

LIA POSITION ON COMMUNITY BOAT RAMPS

10/30/21

LIA Position on Community Boat Ramps
Orange County Code – Boat Ramps

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Introduction

BLUF: Recently riparian rights have been asserted to justify community access and in particular, the launching of **trailerred watercraft**, onto Lake Irma via community parcels. This paper cites county code references which:

- Restrict those access rights regarding the launching **trailerable watercraft**, or
- Provide a process by which the community parcel(s) need to follow to properly permit a community parcel for launching boats with a vehicle

The below provides numerous references to sections of the Orange County Municipal Code related to Boat Ramps. The applicable county code references are not exhaustive. Since there are too numerous applicable criteria to cite this paper only attempts to highlight critical criteria.

Within Chapter 15 of the county code ([Chapter 15 - ENVIRONMENTAL CONTROL](#)), there exists a section dedicated to the definition and restrictions of boat ramps (found here: [BoatRamps](#)) titled: "The regulations established herein shall be known and may be cited as the "Orange County *Boat Ramp* Ordinance.". The Orange County Code will be referred to below as the County Code or simply "CC".

The reader is invited to read the entire Boat Ramp CC section to become familiar with the context of the below cited excerpts and to understand the numerous other applicable criteria which are not cited.

It should be noted that the first section "[Findings](#)" itemizes two long held concepts which have been previously raised when the Lake Irma Association (LIA) has successfully defeated permit requests for community boat ramps:

1. A lake can only handle so much boat traffic before experiencing adverse effects:
“(c) It is recognized that at some point recreational use of waters may reach a saturation level, with overuse of the waters resulting in a decline in the recreational value of the lake and diminution of the overall quality of a given water body.”
2. That the county code exists to protect lake quality on behalf of the entire community’s interests (e.g. lake front and canal front owners).
“(e) In order to protect the public health, safety and welfare, preserve the natural beauty and attractiveness of waters in such portions of Orange County, and maintain lake quality, the Orange County *Boat Ramp* Ordinance is hereby enacted as one (1) measure to protect such legitimate public interest.”

Historically and still today, it is the position of the LIA that community boat ramp access for **trailerable watercraft** is:

1. Detrimental to the water quality of Lake Irma
2. Detrimental to the recreational value of Lake Irma
3. Ultimately, detrimental to lakefront and canal front homeowners property values

As such, the LIA will always pursue just relief via legal counsel or county enforcement penalties to the full extent of the law upon community property owner(s) which enable the illegal launching of **trailerable watercraft**.

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Boat Ramp Defined

The most critical factor in this paper is the CC's [definition](#) of a Boat Ramp.

“(c) *Boat ramp* shall mean any structure or clearing that extends to or waterward of the normal high water elevation or any structure or clearing upon which **trailerable watercraft** can be launched or retrieved. Provided, however, that, notwithstanding the foregoing, this definition shall not apply to a homeowner who clears land which is the site of his personal residence, in compliance with applicable regulations, without building any structure or dredging or filling, for the sole purpose of launching and retrieving his or her personal watercraft.”

The above indicates that a structure, ramp, dock, etc are not required for a parcel to meet the definition of a Boat Ramp per the CC. When a clearing which extends into the water is used to launch **trailerable watercraft**, that clearing **IS** a **Boat Ramp** according to the CC. Note, a cleared land parcel used by a community cannot leverage the above personal residence exception.

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Boat Ramp Facility Defined

The CC Boat Ramp section further defines a Boat Ramp Facility as:

“(b) *Boat ramp* facility shall mean the *boat ramp* and any other improvements which may be required by state or local regulations or this article to be built in conjunction with a particular type of *boat ramp*. “

The above indicates that a “Boat Ramp Facility” is any boat ramp, period. Though regulations or the CC may require improvements, improvements are according to the regulations and code criteria. **And further, a Boat Ramp which has not added improvements required by the CC or not met regulations would be considered an Illegal Use Boat Ramp Facility.**

(e) *Boat ramp* facility sites shall mean a duly platted lot or parcel of record which is the location of any *boat ramp* facility.

Given the below definition of a Semi-Private Boat Ramp Facility, a community Boat Ramp on a private lake in Orange County would be classified as Semi-Private and is required to be platted or permitted as such.

