

**Sec. 18-68. Engaging in commercial enterprise or constructing buildings or structures for commercial purposes.**

No person, firm or corporation (hereinafter "person") shall engage in any business or commercial enterprise on Lake Tuscaloosa or on the land owned by the city surrounding Lake Tuscaloosa, nor shall any such person construct any building, structure or fixture on the city's land bordering Lake Tuscaloosa for or associated with a commercial enterprise or purpose, until a permit is first given by resolution duly adopted by the governing body. Such permit shall be requested in writing and approved by the city council in the following manner:

(1) The applicant shall first make application in writing to the office of the director of the water and sewer department or his designated representative. Such application shall set out the exact area to be occupied, the type and kind of commercial or business enterprise proposed to be engaged in, and a detailed drawing of the type and kind of structure proposed to be constructed.

(2) The applicant shall also furnish to the director of the water and sewer department or his designated representative the name and address of all the persons owning property or lots adjoining the area of land on which the proposed structure is to be constructed or the proposed business is to be conducted.

(3) On filing such application, the applicant shall pay to the director of the water and sewer department or his designated representative a filing fee of two hundred dollars (\$200.00), or if the commercial enterprise is a marina, boat dock or boathouse facility, twenty-five dollars (\$25.00) per boat slip or boat storage area, whichever is greater, to defray the cost of processing such application.

(4) The director of the water and sewer department or his designated representative shall review the application and cause an on-site inspection to be made of the proposed area and shall prepare recommendations to the governing body as to the feasibility of the proposed activity and the compatibility of the proposed activity with the use of the lake by the city and others. The director of the water and sewer department or his designated representative shall also to the extent applicable utilize the review standards as set forth in section 18-87(b) and (c).

(5) With the consent of the governing body, a date shall be set for the governing body to examine the application and notice shall be sent by ordinary mail to all adjoining property owners identified by the applicant at least five (5) days prior to the date set forth for the consideration thereof by the governing body. After a hearing thereon and due consideration thereof, in open meeting, such application may be approved or denied as the governing body may so determine.

(6) The procedure as set forth herein for the requirement of a permit shall not apply to commercial enterprises or structures operated and/or constructed under permit from the city and in continuous operation prior to the eighteenth day of April, 1973. Provided, however, new structures shall meet the criteria of section 18-87(c) and existing structures shall meet the criteria of section 18-87(d).

(7) No commercial activity shall be conducted upon Lake Tuscaloosa or its boat landings unless a permit is authorized by the City Council of Tuscaloosa.

(8) No commercial enterprise, permitted pursuant to this section, shall rent or lease personal watercraft, which are defined as vessels that use an inboard motor powering a water jet pump as the primary source or mode of power and which are designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel. A commercial enterprise is further prohibited from renting or leasing vessels equipped to engage in the activity of parasailing or any equipment related to such activity.

### **Sec. 18-86. Structures or activity in and around Lake Tuscaloosa.**

It shall be unlawful to build, permit, place or allow to be constructed, placed or remain any building or other structure including, but not limited to, gazebos, piers, boathouses, docks, decks, access ramps (including stairs and walkways), sea walls, retaining walls, rip rap, or similar types of structures, or to construct, install or place geothermal/water source heat pump systems or related appurtenances, hereinafter in this article referred to as "structures," unless the context clearly indicates otherwise, on any land owned by the city surrounding, in or upon Lake Tuscaloosa (the lake) or to engage in activities that cause or result in placing or depositing sand, sediment, dirt, debris, dead trees, any item that may serve as an artificial fish habitat, or any material or item that is otherwise deemed garbage, trash, a source of pollution, or a navigational hazard, into the lake or upon city property surrounding the lake, or that alter the shoreline or vegetation on city property around the lake; provided, however, that such activities or structures may be constructed, placed, installed, allowed to remain or engaged in pursuant to a permit issued, for that purpose, by the city as provided for herein.

