

ORDINANCE NO. 2755-08

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO WATERWAYS; AMENDING SECTION 114-1-DEFINITIONS; AMENDING SECTION 114-6 TO ADOPT STATE CODE RELATING TO SHORELINE OR WATERFRONT VEGETATION REMOVAL, TO INCREASE PENALTY FOR REMOVAL OF VEGETATION WITHOUT PERMIT, UPDATING STATE NAMED DEPARTMENT FROM DEPARTMENT OF NATURAL RESOURCES TO DEPARTMENT OF ENVIRONMENTAL PROTECTION, MODIFYING THE CONSTRUCTION OF RETAINING WALLS, SEA WALLS AND REVETMENTS; PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED by the people of the City of Winter Park, Florida as follows:

Section 1. Section 114-1, Definitions, is amended by adding a new definition to read as follows:

Chapter 114. Waterways

Sec. 114-1. Definitions.

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

Boat means all rafts, skiffs, dredges, canoes, dinghies, dugouts, rowboats, sailboats, motorboats, personal watercraft and every other device used or capable of being used as a means of transportation on water.

City boats means boats owned by residents of the city.

Clearance means the alteration of or removal of vegetation by the deposit of sand, dirt or other material or by uprooting and removal by mechanical or nonmechanical means or by chemical treatment.

Fill means the addition of materials, including but not limited to dirt, sand, gravel, stone, crushed stone, cement, cement rubble, mulch, wood or railroad ties, which results in changes to the topography or vegetation that exists on the shoreline and waterfront areas of waterfront properties.

Motorboat means any boat powered by an internal combustion engine.

No city boats means boats owned by nonresidents of the city.

Operator means any person in charge of or having immediate control over a boat, whether such person is the owner, a permittee or an unauthorized user.

Personal watercraft means a class A inboard vessel, as defined by the United States Coast Guard, which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion and which is designed to be operated by a person sitting, standing or kneeling on the product, rather than in the conventional manner of boat operation.

Retaining wall means the same as seawall.

Revegetation means the planting and establishment of terrestrial and aquatic grasses and plants, both emergent and nonemergent, associated with waterfront and shoreline environments.

Revetment means any sloped structure with a horizontal to vertical slope of 3:1 or greater that is constructed of rock, other aggregate material or geotextile fabric that is intended to protect the shoreline against erosion or water action.

Seawall means any structure involving stone, brick, concrete, metal or wood intended to stabilize the shoreline as protection against erosion or water action.

Shoreline means the land area which exists between the normal high-water elevation during typical hydrological conditions and the point measured ten feet landward of such normal high-water elevation. (Reference normal high-water elevations for the major lakes in the zoning ordinance.)

Waterfront means the water area or occasional land area which exists between the normal high-water elevation during typical hydrological conditions and the point measured 30 feet out seaward of the normal high-water elevation.

Waterfront vegetation means vegetation which grows or exists at or below the normal high-water elevation and includes terrestrial and aquatic plants, both emergent and nonemergent, associated with wetlands.

Waterway means any water, lake, canal, stream, lagoon or connecting waters, whether natural or manmade, partially or wholly within the boundaries of the city.

Section 2. Section 114-6, Lakeshore protection, is amended to read as follows:

Chapter 114. Waterways

Sec. 114-6. Lakeshore protection.

(a) Every person desiring to perform or cause to be performed any shoreline alteration involving the removal of shoreline or waterfront vegetation shall be required to obtain a permit in conformance with the procedures and standards set forth in this section, unless exempted. The commission, after recommendation from the lakes and waterways advisory board, shall be empowered to grant a permit only if the applicant demonstrates that this shoreline or waterfront clearing or alteration

will not be adverse to the public purposes and benefits of maintaining lake water quality and fish and wildlife habitat and reducing nutrient loading by maintaining shoreline and waterfront vegetation necessary for the health and viability of a lake system. The applicant must further demonstrate that the proposed removal of vegetation will not degrade water quality below the standards set forth in F.A.C. ch. 17. The procedures and standards required for the permit shall be as follows:

(1) Each applicant for a shoreline alteration permit shall submit a site plan, photographs and materials containing information and addressing the following items:

a. The percentage, area and types of shoreline and waterfront vegetation proposed to be removed and to be maintained.

b. A plan showing any proposed changes in shoreline contour to include existing and proposed topographic elevations. Also included shall be the quantities of material to be removed and filled in cubic yards.

c. A plan showing the proposed method for controlling erosion, filtering runoff and reducing nutrient concentration and stabilizing the soil.

d. The reasons for such request and an explanation of the hardship expected if a permit is not granted.

