

ORDINANCE 11-20

AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING ARTICLE VI, CHAPTER 118 OF THE CITY'S CODE OF ORDINANCES TO INCLUDE NEW DIVISIONS 10, 11, AND 12 ESTABLISHING PERMITTING PROCEDURES AND STANDARDS FOR DOCKS, SEAWALLS, BOAT RAMPS, AND SHORELINE ALTERATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, the City desires to establish an ordinance concerning the construction of docks, seawalls, shoreline improvements, boat ramps, and shoreline alterations; and

WHEREAS, the adopted City of Winter Garden Comprehensive Plan commits the City to maintaining and improving the quality of surface waters and protecting the natural resources of Winter Garden; and

WHEREAS, it is the intent of the City to regulate shoreline alterations, docks, sea walls, boat ramps, and shoreline improvements to minimize the adverse impacts of such activities and structures upon the City's natural resources; and

WHEREAS, it is the intent of this article to apply these regulations in a manner that is sensitive to the property rights of applicants and persons residing in lake front areas and the rights of citizens of Winter Garden to enjoy the benefits of the City's natural resources; and

WHEREAS, recreational use of waters may reach a saturation level, at which point, overuse of the waters results in a decline in the recreational value of lakes and streams and a decline in the overall water quality of such waters; and

WHEREAS; in order to protect the public health safety and welfare, preserve the natural beauty and attractiveness of waters in the City, and maintain the water quality of waterways and water bodies in the City of Winter Garden, the City Commission enacts this ordinance pertaining to the regulation of shoreline alterations, docks, seawalls, shoreline improvements, and boat ramps; and

THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I The City of Winter Garden hereby establishes and adopts new Division 10 of Article VI of Chapter 118 of the Winter Garden Code of Ordinances entitled "Boat Docks, Sea Walls, and Shoreline Improvements," which shall read as follows:

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 or 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.

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 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% 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 x 4 inches in girth and be pressure treated for marine construction. Furthermore, such posts must be set a minimum of 4 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"x16" 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 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 fifteen (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.
- 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 twenty-five percent (25%) 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 § 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 5 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 (10) 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 thirty (30) days of the date such appeal is filed with the City, although the City Manager may authorize an extension of such thirty (30) day period to forty-five (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 § 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 § 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) may be substituted to meet City permitting requirements.

SECTION II. The City of Winter Garden hereby establishes and adopts new Division 11 of Article VI of Chapter 118 of the Winter Garden Code of Ordinances entitled “Boat Ramps,” which shall read as follows:

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 (1) 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

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 (5) 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 three-hundred (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 fifteen (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 (1) 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 one hundred (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.
7. Adequate parking for cars and trailers at any semi-private boat ramp facility site must be provided. Parking on adjoining streets is prohibited.
8. The parking of any car or trailer at any semi-private boat ramp facility site by individuals other than those authorized to use the boat ramp facility site is expressly prohibited. At least one (1) sign informing the public of the foregoing restriction and one (1) "Tow-Away" warning sign, as required by the applicable state statute, shall be required at each semi-private boat ramp facility site. All parking areas shall be landscaped in accordance with this Chapter. A landscape buffer of at least ten (10) feet or, in the alternative, a five-foot high masonry wall shall be required between parking areas that are adjacent to residential areas. The number of parking spots permitted at a semi-private boat ramp facility shall be limited to a maximum of six (6) vehicle and trailer spaces.
9. No semi-private companion boat mooring dock shall exceed the length of the boat ramp (measured from the normal high water mark to the waterward end of the ramp) or exceed a width of four (4) feet.
10. Boathouses and other similar sheltered structures proposed to be built in conjunction with a companion boat mooring dock are prohibited.
11. No portion of any boat ramp or any type of boat ramp facility shall be closer than twenty-five (25) feet from the projected property line of abutting shoreline owners.
12. No boat ramp or any type of boat ramp facility may be located on any lot or parcel that is smaller than seventy (70) feet wide by one hundred (100) feet deep (or equivalent perimeter in the event of irregularly shaped lots). Except in the case of a private boat ramp facility, any such boat ramp or boat ramp facility shall be considered the principal use of any such lot or parcel.
13. A developer's agreement between the applicant and City shall be required as a condition of approval of any commercial or semi-private boat ramp facility, which agreement shall be recorded at the applicant's expense and shall: (a) allocate to the applicant and its successors and assigns the responsibility for maintenance and costs arising from use of the boat ramp facility including, but not limited to, costs for increased water safety enforcement and maintenance, which costs shall not exceed ten (10) percent of the assessed value of the boat ramp facility site; (b) set forth any applicable restrictions on the use of such boat ramp facility; (c) authorize that the semi-private boat ramp facility site may be liened in the event that the boat ramp facility site is not properly maintained; and (d) require the applicant to post a one-year irrevocable letter of credit, in favor of the City, in the amount of ten (10) percent of the assessed value of the boat ramp facility site in favor of the City to secure the foregoing costs. For the purposes of this subsection, "maintenance" shall mean keeping the boat ramp facility and site in a condition which is:
 - i. compliant with applicable land development and safety regulations;