### **Sec. 18-87. Permit for structures or activity.**

(a) *Application.* Any person desiring a permit to construct, expand, enlarge, improve, or place a structure, or engage in activity as herein defined for private noncommercial use on any property owned by the city surrounding, in or upon Lake Tuscaloosa must first make application on a form provided for that purpose, to the director of the water and sewer department or his designated representative.

The application must be accompanied by the payment of a nonrefundable application fee to the city. The application fee should be in the amount of one hundred dollars (\$100.00), plus ten dollars (\$10.00) for every boat slip in excess of two (2) contained in the application. The fee shall be doubled should the applicant commence construction prior to applying for the permit. Any person desiring a permit for an existing structure not previously permitted, who makes application therefore after April 15, 1995, but before July 31, 1996, shall pay a fee of one hundred dollars (\$100.00). After July 31, 1996, no permits for existing structures will be issued.

In addition, for all new construction and some existing structures as appropriate to issue the permit, the applicant shall include a detailed plan or drawing of the proposed structure indicating elevations, as well as the type of structure and the materials to be used. The application shall be accompanied by a map or plat showing the contour which represents the normal pool elevation of the lake, as well as the city's acquisition line and a detailed drawing of the proposed structure and its proposed placement on the lake.

The director of the water and sewer department or his designated representative may require any applicant to submit further information if he should determine the same is necessary in order to evaluate the application.

All expansions, alterations, improvements, enlargements, relocations or additional activity to a permitted structure shall require an additional permit pursuant to all the terms and provisions hereof; provided, however, if the applicant obtained a permit initially for the structure and has paid the one hundred dollar (\$100.00) permit fee and the applicant has paid a current annual user fee, then no additional fee shall be charged for that structure.

The applicant, in order to qualify for consideration of a permit as herein provided, must own and produce evidence of ownership of property immediately adjacent to the city's acquisition line around the lake for a minimum distance of fifty (50) continuous feet of frontage on the lake side of the property.

A permit as provided for herein shall not be issued to any unincorporated association. Permits shall only be granted to persons, firms, limited liability companies or corporations who [or which] shall expressly assume and be held responsible for compliance with the provisions hereof.

The director of the water and sewer department or his designated representative of the city shall administer the provisions of this division in accordance with the City Code and the Standard Building Code, as adopted by the city council. Provided, however, in the event of a direct conflict between the provisions of this division and those of the Standard Building Code, the terms of the former shall control.

(b) *General criteria for evaluating permits.* All applications for permits will be evaluated by the director of the water and sewer department or his designated representative on the basis of the following general criteria:

(1) *Compatibility.* The structure or activity must be compatible with adjacent property uses and previously permitted structures. Each application will be evaluated to ensure that the proposed structure or activity will in no way be materially incompatible with adjacent property uses or previously permitted structures.

(2) *Public safety.* All applications will be evaluated to ensure that the proposed structure or activity does not represent a hazard to the public health, safety and welfare. Applications which present a potential hazard to air quality, water quality, health, sanitation, noise, public safety or traffic congestion will be disapproved or modified to eliminate potential hazard.

(3) *Navigation.* No permit will be issued when the proposed structure or activity is deemed to be a hazard to navigation.

(4) *Public benefit.* All applications will be evaluated to determine the relative value of public benefit. Applications which have been determined to have any negative public effect or which conflict with other evaluation criteria will not be favorably considered.

(5) *Environmental.* All applications will be evaluated to ensure that the proposed structure or activity is not detrimental to the physical environment, the lake itself or the lake shore or hazardous to wetland habitats or wildlife management areas.

(6) *Compatibility with primary lake function.* Each application will be evaluated to ensure that the proposed structure or activity will not be incompatible with the primary purpose of Lake Tuscaloosa, which is a public water supply reservoir. Any application found to be incompatible with these purposes will be denied.

