

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

MAY 18 2004 JW/B
Effective Date:
JUN 02 2004

ORDINANCE NO. 2004-08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, ORANGE COUNTY, FLORIDA, REPEALING CHAPTER 15, ARTICLE IX, KNOWN AS "CONSTRUCTION OF BOAT DOCK ORDINANCE"; CREATING A NEW CHAPTER 15, ARTICLE IX, KNOWN AS "CONSTRUCTION OF DOCK ORDINANCE"; PROVIDING A SHORT TITLE; REQUIRING PERMITS FOR DOCK CONSTRUCTION AND REPAIR; PROVIDING DEFINITIONS; CREATING PROVISIONS REGARDING PERMIT APPLICATIONS AND REVIEW, NOTIFICATION OF PROPERTY OWNERS AND THE WINDERMERE WATER AND NAVIGATION CONTROL DISTRICT ADVISORY BOARD AND THE CONWAY WATER AND NAVIGATION CONTROL DISTRICT ADVISORY BOARD; CREATING APPEAL PROVISIONS; CREATING DOCK REPAIR; REQUIRING BUILDING PERMITS; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Repeal of Chapter 15, Article IX, Boat Dock Construction. Chapter 15, Article IX, Boat Dock Construction, sections 15-321 through 15-360, are hereby repealed.

Section 2. Creation of Chapter 15, Article IX, Construction of Dock Ordinance. An Article IX, to be entitled "Dock Construction," is hereby created under Chapter 15 of the Orange County Code to read as follows:

ARTICLE IX. DOCK CONSTRUCTION

DIVISION 1. GENERALLY

Sec. 15-321. Short title.

This article shall be known and may be cited as the "Construction of Dock Ordinance."

Sec. 15-322. Policy, purpose, intent and scope.

(a) An intent of the board of county commissioners is to protect and enhance Orange County's water bodies so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing.

(b) Water bodies in Orange County provide important habitat and functions to fish and wildlife. Orange County's water bodies contain littoral areas that are significant and productive in the maintenance and preservation of aquatic plants and animals. Additionally, these littoral areas effectively assimilate nutrients in the sediment and water column, as well as stabilize soils affected by wave action and erosional forces.

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

(d) A purpose of this article is to regulate dock construction, which for the purposes of this article includes dock repairing, within unincorporated areas of Orange County, in order to minimize adverse impacts of such activities upon the natural resources of Orange County. The County may regulate dock construction activities pursuant to the provisions of this Article, in areas not described in this paragraph upon execution of an Interlocal Agreement by the County and the municipality.

(e) A purpose of this article is to regulate the construction of docks such that the navigation of water bodies is not unreasonably impeded.

(f) The intent of the board of county commissioners is to apply these regulations in a manner sensitive to the riparian rights and other property rights of the applicant, the riparian rights and other property rights of waterfront property owners, and the rights of the public to the traditional uses and enjoyment of water bodies in Orange County.

(g) The board of county commissioners recognizes that the cumulative and secondary impacts of docks may adversely affect the water quality of the water bodies, as well as the functions the water bodies provide to fish and other wildlife. The reduction in water quality and functions to fish and other wildlife will result in

the decline in the recreational value of the water body. Therefore, it is the intent of the board of county commissioners and the purpose of this article to regulate dock construction in a manner that addresses cumulative and secondary impacts.

(h) The intent of the board of county commissioners is that the Environmental Protection Officer shall be responsible for the interpretation of this article.

Sec. 15-323. Definitions.

The following words, terms and 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:

Access walkway means that portion of the dock that commences on the upland parcel and terminates at the junction with the terminal platform.

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

Building Official means for unincorporated Orange County, the Orange County Building Official as defined in Section 9-11; and for incorporated Orange County, the principal enforcing officer for the Building Code within the particular municipality.

Dock means any permanently fixed or floating structure extending from the upland into the water, capable of use for vessel mooring and other water-dependent recreational activities. The term “dock” also includes any floating structure, boat lift or mooring piling, detached from the land, capable of use for mooring vessels and/or for other water-dependent recreational activities. The term “dock” also includes any area adjacent to the dock designated for mooring purposes. This term does not include any vessel that is not permanently docked, moored, or anchored.

Enclosed dock means a dock which has any portion of its structure completely or partially enclosed with walls and/or doors. Screened enclosures and storage lockers shall not be included in this definition.

Environmental Protection Commission means the commission created and established pursuant to section 15-29.

Environmental Protection Officer means the Orange County official as defined in section 15-32.