Semi-Private Boat Ramp Facility Defined

(m) Semi-private *boat ramp* facility shall mean a *boat ramp* facility (other than a commercial, public or private *boat ramp*) along with a companion *boat* dock and any other improvements required by state or local regulations to be constructed in conjunction therewith, which are intended for the use of, and are in fact used by, a group of residents living in a subdivision or multifamily development, as the case may be, wherein a *boat ramp* facility is located or their usual and customary guests, but only if in the company of such residents.

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Community Property Access to Lake Irma for Trailerable Watercraft Launching

Any community property with riparian rights to Lake Irma would need to meet the CC code requirements cited in this section in order to launch and retrieve any Trailerable Watercraft.

1. The site must be properly permitted and improved according to:

Sec. 15-605. - Permit procedure and criteria.

There are many criteria, please note the following lot restrictions:

“(11) No portion of any boat ramp or any type of boat ramp facility shall be closer than twenty-five (25) feet from the projected property line of abutting shoreline owners.

(12) No boat ramp or any type of boat ramp facility may be located on any lot or parcel that is smaller than seventy (70) feet wide by one hundred (100) feet deep (or equivalent perimeter in the event of irregularly shaped lots). Except in the case of a private boat ramp facility, any such boat ramp or boat ramp facility shall be considered the principal use of any such lot or parcel. “

2. The permitting process above includes the zoning regulations:

10) Verification that the proposed *boat ramp* facility is a permitted use under the Orange County Zoning Regulations [chapter 38 of this Code] or has previously been determined to be a special exception;

Which states:

[chapter 38 of this Code] General Restrictions on Land

(a) Land use and/or building permits. No building or structure shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used or designed to be used for any purpose or in any manner other than a use designated in this chapter, or amendments thereto, as permitted in the district in which such land, building, structure or premises is located, without obtaining the necessary land use and/or building permits.

(l) Site plan. A fully dimensionalized site plan shall be required for any proposed
 (i) building, structure, sign or mobile home, (ii) accessory building or structure, or
 (iii) fence, boat dock, or boat ramp. ...

As such, a community parcel used to launch **trailerable watercraft** would need a Semi-Private Boat Ramp Facility permit from the county.

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Illegal Use and Penalties

Community properties enabling the launching and retrieving of trailerable watercraft onto Lake Irma without a proper permit would be in violation of Chapter 15 Penalties; Enforcement of the CC. The penalties are severe:

“(c) Any person who shall violate the provisions of this article or any conditions imposed as a part of a permit issued pursuant to this article shall be subject, upon conviction in a court of competent jurisdiction, to a fine not exceeding the sum of five hundred dollars (\$500.00), or imprisonment in the county jail for a term of up to sixty (60) days, or both. Each day during which, or any portion of which, a violation is committed shall constitute a separate offense and shall be punishable as provided herein. “

(d) No person shall, prior to issuance of a boat ramp facility permit by Orange County and the termination of all applicable appeal periods, advertise or represent the existence of a boat ramp, boat ramp facility or boat ramp facility site. Such violation shall be subject to prosecution by the Orange County Codes Enforcement Board in accordance with applicable regulations. Each day that the advertisement or representation is in effect shall constitute a separate violation. Provided, however, that no Code violation shall exist, if such representation or advertisement includes an express disclaimer that the proposed boat ramp facility site is contingent on county approval and compliance with all applicable laws and regulations. Such fine shall continue to run until written revocation of any such representations is made or, in the case of an advertisement, upon issuance of a corrective advertisement in substantially the same medium, to substantially the same audience, and with substantially the same frequency as the initial advertisement.

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Conclusions

At the time of this paper (Oct 2021), no community properties on Lake Irma nor the Canal connected to Lake Irma are permitted for a boat ramp.

This paper cites sufficient CC criteria to conclude that all current community properties abutting Lake Irma or the Canal cannot legally launch or retrieve **trailerable watercraft**.

Recently (July 2020), the Irma Shores Homeowners Association (ISHA) shared with the LIA (see Appendix) correspondence where the ISHA pursued clarification from the county property appraiser on: “the ability to put a boat (with a motor) in and out of the lake”.