(7) *Technical compliance.* Each application will be evaluated to ensure that the proposed structure or activity complies with all technical criteria pertaining to structures or activities on the lake.

(c) *Technical criteria.* The technical criteria for private structures such as boathouses, piers, gazeboes, etc., hereinafter referred to collectively as "structures," built on the lake or upon city property surrounding the lake shall be as follows:

(1) *Location.* All structures shall generally be located on that portion of the city's property on the lake shore adjacent to applicant's property or at a point on the lake generally in front of that portion of the city's property on the lake shore adjacent to applicant's property. Provided, however, the foregoing shall not prevent the structure from being placed at a location as determined by the director of the water and sewer department or his designated representative subject to the criteria herein contained. Provided further that the director of the water and sewer department or his designated representative's determination as to the actual location of the structure shall be governed by his discretion as to safety and proximity to other preexisting structures or uses. If determined appropriate by the director of the water and sewer department or his designated representative, a structure may be permitted in front of other property adjacent to the city's property surrounding the lake.

(2) *Length.* Subject to size limitations, the maximum allowable length for a structure shall be forty (40) feet or one-third the distance to the opposite shoreline (as measured to the closest point on the opposite shoreline directly across from the proposed structure), whichever is less, extending perpendicular from a point on applicant's shoreline at normal pool elevation to the farthest point on the structure. Although the director of the water and sewer department or his designated representative may allow a structure of up to fifty (50) feet in length extending perpendicular from a point on applicant's shoreline to the farthest point on the structure within the director of the water and sewer department or his designated representative's discretion based upon the demonstrated need of the applicant. Provided, however, [that] in no event shall the director of the water and sewer department or his designated representative allow any part of the structure to extend further than one-third the distance to the opposite shoreline (as measured to the closest point on the opposite shoreline directly across from the proposed structure), extending perpendicular from a point on applicant's shoreline at normal pool elevation.

(3) *Width.* Subject to size limitation, the maximum allowable width of all such structures (excluding sea walls) of one permittee shall be one-half of the applicant's property frontage abutting the city's property acquisition line around the lake, but not in any event to exceed more than eighty-five (85) feet.

Provided, however, [that] (a) the applicant's property must have a minimum of at least fifty (50) feet of continuous property adjacent to the city's acquisition line of the lake; and

(b) in the opinion of the director of the water and sewer department or his designated representative, there must be adequate space available on the lake to accommodate the structure.

(4) *Height.* Subject to size limitations, the maximum allowable mean roof height of the complete structure shall be fifteen (15) feet from normal pool elevation or grade as the case may be (not including handrails). Provided, however, [that] the director of the water and sewer department or his designated representative may allow a structure with a mean roof height of up to twenty-five (25) feet if, in the opinion of the director of the water and sewer department or his designated representative, the same will not materially obstruct or interfere with the use and enjoyment of the lake by adjoining property owners and is consistent with the general criteria for evaluating permits and structures on Lake Tuscaloosa in subsections 18-87(b)(1)--(6).

(5) *Walkways.* Walkways and access ramps shall be included in the length and width requirements for the structure. Provided, however, that the minimum width of all walkways and access ramps shall be three (3) feet and the maximum width of all walkways and access ramps shall be five (5) feet.

(6) *Types of structures.* Only two (2) basic types of structures shall be permitted: floating and stationary.

a. *Floating structures.* The floatation device of floating structures shall be of materials which will not become water logged (not over one and one-half (1 1/2) per cent by volume), are resistant to damage by animals, and will not sink or contaminate the water if punctured. No metal-covered or injected drum floatation will be allowed. Foam bead floatation that is not subject to deterioration through loss of beads meets the above criteria and has a minimum density of one and two-tenths (1.2) pounds/cubic feet is authorized. Foam bead floatation with a density of one pound/cubic feet, but does not otherwise meet the above criteria is authorized provided it is encased in an approved protective coating which enables it to meet the specifications above. An approved protective coating is defined as warranted by the manufacturer for a period of at least eight (8) years against cracking, peeling, sloughing and deterioration from ultraviolet rays, which retains its resiliency against ice and bumps by watercraft. Existing floatation will be allowed until it has deteriorated or is no longer serviceable or fully capable of supporting the structure, at which time it should be replaced with approved floatation.

