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RULES
OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES

CHAPTER 391-2
COASTAL RESOURCES

SUBJECT 391-2-1
PRIVATE DOCKS

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391-2-1-.01 Purpose

These rules establish an orderly and equitable process for issuing revocable licenses for the construction, reconstruction, modification, and maintenance of private docks in state-owned tidal water bottoms which meet the exemptions in O.C.G.A. § 12-5-295 (7) and (7.1). Additionally, these rules institute a process for inspecting and enforcing standards for private docks in tidal water bottoms.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.02 Definitions

For the purpose of Subject 391-2-1, the following definitions shall apply:

(1) "Applicant" means any person who is a riparian owner and who requests a revocable license for a private dock in state-owned tidal water bottoms.

(2) “Catwalk” means a pile supported platform used exclusively to access a boat hoist.

(3) “Channel” means the physical pathway where a waterway flows, as defined by beds and banks that direct the flow of water in a particular direction, has substantial water at high tides but may be shallow or muddy at low tide and is not stagnant.

(4) “Construction” means the physical building or installation of a new dock in, on or over tidal water bottoms.

(5) “The Department of Natural Resources” also “the department” means the Coastal Resources Division of the Georgia Department of Natural Resources.

(6) “Dock corridor" means the equitable apportionment of state- owned tidal water bottoms by the department to provide reasonable access to a waterway by riparian owners.

(7) “Extended property line” means the straight-line extension of an upland side lot line toward a waterway.

(8) “Fixed deck” means a platform constructed on pilings channelward of a fixed walkway.

(9) “Fixed walkway” means a pile supported platform leading from the upland toward a waterway and terminating at a pierhead, fixed deck, boat hoist or gangway.

(10) “Floating dock” means a floating platform that is used for mooring vessels; usually supported by pilings.

(11) “Floating watercraft lift” means a free-floating structure, not supported by pilings, that is used for the on-top storage of watercraft (i.e., above waterline) and is not used for additional mooring space or any other purpose; also known as drive-on docks, run-up floats, modular floats, or boat lifts.

(12) “Licensee” means a person or persons who has received a revocable license from the department for a private dock.

(13) “Maintenance” means repairs within the physical footprint of an existing, serviceable private dock:

(a) Minor maintenance activities include in-kind replacement of non-structural dock components, such as deck board replacement, without requiring the operation of heavy equipment or cranes in the marsh or waterways.

(b) Major maintenance activities involve replacement of structural components, such as pilings, or that require the use of heavy equipment or barge and crane in the marsh or waterway

(14) “Mean high water” also “MHW” means the average of all the high-water heights observed over the National Tidal Datum Epoch.

(15) “Mean low water” also “MLW” means the average of all the low water heights observed over the National Tidal Datum Epoch.

(16) “Modification” means any addition or change to the footprint of, or reconfiguration of an existing or licensed private dock.

(17) "Person" means any individual, partnership, firm, corporation, association, or other entity.

(18) “Pierhead” means a fixed, pile supported platform.

(19) “Ponded area/mudflat” means generally unvegetated areas within tidal water bottoms that may be covered by tidewater but that do not have channels; not a waterway.

(20) “Private dock” means a structure built onto or over state-owned tidal water bottoms which is used for recreational fishing and other recreational activities, is not available to the public, does not have enclosures, and does not create a navigation hazard; provided, however, that a private dock meets the single family dock exemption in O.C.G.A. § 12-5-295(7) or the multi-family dock

exemption in O.C.G.A. § 12-5-295(7.1).

(21) "Reconstruction" means the rebuilding of all or part of a private dock in the original footprint.

(22) "Revocable license" means permission granted by the department to utilize state-owned tidal water bottoms for the construction, reconstruction, modification, or maintenance of a private dock located over state-owned tidal water bottoms which may be revoked by the department, is not coupled with an interest, may be subject to conditions, and is not transferrable.

(23) "Riparian" means upland property that abuts state-owned tidal water bottoms, inclusive of a waterway.

(24) "Scaled drawing" means a representation of a real object or space where all dimensions are proportionally reduced or enlarged by a specific ratio, called the scale, ensuring the drawing maintains the exact shape and relationships of the original.

(25) "Serviceable" means usable as is or with only maintenance, but not so degraded as to essentially require reconstruction, as determined by the department.

(26) "Upland" means lands that are neither tidal water bottoms nor wetlands.

(27) "Waterway" means a tributary, creek or river which has a defined channel.

(28) "Walkway extension" means a pile supported platform leading from an existing fixed walkway or fixed deck toward a waterway.

