



PLANNING COMMISSION MEETING
Tuesday, November 8, 2011
6:30 p.m.
Council Chambers
2nd Floor City Hall
1300 NE Village Street

MEETING AGENDA

- 1. CALL TO ORDER:** 6:30 p.m.
- 2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
- 3. REVIEW AND ADOPT MINUTES** – October 25, 2011
- 4. PUBLIC HEARING**
Application 11-6-ZA
Ordinance 15-2011
Fairview Lake Dock Standards
- 5. WORK SESSION**
Natural Resource Improvement Project (L. Nesbitt)
- 6. STAFF UPDATES**
 - a) Economic Development
 - b) Parks
- 7. TENTATIVE AGENDA** – December 13, 2011
- 8. ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING IS DECEMBER 13, 2011

Planning Commission hearings are broadcast live on Cable Channel 22. Replays of the hearing are shown on Cable Channel 22, Saturday at 12:00pm and Monday at 2:00pm, and Cable Channel 30 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, Administrative Program Coordinator, 503-674-6202.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6202.



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, October 25, 2011

PRESENT: Keith Kudrna, Chair
Jack Mc Giffin, Vice-Chair
Gary Stonewall
Jan Shearer
Steve Kaufman
Julius Arceo
Ed Jones

STAFF: Lindsey Nesbitt, Senior Planner
Erika Fitzgerald, Associate Planner

1. CALL TO ORDER

Chair Kudrna called the meeting to order at 6:30pm.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Kudrna inquired if any person would like to speak on a non-agenda item, hearing none moved to review of minutes.

3. REVIEW AND ADOPT MINUTES

September 27, 2011 were approved as written by consensus.

1. PRESENTATION

Shannon Chisom, Director of Development, USS Ranger Foundation briefed the Commission on the USS Ranger project.

5. WORK SESSION

a) Natural Resource Improvement Project

Senior Planner Nesbitt announced the draft code was being reviewed by the city attorney. Staff expected attorney comments by the end of the week. A code summary should be ready for Commission review at the Nov. 8 meeting.

b) Fairview Lake Dock Regulations

Associate Planner Fitzgerald requested Commission direction on proposed changes to regulations. Staff recommended allowing up to a 50 square foot shore attachment mechanism for docks that would not require a riparian buffer permit. Commission approved, but with up to a 32 square foot mechanism.

Associate Planner Fitzgerald explained the reasons why Staff proposed removing setback requirements from proposed code language. Commission agreed with removing setback requirements and directed staff to check with the city attorney for cautionary advisory language that would be included in an applicant's conditions of approval.

6. STAFF UPDATES

a) Economic Development

Associate Planner Fitzgerald announced the Economic Development Advisory Committee (EDAC) appointments had been made, staff was working to schedule EDAC for a tour of the USS Ranger, and meetings should begin in January 2012.

b) Parks

Senior Planner Nesbitt reported staff had submitted a letter of intent for a trails grant. If awarded funds would be used to re-grade and improve trail network between Community Park and Salish Ponds Park.

Senior Planner Nesbitt stated construction of the Handy Park gazebo was on track to be completed by years end.

7. TENTATIVE AGENDA – November 8, 2011

- a) Public Hearing: Application 11-6-ZA/Ordinance 15-2011 Fairview Lake Dock Standads
- b) Work Session: Natural Resource Regulations

8. ADJOURNMENT

Meeting adjourned by consensus at 7:30 pm.

Keith Kudrna, Chair

Devree A. Leymaster
Administrative Program Coordinator
Community Development Dept.

Date: _____



PLANNING COMMISSION STAFF REPORT

TO: Fairview Planning Commission

FROM: Erika Fitzgerald, Associate Planner

DATE: November 8, 2011

PROJECT NUMBER: 11-6-ZA/Ordinance 15-2011

REQUEST: Amendments to standards for the regulation and development of a permit process for docks on Fairview Lake.

LOCATION: Properties adjacent to Fairview Lake

APPLICANT: City of Fairview

Action Requested

Adopt a recommendation to the City Council to approve Ordinance 15-2011 amending the Fairview Municipal Code 19.106 and 19.490.

Background

At the February 22, 2011, Planning Commission work session, concerns regarding the way docks on Fairview Lake are currently regulated were discussed. A primary concern raised was how dock construction could potentially impact the ability of boaters to use and navigate the lake because current regulations do not regulate dock length.