- ii. consistent with the standard of upkeep of the majority of lots of the subdivision (or surrounding neighborhood if the boat ramp facility site is not located within a subdivision) wherein the boat ramp facility site is located; and
 - iii. safe and functional.
14. The City shall have the authority to clean, clear, fence and otherwise block access to any boat ramp facility site that is not properly maintained until such site has been restored and repaired to the satisfaction of the City and the City has been reimbursed for the costs of cleanup.
 15. Overnight mooring, beaching or storage of boats shall be prohibited at any semi-private boat ramp facility site.
 16. Restrooms at semi-private boat ramp facilities are encouraged.
 17. There shall be no more than one (1) boat ramp per subdivision or, if there is no subdivision, planned development.
 18. All semi-private boat ramp facilities shall have at least one (1) trash receptacle with a capacity of at least 33 gallons.
 19. All parking, refuse and restrooms shall be designed in a manner consistent with the surrounding land uses.
 20. Landscaping, screen walls and any other available measures to reduce and mitigate unreasonable noise impacts shall be a part of the design of all boat ramp facilities.
 21. A "No Wake" sign shall be posted at all boat ramp facilities requiring no wake within a one-hundred-foot radius of the boat ramp facilities, regardless of whether a skier, wakeboarder, or other person and/or object intended to be towed by a boat is being dropped off or picked up.

(c) *Minimum design criteria.*

Any public or commercial boat ramp facility shall, in addition to the foregoing, be subject to the following minimum design criteria:

1. *Boat ramp size:*
 - i. Width: Single lane, twelve (12) to fifteen (15) feet in width. For additional lanes, use multiples thereof; for example, a double lane boat ramp would be thirty (30) feet in width.
 - ii. Length: The surface of the ramp should be paved down to an elevation of five (5) feet below the lowest recorded water elevation and two (2) feet above the normal high water elevation.
2. *Boat ramp slope:* A minimum of ten (10) degrees and maximum of fifteen (15) degrees.
3. *Number of lanes:* A minimum of one (1) lane for every fifty (50) boats per day for which the boat ramp facility is designed.
4. *Miscellaneous boat ramp criteria:*
 - i. All boat ramps shall have a wheel stop to prevent the boat trailer from backing off of boat ramp.
 - ii. All shoreline alterations shall be stabilized. For purposes of this article, a stabilized shoreline shall include, but not be limited to, the following: rock revetment, aquatic vegetation planting or sod, each of which must be staked in place.
 - iii. The wetted part of a boat ramp should be paved with three thousand (3,000) psi concrete.
5. *Companion boat docks:* One (1) companion boat dock shall be required to be constructed in conjunction with each boat ramp lane which is part of a commercial or public boat ramp facility. Each such companion boat dock shall extend out into the water basin and have a minimum boarding length of fifty (50) feet for each boat ramp

lane and conform to the requirements imposed under Division 10 of this Chapter unless stated otherwise herein or modified by an appropriate variance.

