

ORDINANCE NO. 2863-11

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING SECTION 114-6 OF THE CODE OF ORDINANCES REGARDING LAKESHORE PROTECTION; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Park has the authority under the City Charter, Section 2(b), Article VIII of the State Constitution and Section 166.021(1), Florida Statutes to exercise any power for municipal purposes except where expressly prohibited by law; and

WHEREAS, the City Commission has determined that it is in the best interest of the residents of Winter Park to provide for lakeshore protection, including the use of a turbidity barrier in appropriate circumstances in order to improve lakeshore protection and water quality; and

WHEREAS, the City Commission has determined that it is in the best interest of the residents of Winter Park to provide for procedures and sanctions if it is determined that an alteration or filling has occurred without prior approval or a permit as required by the Municipal Code with respect to alterations or filling occurring on the lakeshore.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, HEREBY ORDAINS AS FOLLOWS

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated by reference.

Section 2. Amendment of Section 114-6 Concerning Lakeshore Protection. Section 114-06 of the City Code is amended to provide as follows, with the language ~~crossed-out~~ being language deleted and **bold** or underlined language being the new language added pursuant to this Ordinance and amendment.

Sec. 114-6. - Lakeshore protection.

- (a) Every person desiring to perform or cause to be performed any shoreline alteration involving the removal of aquatic 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 **Chapter 62, Florida Administrative Code, and any applicable requirements of state and federal law.** The procedures and standards required for the permit shall be as follows:

- (1) The requirement to obtain a permit for the removal of shoreline or waterfront vegetation shall not apply to:
 - a. Lawn mowing, trimming of landscaping and other lawn maintenance activities that are above the Ordinary High Water Line (as defined in Section 58-83, Winter Park Code of Ordinances), and which activity does not result in the removal or clearance of shoreline or waterfront vegetation.
 - b. Vegetation removal/management on lakes under 40 acres in total area. The Public Works Director or his designee will provide recommended best management practices for shorelines on small lakes.
- (2) Each applicant for a shoreline alteration permit shall submit photographs and materials addressing the following items:
 - a. The percentage, area, and types of shoreline and waterfront vegetation proposed to be removed and to be maintained.
 - b. If dredging or re-grading is proposed a plan showing any proposed changes in shoreline contour must be provided which includes existing and proposed topographic elevations. Also included shall be the quantities of material to be removed and filled in cubic yards.
 - c. The proposed method for controlling erosion, filtering runoff and reducing nutrient concentration and stabilizing the soil (the use of a jet pump requires a turbidity barrier – see paragraph 114-6 (8)).
 - d. The reasons for such request and an explanation of the hardship expected if a permit is not granted.
- (3) Applications for vegetation removal will be approved for the following purposes only:
 - a) The creation of an access corridor for boating and swimming activities. Access corridors may be up to 50 feet wide, or up to 50% of the linear width of the shoreline, whichever is less, and

may extend from the shoreline out to open water. Docks, boat ramps or other features, which preclude shoreline vegetation growth, are included in the total area allowed for an access corridor.

- b) The removal of exotic vegetation to be replaced with native aquatic plants.
 - c) The removal of exotic vegetation from within existing native plant stands, provided that the native plant stands remain intact.
- (4) Applications for vegetation removal will only be approved for properties that meet the following vegetation standards.
- a) Existing or proposed access corridor must not exceed 50 feet wide, or 50% of the linear width of the shoreline, whichever is less.
 - b) All of the linear width of the shoreline outside of the access corridor must be vegetated.
 - c) At least 70% of the vegetated portion of the shoreline must contain emergent, aquatic vegetation.
 - d) No more than 30% of the vegetated portion of the shoreline may contain floating leaf species (such as fragrant water lily, or other floating leaf plants) only.
 - e) To be considered sufficient, stands of existing plants must be the functional equivalent of four rows of nursery stock plants planted on 2 foot centers (30 plants or greater per 100 square feet) as determined by the Public Works Director or his designee.
 - f) The presence of submersed vegetation (eel grass, pondweed, etc.) will not be counted for the purposes of shoreline vegetation determination.
 - g) Certain exotic, emergent plant species, that are high priority target species for eradication due to their potential for causing rapid ecological or economic damage, will not be counted for the purposes of shoreline vegetation determination. The City may treat or remove these plants on any City waterways as deemed necessary to effect control. High priority target species that will not be counted for vegetation determination and may be treated or removed by the City are: water hyacinth

(Eichornia crassipes), snowflake lilies (*Nymphoides cristata*)
and parrot feather milfoil (*Myriophyllum aquaticum*)

- (5) Applications for vegetation removal on properties that do not meet the vegetation standards listed in section 114-6 (4) will be denied or will be conditionally approved pending the revegetation of the shoreline. The Public Works Director, or his designee, will provide the applicant with detailed standards for revegetation when required including a list of approved species, the number of plants required, and maximum allowed spacing. The Public Works Director or his designee may include other conditions on any permit issued as may be reasonable and necessary to further the purpose and intent of this chapter.
 - (6) All cleared or trimmed vegetation shall be removed from the lake and lakefront for off-site 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.
 - (7) 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.
 - (8) The use of a jet pump, or other hydraulic methods, for the removal of aquatic or shoreline vegetation is prohibited unless a properly installed turbidity barrier is in place prior to the commencement of work, and remains in place until the project is complete and turbidity within the work area returns to ambient levels.
 - (9) 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.
 - (10) 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 nonvertical riprap 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 riprap 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 as a condition of the boat ramp permit.

- (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.
- (d) If the public works director (or designee) determines that any work, alteration or filling of land is occurring or has occurred without the owner or other person performing such work having obtained the approvals or permits required by this Chapter, and there is no available exemption for such work, then the violation will be processed as a Code violation in accordance with the provisions of Chapter 1 of the Code of Ordinances respecting Code Enforcement, and the provisions of Sections 1-15 through 1-26 of the Code shall apply except as otherwise provided in this Section. A written notice of violation will be issued promptly to the property owner, and the notice of violation shall include the description of the property, provisions of the Code allegedly violated, and a statement of the remedial action to be taken. The remedial action may include restoration, revegetation of the shoreline or waterfront, application for a permit, payment of permit fees or other action as allowed by law. A violation of any provision of this Chapter may be enforced, by a fine as set forth in the City of Winter Park Fee Schedule, in addition to a requirement that fees required for permits be paid. Any person who fails to take the required remedial action within thirty (30) days of receipt of written notice of the violation is also subject to additional enforcement action, which may include additional fines, by the Winter Park Code Enforcement Board.

Any person subject to Code Enforcement for an infraction pursuant to this Section shall be entitled to all rights of administrative appeal and judicial review as provided in Sections 2-101 through 2-110, regarding proceedings before the Code Enforcement Board and review of such actions as provided by Florida law.

Section 3. Codification. The previous Section 2 of this Ordinance shall be codified in the City Code as specified therein. Any section, paragraph number, letter, or heading within the Code may be changed or modified as necessary to effectuate the codification. Grammatical, typographical and similar or like errors may be corrected in

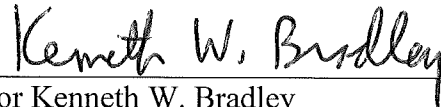
the Code, and additions, alterations and omissions not affecting a material substantive change in the construction or meaning of this Ordinance may be freely made.

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

Section 5. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 6. Effective Date Of Ordinance. This Ordinance shall become effective immediately upon adoption of the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the 12th day of December, 2011.



Mayor Kenneth W. Bradley

ATTEST:



Cynthia S. Bonham, City Clerk