Staff received direction at the work session to develop modifications to standards for docks on Fairview Lake.

Docks on Fairview Lake are currently reviewed for compliance with standards for alterations within the riparian buffer area.¹ Standards for all alterations within the riparian buffer limit construction to 25% of the buffer area. Docks are permitted provided that no more than 20% of the lot width within the buffer setback is occupied by such a structure. Shared docks may exceed this standard.

The Planning Commission expressed concerns about continuing to regulate docks under the riparian buffer regulation section of the code as docks are not located within the riparian

¹ Fairview Municipal Code 19.106

buffer areas. The current standard which states that no more than 20% of the buffer can be occupied by a structure does not apply to docks as they are located in the water and not within the riparian buffer area. The riparian buffer standards serve to protect the functions and characteristics of the natural resource area adjacent to the lake but do not provide standards for structures, such as docks, constructed on Fairview Lake. Staff received direction that docks should be regulated outside of the riparian buffer standards as the placement of docks is not directly affecting the functionality of the natural resource.

Key Issues

1. Proposed Fairview Municipal Code Amendments (Ordinance 15-2011²)

Revisions to Fairview Municipal Code 19.490 Miscellaneous Permits:

Chapter 19.490 Miscellaneous Permits

19.490.300 Fairview Lake Dock Permits

A. Permit required.

A person must obtain a permit prior to constructing or installing a dock in or on Fairview Lake. An application for a dock permit is reviewed under the Type II review procedures described in FMC 19.413.020.

B. Approval Criteria.

An application for a dock permit in Fairview Lake shall demonstrate compliance with the following standards:

1. Width

a. A dock may have a minimum width of 10 feet, however, the total width of dock may not exceed 20% of the width of the property at water's edge.

b. Method of measurement - The width of the dock is calculated based on the total of all dock components measured to the furthest dimensions of the dock. (See figure below.)

2. Length

a. Total length of a dock structure may not exceed 35 feet as described in Section 19.490.300 2.c Method of Measurement.

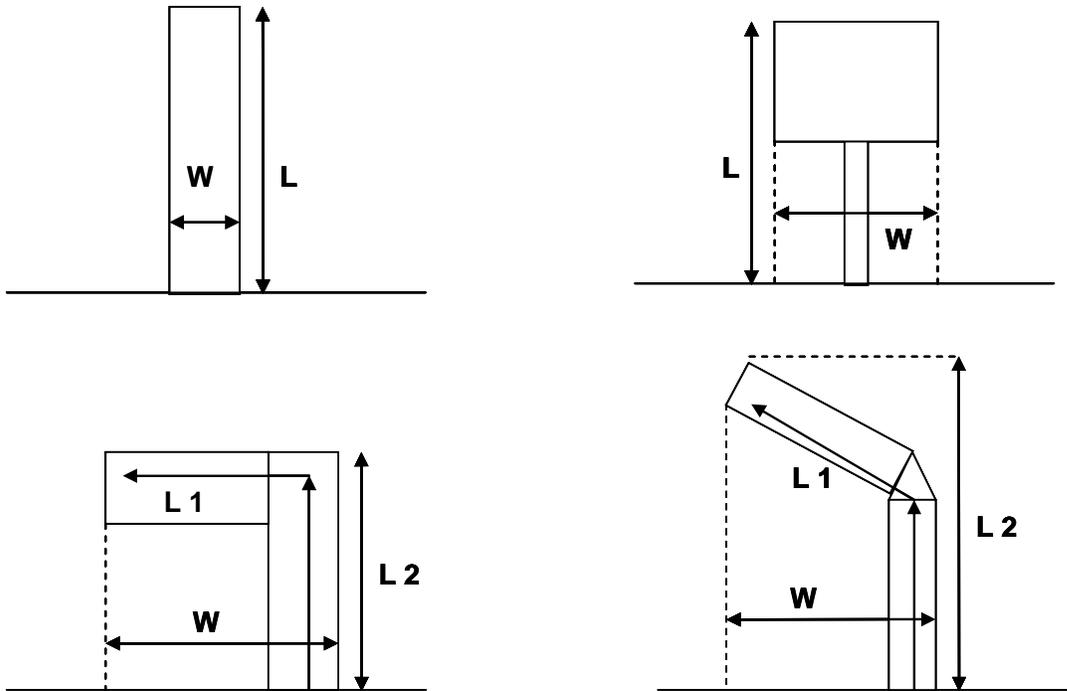
b. A dock may not extend into Fairview Lake more than 35 feet.

c. Method of Measurement

² See Attachment 1 for full text of Ordinance 15-2010.

