

ARTICLE VII. LAKESHORE PROTECTION*

***State law references:** Abatement of water pollution and shore erosion of inland lakes, F.S. § 125.583; adoption of land development regulations, F.S. § 163.3194(2).

Sec. 15-251. Short title.

The regulations established in this article shall be known and may be cited as the "Orange County Lakeshore Protection Regulations."

(Code 1965, § 36-161; Ord. No. 83-25, § 1, 5-31-83)

Sec. 15-252. Findings, purposes and objectives.

- (a) Shoreline vegetation is necessary for the health and viability of a lake system. Sediments and nutrients, contributed both by stormwater runoff and recirculation within the lakes' waters, are removed by shoreline vegetation and associated areas by means of filtration and recycling through the shoreline vegetation.
- (b) Both wave action and stormwater runoff will cause extensive erosion of nutrient-laden soils, particularly where those soils have been destabilized by removal of shoreline vegetation.
- (c) Erosion of lakeshore soils not only contributes to the slow filling-in of lakes, but the soils also entrap and entrain quantities of organic materials which contribute to the nutrient load of a lake. This soil stabilization, in conjunction with the natural uptake and assimilative capacities of shoreline vegetation, reduces the quantity of nutrients available for both cultural and natural eutrophication.
- (d) Shoreline vegetation both protects and improves lake water quality and should be protected from substantial clearing.
- (e) The board of county commissioners is authorized, pursuant to general law, to regulate and control conservation and beach erosion control programs.
- (f) The board of county commissioners is authorized, pursuant to Laws of Fla. chs. 57-1643, 63-1711, 65-2017 and 67-1829, all as amended, to regulate and control all lakes, canals, streams, waterways, inlets, bays, and their alteration by dredging, filling, pumping and otherwise altering the shoreline, land contours and/or water areas in the interest of public rights, public welfare, protection of public riparian property rights, and preservation of the natural beauty and attractiveness of the lakes, canals, streams, waterways, inlets and bays.

Editor's note: The special acts referenced in the above subsection are compiled in the Code as follows:

TABLE INSET:

Laws of Fla. ch.	Code
57-1643	ch. 33, art. II
63-1711	ch. 33, art. IV
65-2017	ch. 33, art. III
67-1829	ch. 15, art. VI

(g) In order to protect the public health, safety and welfare, preserve the natural beauty and attractiveness of waters of the county, and maintain lake water quality and reduce nutrient loading in public lakes, the Orange County Lakeshore Protection Regulations are hereby enacted as one (1) measure to protect the legitimate public interest by restricting the amount of clearing or removal of shoreline vegetation.

(Code 1965, § 36-162; Ord. No. 83-25, § 2, 5-31-83)

Sec. 15-253. Definitions.

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

Clearance shall mean the alteration of or removal of shoreline vegetation by chemical treatment, mechanical or nonmechanical uprooting or removal.

Normal high water elevation (NHWE) shall mean the landward edge of any natural surface water body during normal hydrological conditions, as determined by the county engineer or according to Orange County Code, chapter 30, article IX.

Person shall have the same meaning as "person" as defined in the four (4) special acts, as amended, set forth in section 15-252 above for each respective water and navigation control district or jurisdictional area, as appropriate.

Reestablish shall mean the regrowth of shoreline vegetation, where the average growth height is more than fourteen (14) inches above the shore or water surface, as appropriate.

Shoreline vegetation shall mean aquatic or wetland vegetation, including, but not limited to, those plants listed in F.A.C. § 62-301.400(2) and (3), and/or the vegetation index referenced in Orange County Code, section 15-378(b).

(Code 1965, § 36-163; Ord. No. 83-25, § 3, 5-31-83; Ord. No. 95-5, § 2, 4-4-95)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 15-254. Permit; appeals.

(a) All those persons desiring to perform or cause to be performed any clearance of shoreline vegetation shall be required to obtain a permit in conformance with the procedures and standards set forth in this article, unless exempted by these regulations. The board of county commissioners hereby delegates authority to the county environmental protection department to grant a permit in accordance with the provisions of this article provided the applicant demonstrates that the clearance of shoreline vegetation will not materially affect any of the rights and interests of the public set forth in this article. This article shall be administered by the environmental protection officer or his designee and references to environmental protection officer in this article shall include reference to his designee.

(b) Each applicant must address and include the following information in an application submitted to the county environmental protection department (applications are available in such department):

- (1) The percentage of shoreline vegetation proposed to be removed. Two (2) copies of a plan clearly illustrating the locations of the work requested with respect to the applicant and other affected persons, water levels, lake bottom elevations, and elevations of requested work above and below water and the legal description of subject property. The plans shall include a copy of a current certified survey of the property;
- (2) The means for minimizing and controlling erosion;
- (3) The method for filtering runoff;
- (4) The method for reducing the nutrient concentration in both surface runoff and lake waters;
- (5) The means for stabilizing soils at and below the normal high water elevation;
- (6) The justification for the replacement vegetation and its ability to protect and improve water quality;
- (7) The location of any conservation easement;
- (8) The applicant or his authorized agent shall sign the application; and
- (9) A list of names and addresses of adjacent property owners and any other potentially significantly affected property owners as may be determined by the environmental protection department.

