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ORDINANCE NO. 20034-_____

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 Chapter 15, Article IX, Boat Dock Construction, sections 15-321 through 15-360, are hereby repealed.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

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

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

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

48 (b) Water bodies in Orange County provide important
habitat and functions to fish and wildlife. Orange County's water
50 bodies contain littoral areas that are significant and productive in
the maintenance and preservation of aquatic plants and animals.
52 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.

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

58 (d) A purpose of this article is to regulate dock
60 construction, which for the purposes of this article includes dock
repairing, within unincorporated areas of Orange County, ~~and~~
62 ~~within those areas of incorporated areas of Orange County situate~~
~~within the Conway Water and Navigation Control District and the~~
64 ~~Windermere Water and Navigation Control District,~~ in order to
66 minimize adverse impacts of such activities upon the natural
resources of Orange County. The County may regulate dock
68 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.

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

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

80 in Orange County.

82 (g) The board of county commissioners recognizes that
84 the cumulative and secondary impacts of docks may adversely affect
86 the water quality of the water bodies, as well as the functions the
88 water bodies provide to fish and other wildlife. The reduction in
90 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.

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

96 **Sec. 15-323. Definitions.**

98 The following words, terms and phrases, when used in this
100 article, shall have the meanings ascribed to them in this section,
except where the context clearly indicates a different meaning:

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

106 *Board* means the Board of County Commissioners of
108 Orange County, Florida.

110 *Building Official* means for unincorporated Orange County,
112 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.

114 *Dock* means any permanently fixed or floating structure
116 extending from the upland into the water, capable of use for vessel
118 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
120 term “dock” also includes any area adjacent to the dock designated
122 for mooring purposes. This term does not include any vessel that is
not permanently docked, moored, or anchored.

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

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

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

134 *EPD* means the Orange County Environmental Protection
136 Division.

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

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

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

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

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

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

162 *Projected property line* means a continuation of, and
164 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.

166 *Public dock* means a dock which is subject to public access.

168 Docks associated with commercial establishments and activities,
170 governmental and non-governmental institutions, and private
organizations are included in the definition of public dock.

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

176 *Riparian rights* means those rights incident to lands
178 bordering upon navigable waters, as recognized by the courts of this
state and common law.

180 *Satisfactory evidence of title* means a warranty deed or a
182 current title insurance policy issued by a title insurance company
authorized to do business in the State of Florida, or an opinion of
184 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.

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

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

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

200 *Waters* means and includes, but is not limited to, rivers,
202 lakes, streams, waterways, bays, springs, impoundments, inlets,
204 canals, and all other waters or bodies of water, whether natural or
artificial, located in Orange County.

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

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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, waviers 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;

- 260 (3) Satisfactory evidence of title;
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- 264 (4) Documentation showing riparian rights for
- 266 the parcel, such as any legal instrument indicating ownership to the
- 268 shoreline;
- 270 (5) A copy of a survey of the real property which
- 272 accurately depicts current conditions;
- 274 (6) Four (4) sets of a site plan depicting the exact
- 276 location of the proposed dock, and shall include the following:
- 278 a. An arrow indicating the northerly
- 280 direction of the scale to which the sketch or drawing was prepared
- 282 and the name of the water body upon which the proposed dock
- 284 structure or renovation is to be located;
- 286 b. The exact distance between the
- 288 existing shoreline, at the point where the dock is to be constructed
- 290 or is currently located, and a permanent object or marker (e.g.,
- 292 house, tree, USGS benchmark) to be used as a reference point;
- 294 c. The exact setback distance from
- 296 adjacent property lines and projected property lines to all portions of
- 298 the dock;
- 300 d. Floor and roof elevations of the
- 302 proposed or existing dock;
- 304 e. The current water depth at the end of
- 306 the proposed or existing dock, and at all proposed mooring
- 308 locations;
- 310 f. The length of the proposed or existing
- 312 dock, as measured from the normal high water elevation (NHWE)
- 314 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;

316 i. A description of vegetation types
318 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

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

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

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

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

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

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

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

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

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

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

366 (a) The dock shall extend only to the point where
368 reasonable water depth for vessel mooring is achieved. The
370 maximum water depth allowed for mooring areas is five feet, as
372 measured from the NHWE, unless the natural conditions of the
374 water body necessitate a greater water depth to allow reasonable
376 mooring conditions. The dock shall not adversely affect the rights
378 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.