- i. Calculate the length of the dock as one component from the shoreline to the furthest dimension of the dock. (L1 in figure below)
- ii. Calculate the total distance that the dock extends out into the lake from the shoreline to the furthest dimension the dock extends into the lake. (L2 in figure below)

Figure 1: Method of measurement for length and width of docks.



3. Number

One (1) dock per lot is allowed. Shared docks are permitted in accordance with standards in FMC 19.490.300.E

4. Shoreline attachment

The mechanism for attaching the dock to the shoreline including, but not limited to, a concrete pad or wooden platform not exceeding 32-square feet does not require a riparian buffer permit.

5. Materials

The use of Styrofoam or bead board or chemical treatments on wooden docks is prohibited.

6. Accessory structures.

- a. The attachment of accessory structures, including but not limited to boat houses and canopies, is prohibited on any portion of the dock.
- b. Boat lifts are permitted but shall be included in the total width and length calculations of the dock.

C. Application Submission requirements:

1. City of Fairview dock permit application form.
2. Detailed narrative including:
 - a. Description of proposed dock including length, width, and materials.
 - b. Dock installation details including how dock parts will be transported to the site and method of attachment to the shoreline and lake bottom.
 - c. Demonstration that the proposed dock meets the approval criteria in section FMC 19.490.300.B.
 - d. Any additional site alterations proposed in association with installation of the proposed dock (see section FMC 19.490.300.D).
3. Scaled site plan including:
 - a. Location of the proposed dock
 - b. Property dimensions
 - c. Dock dimensions
 - d. Riparian buffer area boundaries
 - e. Existing structures on the property
4. Application fee as set forth by resolution.

D. Additional permits required.

If alterations in the riparian buffer area are proposed in association with the installation of the dock, including but not limited to a path, vegetation removal, erosion control measures or structures, additional permits may be required (i.e. riparian buffer permit, building permit).

A shoreline attachment mechanism that is less than 32 square feet in area does not require a riparian buffer permit as described in Section 19.490.300.B.4.

E. Shared Docks.

A shared dock shall meet all approval criteria for an individual dock. The maximum width for a shared dock shall be 20% of the total width of all contiguous properties adjacent to the lake that the shared dock will serve.

2. Impacts of the Amendments

- A. The proposed dock standards will apply to all properties adjacent to Fairview Lake.
- B. The proposed modifications to current standards for docks provide more specific standards relating to the regulation of docks on Fairview Lake including number, length, width, materials, method of measurement, and associated structures.
- C. The proposed amendments create a separate permitting process for docks on Fairview Lake. Permits for docks are currently reviewed for compliance with standards in the Wetlands and Riparian Buffer Overlay section of the Fairview Municipal Code.³

The standards also clearly identify what permits are required in conjunction with the installation and construction of a dock i.e. building permit or riparian buffer permit. For example, if a property owner chooses to construct a shoreline attachment mechanism for the dock greater than 32 square feet within the riparian buffer, a riparian buffer permit application will be required.⁴

3. Public Involvement

Staff has completed public outreach to encourage feedback on the proposed amendments from residents and property owners adjacent to Fairview Lake. A letter, which included meeting information and a draft of the proposed amendments, was sent to all residents owning property adjacent to Fairview Lake. A meeting was held on June 23, 2011, at City Hall to hear feedback on the revised amendments from residents. Four property owners attended the meeting.

The following notice requirements have been met as required by Fairview Municipal Code Section 19.413.040C and Oregon Revised Statutes 227.186

- Measure 56 notice sent to all property owners affected by the proposed code amendments
- Mailed public notices of Planning Commission Public Hearing sent to all property owners affected by the proposed code amendments
- Notice of Planning Commission Public Hearing published in the Gresham Outlook

³ FMC 19.106

⁴ All properties adjacent Fairview Lake have a 35 foot riparian buffer measured from the top of bank.

Summary

The proposed ordinance was initiated to address concerns raised regarding the regulation of docks on Fairview Lake. The proposed amendments are consistent with statewide planning goals and all required public notice requirements have been met.

Staff recommends the Planning Commission forward a recommendation to the City Council for their approval of Ordinance 15-2011.