(29) "Variance" means an authorized exception to the standards in Subject 391-2-1 granted under certain circumstances.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.03 Issuance of a Revocable License

(1) Applicants for a revocable license must submit to the department a complete application for the construction, reconstruction, modification, and certain maintenance of a private dock, on forms created by the department, which must include scaled drawings, all information as required by the department, and evidence that adjacent property owners were appropriately notified of the application. Scaled drawings prepared by a registered land surveyor, professional engineer, or licensed architect may be required only as specified in this part or when the department has determined that unique circumstances or site conditions warrant.

(2) The department will issue a revocable license for a private dock to authorize the construction, reconstruction, modification, and certain maintenance of a single-family or multi-family private dock located over state-owned tidal water bottoms provided:

(a) The applicant is riparian to the waterway to be accessed by the private dock, meaning the waterway is within extended property lines or a dock corridor determined and allocated by the department.

(b) A revocable license shall only be issued to the owner(s) of the riparian parcel(s) to be served by the private dock.

(c) New private docks are limited to one per riparian parcel or, in the case of a multi-family dock, along shared riparian property lines.

(d) Private docks shall access waterways with a defined channel and not ponded areas/mudflats.

(e) Private docks are for water dependent, recreational activities only.

(f) Private docks must not restrict the reasonable navigation or public use of state lands and waters.

(g) Private docks must be constructed in a manner that does not restrict water flow.

(h) Applicants for a multi-family dock have entered into a binding covenant that runs with the land, in favor of the state, which covenant prohibits the building of any future private docks on their lots unless the multi-family dock is removed or is approved by the department to be converted to a single-family private dock.

(i) Any citations, administrative orders, or other violations issued to the applicant have been resolved, or the applicant has entered into a compliance agreement which directs the applicant to apply for a revocable license.

(j) All provisions of Subject 391-2-1 have been met.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.04 Standards and Conditions of New Private Docks

A new private dock must be designed and constructed per the following standards:

(1) All components of a single-family dock must be 10 feet or more from extended property lines or dock corridor lines on both sides of the proposed structure and be at least 20 feet from any adjacent dock or structure. All components of a multi-family dock must be 10 feet or more from the extended property lines or dock corridor lines abutting property owned by a person not being served by the multi-family dock and be at least 20 feet from any adjacent dock or structure. The department may require an alternative alignment or dock corridor if site characteristics warrant.

(2) One fixed walkway, up to 1,000 feet long and six feet wide, may provide access from the upland and must be built at a height to clear all vegetation but not more than six feet above MHW. Handrails and supports must be illustrated on scaled drawings.

(3) A private dock must terminate at the first waterway measuring 20 feet wide or greater at MHW. A waterway that is less than 20 feet wide at MHW may be spanned by a fixed walkway, provided no pilings are placed in the waterway and the bottom of the span is at least six feet above MHW, or higher as determined by the department to be necessary for safe navigation. The department may require additional information as necessary to evaluate a proposed span, including a bathymetric survey.

(4) No portion of the private dock may extend more than 40 feet into a waterway past MLW, or more than one-quarter of the waterway width at MLW, whichever is less, unless a variance is granted. If a waterway goes dry, vegetation lines within the subject waterway must be used.

(5) A private dock to a waterway measuring less than 20 feet wide at MHW may have a “L” or “T” shaped pierhead, up to six feet wide by 14 feet long, provided the pierhead does not extend into the channel at MLW. A pierhead may not be wholly or partially enclosed. However, it may be roofed per Rule 391-2-1-.04 (11) unless the pierhead is located over vegetation. Vessels may not be stored over the waterway or vegetation.

(6) A private dock to a waterway 20 feet wide or greater may have a fixed deck, no part of which may be located over vegetation. Fixed deck(s) may be roofed per Rule 391- 2-1-.04 (11) and partially enclosed where the lower three feet consists of a single layer of woven screen wire or wainscot and the upper section is open or finished in woven screen wire. Gangway landings and cantilevered components must be indicated on the scaled drawing:

(a) Single family dock: the maximum area of a fixed deck is 400 square feet.

(b) Multi-family dock: the maximum area of a fixed deck is 600 square feet.

(7) One boat hoist per riparian lot served by the dock, up to 16 feet by 30 feet, measured piling to piling, with one adjacent catwalk measuring up to three feet by 30 feet, is permissible and may be roofed per Rule 391-2-1-.04 (11), unless a variance for larger or additional hoist(s) is granted. Davits are not considered boat hoists but must be indicated on the scaled drawing. Vessels may not be stored over vegetation.

(8) Floating docks should be pile supported, shall not rest on the water bottom at MLW or must be cradled and must not be located over vegetation. Gangways accessing a floating dock(s) do not count toward the maximum area but must be indicated on the scaled drawing.

