

ORDINANCE No.: 17-02

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE CODE OF ORDINANCES CONCERNING BOAT DOCK REGULATIONS; BY AMENDING PART II, CODE OF ORDINANCES; BY AMENDING SUBPART B, LAND DEVELOPMENT CODE; BY AMENDING CHAPTER 48, ENVIRONMENTAL REGULATIONS, ARTICLE II, BOAT DOCKS; BY AMENDING CHAPTER 54, ZONING DISTRICTS AND REGULATIONS; BY AMENDING SECTION 54-1, RESTRICTIONS UPON LAND, BUILDING AND STRUCTURES; BY AMENDING SECTION 54-79, RETAIL COMMERCIAL DISTRICT C-1; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Citizens of the City of Belle Isle have expressed concern to the City Council about the scope and extent of regulation of boat docks within the City; and

WHEREAS, it is the desire of the City Council that the City of Belle Isle revise its land development regulations relating to boat docks; and

WHEREAS, Part II of Chapter 163 of the Florida Statutes requires the City's local planning agency to review proposed land development regulations and make recommendations to the City's governing body as to their consistency with the City's Comprehensive Plan; and

WHEREAS, the City of Belle Isle Planning and Zoning Board serves as local planning agency for the City; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the City's Local Planning Agency, has been presented with the proposed revised boat regulations incorporated by reference in this Ordinance; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on September 27, 2016 and November 29, 2016; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the Local Planning Agency, at the November 29, 2016, public hearing, found the revised regulations to be consistent with the City of Belle Isle Comprehensive Plan and recommended that the City Council adopt the revised boat dock regulations; and

WHEREAS, the City Council held two (2) public hearings on ~~February~~ March 7, 2017, and ~~February~~ March 21, 2017, to receive public comments, and considered the recommendation of the Planning and Zoning Board and the proposed revised boat dock regulations; and

WHEREAS, the Board has found and determined that the adoption of the proposed revised boat dock regulations will foster and preserve the public health, safety and welfare and aid in the harmonious, orderly and progressive development of the City, and thus serve a valid public purpose.

BE IT ORDAINED by the City Council of Belle Isle, Florida:

ARTICLE II. - BOAT DOCKS

Sec. 48-30. – Definitions

The following words, terms and phrases, when used in this article, will have the following meanings unless the context clearly indicates a different meaning:

Access walkway means that portion of the dock that commences at the Normal High Water Contour (NHWC) and terminates at the junction with the terminal platform.

Boats means all rowboats, sailboats, canoes, kayaks, skiffs, rafts, dugouts, dredges, personal watercraft, 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.

Boathouse means a roofed structure constructed over or adjacent to water to provide a covered mooring or storage place for watercraft.

Boathouse lot means a lot that is waterfront and was platted as a “B” lot to a primary “A” lot under the same parcel identification number and serves as a lake access lot for the parcel with the primary “A” lot having a principal structure.

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.

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

Mooring area means the portion of a docking facility used for the mooring of watercraft.

Normal High Water Contour (NHWC) means the horizontal location of the theoretical shoreline when the lake level is at the Normal High Water Elevation as defined herein. This is more specifically the horizontal location of the surface ground elevation points which match the Normal High Water Elevation as defined herein.

Normal High Water Elevation (NHWE) means the water surface elevation of Lake Conway and its directly connected water bodies as defined by Orange County. As of December 2016 the NHWE was 85.85, NAVD 88.

NHWE Shoreline means the edge of a body of water at the normal high water elevation (NHWE).

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

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

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

Projected property line means a continuation of, and extension to, the upland property line into the waterbody. In cases of privately owned bottomland, that is, non-sovereignty submerged lands underlying a water body, the projected property line is the actual property line.

Public dock means a dock which is subject to public access. Docks associated with governmental and non-governmental institutions, and private organizations are included in the definition of public dock.

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

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

Slip or boat-slip means a space designed for the mooring or storage of watercraft.

Terminal platform means that portion of a dock beginning at the waterward end of the access walkway.

Sec. 48-31. - Application process.

(a) Permit and review. Any person desiring to construct a boat dock, regardless of whether it is made of wood or another material, ~~or to install or move a floating boat dock,~~ within the city shall first apply for a permit to construct the boat dock. Applications shall be made to the city. Upon receiving the application, a city administrative officer shall perform a site review of the proposed dock location. The city shall review the application and shall contact the applicant if the application fails to meet any of the requirements set forth in this section.

