

ORDINANCE NO. 2019-10

AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA AMENDING CHAPTER 14-11 OF THE CITY OF EDGEWOOD CODE OF ORDINANCES REGARDING RULES AND REGULATIONS FOR BOAT DOCK CONSTRUCTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Edgewood Code of Ordinances includes rules and regulations as to where and how boat docks may be constructed; and

WHEREAS, City staff has recommended amendments to certain regulations regarding boat dock construction and permitting; and

WHEREAS, members of the public have requested amendments to certain regulations regarding boat dock construction and permitting; and

WHEREAS, the Planning and Zoning Board has reviewed this Ordinance and recommended to the City Council approval of same; and

WHEREAS, the City Council finds the amendments contained herein are reasonable and appropriate and in the best interest of the health, safety, and welfare of the residents of the City of Edgewood; and

WHEREAS, deletions are identified herein by ~~strikethrough~~, additions are identified by underscore and portions of the Code remaining unchanged which are not reprinted here are identified by ellipses ***).

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, FLORIDA as follows:

Section 1: The recitals set forth above are hereby adopted as findings of the City Council.

Section 2: Chapter 14, "Boats, Docks and Waterways" is hereby amended to read as follows:

Chapter 14 - BOATS, DOCKS AND WATERWAYS

Sec. 14-1. - Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings described to them by this section:

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

Boats means all rowboats, sailboats, canoes, dingies, skiffs, rafts, dugouts, dredges and other vehicles of transportation for use on water, including inboard and outboard motorboats, unless otherwise indicated; and any and all objects tied to or connected therewith while being propelled through the water.

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.

Inboard motorboat means any boat which is propelled by any stationary or built-in mechanical device or means of power.

Littoral rights means rights incident to ownership of property abutting a lake, canal, or other waters.

NHWE means the normal high water elevation for a water body as established by Orange County, Florida.

Outboard motorboat means any boat which is propelled by any mechanical device or means of power which is not stationary or built-in.

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.

Riparian rights means the right of a landowner whose property borders on a body of navigable waters to make reasonable use of the water equal to the rights of other owners of land bordering on the same waters.

Routine maintenance and repair means those tasks necessary to keep a dock in a safe and useable condition consistent with the original design specifications and shall include replacement of the any walking surface but shall not include replacement of any structural load bearing components.

Terminal platform means that portion of a dock designed and used for the storing, mooring, and launching of water vessels or other water dependent activities.

Waters bodies means and includes, ~~but is not limited to,~~ lakes, streams, waterways, bays, inlets, canals, and all other waters or bodies of water, whether natural or artificial, located within the boundaries of the City of Edgewood.

* * *

Sec. 14-11. - ~~Boat~~ Dock construction rules and regulations.

(a) Applications submitted for new docks and alterations to existing docks shall include all of the following:

(1) Three copies of a site plan drawn to scale which depicts the exact location of the dock and which includes the following:

a. An arrow indicating the northerly direction and the scale to which the plans were prepared;

b. The name of the water body upon which the dock is to be located;

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

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

e. Floor and roof elevations of the proposed dock structure connected to the dock, and floor and roof elevations of any existing dock, including any structures currently or proposed to be connected the dock;

f. The current water depth at the end of the dock and at all proposed mooring locations and the approximate depth of navigable waters beyond the dock and mooring locations;

g. The NHWE;

h. The location of any lifts, hoists, mooring pilings, or mooring areas;

i. The exact dimensions of the dock, including the terminal platform and access walkway, and the specific individual dimensions of the terminal platform, access walkway, and any roof structures; the length of the dock shall be measured from the NHWE to the point of the dock furthest waterward from the NHWE;

j. A survey of the property that accurately depicts current conditions; and

k. The width of the water body at the location of the dock as measured from the NHWE at the location where the dock is constructed or proposed to the NHWE directly opposite the water body from such location;

(2) Satisfactory evidence of title;

(3) Documentation showing the riparian rights of the property on which the dock is located or proposed;

(4) A statement indicating whether any docks are located on abutting properties; and

~~(5) Three copies of engineered construction plans.~~

~~(1) The name of the lake or water body.~~

~~(2) An arrow indicating the northerly direction.~~

~~(3) All drawings must be drawn at a standard engineering scale, and the drawings must indicate the scale to which the plans are prepared.~~

~~(4) A sealed drawing showing the dimensions of the subject property, location of any buildings and easements on the property, and the length and location of the proposed boat dock (length shall be measured from the normal high water line).~~

~~(5) The exact distance between the existing shoreline; at the point where the dock is to be constructed; and a permanent object or structure (e.g., house, tree) to be used as a reference point.~~