This paper provides the following assessment of the correspondence in the Appendix:

1. The Orange County Property Appraiser only acknowledged Riparian Rights of the ISHA community property (Lot 9).
2. Riparian Rights provides the ISHA access to Lake Irma as defined by the criteria contained in the CC (see previous citations).
3. This paper asserts that Debby Mitchell asked a malformed question when she wrote: “My understanding is that we do have Riparian rights which does include the ability to put a boat (with a motor) in and out of the lake.”
 - a. Yes, the ISHA has Riparian rights for Lot 9.
 - b. Yes, the ISHA members can put a boat (with a motor) in and out of the lake.
 - c. Clarification, the boat (with a motor), which the ISHA members can put in and out of the lake must not be trailered. Thus, small watercraft can be carried onto Lot 9 and launched and retrieved from the lake.
 - d. No, the ISHA members cannot put a **trailerable watercraft** in and out of the lake.
 - e. No, the ISHA members cannot have a boat ramp on Lot 9 without a permit.
4. Lot 9 is too narrow (< 75ft) to meet CC width requirements or ramp setback requirements from adjacent properties. Thus Lot 9 cannot meet CC requirements for a permitting.
5. For every **trailerable watercraft** which is launched and retrieved from Lot 9, the LIA members will engage county code enforcement and will pursue all CC penalties to include:
 - a. Removal of the pavers and cement ramp components above and below the waterline where “remedial action may include restoration of damaged topography; revegetation of the site to comply with applicable local, state or federal laws or regulations; replacement of affected wildlife habitat; payment of all permit and inspection fees; revocation of an existing permit; mitigation; enhancement, or any other actions consistent with the intent of these regulations or other applicable laws (as they may be amended from time to time) in order to ameliorate the adverse impacts of unpermitted or improperly conducted activities.
 - b. A fine of the sum of five hundred dollars (\$500.00), or imprisonment in the county jail for a term of up to sixty (60) days, or both for each member of the ISHA.
 - c. Each advertisement or representation of the existence of a boat ramp, boat ramp facility or boat ramp facility site by any ISHA member or Irma Shores resident (e.g. For Sale literature) will be referred to the Orange County Codes

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Enforcement Board in accordance with applicable regulations. Each day that the advertisement or representation is in effect shall constitute a separate violation.

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Appendix

Hello Debby,

It seems you have the information you already need from those letters provided by Orange County, as far as the Property Appraisers Office goes, I have already sent you the recorded plat showing that portion of Lot 9 owned by the HOA does indeed go into Lake Irma allowing use of the lake with riparian rights.

The definition for riparian rights is “Generally, a property owner has **riparian rights** if the property borders a body of water or water flows through the property. For the most part, this includes property owners with property that either contains or borders a pond, lake, stream, or river” .Also I believe you mentioned that as part of your HOA by-laws, the lake can be used by residents who are in good standing with the HOA.

Lastly if this becomes an issue with the surrounding owners/HOA then OCPA recommends you seek legal counsel with a Land Attorney to clearly inform you of your rights to Lake Irma.

I hope this helps.

Regards,

Rocco

Rocco Campanale, CCF, CFE
Cadastral Manager

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200 S. Orange Ave | Suite 1700 | Orlando, FL 32801
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<image001.jpg>

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From: Debby Mitchell <debbylmitch@gmail.com>

Sent: Sunday, July 05, 2020 6:15 PM

To: Rocco Campanale <rcampanale1@ocpafl.org>; liz.johnson@ocfl.net

10/30/21

Cc: joanwcross@aol.com

Subject: 3957 Irma Shores Drive - Irma Shores Homeowners Association

Hello Mr Campanale,

I really appreciate your time and effort to solve the issue of the owners, Irma Shores Homeowners Association, who have title to the property at 3957 Irma Shores Drive, Orlando, FL. 32817.

I have included Joan Cross on this email who is part of the other HOA - Lake Irma Homeowners on this email. We both are long time residents on the lake and we would like to resolve this matter.

It seems that the two of us have a different understanding about access to the lake from the 3957 property. My understanding is that we do have Riparian rights which does include the ability to put a boat (with a motor) in and out of the lake.

Please see the attached documents that give an account and an explanation to one of the opposing residents as an explanation as to why we could not have a boat ramp but still put a boat in the water. I have more documents and the originals if needed.

We are asking for some clarification so that both sides can move forward and let all our HOA members know so there will be no more disagreements. We both want a peaceful co-existence.

Can you provide that clarification?

Thanks,

Debby

407 473-3342