

114-40. Obstruction of watercourse; dock construction.

(a) It shall be unlawful for any person to maintain, erect or establish on any water of the county any obstruction, whereby the normal navigation of boats may be obstructed or impeded. The purpose of this article is to preserve canal use rights, access to public waters and ensure the navigability of all county waters, including unmarked as well as marked channels. Additionally regarding the maintenance, construction or substantial improvement of any dock or similar structure on marine waters, including any unmarked or marked channels, rivers, manmade waterways and canals:

(1) No dock, structure, moored vessel, or combination thereof shall project from the seawall or shoreline (mean high water line) into the waterway a distance greater than one-third ($\frac{1}{3}$) of the total width of the waterway, project beyond the side use lines of the associated upland property, project beyond the edge of any marked or unmarked channel nor project a distance great enough to reduce the navigable channel within a canal to a width of less than twelve (12) feet.

(2) Any flotation material used in floating docks shall be fully encapsulated; suitable for marine use; resistant to puncture, fire, cracking, peeling, or loss of pellets and generally impervious to water or fuel damage.

(3) No dock or similar structure shall exceed a maximum height of fifteen (15) feet above the mean high water mark.

(4) For the dead-end of canals and other instances where the side use lines of adjoining lots may converge (the point at which the lines between properties no longer run perpendicular with the general direction of the shoreline and/or seawall), such as a bend or curve in a waterway or canal, docks shall be placed so as to maximize navigability and to preserve canal use rights to all nearby property owners. To this end docks on all lots (typically three (3) or four (4) lots including the last lots on each side of the canal and the lot(s) at the end) that make up a dead-end of a canal, and other instances where side use lines converge, shall be built within the confines of the side use lines extending out toward the radial point of the canal dead-end or bend and shall further be limited to the waterward use line located within the side use lines. Additionally for dead-ends, the canal side owners shall build within their canal use rights envelope ("canal use zone") as far away from the end of the canal as practicable and the end lot owner shall build in the center of the lot or canal, to extent practicable.

(5) Common ownership docks may be permitted if they comply with the criteria already enumerated in this section and with the following additional criteria:

a. The applicant(s) shall furnish a written agreement signed and acknowledged by all record owners of the participating upland riparian properties, in a form acceptable to the county, providing for appropriate reciprocal-easements, restrictions and covenants running with the land, which shall be filed in the public records of the county at the expense of the applicant(s);

b. The permit shall provide that all parties shall have reciprocal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations and conditions set forth in the permit and this section; and

c. The regulations for setbacks apply to joint ownership docks with the exception that docks may be extended over common side use lines of the co-applicants.

(6) This section shall apply retroactively, provided however, for the purposes of this section a nonconforming use exception for an existing dock, structure, moored vessel, or combination thereof may be granted as an acceptable nonconforming use provided that:

- a. The dock, structure, moored vessel, or combination thereof must actually be in existence on the effective date of the ordinance from which this section is derived;
- b. The dock, structure, moored vessel, or combination thereof must have continued without abandonment;
- c. The dock, structure, moored vessel, or combination thereof does not extend beyond the side use lines;
- d. The dock, structure, moored vessel, or combination thereof must be in legal compliance with previous dock ordinances and other state, federal and local regulations; and
- e. The dock, structure, moored vessel, or combination thereof must not pose a threat or hazard to navigation or the general health, welfare, or safety of the public.

The nonconforming use may continue provided that there are no additions, expansions, or other modifications to the existing dock, structure, moored vessel, or combination thereof which will have the effect of increasing the square footage of the dock or otherwise increasing the nonconforming. The nonconforming use shall terminate and the dock, structure, moored vessel, or combination thereof shall be brought into full compliance with this section in case of:

- a. Abandonment of the property or premises for six (6) consecutive months or more;
- b. The dock is substantially damaged or destroyed or substantially improved;
- c. Any extension, expansion, or modification of the dock, structure, moored vessel, or combination thereof which has the effect of increasing the area, size, capacity, or nonconformity of such dock, structure, moored, vessel, or combination thereof.

(7) For purposes of this paragraph (a), the width of the waterway shall be calculated at the narrowest place where the dock is located and between opposing seawalls or, if seawalls are not present, between opposing mean low water lines, except lots at the end of a canal shall use the narrowest width of the canal measured at the adjoining side lots.

(8) The extent of the waterward side of new seawalls shall be the lesser of:

- a. Even with adjacent seawalls; or
- b. Even with the property line of the lot on which the seawall is to be constructed.

(b) Definitions.

(1) "Dock" is defined as a fixed or floating structure, including but not limited to moorings, piers, wharves, standalone pilings and boat lifting equipment, over or alongside water, which may be used for, but not limited to, the purpose of berthing buoyant vessels, fishing, or swimming.

(2) "Canal use rights" mean those rights allowing usufructuary rights to the water for recreational and navigational purposes and to wharf out or moor vessels in a manner consistent with this section.

(3) "Side use lines" are lines extending into the water from the property lines of upland owners adjacent to the water. Side use lines begin at the waterfront property corner and generally extend out perpendicular to the canal centerline, except that side use lines extend to the radial point at dead-ends and bends of canals. Along with the waterward use line, canal use lines mark the area (the "canal use zone") where upland property owners may exercise canal use rights in a manner consistent with this section.

- (4) "Radial point" shall mean the center point within the dead-end or bend of a canal equally distant from the shoreline or upland within the dead-end or bend.
- (5) "Common ownership dock" is defined as a dock which may extend over side use lines of adjacent landowners upland of a canal or shoreline that have entered into an agreement of joint access and ownership of said dock.
- (6) "Substantial damage" shall mean damage of any origin sustained by a dock whereby the cost of restoring the dock to its pre-damaged condition would equal or exceed 50% of the market value of the dock before the damage occurred.
- (7) "Substantial improvement" shall mean the replacement of more than fifty (50) percent of the structure, or the lateral or lineal extension of any dock.
- (8) "Waterward use line" shall mean a line generally parallel to the shoreline located a distance of one third of the total width of the canal as measured pursuant to paragraph (a)(7). Waterward use lines shall not extend beyond side use lines. Waterward use lines and side use lines shall be referred to collectively as "canal use lines" and together create the "canal use zone" for an upland owner.
- (c) No person shall construct or substantially improve any dock or similar structure or a seawall on the marine waters, including any unmarked or marked channels, rivers, manmade waterways and canals of the county without first obtaining a permit from the county; all authorizations required by state, federal, or local governments or agencies; and authorization from the owner(s) of the upland property to which the dock will be attached. The county shall assess permitting fees as established by resolution from time to time by the board of county commissioners.
- (d) Variances may be granted to these dock construction standards and mooring restrictions pursuant to the procedures and conditions of section 316 of the Land Development Code.
- (Code 1970, § 2 3/4-13; Ord. No. 82-22, § 10, 8-31-82; Ord. No. 88-31, § 13, 11-29-88; Ord. No. 93-04, § 13(2 3/4-13), 1-26-93; Ord. No. 02-16, § B, 7-30-02; Ord. No. 02-32, § 1B, 12-17-02; Ord. No. 07-06, § C, 3-27-07)