380 (b) The maximum square footage of the terminal
382 platform shall not exceed the square footage of ten times the linear
384 shoreline frontage or 750 square feet, whichever is less. ~~be based
upon the linear shoreline frontage as follows:~~

386 ~~(1) — Properties having up to and including 65
linear feet of shoreline frontage will be allowed a maximum
terminal platform size of 400 square feet.~~

388 ~~(2) — Properties having 66 through 100 linear feet
390 of shoreline frontage will be allowed a maximum terminal platform
size of 600 square feet.~~

392 ~~(3) — Properties having greater than 100 linear feet
394 of shoreline frontage will be allowed a maximum terminal platform
size of 750 square feet.~~

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

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

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

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(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) The construction of more than one dock per residential lot is prohibited ~~without the approval of the Environmental Protection Officer.~~ 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 65 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 65 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 ~~variance 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 are equal to or less than 65 feet, the minimum setback shall be ten feet. ~~Variance Waivers~~ from side-setback requirements may be granted by the environmental protection officer if a notarized letter of no objection to the ~~variance waiver~~ is received from the shoreline property owner abutting the applicant's property line affected by the ~~variance waiver~~. All other ~~variances 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 ~~5065~~ 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. ~~No more than one storage locker shall be allowed on any private dock.~~ 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 variance waiver, which shall be reviewed by the environmental protection division. Final approval of a side-setback variance 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 variance waiver, which shall be reviewed by the environmental protection division. Final approval of the side-setback variance waiver shall be granted in accordance with the provisions of section 15-350.

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

504 **Sec. 15-346. Dock Maintenance and Repair and Minor**
505 **Modifications.**

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

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515 (b) *Maintenance and Repair of docks permitted by*
516 *Orange County.* When maintenance and repair of docks permitted
517 under this article involves the repair or replacement of pilings, or
518 other portions of the dock at or below the water surface, the permit
519 holder shall provide written notice to the environmental protection
520 officer of the proposed maintenance and repair activities at least ten
521 days prior to initiating the maintenance or repair activity. The
522 notice must be provided on the notification form that may be
523 obtained at the environmental protection division. At a minimum,
524 the permit holder must identify the permit number, physical address
525 of the property on which the dock is located, name of the permit
526 holder, or current owner of the property if not the original permit
527 holder, a description of the proposed maintenance or repair, and the
528 date that the permit holder intends to commence the activity.
529 **Repairs that do not involve activity at or below the water surface are**
530 **allowed without notice or permit.** All maintenance and repair
531 activities must maintain the original design and original footprint of
532 the dock, as approved in the Orange County permit.

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

548 (d) *Maintenance of unpermitted “grandfathered” docks*
549 *constructed on or before December 19, 1988.* Maintenance
550 activities of unpermitted docks constructed on or before December
551 19, 1988, do not require a permit under this article if the
552 maintenance activities do not include repair or replacement of
553 pilings or portions of the dock at or below the water surface.

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

560 (f) *Minor modifications to permitted docks. Minor*
561 *modifications to existing permitted structures or for “grandfathered”*
562 *docks must be approved by the environmental protection officer.*
563 *The applicant must submit a request for the proposed deviation,*
564 *change or modification to the original site plan to the environmental*
565 *protection officer for consideration. Additional information may be*
566 *requested from the applicant in order to complete the review.*
567 *Minor modifications must comply with the provisions of this*
568 *Article. Any modification that may require a variance or waiver of*
569 *any provision of this ordinance shall not be considered a minor*
570 *modification. Any modification that increases the size of the*
571 *terminal platform shall not be considered a minor modification.*
572 *The environmental protection officer may require notification of*
573 *abutting shoreline property owners of the application for minor*
574 *modification.*

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

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

587 (b) The environmental protection officer will also send

592 notice of receipt of an application and a copy of the application to
594 the Windermere Water and Navigation Control District Advisory
596 Board or the Conway Water and Navigation Control District
598 Advisory Board, where appropriate, and may request comments
600 from, and provide copies to, other county departments, agencies or
602 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.