(a) Single family dock: The maximum area of a floating dock(s) is 600 square feet.

(b) Multi-family dock: The maximum area of a floating dock(s) is 1,000 square feet.

(9) Floating watercraft lifts do not count toward the maximum allowed for floating docks area only if:

(a) the lift is not supported by piles;

(b) the lift is secured to cleats or existing pilings supporting the main private dock;

(c) the lift is not located channelward of a floating dock;

(d) the lift does not extend further into the waterway than any other component of the private dock; or

(e) the lift does not encroach within 10 feet of an extended property or dock corridor line or within 20 feet of an adjacent dock or structure.

(10) Mooring piles/dolphins used exclusively for mooring vessels in association with a floating dock may be approved upon satisfactory justification of need from the applicant but must not be located further into the waterway than other dock components and must not encroach within 10 feet of an extended property line or dock corridor or within 20 feet of an adjacent dock or structure.

(11) Roofs over pierheads, fixed decks or boat hoists may not exceed 12 feet above the decking at the lowest deck height and overhangs (eaves) may not extend more than 18 inches. The use of a roof for storage or as a second story is prohibited and stairs accessing a roof are prohibited. Roofs do not count toward the total area of structures but must be indicated on the scaled drawing.

(12) Utilities to the private dock, including electrical and water, must be described in the application. Applicants must provide proof of application for a local electrical permit before a revocable license is issued.

(13) Lighting on the private dock must be described in the application and minimal in nature. All lighting shall be designed and oriented such that fixtures are fully shielded (full cutoff) by an

opaque material blocking direct view of bulbs or diodes from adjacent docks and upland areas and project light in a downward direction only. Additional lighting conditions may be required on docks that can be viewed from sea turtle nesting beaches.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.05 Reconstruction and Modification of Existing Private Docks

(1) Existing private docks may be modified or reconstructed upon issuance of a new revocable license, provided that one of the following criteria are met:

(a) The existing private dock, in its present configuration, has been confirmed by the department to have been constructed prior to the effective date of Subject 391-2-1 and no unauthorized additions or modifications have been made;

(b) The existing private dock is determined by the department to be compliant with previous state authorizations and/or licenses; or

(c) The owner of an existing non-compliant private dock has entered into a consent order/agreement with the department set forth in Rule 391-2-1-.09.

(2) Reconstruction of existing, serviceable dock components is permissible in the original footprint and configuration. Reconstruction of dock components deemed not serviceable by the department must adhere to the standards for new private docks set forth in Rule 391-2-1-.04.

(3) Modifications to existing or licensed private docks may not exceed the standards set forth in Rule 391-2-1-.04.

(4) A walkway extension leading from the channelward-most portion of an existing, serviceable fixed walkway or fixed deck, for the sole purpose of extending further into the same waterway due to demonstrable shifts in MLW since initial private dock construction, natural shoaling, or other reasonable factors as determined by the department, is allowed provided the walkway extension does not exceed six feet in width and is of minimal length. Handrails and supports must be illustrated on scaled drawings. The walkway extension must not be partially or wholly enclosed or covered.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.06 Maintenance of Existing Private Docks

(1) Licensees must maintain private docks within their existing footprint.

(2) A new revocable license is not required for minor maintenance activities.

(3) Before beginning major maintenance activities, the licensee must notify the department which will determine the serviceability of the existing dock. If the department finds the private dock or parts are unserviceable, it cannot be maintained (except when the dock was rendered not serviceable due to forces of nature or other events described in 391-2-1-.06 (5), below); however, it may be reconstructed or modified according to Rule 391-2-1-.05.

(4) A new revocable license shall be required prior to conducting major maintenance activities when the department does not have a record of an existing revocable license or have one that is not accurate based on the current structure or riparian owner.

(5) Private docks rendered not serviceable by forces of nature, such as storms; or other events,

like fire or boat strikes; may be maintained or rebuilt, without a new revocable license, in the original footprint, upon proof that the dock was serviceable prior to the damage and was in compliance with all previous authorizations or licenses.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.07 Variances

New or modified private single family and multi-family docks must be constructed according to the standards described in Rule 391-2-1-.04. However, variances may be granted as described in this paragraph, provided the applicant or licensee provides justification of why the standard(s) cannot be met.

(1) The department may grant a variance allowing the length of the fixed walkway on a new private dock to exceed 1,000 feet for the sole purpose of accessing the waterway nearest to the upland. Such walkway exceedance shall not exceed ten percent of the standard allowable length (i.e., 100 feet) and must constitute the shortest route to the waterway, as determined by the department. The department may require additional information in support of a variance request, such as professionally engineered and stamped drawings, or waterway assessments.