EPD means the Orange County Environmental Protection Division.

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

Normal High Water Elevation (NHWE) means the landward edge of any natural surface water body during normal hydrological conditions, as determined by the county engineer or according to article IX of chapter 30.

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

Principal structure means the building or structure in which the principal use of the parcel or lot is conducted. A dock shall not be the principal structure on a parcel or lot.

Principal use means a use of the upland parcel for residential, commercial or governmental purposes. At a minimum, a principal use shall be established by the issuance of a building permit for a principal structure.

Private dock means a dock, which may be used by only those persons living on the upland parcel and their usual and customary guests.

Projected property line means a continuation of, and extension to, the upland property line. 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 dock means a dock which is subject to public access. Docks associated with commercial establishments and activities, governmental and non-governmental institutions, and private organizations are included in the definition of public dock.

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

Riparian rights means those rights incident to lands

bordering upon navigable waters, as recognized by the courts of this state and common law.

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

Semi-private dock means a dock, which may be used by a group of residents living in a subdivision or multi-family development and their usual and customary guests.

Shoreline means the edge of a body of water at the Normal High Water Elevation (NHWE).

Terminal platform means that portion of a dock beginning at the terminal end of the access walkway. The terminal platform shall be designed for the mooring and launching of vessels or other water-dependent activities. The size calculation for the terminal platform does not include any uncovered area adjacent to the dock designated for mooring purposes.

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, located in Orange County.

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

USGS means the United States Geological Survey.

Sec. 15-324. Permits required.

Unless expressly exempted in section 15-346, any person desiring to construct or repair a dock shall first receive a permit from the environmental protection officer authorizing the construction or repair of the dock.

Sec. 15-325. Fees.

By resolution, the Board may from time to time, establish fees to be applicable to all permits, variances, waivers, or other regulatory activities authorized in this article. Fees for dock construction permits, variances, waivers, or other regulatory activities set forth in the County's Fee Directory shall remain in force until modified by the Board.

Sec. 15-326 through 15-340. Reserved.

DIVISION 2. PERMITS

Sec. 15-341. Permit Application and Procedures.

(a) *Generally.* Dock construction and repair application forms are available at the environmental protection division. Applicants must submit applications for dock construction or repair permits to the county environmental protection division. Applicants must pay an application-processing fee at the time the application is submitted for review. Payment of such application fee shall in no way guarantee issuance of a dock permit, and such fee is non-refundable. No permit application shall be submitted unless there is a principal use established on the property.

(b) Applications shall contain the following information:

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

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

(3) Satisfactory evidence of title;

(4) Documentation showing riparian rights for the parcel, such as any legal instrument indicating ownership to the shoreline;

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

(6) Four (4) sets of a site plan depicting the exact

location of the proposed dock, and shall include the following:

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

b. The exact distance between the existing shoreline, at the point where the dock is to be constructed or is currently located, and a permanent object or marker (e.g., house, tree, USGS benchmark) to be used as a reference point;

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

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

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

f. The length of the proposed or existing dock, as measured from the normal high water elevation (NHWE) to the point most waterward of the NHWE;

g. The NHWE as established by the county;

h. The location of any conservation easement areas and wetlands within twenty feet from any portion of the dock;

i. A description of vegetation types identified occurring within the area described in paragraph 15-341(b)(6) h. Private dock applicants may request EPD to assist with identifying vegetation types; and

j. Location of lifts, hoists, mooring pilings and mooring areas.

(7) A statement indicating whether docks are located on abutting properties;

(8) A mitigation plan offsetting adverse impacts to the conservation easement areas or wetlands, as may be required under articles X, XI, and XIII, of chapter 15;

(9) A description of sediment and erosion control measures to be used during construction and/or repair of the dock; and

(10) Indicate whether the proposed dock is for public, semi-private, or private use. (If the proposed dock is for public or semi-private use, approval of a special exception may be required through the board of zoning adjustment and the Board. The application must demonstrate that the property is appropriately zoned prior to permit issuance.)

(11) Applicants may submit the following information with their applications:

a. A request for a variance or waiver under section 15-350.

b. Original, signed and notarized letters of no objection from the abutting shoreline property owners – when applicable. The letter of no objection must identify the site plan and construction plan for the proposed dock and a copy of the site plan and construction plan must be attached to the letter.