638 (b) *Decisions relating to new dock construction.* Upon
640 receipt of comments from all parties that have been notified, or
642 upon the expiration of the thirty-five calendar day period for written
644 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.

646 ~~(c)(e)~~ *Decisions relating to applications to repair pursuant*
648 *to section 15-346(b).* The environmental protection officer shall
650 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.

652 (d) *Decisions relating to applications for minor*
654 *modifications pursuant to section 15-346(f).* Following staff review
656 of the request, the environmental protection officer shall either (1)
658 render a decision stating that the request is non-substantial or
660 insignificant and issue a letter authorizing modification of the
662 permit; or (2) refer the request to the environmental protection
664 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.

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

670 (a) The applicant, or parties who have previously filed
672 written objections, may, within fifteen calendar days of the decision
674 of the environmental protection officer, file a written notice of
676 appeal with the environmental protection officer. If no notice of
678 appeal is received within the fifteen calendar day period, then the
680 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

682 scheduled within the twenty-one day period, then the
684 recommendation shall be presented at the first meeting of the Board
following the expiration of the twenty-one day period. The Board
686 may accept the recommendation or call for a public hearing.

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

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

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

708 (1) A statement identifying the decision being
710 appealed;

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

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

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

722 (e) Failure to provide the information required in
subsection 15-349(d) shall be a basis for dismissal of the appeal by
724 the Environmental Protection Officer. The Environmental
Protection Officer shall promptly give written notice to the

726 appellant of the dismissal of the appeal and shall state the reasons
728 for the dismissal. Dismissal of an appeal shall, at least once, be
without prejudice to appellant's filing an amended notice of appeal
730 within 14 days of the date of the dismissal.

Sec. 15-350. Variance and Waiver.

~~(a)~~(a) Generally.

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

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

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

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this ordinance.

~~(iii)(d)~~ Applicants may seek variances from the provisions of the ordinance not addressed in paragraphs ~~(bi)~~ and ~~(eii)~~ 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.

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 environmental protection commission shall render a recommendation to approve or approve with conditions a variance 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. ~~when such variance would not be contrary to the public interest and where, owing to special conditions, a compliance with the provisions herein would impose an unnecessary hardship on the permit applicant. The~~

814 ~~recommendation of the environmental protection~~
816 ~~commission shall be provided to the Board within twenty-~~
~~one days, provided that if no meeting is scheduled within the~~
818 ~~twenty one day period, then the recommendation shall be~~
~~presented at the first meeting of the Board following the~~
820 ~~expiration of the twenty one day period. The Board may~~
~~accept the recommendation or call for a public hearing.~~

822 ~~(e) A variance may be granted upon demonstration by~~
~~the permit applicant that such hardship is not self imposed. A~~
824 ~~variance will not be granted if it is contrary to the intent and~~
~~purpose of this article.~~

826 **Sec. 15-351. Building permit required.**

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

836 **Sec. 15-352. Compliance checks.**

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

846 (b) The permit holder and/or designated agent must
848 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.

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

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

856 (a) It shall be unlawful for any person to violate any
858 provision of this article, or any provision of any resolution enacted
pursuant to the authority of this article. Any person who violates

860 this chapter, or any provision of any resolution enacted pursuant to
862 the authority of this article, may be prosecuted in accordance with
864 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.

866 (b) In addition to the enforcement and penalty provisions
868 provided in paragraph 15-35~~4~~³(a), the county may avail itself of any
870 other legal or equitable remedy available to it, including without
limitation, injunctive relief or revocation of any permit involved.

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

880 (d) If the environmental protection officer determines
882 that construction is occurring without prior approval or not in
884 accordance with these regulations, the environmental protection
886 officer shall promptly issue a written notice of violation to the
888 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.

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

Sec. 15-355 – 15-360. Reserved.

898 **Section 3. Effective Date.** This ordinance shall take effect immediately upon its
900 adoption.

ADOPTED THIS _____ DAY OF _____, 200_.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Richard T. Crotty
County Chairman

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

By: _____
Deputy Clerk

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FOR
DISCUSSION
ONLY