~~(6) The exact distance of setbacks from adjacent property lines, and an approximation of the distance from the closest boat dock on each side of the property.~~

~~(7) The floor elevation of the proposed boat dock, and the floor and roof elevation of any boathouse or any other structure connected to the dock.~~

~~(8) Depth of water at end of proposed dock.~~

~~(9) A survey prepared by a Florida registered surveyor and mapper of the property showing the normal high water line as established by Orange County and the proposed dock, to scale, with the length, orientation and setbacks as established by this article.~~

~~(10) Width of the waterway or canal at the location of the proposed dock, if said water body or canal is less than 200 feet in width (all measurements to be taken from the normal high water line).~~

~~(11) The original signature(s) of the property owner(s) upon which the upland portion of the dock is to be constructed.~~

~~(12) The original signature(s) of the applicant(s), if the applicant is not the property owner.~~

~~(13) A statement indicating whether docks are located on abutting properties.~~

~~(14) Applicants may submit the following information with their applications:~~

~~a. A request for a variance under this article.~~

~~b. Notarized, original, and signed letters of no objection from the abutting shoreline property owners, when applicable. The letters 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 submitted to the city.~~

(b) To obtain a dock construction permit, the following criteria, at a minimum, must be satisfied:

(1) *Minimum side setbacks—Lake and canal properties.* Except as otherwise provided below Boat docks and associated structures shall have a minimum side setback of tenfifteen feet from the projected side property line of abutting shoreline owners. A dock

may encroach up to five feet into the fifteen foot side setback if the applicant submits as part of the application an original notarized letter of no objection from the owner of the property on the side or sides within which such encroachment occurs. If the side setback is less than 15 feet, then the applicant shall submit notarized, original, signed letters of no objection from the abutting shoreline property owners. 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 submitted to the city. For purposes of this determination, and in the absence of property lines that already project into the water body, the projected property line of abutting shoreline owners shall be construed to mean a line projecting from the shoreline into the water 90 degrees from the abutting property owner's shoreline.

~~(2) — *Minimum rear setback Canal properties.* Boat docks and associated structures shall have a minimum setback of 25 feet from the abutting rear property lines of property owners on the opposite shoreline of any canal.~~

~~(32) *Length of boat docks.* No dock shall extend further into a waterbody than where a reasonable water depth for a single vessel mooring is achieved, and in no event shall such depth exceed five (5) feet during normal hydrological conditions unless existing natural conditions of the waterbody necessitate a greater water depth to allow safe mooring conditions. No dock shall be constructed or extended to a length more than twenty five percent (25%) of the navigable corridor or to a length that would adversely impact the rights of other persons use of and access to the water body. In no circumstance shall a boat dock be constructed or extended nor shall a vessel be moored at boat a dock in such a manner as would cause the navigable width of the water body at the location of the dock to fall below (25) twenty-five feet as measured from the most waterward point of the dock or moored boat to the nearest permanent obstruction to navigation. The maximum permitted length of boat docks and other structures which shall include walkways, boat house and terminal platforms shall not exceed 65 feet as measured from the normal high water line as established by Orange County, Florida, as marked by a registered surveyor and mapper, unless a variance is secured from the city council. No dock on a canal or otherwise shall extend waterward of the mean or ordinary high water line more than 25 percent of the width of the water body at the location of the dock. This is to assure that other property owners will retain their rights or reasonable use of, and access to, the lake.~~

~~(43) *Enclosed structures.* Other than for repair or reconstruction of existing structures, no structures having enclosed sidewalls are permitted. Enclosed shall be defined as, by way of example but not by limitation, screen houses, chain link fencing, lattice fencing and any form of paneling. In the case of existing enclosed structures or grandfathered structures, reconstruction, renovation, and repair shall be permitted as long as the footprint of the existing structures is maintained, the structure is not expanded as documented by the applicant, and adjacent property owners consent thereto in writing. Examples of such documentation may include but not be limited to surveys, photographs, contractors', engineers', or site plans.~~

~~(54) *Height of boat docks.* The minimum height of boat docks shall place them one foot above normal high water elevation the NHWE of the applicable water bodylake as~~

established by Orange County. The maximum height shall be 13 feet above the normal high water line NHWE of the applicable water bodylake.

~~(65)~~ *Square footage of boat docks.* The maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first seventy-five (75) feet of shoreline and five times the linear shoreline frontage for each foot in excess of seventy-five (75) feet, not to exceed a maximum of one thousand (1,000) square feet. Access walkways shall not be included in the maximum square footage calculation. Roof eaves that do not extend more than three feet beyond the terminal platform shall not be included within the maximum square footage calculation.