(1) City's administrative review fees. ~~An administrative review fee of \$165.00 shall be paid at the time the application is submitted.~~ Application fees shall be in accordance with the city fee schedule. The administrative review fee does not include the City of Belle Isle building permit's processing fee.

(2) Application. The applicant shall submit a city boat dock application, a survey and five sets of plans showing the proposed dock. These forms shall be available in the city hall office. The plans shall provide accurate information as to all of the following items:

- a. An arrow indicating the northerly direction and an indication of the scale to which the drawing was prepared;
- b. The dimensions of the property, and the length and location of the proposed dock; as measured from the NHWC to the point most waterward of the NHWC;
- c. The exact distance between the ~~existing shoreline, at the point where the~~ access walkway ~~dock is to be constructed~~ crosses the NHWC, and ~~a two~~ permanent objects or construction (e.g., house, tree) to be used as ~~a~~ reference points;
- d. The exact distance of setbacks from adjacent property lines and projected property lines to the nearest portion of the proposed dock, and an approximation of the distance from the closest dock on each side of the property;
- e. The floor and roof elevation of the proposed dock, boathouse or other structure connected to the dock;
- f. The ~~depth of water~~ lake bottom elevation at the waterward end of the proposed dock; and
- g. A copy of a survey of the real property which accurately depicts current conditions ~~survey, performed within the last three years, of the property indicating the normal high water elevation of Lake Conway (86.9) as established by the county on October 25, 1982.~~
- h. The NHWE shoreline, as established herein, indicated on the survey; and
- i. Location of lifts, hoists, mooring pilings and mooring areas.

(3) Building permit. Following the approval by the city of a boat dock application, the applicant is also required to obtain a building permit from the City of Belle Isle building department prior to commencing construction. In the event electricity is run to the boat dock, the proper electrical permit must also be obtained from the City of Belle Isle building department.

(b) Commencement and completion of construction. All construction must be commenced, or completed, or both, within the guidelines established by the City of Belle Isle building department. The applicant is responsible for all fees associated with the procurement of the necessary permits.

(Ord. No. 09-16, § 1, 3-2-2010; Ord. No. [15-03](#), § 1, 7-7-2015)

Sec. 48-32. - Design criteria.

Boat dock applications shall be reviewed under the following design criteria:

(1) Setbacks. Private Boat-boat docks shall have a minimum side setback of five feet from the projected property lines of all abutting shoreline properties. Public and Semi-private docks shall have a minimum side setback of twenty-five feet from the projected property lines of all abutting shoreline properties.

(2) Length. ~~Consideration will be given to the length of other docks within 300 feet on either side of the proposed dock and to any other length restrictions that the city council may have established. For comparison, the length will be measured from the existing shoreline, with reference to a fixed object or structure on the lot.~~

~~If there are no other adjoining docks in the vicinity, then the maximum length of the boat dock shall not exceed 40 feet measured from the 86.9 normal high water elevation contour line of Lake Conway, as marked by a registered surveyor, to the lakeward end of the dock.~~

a) The lakeward end of the terminal platform shall be allowed to project to the greater of:

1. where the lake bottom has an elevation of 79.5 (NAVD 88) or

2. 15 feet lakeward of the point where the lake bottom has an elevation of 80 (NAVD 88) or

3. 40' from the NHWC shoreline.

Lake bottom elevations may be measured by the dock builder and the information provided as part of the application. A new survey is not required.

b) No dock shall be allowed to extend greater than 15 feet lakeward of existing docks within 300 feet of the proposed dock.

c) For comparison, each dock length will be measured perpendicularly from the NHWC to the most waterward point on the dock. A distance from two fixed objects or structure on each lot shall be referenced on the dock permit application plans.

(3) Total area. A boat slip, platform and any other portion of the dock, covered or uncovered, and including any floating vessel platform(s), collectively may not exceed the square footage of ten times the linear shoreline frontage for the first 75 feet of shoreline and five times the linear shoreline frontage for each foot in excess of 75 feet, not to exceed a maximum of 1,000 square feet. In no case shall the maximum be less than 400 square feet. The linear shoreline frontage shall be measured in a straight line between the two outermost projected property lines and the NHWC or a straight line between the two outermost property corners as shown on a survey, upland of at the NHWC, normal high water elevation, or whichever is greater.

(4) Height. Except for floating docks, the minimum height of boat dock decks shall ~~place them~~be one foot above the ~~normal high water elevation~~NHWE of Lake Conway.