Findings in Support of Approval

1. The recommendation of the Planning Commission for the proposed amendments to the Fairview Municipal Code is based on the following factors:

A. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197.

The proposed regulations are consistent with statewide planning goals 1- Citizen Involvement and 2 – Land Use Planning

B. Comments from any applicable federal or state agencies regarding applicable statutes or regulations.

Not applicable.

C. Any applicable intergovernmental agreements.

Not applicable.

D. Any applicable comprehensive plan policies and provisions.

Chapter 2 Policy 7B of the Comprehensive Plan requires that any major revisions require re-evaluation of the public's need.

The proposed amendments modify standards and establish a permitting process for the construction and installation of docks on Fairview Lake and do not constitute a major revision.

The process for the adoption of Ordinance 15-2011 included outreach in the form of letters to all affected homeowners and a public meeting at City Hall open to all affected parties. Four property owners attended the meeting.

The following notice requirements have been met as required by Fairview Municipal Code Section 19.413.040C and Oregon Revised Statutes 227.186:

- *Measure 56 notice sent to all property owners affected by the proposed code amendments*

- *Mailed public notices of Planning Commission Public Hearing sent to all property Owners affected by the proposed code amendments*
- *Notice of Planning Commission Public Hearing published in the Gresham Outlook*

Decision Making Process

Changes to the Fairview Municipal Code are reviewed as Type IV applications which use a legislative procedure⁵. A minimum of two hearings is required, one before the Planning Commission and one before the City Council. All required notices for the proposed ordinances have been sent within the required time frame.

The Planning Commission has the following decision-making options on the proposed amendments:

- Forward a recommendation for City Council adoption of Ordinance 15-2011.
- Forward a recommendation for City Council adoption of Ordinance 15-2011 with modifications.
- Recommend denial of Ordinance 15-2011.
- Refer the matter back to staff.
- Take no action.
- Continue the public hearing.

Applicable Criteria

Amendments to the Fairview Municipal Code and Comprehensive Plan are subject to the following applicable criteria:

- Fairview Municipal Code 19.413.040
- Comprehensive Plan Chapter 2 Policy 7B

Attachments:

1. Ordinance 15-2011

⁵ Fairview Municipal Code 19.413.040

ORDINANCE
(15-2011)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW,
FAIRVIEW, OREGON, AMENDING FAIRVIEW MUNICIPAL CODE CHAPTERS
19.106 WETLANDS AND RIPARIAN BUFFER OVERLAY AND 19.490
MISCELLANEOUS PERMITS FOR FAIRVIEW LAKE DOCK REGULATIONS AND
PERMIT REQUIREMENTS.**

WHEREAS, public hearings were held by the Planning Commission on November 8, 2011 and by the City Council on December 7, 2011 and

WHEREAS, notice of said hearings was provided in accordance with Fairview Municipal Code 19.413.040C and Oregon Revised Statutes 227.186, and

WHEREAS, amendments are consistent with the Fairview Municipal Code and comprehensive plan policies and provisions, and

WHEREAS, the amendments adopted under this ordinance address the regulation of docks on Fairview Lake, and

WHEREAS, the purpose of this ordinance is to clarify regulations for the length, width, number, materials and accessory structures associated with the construction and design of docks on Fairview Lake, and

WHEREAS, to remove dock regulations from the Fairview Municipal Code Section 19.106 Wetlands and Riparian Buffer Overlay and create a new permit process to review proposed docks on Fairview Lake.

NOW, THEREFORE; The City of Fairview ordains as follows:

Section 1. FMC Chapters 19.106 and 19.490 are amended as shown in Attachment 1.

Section 2. This ordinance shall be effective upon and from 30 days of adoption.

Motion adopted by the City Council of the City of Fairview this 7th day of December 2011.

Mayor, City of Fairview
Mike Weatherby

ATTEST

Recorder, City of Fairview
Joseph Gall

Attachment 1 Ordinance 15-2011

~~Strike through~~ indicates language to be deleted. Underline indicates proposed language.

Section 1.

FMC 19.106 is amended as follows.

19.106.030 Riparian buffer.

A. The riparian buffer is that area of land immediately adjacent to the edges of banks (including the area within the banks) of Fairview Creek, Fairview Lake and the Columbia Slough. The buffer shall be:

1. Columbia River, Fairview Creek, Osburn Creek, Clear Creek, No Name Creek, Salmon Creek and Columbia Slough. 50 feet from the top of the banks or the mean high water level in locations where no distinctive bank can be determined. The area within the bank will be protected as well.
2. Fairview Lake. 50 feet from top of the bank, or 50 feet from the annual mean high water level (11.4 feet NGVD) of the lake in those areas where there is no bank or significant break in slope along the shoreline. Includes the submerged lake bottom within the city limits.