~~No boat dock shall exceed 1,000 square feet in total area. The total area of the dock is that portion of the dock lying waterward of the normal high water line of the applicable lake or water body.~~

~~(6)~~ *Access walkways.* Access walkways shall not exceed five feet in width.

~~(7)~~ *Docks prohibited in easements.* No work shall be within areas which are legal easements for ingress or egress, drainage, or utilities.

~~(8)~~ ~~Construction of more than one dock per residential lot is not permitted. However, one dock may shall be allowed permitted on each water body to which a residential lot has frontage if when there is no navigable connection between the water bodies. In no other circumstances shall more than one dock per residential lot be allowed.~~

~~(9)~~ Under no circumstances shall a boat-dock be utilized for residential purposes.

(c) *Application procedures.*

~~(1)~~ The ~~boat-dock permit application, and application fee a permit fee, three site plans and three sets of engineered construction plans, and any other documents as set forth above~~ shall be submitted to the city clerk's office. Any question regarding the ~~boat-dock permit~~ application will be answered by that department, the city engineer, or city building official. The city clerk shall forward the application and all pertinent documents to the city engineer for his/her review and recommendation. Unless a variance from the provisions hereof is requested or required, the city engineer is authorized to approve such applications meeting the requirements of this article following the receipt of a complete application.

~~(2)~~ *Notices to neighboring shoreline property owners.* Upon receiving the application, the clerk shall send notices by first-class mail to the owners of the properties abutting the property, other property owners who could be affected by the new dock because of any unusual configuration of the shoreline as determined by the city engineer or designee, and any other shoreline property owners within 300 feet of the property on which the dock is to be located. All such notices shall require that written comments on the proposed ~~boat-docks permit application~~ be sent to the clerk within 15 calendar days from the date such notices are sent. If no written objections are returned by property owners receiving notice, such owners shall be deemed to have given consent and to have waived their right to object to the construction of the dock. If notices sent by first-class

mail to nearby properties are returned to the city, or if the city has reason to believe that the notice is undeliverable as addressed, the city shall use its best efforts to determine the current address of any neighboring property owners entitled to notice herein and shall use its best efforts to notify such current neighboring property owners of the proposed dock.

(3) *Approval by the city engineer.* Except as provided by paragraph (5), below, ~~The~~ city engineer is authorized to approve such applications after 15 calendar days from the date notices are sent so long as the minimum criteria are met and the application is complete in all other respects pursuant to this article.

~~a.~~(4) *Appeal of city engineer's decision.* The applicant or any person entitled to notice under this article may appeal a decision of the city engineer regarding the interpretation of the contents of the application or the minimum criteria set forth in this section. City council shall consider such appeal at its next available regularly scheduled meeting.

(45) *Decision by city council.* The city engineer is not authorized to approve any applications where there are objections from any shoreline property owner within 300 feet of the property or other property owner entitled to notice under subsection (2) above, or where the city engineer or building official, in his or her discretion, believes the application should be decided by city council. ~~When an application for a boat dock must be decided by city council, the applicant shall submit a total of nine site plans and three sets of engineered construction plans to the city clerk's office.~~

- a. When city council must decide the application for a boat dock permit, city council shall approve, deny, or approve with conditions the application to construct the boat dock at its next available regularly scheduled meeting. Notices of the hearing before city council shall be sent to the applicant and any person entitled to notice under this article. In determining whether to approve, deny, or approve with conditions the application, city council shall determine whether the application has been satisfactorily completed and whether the minimum criteria set forth above for issuance of the dock permit have been met. In addition, city council shall ~~apply~~ consider the following ~~criteria~~factors:
 1. Possible obstruction to navigability;
 2. Unreasonable impairment of lake view visibility from abutting properties;
 3. Hazardous ~~or safety~~ conditions; and
 4. Whether the proposed structure unreasonably interferes with the riparian or littoral rights of other property owners. "Unreasonable interference" shall include but not be limited to: (a) proximity of docks of abutting property owners; (b) access for boaters and swimmers; and (c) any unusual configuration of the shoreline which would cause the proposed dock to restrict access to sections of the waterway.
- b. The decision of the city council shall be in writing and shall indicate the date of the decision. Copies of the decision shall be sent by regular mail to the applicant and to those who previously filed written objections to the application. The decision of city council shall be final.