The maximum height, which is to be measured from the top of the structure, shall be ~~13-14~~ feet above the ~~normal high water elevation~~NHWE of Lake Conway. ~~The minimum height of a floating dock deck shall be one foot above the water level.~~

(5) Access Walkway. That portion of the dock lying waterward of the ~~86.9 foot contour~~NHWC line of Lake Conway ~~as established by the county on October 25, 1982~~, and extending to the juncture of the slip or terminal platform, whichever is closest to the shore. An access walkway shall be a minimum of four feet and a maximum of five feet in width. The area for a walkway shall not be included as part of the total area for the structure.

(6) Number and location of boat docks.

a. No boat dock construction permit shall be issued on a lot or combination of lots that does not have a principal ~~building structure~~ first located thereon, or issued for a principal structure.

b. Only one boat dock per principal building that is located on a lot or combination of lots shall be allowed on any such lot or combination of lots.

c. Private B boat docks shall only be permitted on lots or combinations of lots zoned or used for residential purposes, and no boat docks shall be permitted on any lot or combination of lots used for ~~agricultural~~, commercial, professional-office and/or industrial purposes.

d. Semi-private or public B boat docks on public property and/or homeowners' associations' lots shall be exempted from provisions of subsections (6)_a. and b. of this section. However, only one boat dock per parcel may be located on public property and/or homeowners' association property. The term "parcel" shall mean all contiguous property owned by a homeowners' association or by a public entity.

e. All boat docks shall be permanently affixed to the lake bottom, and shall be subject to the provisions of this article except where noted.

f. A floating ~~vessel platform structure~~, unless it is ~~associated with part of~~ a permanent boat dock, shall be considered a separate boat dock subject to all provisions of this article, except subsection (6)_e. A floating ~~vessel platform structure~~ shall be considered to be associated with a permanent boat dock if it is installed within the boat slip area, is attached to the boat dock, or is immediately adjacent to a side of the boat dock. In no case shall any floating structure extend the permitted length of a boat dock according to Sec. 48-32 (2).

(7) Boathouse lots on canals.

The boathouse lots which exist along the canals interconnecting with Lake Conway within the city were platted and accepted by the city under the premise that these lots would serve as lake access for the residents of the associated parcel and in compliance with 6c above.

(7-8) Restrictions. All boat docks shall adhere to the following restrictions:

a. No work shall be within areas which constitute easements for ingress or egress, or for drainage.

b. ~~No structures having flat roofs will be permitted.~~ The maximum pitch of the roof shall be ~~have a minimum slope of 2:12 and a maximum slope of 5:12.~~

c. An upper deck is permissible as long as it meets life safety regulations. No solid or opaque railings or wall are allowed.

~~d.~~ Except as described in subsection f. of this section, no structure having enclosed sidewalls shall be permitted. The term "enclosed" shall be defined as, by way of example but not by limitation, to be plastic, canvas and other screening enclosures, chain link and lattice fencing, or any form of paneling.

~~d.~~ Under no circumstances shall a permit for the construction of a boat dock to be utilized for ~~residential purposes~~ living quarters and other non-water dependent structures be issued.

~~e. No permit applications will be accepted unless there is a principal building established on the property, or a building permit has been issued to construct said building.~~

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

~~f. Storage lockers shall be allowed, subject to the following limitations:~~

~~1. 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.~~

~~2. Storage lockers shall be limited to a cumulative maximum of 65 cubic feet.~~

~~3. Storage lockers shall not exceed 30 inches in height above the deck, 36 inches in width nor nine feet in length.~~

(9) Notwithstanding anything to the contrary, no boat or boats shall be moored, beached, placed, or parked, either permanently or temporarily, within five feet of any side yard setback extending from the projected property lines of all abutting shoreline properties.

(Ord. No. 09-16, § 1, 3-2-2010)

Sec. 48-33. - Variances.

In the event the applicant wishes to construct a boat dock in excess of any of the criteria mentioned in section 48-32, a variance application must be made for hearing by the Belle Isle Planning and Zoning Board. ~~There shall be a \$100.00 application fee for the first variance and a \$50.00 fee for each additional variance requested at the same time.~~ Application fees shall be in accordance with the city fee schedule. The board shall not approve an application for a variance unless and until each of the following criteria have been met:

- (1) The boat dock shall not create conditions hazardous to navigation nor any safety hazards;
- (2) The location and placement of the boat dock shall be compatible with other docks in the area, and the shoreline contour of the lake;
- (3) The current level of the lake shall not be a factor in deciding whether to approve or deny a variance; and
- (4) The requirements of subsection 42-64(1) except for subsection 42-64(1)d.