6. Maneuverability:

- i. Boat ramps shall have an approach area for maneuvering and backing, extending at least forty (40) feet from the landward end of the boat ramp.
- ii. The approach area shall be designed to allow a vehicle to approach the boat ramp at a horizontal angle no greater than thirty (30) degrees from center line of the boat ramp.

7. Parking:

- i. No more than: (a) thirty (30) vehicle and trailer spaces; and (b) three (3) vehicle only spaces shall be allowed on one (1) acre of a boat ramp facility site. Regardless, two (2) vehicle only spaces may be substituted for any one (1) of the "vehicle and trailer" spaces permitted under this provision.
- ii. Parking spaces shall be depicted on the site plan submitted by the applicant and must demonstrate that there is reasonable space allowed for safe circulation of the maximum number of vehicles and connected trailers proposed to be parked at the boat ramp facility site.

8. Locational criteria: In order to minimize scouring of sediments and destruction of littoral zones, navigable water access must exist at all times from the submerged end of the boat ramp.

(d) Review criteria.

Boat ramp applications shall be processed by the Building Department and the Engineering Department with additional review to be conducted by the Planning and Zoning Department. City staff shall review permit applications and, in addition to ensuring that all other applicable requirements are met, shall issue the permit with or without conditions or otherwise deny the permit, after considering the shoreline configuration, depth, surface area, and topographic condition of the water body whereon the boat ramp facility is proposed, in conjunction with the following criteria:

1. The potential number of additional users of the waters that would result from approval of the boat ramp facility;
2. The number of existing boat ramps and similar recreational uses on the waters and the extent to which such existing boat ramps and similar recreational uses to the waters are available to the public;
3. Noise impacts on residents living directly adjacent to the waters;
4. The impact that the proposed semi-private boat ramp facility will have on the adjacent area (it is the intent of this subsection that strong preference be given to proposed semi-private boat ramp facilities located on internal lots, as opposed to corner lots in a subdivision);
5. Whether the fish, wildlife, flora and fauna, including endangered or threatened species (as those threatened or endangered species may be defined from time to time by the applicable local, state or federal laws and regulations) or their habitats will be adversely affected;
6. Whether the boat ramp facility will adversely affect navigation, water quality, water flow, or cause harmful erosion, shoaling, or sediment resuspension;
7. Whether there exists a navigable passage from the boat ramp facility to the waters;
8. Whether the ecological balance of the waters will be adversely affected;
9. Whether the boat ramp facility will adversely affect significant historical and archaeological resources as defined by state law;

10. Whether the boat ramp facility will pose a hazard to normal vehicular traffic as a result of trailering vehicles leaving or entering roads;
11. Whether the boat ramp facility will pose a hazard to boating traffic on the waters, or otherwise adversely affect public safety, given the number of people using the waters, as well as the size, depth and shoreline configuration and natural contours (i.e., existence of a cove, blind spot, etc.) of the subject waters;
12. If there is existing unrestricted public access to the waters where the boat ramp facility is proposed, the applicant must further demonstrate the need for additional access to the waters considering in part:
 - i. The number of existing boat ramps on the subject waters;
 - ii. The number of existing boat ramps on any adjoining waters connected to the subject waters by any waters capable of passage by any watercraft; and
 - iii. The distance from the proposed boat ramp facility to any existing boat ramp on the same waters.
13. Whether the proposed boat ramp facility would adversely affect areas of special concern including, but not limited to, outstanding Florida waters, wetlands areas which provide habitat for endangered species or threatened species (as those endangered or threatened species may be defined by applicable local, state or federal law or regulations) and conservation areas as defined by, and in accordance with, the City comprehensive plan.
14. Interrelationship and organization of multiple uses of the water body that is the site of the proposed boat ramp facility, including:
 - i. Whether portions of the lake surface have been designated for different activities;
 - ii. The type of boating permitted on the water body (e.g., whether only nonpower boating has been authorized);
 - iii. Whether certain uses of the lake have been restricted to certain times of the day;
 - iv. Whether no-wake areas have been established around shoreline fishing areas,
 - v. The location of swimming areas or other existing or permitted boat ramps.