(2) A variance for larger or additional boat hoists with catwalks may be approved upon proof of need, including boat registrations or bills of sale demonstrating the size or number of vessels owned by the applicant or licensees. Variances for larger or additional hoists based on proof of kayaks, canoes, paddleboards or other similar watercraft will not be approved, regardless of whether they are motorized or registered.

(3) A variance for further extension into the waterway may be granted up to one-third of the waterway measured at MLW, provided there is no additional impact on navigation within the waterway and there is no reasonable objection by adjacent property owners.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.08 General Conditions of Revocable Licenses for Private Docks

(1) The revocable license is not transferable with the change of ownership interests in the riparian property(s) at which the private dock will be or has been constructed, reconstructed, modified or maintained. Transfer of riparian ownership or assignment of riparian rights requires issuance of a new revocable license upon review of proof of ownership, such as a deed and plat or other reasonable evidence of ownership of the property, submitted with a transfer request form provided by the department. The department should be notified of changes in ownership interests within 90 days, and no construction, reconstruction, modification or major maintenance may occur until the department has been notified.

(2) The licensee must maintain the private dock in serviceable condition after construction, reconstruction, and modification.

(3) All equipment used within vegetated marshlands for the construction, reconstruction, modification, and maintenance of a private dock must be operated from a single row of construction mats, or other low impact equipment approved by the department, located on one side of and in immediate proximity to the private dock.

(4) The private dock must not be used at any time for business or commercial purposes.

(5) The private dock must not be used for human habitation. Toilets or fueling facilities are not

allowed on the structures. There shall be no fuel or sewage discharged from the private dock.

(6) The licensee must take all proper steps to ensure the integrity of the structure and the safety of moored boats from damage.

(7) The State of Georgia shall not be responsible for any damage caused to the private dock or moored vessels.

(8) The licensee must not moor a vessel(s) at the private dock in such a manner as to cause an unreasonable encroachment into the waterway or to interfere with navigation.

(9) All information and supporting documents contained in an application for a revocable license shall be made a part of the revocable license, if granted, and conformance to such information and supporting documents shall be a condition of the revocable license. No change or deviation from any such information and supporting documents shall be permitted without prior notification and written approval by the department or issuance of a new revocable license.

(10) The issuance of a revocable license does not resolve actual or potential disputes regarding ownership of rights in or over the property at which the private dock is or will be located and shall not be construed as recognizing or denying any such rights or interests.

(11) The issuance of a revocable license does not relieve a licensee from the responsibility to obtain any other federal, state, or local permits or authorizations which may be required for the private dock or any of its components, including without limitation, any required county or municipal building permit or permit for utilities, prior to beginning construction, reconstruction, modification, and maintenance.

(12) At least 10 days prior to construction, reconstruction, modification, or major maintenance, the licensee must submit a construction notification form to the department.

(13) A copy of the revocable license issued to a licensee must be prominently displayed on the upland site of the proposed or existing private dock during construction, reconstruction, modification, and maintenance.

(14) Compliance with best practices to include those for the protection of manatees and other protected species is required. Any unattended free flowing fresh water along the private dock is prohibited.

(15) Licensee may be required by the department to, at their own expense, relocate or remove any portion of an existing private dock that impedes navigation as a result of natural meanders to waterways.

(16) Licensee must promptly remove and properly dispose of all debris that originates from, or is generated by, the private dock.

(17) Licensee may be responsible for additional special conditions placed upon the revocable license, as determined by the department.

Authority: O.C.G.A. § 50-16-61.

391-2-1-.09 Inspections; Revocation, Suspension or Modification of Revocable License

(1) Private docks are subject to compliance inspections by the department. An as-built post-construction survey of the dock and its exact location may be required; such survey shall comply

with the Georgia Plat Act, O.C.G.A. §15-6-67 et seq.

(2) The department may revoke, suspend, modify or deny any revocable license for failure or refusal to comply with any provision of Subject 391-2-1 or the specific conditions and requirements of the revocable license.

(3) Any person, including a property owner or private dock builder, who causes or permits violation of Subject 391-2-1 that results in construction, reconstruction, modification, and major maintenance of a private dock in a manner that is inconsistent with a current revocable license or without first obtaining a revocable license from the department as set forth in this rule is subject to enforcement action by the department which may include revocation, suspension, or modification of an existing revocable license; timely removal of the unauthorized structure; restoration of jurisdictional coastal marshlands; and implementation of a consent order/agreement.

Authority: O.C.G.A. § 50-16-61.