(Ord. No. 09-16, § 1, 3-2-2010)

Sec. 48-34. - Dock maintenance and repair and minor modifications.

(a) Dock maintenance and repair, ~~generally responsibility of property owner.~~ The owner of property on which a dock is located is responsible for maintaining a dock in safe and useable condition. Every boat dock and associated structures shall remain adequately supported, not create debris or obstructions, and shall be maintained in sound condition and good repair, so as to prevent negative impact on adjacent properties or waterway use and recreation.

(b) Maintenance and repair of docks permitted by Belle Isle after December 15, 1992. When maintenance and repair of docks permitted by Belle Isle after December 15, 1992, involves the repair or replacement of pilings or other portions of the dock at or below the water surface, or of any roofed structure, the permit holder shall submit an application for a permit pursuant to section 48-31 of this article. Maintenance or repair of the deck surface that does not involve activity at or below the water surface, or of any roofed structure, is allowed without notice or permit. All maintenance and repair activities must maintain the original design and original footprint of the dock.

(c) Repair of nonconforming "grandfathered" docks constructed on or before December 15, 1992. The repair of nonconforming docks constructed on or before December ~~1915~~, 1992, requires a permit issued under this article. It is intended that docks constructed before December 15, 1992, be allowed to remain as constructed; except that a nonconforming dock, that is damaged or in disrepair to the extent of 75 percent or more of its assessed value, shall not be repaired for use except in compliance with the regulations of this article.

(d) Maintenance of nonconforming "grandfathered" docks constructed on or before December 15, 1992. Maintenance activities of nonconforming docks constructed on or before December 15, 1992, do not require a permit under this article if the maintenance activities would not normally require a permit and do not include repair or replacement of

pilings, structural components, or other portions of the dock at or below the water surface, or of any roofed structure.

(fe) Minor modifications to permitted docks. Minor modifications to all existing docks must be approved by the city. The applicant must submit a request for the proposed deviation change or modification to the original site plan to the city manager for consideration. Additional information may be requested from the applicant in order to complete the review. Minor modifications must comply with the provisions of this article. Any modification that may require a variance or waiver of any provision of this article shall not be considered a minor modification. Any modification that increases the size of the terminal platform shall not be considered a minor modification. The city manager may require notification of abutting shoreline property owners of the application for minor modification. City approval or disapproval shall include a statement regarding requirement or no requirement for a permit.

(gf) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

Repair means to restore a dock structure that has been damaged as the result of neglect, accident, or act of God to the original design specifications, including the replacement of the entire dock or portions of the dock; ~~provided, however, that a nonconforming dock that is damaged to the extent of 75 percent or more of its assessed value shall not be repaired for use except in compliance with the regulations of this article.~~

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

Sec. 48-35. - Violations; penalties; enforcement.

(a) It shall be unlawful for any person to violate any provision of this article, or any provision of any resolution enacted pursuant to the authority of this article. Any person who violates this chapter, or any provision of any resolution enacted pursuant to the authority of this article, may be prosecuted in accordance with Chapter 14 of the Belle Isle code.

(b) In addition to the enforcement and penalty provisions provided in Chapter 14, the city may avail itself of any other legal or equitable remedy available to it, including without limitation, injunctive relief or revocation of any permit involved.

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

(d) If the code enforcement officer determines that construction is occurring without prior approval or not in accordance with these regulations, the code enforcement officer shall promptly issue a written notice of violation to the applicant and/or designated contractor.

The notice of violation shall include a description of the site where the violation has occurred, cite the provisions of these regulations, general or special laws which have been violated, and set forth the remedial action required by the city. Such remedial action may include submittal of revised drawings, reapplication for a permit, quadruple the permit fee, removal of dock, and administrative and civil penalties.

(Ord. No. 09-16, § 1, 3-2-2010)

Secs. 48-35—48-60. - Reserved.

Sec. 54-79. - Retail commercial district C-1.

(c) Special exceptions. The following shall be special exceptions in the C-1 retail commercial district:

(1) Residential dwelling units which are accessory in nature and structurally part of the building which contains the permitted principal use. No more than one residential dwelling unit per building.

(2) Any permitted use which is to be located in a building that contains more than two permitted uses and is not a shopping center.

~~(3) Boat docks which have been determined not to be detrimental to adjacent land uses or properties.~~