(e) Notice.

Notice to neighboring property owners. Upon receipt of an application the City shall send notices by first class mail to the owners of the property in the general neighborhood (typically but not limited to 300 feet). All such notices shall require that written comments on the proposed boat ramps be sent to the city within 15 days from the date the notices were sent.

SECTION III The City of Winter Garden hereby establishes and adopts new Division 12 of Article VI of Chapter 118 of the Winter Garden Code of Ordinances entitled "Shoreline Alteration," which shall read as follows:

SECTION IV SHORELINE ALTERATION

Sec. 118-1330 – Findings, purposes and objectives.

- (a) Shoreline vegetation is necessary for the health and viability of a lake system. Sediments and nutrients, contributed both by stormwater runoff and recirculation within the lakes' waters, are removed by shoreline vegetation and associated areas by means of filtration and recycling through the shoreline vegetation.

- (b) Both wave action and stormwater runoff will cause extensive erosion of nutrient-laden soils, particularly where those soils have been destabilized by removal of shoreline vegetation.
- (c) Shoreline vegetation both protects and improves water quality and should be protected from substantial clearing.
- (d) The City is authorized, pursuant to general law, to regulate and control conservation and beach erosion control programs. The City is authorized to regulate and control all lakes, canals, streams, waterways, inlets, bays, and their alteration by dredging, filling, pumping and otherwise altering the shoreline, land contours and/or water areas in the interest of public rights, public welfare, protection of public riparian property rights, and preservation of the natural beauty and attractiveness of the lakes, canals, streams, waterways, inlets and bays.
- (e) In order to protect the public health, safety and welfare, preserve the natural beauty and attractiveness of waters of the City, and maintain lake water quality and reduce nutrient loading in public lakes, this Division is hereby enacted as a measure to protect the legitimate public interest by restricting the amount of clearing or removal of shoreline vegetation.

Sec. 118-1331 – 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:

Clearance means the alteration of or removal of shoreline vegetation by chemical treatment, mechanical or non-mechanical uprooting or removal or the removal or addition of soil above a shoreline.

Reestablish means the regrowth of shoreline vegetation, where the average height of growth measures more than fourteen (14) inches above the exposed shore or normal high water elevation, as appropriate.

Shoreline alteration shall mean and refer to the alteration of a shoreline, including the dredging, filling, and trenching of land located along the shore of a body of water.

Shoreline vegetation means aquatic or wetland vegetation naturally occurring in the waters and shoreline environments of Florida, including, but not limited to, those plants listed in F.A.C. § 62-301.400(2) and (3).

Sec. 118-1332 – Permit; appeals.

- (f) Unless exempted from these regulations, all those persons desiring to perform or cause to be performed any clearance of a shoreline shall be required to obtain a permit conforming to the procedures and standards set forth in this division.

(g) Each applicant must address and include the following information in an application submitted to the City (applications shall be made available through the Community Development Department - Building Division) and abide by the following rules:

1. The percentage of shoreline vegetation proposed to be removed and/or soil to be removed or added.
2. Two (2) copies of a plan clearly illustrating the locations of the work requested with respect to the applicant and other affected persons, water levels, lake bottom elevations, and elevations of requested work above and below water and the legal description of subject property. The plans shall include a copy of a current certified survey of the property;
3. The proposed means of minimizing, mitigating, and controlling erosion;
4. The proposed method for filtering runoff;
5. The proposed method for reducing the nutrient concentration in both surface runoff and lake waters;
6. The proposed means of stabilizing soils at and below the normal high water elevation;
7. The justification for any replacement vegetation to be used and whether and how such vegetation will protect and improve water quality;
8. The location of any existing conservation easements;
9. Certification of the applicant or his authorized agent in the form of his/her signature;
10. A list of names and addresses of adjacent property owners and any other property owners who are reasonably expected to be significantly affected by the proposed alterations.
11. An applicant cannot propose clearing and filling for the purpose of creating new sandy beach areas or expanding any sandy beach areas existing before the effective date of this ordinance. Any application intended therefore or that will have such net effect will be denied; and
12. All mechanically cleared or trimmed vegetation shall be removed from the lake and the normal high water elevation within twenty-four (24) hours of clearing or trimming. Failure to do so will constitute a violation of this division.