B. Riparian Vegetation. A major purpose and goal of the riparian buffer is to preserve, to the maximum extent possible, riparian vegetation within the buffer area. Trimming of vegetation to alleviate a hazard is allowed. Removal of riparian vegetation, as defined in "Alteration" (subsection D of this section), is allowed only after a permit has been granted. Replacement vegetation must be riparian species as approved in the permit.

C. Wetlands. An undeveloped buffer area which measures at least 50 feet shall be established between the wetland and the proposed development as a condition of development permit approval.

1. Properties which contain wetland areas shall have a preliminary delineation of the wetland boundary approved by Division of State Land (DSL) or Department of Fish and Wildlife (ODFW) staff before any development permit is issued. If in making such determination, state staff indicates that a "jurisdictional delineation" study of the boundary is necessary, the study shall be completed by the applicant's biologist and approved by DSL staff before building permits are issued.

2. When development is proposed adjoining a wetland area, an undeveloped buffer area of at least 50 feet shall be established between the wetland and the development as a condition of development permit approval. The required buffer area width as well as its

treatment or enhancement shall be established during the permit review process, after consultation with DSL or ODFW staff.

D. Alteration. An alteration is a change in the topography or vegetation of a waterbody or its riparian environment, as regulated by this section, which may affect the functions and values of such features listed in FMC 19.106.010. Alteration of the riparian buffer area is subject to the permit procedure and standards of this chapter. No alteration will be allowed which would appreciably diminish the values or functions of the water body or wetland, as set forth in FMC 19.106.010. An alteration includes the following activities:

1. Dredging, filling, excavation or the placement of riprap or a mooring with rock, trees wood, etc.
2. The clearing of any native riparian vegetation within the riparian buffer or the removal of any native tree within the buffer which has a diameter of six inches or greater at four feet above grade.
3. Construction of buildings and other structures, including the installation of a bridge, culvert, pipeline, retaining wall, ~~dock, boathouse~~ or deck or any other development as defined by this code.
4. Changing the course or banks of a regulated waterbody.
5. Public streets, including bridges, when part of an approved future street plan, subdivision plan construction, improvement or alteration or city transportation plan.
6. Public bicycle pedestrian paths.
7. Public parks and recreational facilities.
8. Private driveways or pedestrian paths where necessary to afford access between portions of private property that may be bisected by a riparian buffer.
9. Public utilities such as water, storm water and sanitary sewer lines.
10. Water detention, filtration facilities and erosion control improvements. Such projects include detention ponds, biofiltration swales or ponds check dams and bank stabilization measures.
11. In the Fairview Lake Area. ~~Docks, Decks, piers, boathouses~~ and similar structures; provided, that no more than 20 percent of the lot width within the buffer setback area be occupied by such a structure or structures. ~~However, a shared (communal) dock(s) or similar structures may exceed this limit if it results in a lesser number of such structures begin located on the adjacent shoreline.~~

FMC 19.490 is amended as follows.

Chapter 19.490 Miscellaneous Permits

19.490.300 Fairview Lake Dock Permits

A. Permit required.

A person must obtain a permit prior to constructing or installing a dock in or on Fairview Lake. An application for a dock permit is reviewed under the Type II review procedures described in FMC 19.413.020.

B. Approval Criteria.

An application for a dock permit in Fairview Lake shall demonstrate compliance with the following standards:

1. Width

a. A dock may have a minimum width of 10 feet, however, the total width of dock may not exceed 20% of the width of the property at water's edge.

b. Method of measurement - The width of the dock is calculated based on the total of all dock components measured to the furthest dimensions of the dock. (See figure below.)

2. Length

a. Total length of a dock structure may not exceed 35 feet as described in Section 19.490.300 2.c Method of Measurement.