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

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

(a) The dock shall extend only to the point where reasonable water depth for vessel mooring is achieved. The maximum water depth allowed for mooring areas is five feet, as measured from the NHWE, unless the natural conditions of the water body necessitate a greater water depth to allow reasonable mooring conditions. The dock shall not adversely affect the rights of other persons and property owners' use of, and access to, the water body. No work should be done within areas, which constitute easements for ingress or egress or for drainage unless authorized by Orange County. Under no circumstances shall a permit for construction of a dock be utilized to construct any facilities to be used for residential purposes or other non-water dependent

activities.

(b) The maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first 75 feet of shoreline and five times the linear shoreline frontage for each foot in excess of 75 feet, not to exceed a maximum of 1,000 square feet.

(c) Access walkways shall be limited to a five-foot width. Impacts to wetlands shall be avoided to the extent practicable. Access walkways traversing any wetland shall be elevated a minimum of three feet above the ground surface. The Environmental Protection Officer may require an access walkway be elevated above the three-foot above-ground surface minimum elevation to minimize or avoid impacts to wetlands.

(d) The floor elevation shall be a minimum of one foot above the established control elevation or NHWE.

(e) The maximum roof height shall be no higher than 12 feet above the floor elevation.

(f) There shall be no fish-cleaning stations, wet bars, living quarters, or other similar facilities over wetlands or other surface waters or on the dock.

(g) Enclosed docks are prohibited.

(h) Generally, the construction of more than one dock per residential lot is not permitted. However, one dock may be permitted on each water body to which a residential lot has frontage if there is no navigable connection between the water bodies.

(i) Docks shall be designed to accommodate vessel use without bottom scouring or dredging.

(j) There shall be no dredging or filling associated with construction of the dock and boat shelter, other than that required for the installation of the actual pilings for the dock.

Sec. 15-343. Additional Conditions of Issuance of Permits for Private Docks.

(a) On lots or parcels having a shoreline frontage of less than 75 feet, docks, including designated mooring areas, shall have

a minimum side-setback of ten feet from the projected property line.

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

(c) Storage lockers shall be limited to a cumulative maximum of 65 cubic feet. Storage lockers shall not be used to store boat maintenance and/or repair equipment and materials, fuel, fueling equipment, and hazardous materials or hazardous wastes. Storage lockers are prohibited on semi-private docks and public docks.

Sec. 15-344. Additional Conditions of Issuance of Permits for Semi-Private Docks.

(a) Semi-private docks shall have a minimum side-setback of twenty-five feet from the projected property line, unless such requirement is reduced by an appropriate waiver, which shall be reviewed by the environmental protection division. Final approval of a side-setback waiver under this provision shall be granted in accordance with the provisions of section 15-350.

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

(c) All storage facilities shall be located on the upland parcel.

(d) Applicants for semi-private docks for use in subdivisions or planned developments must provide a conservation

easement or other restriction, on a form acceptable to the Board, of the appropriate length along the affected riparian shoreline to prohibit the construction of additional docks that would exceed the maximum allowed for private docks under this ordinance.

Sec. 15-345. Additional Conditions of Issuance of Permits for Public Docks.

(a) Docks shall have a minimum side-setback of twenty-five feet from the projected property line, unless such requirement is reduced by an appropriate waiver, which shall be reviewed by the environmental protection division. Final approval of the side-setback waiver shall be granted in accordance with the provisions of section 15-350.

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

Sec. 15-346. Dock Maintenance and Repair and Minor Modifications.

(a) *Dock Maintenance and Repair, generally.* Docks shall be maintained in a safe and useable condition. The owner of property on which a dock is located is responsible for maintaining a dock in safe and useable condition. Best management practices must be used during all maintenance and repair activities. Information on best management practices may be obtained from the environmental protection division.

(b) *Maintenance and Repair of docks permitted by Orange County.* When maintenance and repair of docks permitted under this article involves the repair or replacement of pilings, or other portions of the dock at or below the water surface, the permit holder shall provide written notice to the environmental protection officer of the proposed maintenance and repair activities at least ten days prior to initiating the maintenance or repair activity. The notice must be provided on the notification form that may be obtained at the environmental protection division. At a minimum, the permit holder must identify the permit number, physical address of the property on which the dock is located, name of the permit holder, or current owner of the property if not the original permit holder, a description of the proposed maintenance or repair, and the date that the permit holder intends to commence the activity. Repairs that do not involve activity at or below the water surface

are allowed without notice or permit. All maintenance and repair activities must maintain the original design and original footprint of the dock, as approved in the Orange County permit.

