *Seawalls:*

- i. Seawalls must be constructed landward of the normal high water elevation.
- ii. Seawalls cannot fill within the 100-year flood plain without providing compensating storage.
- iii. Seawalls cannot be constructed within any conservation, drainage or utility easement.
- iv. Seawalls cannot cause the filling or alteration of environmental swales

and/or drainage areas as required and permitted by SJRWMD without the express written approval (i.e., permit modification) of SJRWMD.

v. Seawalls must have a minimum of 40 percent penetration below existing grade and have no more than a 3 to 1 slope facing waterward that is at least equal to the height of the wall above grade, as certified by plans signed and sealed by a qualified engineer.

(2) *Docks:*

- i. Dock posts must, at a minimum, measure 4 inches × 4 inches in girth and be pressure treated for marine construction. Furthermore, such posts must be set a minimum of four feet into the existing lake, pond, river, or stream bottom.
- ii. All dock posts must be made from acceptable materials capable of withstanding reasonably anticipated environmental stresses and loads, such as poured in place concrete, solid poured concrete blocks 12" × 16" with an aesthetically pleasing poured top beam, or vertical slabs with an aesthetically pleasing top beam.
- iii. All dock applications must include a statement from a professional engineer or architect stating the proposed foundation depth will accommodate the stresses and loads that the dock is anticipated to bear.
- iv. Docks and or seawalls shall not be constructed in retention ponds or canals.

(c) *Applications.* Application forms shall be available from the city's building department. All applications shall indicate whether the proposed shoreline improvements will be for public or private use. Shoreline improvements intended for private residential use that meet all applicable criteria shall be deemed permitted accessory uses in all waterfront areas that are zoned for residential use. If the proposed shoreline improvements