(d) *Variances.*

(1) An application for variance from the requirements of this article ~~may shall~~ be submitted to the city ~~made to the planning and zoning board simultaneous with the submission of the boat dock application and permit fee.~~ When a variance is requested, the applicant shall also submit to the city clerk's office nine site plans and three sets of engineered construction plans in addition to the required application fee. At a minimum, the applicant shall identify the paragraphs of this article from which the applicant seeks a variance and the extent of the requested variance. An application for a variance may be processed at the same time or prior to an application for a dock permit. Notice of all hearings on a requested variance, including hearings before the planning and zoning board and city council, shall be provided to the applicant and any person entitled to receive notice under this Chapter as provided in Section 14-11(c)(2).

(2) The planning and zoning board shall hear and make a recommendation to the city council on any application for variance. To recommend to the city council such variance from the terms of this article, the following criteria factors shall be considered applied to the application:

- a. Average length of other docks in the surrounding 300-foot area;
- b. The reasonable use of the property by the owner;
- c. The effects the dock will have on navigation and safety of boaters;
- d. The overall general welfare of the neighborhood;
- e. Whether special conditions exist such that strict compliance with the provisions of this article would impose a unique and unnecessary hardship on the applicant;
- f. The effect of the proposed variance on abutting shoreline property owners;
- g. Whether the granting of the variance would be contrary to the intent and purpose and this article; and
- h. A variance ~~from the maximum length of 65 feet~~ may be granted if it is necessary to reach a water depth suitable for boating, but in no event shall a dock be extended in length beyond where the water depth will exceed five feet as measured from the normal high water elevation.

(3) The city council shall receive the planning and zoning board's recommendation and shall make a final decision on the variance application after consideration of the same factors described in paragraph (2), above.

- (e) *Compliance checks.* Once a permit has been issued for the construction of a ~~boat dock~~ by either the city engineer or the city council, the permit holder and/or designated agent must submit a notice of completion to the city engineer or designee within 30 days of completion of the construction of the ~~boat dock~~ so that a compliance check may be performed by the city engineer. The compliance check shall determine if the ~~boat dock~~ was built according to the permit issued by the city.
- (f) *Building permit.* Following the approval of a ~~boat dock~~ application, either by the city engineer or by city council, the applicant is also required to obtain a building permit prior to

commencing construction. In the event electricity is run to the ~~boat~~ dock, the proper electrical permit must also be obtained. All construction must be commenced, ~~or~~ and completed, ~~or both~~ within the guidelines established by the city and any other agency having jurisdiction. The applicant is responsible for all fees associated with the procurement of necessary permits.

(g) Maintenance and repair. Routine maintenance and repair of docks may be conducted on any dock for which a dock permit was obtained from the city provided that no portion of the dock shall be expanded, enlarged, or enclosed as a result of such maintenance or repair activity.

(gh) Approval of a ~~boat~~-dock permit by the City of Edgewood will not eliminate the application of any other government requirements or the necessity for any other governmentally required permit(s).

Sec. 14-12. - ~~Boat d~~Dock regulation: intent and purpose.

- (a) The purpose of this article is to regulate the construction of ~~boat~~-docks such that the navigation of water bodies is not unreasonably impeded.
- (b) An intent of the city council is to protect and enhance the city's water bodies so that the public can continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing.
- (c) It is further the intent of the city council to apply these regulations in a manner sensitive to the riparian and littoral rights and other property rights of the applicant, riparian and littoral rights and other property rights of the waterfront property owners, and the right of the public to the traditional uses and enjoyment of water bodies in the city.

Sec. 14-13. - Permits required; fees.

- (a) No ~~boat~~ dock shall be constructed in the city without first seeking and obtaining a ~~boat~~ dock permit. Applications are available in the office of the city clerk.
- (b) By resolution, the city council may from time to time establish fees to be applicable to all permits, variances, appeals, or other regulatory activities authorized in this article. Payment of any application fees shall in no way guarantee issuance of a dock permit, and such fee is nonrefundable.

Section 3: Conflicts. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Severability. If any section, paragraph, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5: Codification. The provisions of this Ordinance shall be codified as and become and be made a part of the *Code of Ordinances of the City of Edgewood*. The Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word

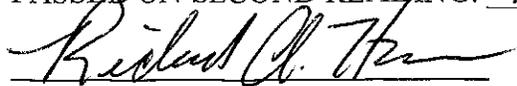
“Ordinance”, or similar words, may be changed to “Section,” “Article”, or other appropriate word. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 6: This ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 17th day of December, 2019, by the City Council of the City of Edgewood, Florida.

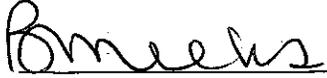
PASSED ON FIRST READING: NOVEMBER 19, 2019

PASSED ON SECOND READING: December 17, 2019



Richard A. Horn, Council President

ATTEST:



Bea L. Meeks, MMC
City Clerk