(c) Upon receiving the application, the environmental protection officer, or designee, assigned by the environmental protection department shall send notices by U.S. mail to the owners of the properties listed in subsection (b)(9) above. In the alternative, the applicant, at his option may supply notarized letters of objection from each of the parties listed in subsection (b)(9) above. When such notarized letters of no objection are supplied to the environmental protection officer with the application, then the notices to such parties need not

be sent. In cases where the nature of the shoreline is such that additional property owners will be affected, the environmental protection officer may send notices to these property owners as well. The environmental protection officer will also send notices and copies of the application to the Windermere and Conway Water and Navigation Control District Advisory Committees, where appropriate, and may notify other county departments, agencies or governmental bodies. All such notices shall require that written comments on the proposed clearance of shoreline vegetation be sent to the environmental protection officer within thirty (30) calendar days of the date of sending such notices.

(d) Failure to return written comments within thirty (30) days shall be presumed to indicate that no objections exist.

(e) Upon receipt of comments from all parties that have been notified or notarized letters of no objection, or upon the expiration of the thirty-day period for written comments, and following staff review of the proposed clearance of shoreline vegetation, the environmental protection officer shall approve, deny, or approve with conditions, the application for clearance of shoreline vegetation. 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. If no objections have been filed and the environmental protection officer has approved the application, the approval shall be effective immediately.

(f) An appeal of a decision rendered by the environmental protection officer to either approve or deny an application for clearance of shoreline vegetation permit (with or without conditions) shall be made to the board of county commissioners in accordance with the procedures set forth in Orange County Code, section 15-344.

(g) All mechanically cleared or trimmed vegetation shall be removed from the lake and the normal high water elevation within twenty-four (24) hours of clearing or trimming. Failure to do so will constitute a violation of these regulations.

(h) The board of county commissioners hereby establishes that a fee for applications for clearance of shoreline vegetation and an inspection fee shall be established by resolution. Payment of the application fee and/or inspection fee(s) shall in no way guarantee issuance of a clearance of shoreline vegetation permit, and such fees are nonrefundable. The environmental protection officer may include such provisions, terms and conditions in any permit issued hereunder as he may determine reasonable and necessary. Any permit issued hereunder may be revoked by the county for violation or noncompliance with the provisions of such permit, this article, and general or special law, misrepresentation, mistake of fact, or mistake of law.

(Code 1965, § 36-164; Ord. No. 83-25, § 4, 5-31-83; Ord. No. 91-24, § 2, 11-5-91; Ord. No. 91-29, § 2(Exh. A), 12-10-91; Ord. No. 95-5, § 3, 4-4-95)

Sec. 15-255. Exemptions.

These regulations and the requirement to obtain a permit hereunder shall not apply to the following:

(1) Any person or property owner clearing less than twenty (20) percent or thirty (30) feet, whichever is greater, of lands at or below the normal high water elevation, provided however, that the following shoreline vegetation is specifically excluded from this exemption:

a. Tree species listed in F.A.C. § 62-401.400(2) and (3);

b. Tree species listed in the vegetation index referenced in Orange County Code section 15-378 (b);

c. Any aquatic species which is listed by the Florida Department of Agricultural and Consumer Services as threatened, endangered or commercially exploited pursuant to F.S. § 581.185, as may be amended or replaced.

(2) Emergency repairs on public or private projects necessary for the preservation of life, health or property, where taken to implement and accomplish the beneficial purposes of these regulations as set forth herein under such circumstances where it would be impractical to obtain approval from the board of county commissioners prior to making such emergency repairs.

(3) Maintenance of publicly or privately owned portions of a structural stormwater or drainage control system which does not constitute major construction or rebuilding.

(4) Mowing of terrestrial sod grasses which may incidentally become established on lake bottom (below NHWE) from adjacent lawns. The shoreline and lake bottom areas which can be mowed must not be inundated, and the exposed soils must be dry enough to support the mower so that incidental shoreline

alteration does not occur. Disking (turning the soil with blades to uproot vegetation) is excluded from this exemption.

(5) A property owner whose shoreline has previously been cleared where the clearing is continuously maintained. If shoreline vegetation is allowed to reestablish, this exemption from permitting shall not apply.

(6) Any activities otherwise exempt pursuant to the special acts, as amended.

(Code 1965, § 36-165; Ord. No. 83-25, § 5, 5-31-83; Ord. No. 95-5, § 4, 4-4-95)

Sec. 15-256. Penalties; enforcement.

(a) If the environmental protection officer determines that clearing is occurring without prior approval or not in accordance with these regulations, he shall promptly issue a written notice of violation to the offending person. 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 required remedial action to be taken as deemed reasonable and necessary by the county. Such remedial action may include restoration of damaged topography; revegetation of the site to comply with these regulations, general, or special laws; replacement of affected wildlife; payment of all permit and inspection fees, and other actions consistent with the intent of these regulations, general or special laws or as they may be amended from time to time.

(b) Violations of these regulations or the conditions of any permit issued pursuant to these regulations shall constitute a violation of the special act, as amended, applicable to the area in which the violation has occurred. The board of county commissioners may use any remedies and seek any penalties provided in such special acts, as amended.

(Code 1965, § 36-166; Ord. No. 83-25, § 6, 5-31-83)

Editor's note: See § 15-252(f) for a listing of the applicable special acts.

Secs. 15-257--15-275. Reserved.