(2) The permit fee for applications for shoreline or waterfront vegetation removal shall be established by the city to cover the administrative cost of processing such application and for inspection to ensure the clearing, if approved, is done in accordance with the permit and this chapter. The commission may include such terms and conditions on any permit issued as it may find reasonable and necessary to further the purpose and intent of this chapter.

(3) The requirement to obtain a permit for the removal of shoreline or waterfront vegetation shall not apply to the following:

a. Any person or property owner clearing less than 50 feet or 50 percent of the lake frontage, whichever is less.

b. Maintenance or repairs to portions of an existing stormwater or drainage control system.

c. Lawn mowing, trimming of landscaping and other lawn maintenance activities which do not result in the clearance of vegetation.

(4) All cleared or trimmed vegetation shall be removed from the lake and lakefront for offsite disposal. Any permit issued may be revoked by the city for violation or noncompliance with the provisions of the permit, this chapter, mistake of fact or conflict with other city, county or state regulations.

(5) The changing of any shoreline by digging or adding fill, which alters or changes the shoreline or existing topography of the shoreline or waterfront of any water body within the city, shall be prohibited, unless done in accordance with an approved shoreline alteration permit. A permit shall also be required to pump or withdraw sand or any other material from lake bottoms.

(6) If the public works director determines that any alteration or filling is occurring or has occurred without prior approval or not in accordance with this chapter or the approved permit, a written notice of violation shall be issued promptly to the property owner. The notice of violation shall include the description of the property involved, the provisions of this chapter or other applicable regulations which have been violated and the remedial action to be taken. Such remedial action may include restoration to the existing conditions, revegetation of the shoreline or waterfront, application for a permit, payment of permit fees or other action which is consistent with this chapter. If any person commences any shoreline alteration or the removal of any shoreline or waterfront vegetation before obtaining the necessary permit, he shall be subject to a penalty of five times the permit fees. If any person fails to apply for the necessary permit within 30 days of receipt of written notice of violation, such person shall also be subject to an additional penalty of five times the permit fees for each month or portion thereof occurring, commencing 30 days from the date of receipt of written notice of violation and continuing until proper application for the necessary permit is made.

(7) Nothing in this subsection is intended to relieve a property owner or contractor of any obligation under state law to obtain required permits from the state Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission or other governmental authorities having jurisdiction, when applicable.

(8) The public works director, director of planning and community development and police chief are responsible for enforcing this section. They may delegate enforcement authority to one or more appropriate designees.

(b) The construction of retaining walls, seawalls or revetments on any lakefront, canal front, streamfront, etc., shall be prohibited except when done in accordance with law and after obtaining a permit from the city.

(1) Permits for the construction of retaining walls or seawalls shall be granted only with the prior approval of the lakes and waterways advisory board after a public hearing. This board shall render a decision on the application for its approval, approval with conditions or denial within 60 days after receipt of an application.

(2) The application for a permit shall include plans drawn to scale including a site plan of the property showing the proposed location of the alteration and the relation to adjacent properties and construction plans showing details of materials proposed and pictures detailing existing

shoreline conditions in the area. An application fee established by the city shall be paid to cover the administrative costs of processing the application. Notices shall be mailed at least ten days prior to the first hearing date to the owners of lakefront or canal front properties adjacent to the subject property noticing the date, time and location of all review hearings.