(c) *Repair of unpermitted "grandfathered" docks constructed on or before December 19, 1988.* The repair of unpermitted docks constructed on or before December 19, 1988, requires a permit issued under this article. Applications for the repair of docks constructed without a dock construction permit prior to December 19, 1988, shall contain the information required in paragraphs 15-341(b)(1), (2), (5), (6), (9) and (10). It is intended that docks constructed before December 19, 1988, be allowed to remain as constructed.

(d) *Maintenance of unpermitted "grandfathered" docks constructed on or before December 19, 1988.* Maintenance activities of unpermitted docks constructed on or before December 19, 1988, do not require a permit under this article if the maintenance activities do not include repair or replacement of pilings or portions of the dock at or below the water surface.

(e) *Maintenance and repair of unpermitted docks constructed after December 19, 1988.* Maintenance and repair of unpermitted docks that were constructed after December 19, 1988, shall be treated as the construction of a new dock and shall be required to obtain a dock construction permit prior to initiating construction, including demolition.

(f) *Minor modifications to permitted docks.* Minor modifications to existing permitted structures or for "grandfathered" docks must be approved by the environmental protection officer. The applicant must submit a request for the proposed deviation change or modification to the original site plan to the environmental protection officer for consideration. Additional information may be requested from the applicant in order to complete the review. Minor modifications must comply with the provisions of this Article. Any modification that may require a variance or waiver of any provision of this ordinance shall not be considered a minor modification. Any modification that increases the size of the terminal platform shall not be considered a minor modification. The environmental protection officer may require notification of abutting shoreline property owners of the application for minor modification.

Sec. 15-347. Notification of adjacent property owners.

(a) The environmental protection officer will send notice of receipt of an application for variance or waiver under the provisions of this ordinance by certified mail to the owners of the shoreline properties situated within 300 feet of the property on which the proposed dock is located. For waiver requests to the side-setback requirements, the environmental protection officer will only send notice to the abutting shoreline property owner affected by the waiver request. The environmental protection officer may send additional notices to other shoreline property owners.

(b) The environmental protection officer will also send notice of receipt of an application and a copy of the application to the Windermere Water and Navigation Control District Advisory Board or the Conway Water and Navigation Control District Advisory Board, where appropriate, and may request comments from, and provide copies to, other county departments, agencies or governmental bodies.

(c) All notices provided in accordance with this section shall require that written comments on the proposed dock be sent to the environmental protection officer within thirty-five calendar days of receipt of such notices.

(d) Failure to return written comments within thirty-five calendar days shall be presumed to indicate that no objections exist, provided that in cases where the addressee does not receive the notice, the environmental protection officer may make other reasonable efforts to notify the addressee.

(e) The Windermere Water and Navigation Control District Advisory Board and the Conway Water and Navigation Control District Advisory Board may submit to the environmental protection officer a recommendation to approve or deny applications for docks within their jurisdictions. Recommendations shall be approved by a majority of the Advisory Board at a public meeting, duly noticed and conducted in accordance with the Florida Sunshine Law, section 286.011, Florida Statutes, as may be transferred or amended from time to time. Advisory Board recommendations shall be submitted to the environmental protection officer within thirty-five (35) calendar days of receipt of notice.

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

(a) *Generally.* The decision of the environmental protection officer shall be in writing, and shall indicate the date of the decision. Copies of the decision will be sent to the applicant, and by certified mail to those who previously filed written objections to the application and to the Windermere Water and Navigation Control District Advisory Board or the Conway Water and Navigation Control District Advisory Board, if appropriate. If no objections have been filed and the environmental protection officer has approved the application, the approval shall be effective immediately.

(b) *Decisions relating to new dock construction.* Upon receipt of comments from all parties that have been notified, or upon the expiration of the thirty-five calendar day period for written comments and recommendations, when applicable, and following staff review of the complete dock application, the environmental protection officer shall approve, deny, or approve with conditions, the application to construct the dock.

(c) *Decisions relating to applications to repair pursuant to section 15-346(b).* The environmental protection officer shall approve, deny, or approve with conditions, applications for repairs that meet the criteria set forth in section 15-346(b) following the staff review of a complete application.

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

Sec. 15-349. Appeals from decisions of environmental protection officer.

(a) The applicant, or parties who have previously filed

written objections, may, within fifteen calendar days of the decision of the environmental protection officer, file a written notice of appeal with the environmental protection officer. If no notice of appeal is received within the fifteen calendar day period, then the prior ruling of the environmental protection officer shall be final. If an appeal is taken, such appeal shall be heard by the environmental protection commission. The environmental protection commission shall render a recommendation to the Board approving, approving with modifications, or denying the recommendation of the environmental protection officer. The recommendation of the environmental protection commission shall be provided to the Board within twenty-one days, provided that if no meeting is scheduled within the twenty-one day period, then the recommendation shall be presented at the first meeting of the Board following the expiration of the twenty-one day period. The Board may accept the recommendation or call for a public hearing.