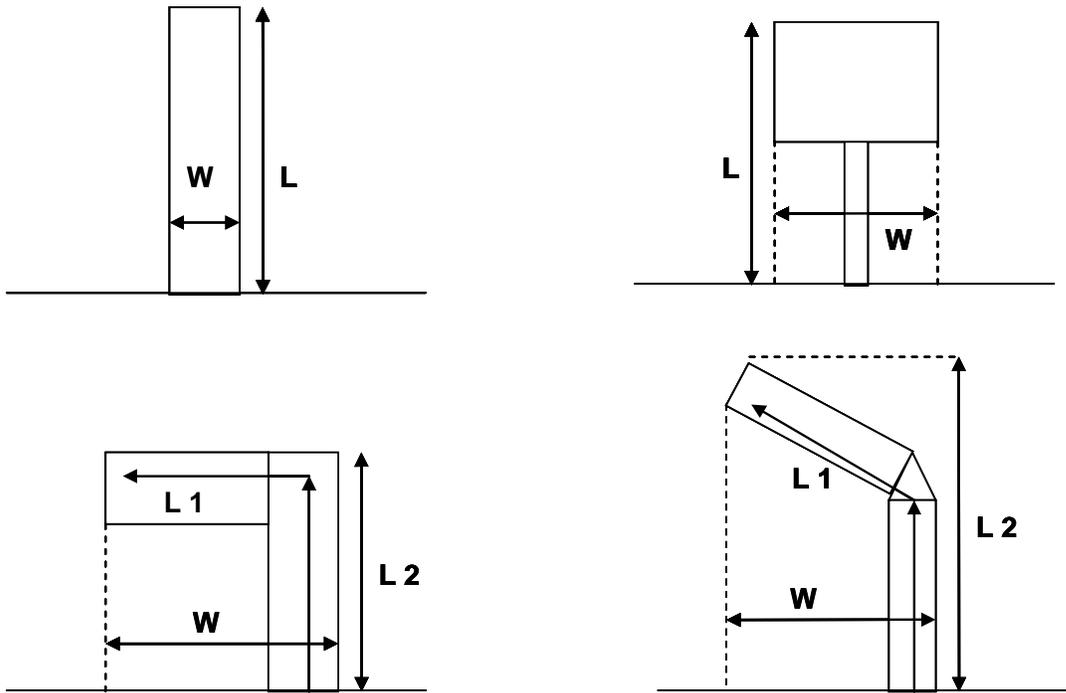
b. A dock may not extend into Fairview Lake more than 35 feet.

c. Method of Measurement

i. Calculate the length of the dock as one component from the shoreline to the furthest dimension of the dock. (L1 in figure below)

ii. Calculate the total distance that the dock extends out into the lake from the shoreline to the furthest dimension the dock extends into the lake. (L2 in figure below)

Figure 1: Method of measurement for length and width of docks.



3. Number

One (1) dock per lot is allowed. Shared docks are permitted in accordance with standards in FMC 19.490.300.E

4. Shoreline attachment

The mechanism for attaching the dock to the shoreline including, but not limited to, a concrete pad or wooden platform not exceeding 32-square feet does not require a riparian buffer permit.

5. Materials

The use of Styrofoam or bead board or chemical treatments on wooden docks is prohibited.

6. Accessory structures.

a. The attachment of accessory structures, including but not limited to boat houses and canopies, is prohibited on any portion of the dock.

b. Boat lifts are permitted but shall be included in the total width and length calculations of the dock.

C. Application Submission requirements:

1. City of Fairview dock permit application form.

2. Detailed narrative including;

a. Description of proposed dock including length, width, and materials.

b. Dock installation details including how dock parts will be transported to the site and method of attachment to the shoreline and lake bottom.

c. Demonstration that the proposed dock meets the approval criteria in section FMC 19.490.300.B.

d. Any additional site alterations proposed in association with installation of the proposed dock (see section FMC 19.490.300.D).

3. Scaled site plan including:

a. Location of the proposed dock

b. Property dimensions

c. Dock dimensions

d. Riparian buffer area boundaries

e. Existing structures on the property

4. Application fee as set forth by resolution.

D. Additional permits required.

If alterations in the riparian buffer area are proposed in association with the installation of the dock, including but not limited to a path, vegetation removal, erosion control measures or structures, additional permits may be required (i.e. riparian buffer permit, building permit).

A shoreline attachment mechanism that is less than 32 square feet in area does not require a riparian buffer permit as described in Section 19.490.300.B.4.

E. Shared Docks.

A shared dock shall meet all approval criteria for an individual dock. The maximum width for a shared dock shall be 20% of the total width of all contiguous properties adjacent to the lake that the shared dock will serve.