(h) Exemptions.

This division and the requirement to obtain a shoreline alteration permit hereunder shall not apply to the following:

1. Any person or property owner clearing less than twenty (20) percent or thirty (30) feet, whichever is greater, of lands at or below the normal high water elevation, where the following species of shoreline vegetation are not present in the area to be cleared and will not otherwise be affected or disturbed:
 - i. Tree species listed in F.A.C. § 62-401.400(2) and (3);
 - ii. Any aquatic species which is listed by the Florida Department of Agricultural and Consumer Services as threatened, endangered or commercially exploited pursuant to F.S. § 581.185, as may be amended or replaced.
2. Emergency repairs on public or private projects necessary for the preservation of life, health or property, where taken to implement and accomplish the beneficial purposes of these regulations as set forth herein under such circumstances

where it would be impractical to obtain approval from the City prior to making such emergency repairs.

3. Maintenance of publicly or privately owned portions of a structural stormwater or drainage control system that does not constitute major construction or rebuilding.
4. Mowing of terrestrial sod grasses that may incidentally become established on lake bottom (below the normal high water elevation) from adjacent lawns. The shoreline and lake bottom areas that can be mowed must not be inundated, and the exposed soils must be dry enough to support the mower so that incidental shoreline alteration does not occur. Disking (turning the soil with blades to uproot vegetation) is excluded from this exemption.
5. A property owner whose shoreline has previously been cleared where the clearing is continuously maintained. If shoreline vegetation is reestablished, this exemption from permitting shall not apply.
6. Any activities otherwise exempt pursuant to Florida law.

(i) Notice.

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 associated with the proposed shoreline alteration. All such notices shall require that written comments concerning the proposed alterations be sent to the city within 15 days following the date the notices were sent.

(j) Appeals.

1. *Permits.* The applicant or any person entitled to notice under this division may appeal the approval or denial of an application for a permit to the City Commission by filing a petition within ten (10) 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 thirty (30) days of the date such appeal is filed with the City.
2. *Variances and Special Exceptions.* Decisions of the Planning and Zoning Board concerning variances and special exceptions related to the subject matter contained in this division may be appealed to the City Commission in accordance with § 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 § 98-32 of this Code.

(k) Penalties; enforcement.

If the City determines that clearing or alteration is occurring without prior approval or not in accordance with these regulations, it shall promptly issue a written notice of violation to the offending person. The notice of violation shall include a description of the site

where the violation has occurred, cite the provisions that have been violated, and set forth the required remedial action to be taken as deemed reasonable and necessary by the City. Such remedial action may include restoration of damaged topography; revegetation of the site to comply with these regulations, general or special laws; replacement of affected wildlife; payment of all permit and inspection fees, and other actions consistent with the intent of these regulations, general or special laws or as they may be amended from time to time.

Section IV *Codification.* Sections I, II, and III of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances and all sections and subsections may be renumbered or relettered as necessary to achieve such purposes.

Section IV *Conflicts.* In the event of a conflict or conflicts between this ordinance and other ordinances, this Ordinance shall control to the extent of such conflict. To the extent that provisions of this Article refer to, provide for or otherwise authorize application of standards, requirements, or decisions of the City and/or other governmental authority or authorities, the City Engineer shall determine which standard, requirement, or decision applies based on the context of such, subject to appeal to the City Manager.

Section V *Severability.* It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section VI *Effective Date.* This Ordinance shall become effective upon adoption by the City Commission.

FIRST READING: September 7 , 2011.

SECOND READING AND PUBLIC HEARING: September 21 , 2011.

ADOPTED this 21st day of September , 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

/S/
JOHN REES, Mayor/Commissioner

ATTEST:

/S/
KATHY GOLDEN, City Clerk