(b) Parties who have previously filed written objections and whose substantial interests are adversely affected by the recommendation of the environmental protection commission may appeal to the Board within ten days of the rendering of the recommendation. The appeal shall be filed with the environmental protection officer and shall be scheduled for a public hearing before the Board. The notice of the appeal will be provided to the applicant and to parties who have previously objected in writing. The Board may affirm, reverse, or modify the decision of the environmental protection commission. The decision of the Board shall be final.

(c) For the purposes of this section, the term "party" shall not include the Windermere Water and Navigational Control District Advisory Board, the Conway Water and Navigational Control District Advisory Board, other County departments, agencies, or governmental bodies.

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

(1) A statement identifying the decision being appealed;

(2) The name, address, telephone number, and facsimile number (if any) of the person or persons appealing the decision (the "appellant");

(3) A detailed statement asserting the grounds for appeal; and

(4) A statement describing with particularity each section and paragraph of this ordinance the appellant contends requires reversal or modification of the decision.

(e) Failure to provide the information required in subsection 15-349(d) shall be a basis for dismissal of the appeal by the Environmental Protection Officer. The Environmental Protection Officer shall promptly give written notice to the appellant of the dismissal of the appeal and shall state the reasons for the dismissal. Dismissal of an appeal shall, at least once, be without prejudice to appellant's filing an amended notice of appeal within 14 days of the date of the dismissal.

Sec. 15-350. Variance and Waiver.

(a) Generally.

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

(i) The environmental protection officer may approve variances to the provisions of this ordinance to accommodate persons with disabilities or to comply with the Americans with Disabilities Act.

(ii) The environmental protection officer may approve variances to the provisions of this ordinance in order to provide greater protection to the water bodies and shorelines than provided under this ordinance.

(iii) Applicants may seek variances from the provisions of the ordinance not addressed in paragraphs (i) and (ii) above from the environmental protection commission.

(2) Waivers. An application for waivers from the requirements of sections 15-342(b), 15-343(b), 15-344(a) and 15-345(a) shall be made to the environmental protection officer. At a minimum, the applicant shall identify the sections and paragraphs of this article from which the applicant seeks a waiver and the extent of the requested waiver. The applicant shall also describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners. The environmental protection officer and the Board may require of the applicant information necessary to carry out the purposes of this ordinance.

(b) Procedure.

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

Sec. 15-351. Building permit required.

Following the issuance of a dock permit, the permit holder must obtain a building permit from the appropriate building official prior to commencing construction. The construction plan submitted as part of the building permit application must be the construction plan approved by the environmental protection officer and incorporated into the dock permit. The provisions of the Florida

Building Code shall apply to the construction, alteration, repair, modification, and demolition of docks, and any associated electrical or plumbing system application for the required building official prior to the commencement of work.

Sec. 15-352. Compliance checks.

(a) The permit holder and/or designated agent must submit a notice of completion to the environmental protection division within thirty days of completion of the construction or repair of the permitted structure so that a compliance check may be performed by environmental protection division staff.

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

(c) The compliance check shall determine if the structure was built according to the plans approved by the environmental protection division.

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

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

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

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

(d) If the environmental protection officer determines that construction is occurring without prior approval or not in accordance with these regulations, the environmental protection officer shall promptly issue a written notice of violation to the applicant and/or designated contractor. The notice of violation shall include a description of the site where the violation has occurred, cite the provisions of these regulations, general or special laws which have been violated, and set forth the remedial action required by the County. Such remedial action may include submittal of revised drawings, re-application for a permit, removal of dock, and administrative and civil penalties.

Sec. 15-354. Effect of permit.

Any permit issued under this article shall not substitute for any permitting requirements of any state or federal agencies but shall be cumulative to any environmental permits. The Board shall not permit any dock in any water body where state or federal regulations prohibit such installation.

Sec. 15-355 – 15-360. Reserved.

Section 3. Effective Date. This ordinance shall become effective pursuant to general law.

ADOPTED THIS 18th DAY OF MAY, 2004.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: Richard T. Crotty
Richard T. Crotty
County Chairman

ATTEST: Martha O. Haynie, County Comptroller
as Clerk of the Board of County Commissioners

By: Martha O. Haynie
Deputy Clerk