(3) Applications for seawalls or revetments should be considered favorably only when the structure is a dire necessity to stem erosion and loss of shoreline that is markedly different from that experienced in general. On lakefronts, vertical seawalls shall be disallowed in favor of sloped riprap revetments (minimum slope 3:1, horizontal to vertical) that allow wave energy dissipation and allow shoreline vegetation to propagate. Vertical sheet pile, with a non-vertical rip rap face, may be allowed on a case by case basis to minimize turbidity, or vegetation disturbance during construction provided that the entire face of the vertical component is covered by the sloped rip-rap component, the finished face meets the 3:1 minimum slope requirement, and the elevation of the vertical component does not exceed the natural ground elevation. Vertical seawalls may be allowed on a case by case basis in canals or other altered water bodies where sloped revetments could interfere with navigation, or where conditions make the construction of sloped revetments impractical. Construction for cosmetic reasons is not sufficient justification. The review by the city advisory boards and city commission shall include the environmental ramifications of the request, its relationship to the ecology of the lake or stream as a whole and the specific shoreline characteristics of the property involved. Approvals of any shoreline modification shall be the minimum necessary to allow relief. As a condition of the seawall/revetment permit, shorelines that do not meet the vegetation standards of this section (subsection 114-6 (a)) shall be required to be planted so that no more than 50 feet, or 50 percent (whichever is less) of the shoreline remains clear of vegetation.

(4) Applications for a repair to a seawall shall be considered favorably only when the repair to the structure is a dire necessity and when the repair can be completed from the back side of the structure. With a city permit, repair to the front side and/or top of the seawall structure shall be limited to 25 percent of the entire length or 30 feet, whichever is less. Also, with a city permit, painting and covering the face of the seawall shall be allowed for cosmetic purposes, keeping in mind the 25 percent or 30 foot limit on repairs. As a condition of the repair permit, shorelines that do not meet the vegetation standards of this section (subsection 114-6 (a)) shall be required to be planted so that no more than 50 feet, or 50 percent (whichever is less) of the shoreline remains clear of vegetation.

(5) Nothing in this subsection is intended to relieve a property owner or contractor of any obligation under state law to obtain required permits from the city Building Department, state Department of Environmental Protection or other governmental authorities having jurisdiction, when applicable.

(c) The construction of new boat ramps shall be prohibited: (i) on lakes where access is available from public ramps; and (ii) on lakes where motorboats are prohibited by section 114-6105.

(1) Shoreline alteration permits for the construction of boat ramps on lakes within the city that have no public access, or where motorboats are not prohibited, shall be granted only with the prior approval of the lakes and waterways advisory board after a public hearing. This board shall render a decision on the application for its approval, approval with conditions or denial within 60 days after receipt of an application.

(2) The application for boat ramps shall include plans drawn to scale including a site plan showing the location of the proposed ramp and the relation to other properties, and construction plans showing details of materials proposed, and pictures detailing existing shoreline conditions in the area. An application fee, established by the city, shall be paid to cover the administrative costs of processing the application. Notices shall be mailed at least ten days prior to the first hearing date to owners of lakefront or canal front properties adjacent to the subject property noticing the date, time, and location of the review hearings.

(3) Applications for boat ramps will be considered favorably only when no other reasonable access is available. Boat ramps must be located at least ten feet from adjoining property lines, and must be located entirely within the applicant's exempted shoreline clear area.

(4) Applications to repair existing boat ramps shall be considered favorably only when the repair to the structure is a dire necessity, and when the structure meets all other provisions of this subsection.

(5) Nothing in this subsection is intended to relieve a property owner or contractor of any obligation under state or federal law to obtain required permits when applicable. A city building permit shall be required in addition to the shoreline alteration permit. The building permit shall not be issued until approval for the shoreline alteration is granted.

Secs. 114-7--114-30. Reserved.

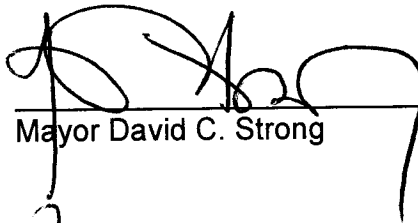
Section 3. It is the intention of the city commission of the city that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the city; and that sections of this ordinance may be numbered or renumbered or lettered or relettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be numbered or renumbered or lettered or relettered and typographical errors which do not affect the intent may be authorized by the city manager, without need of public hearing, by filing a corrected or recodified copy of same with the city clerk.

Section 4. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 5. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses or phrases under application shall not be affected thereby.

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

Adopted at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 8th day of December, 2008.



Mayor David C. Strong

Attest: 
City Clerk Cynthia Bonham