b. *Stationary structures.* Stationary structures shall be on pilings, firmly mounted on concrete or galvanized steel supports or a minimum of four inch by six inch (4" x 6") treated posts for one level and six inch by six inch (6" x 6") for structures with roofs or decks, all of which must be of sufficient depth and quantity to adequately support the structure. Existing pilings will be allowed until such time as they have deteriorated and/or are no longer serviceable or fully capable of supporting the structure at which time they will be replaced with the approved pilings.

Stationary structure pilings shall be designed to safely support the load bearing structure.

Stationary and floating headers and girders for floor and roof systems will be bolted together on comers and into pilings, whichever is applicable, using galvanized or treated nuts, bolts, flat washers and lock washers.

c. *Structural bracing.* Structural bracing shall be a minimum of two inch by six inch (2" x 6") with three-eighths inch or larger lag bolts with washers or through bolts with nuts and washers at each end and where braces cross each other or any other structural member.

(7) *Anchor cables and mooring supports.* Anchor cable or mooring supports shall secure all floating structures. If anchor cables are utilized, they should be attached to metal or wooden posts set on the shoreline. No anchor cables or mooring supports will be allowed with attachments to trees or other natural formations or which materially obstruct the use of the shoreline or adversely affect the natural terrain or vegetation.

Anchor cables shall be of one-quarter-inch diameter or larger steel cable secured to the structure and to a three-inch or larger pipe or a four inch by four inch (4" x 4") or larger treated post, set in concrete above the normal pool elevation of the lake. In the alternative, floating structures may be secured by mooring supports of one inch or larger diameter rigid pipe, the same length as the access ramp to the structure attached in the same manner as cables (stiff arm technique) or by employing guide pilings driven into the lake bottom being enclosed by a sleeve or collar affixed to the structure. All methods must be able to move up and down with pool fluctuations.

(8) *Decking material.* All decking material shall be a minimum of one-inch thickness finished treated material or a minimum of three-fourths-inch treated plywood or other material approved by the director of the water and sewer department or his designated representative. Carpeting may be allowed so long as it is maintained in good condition. Decking may be treated to provide a nonskid surface. All members must be affixed with galvanized or equivalent material only.

(9) *Handrail and guardrail construction.* All stairs shall have handrails. All walkways and access ramps four (4) feet or more above the normal pool elevation shall have guardrails. All handrails and guardrails shall comply with the Standard Building Code. All wooden handrails must be bolted by galvanized fasteners to the deck or access ramp. All connecting members must be bolted to provide stiffness and prevent accidental breakage by a person or persons leaning against the rail. Pipe, as provided by the Standard Building Code or CABO One and Two Family Dwelling Code, may be used in lieu of wooden rails. Approved OSHA connectors or welded assembly are permitted. Support rails must be bolted to the deck or access ramp as referenced above. No rope handrails or guardrails shall be permitted.

(10) *Electrical service.* All electrical service and devices on land and over the water or on the structure will comply with specifications of the National Electric Code, Article 555, "Marinas and Boatyards." Plans submitted with permit applications should be certified by a professional electrician or electrical engineer as meeting requirements of the National Electric Code. Of particular note is the required use of ground fault interrupters and insulated equipment grounding conductors.

(11) *Roofs.* The roofs of structures may be designed, built and used as an open deck for sunbathing and other quiescent pastimes. Where upper decks exist, they will be surrounded by continuous sturdy guardrails meeting the standards as herein prescribed.

(12) *Ladders.* At least one ladder to the water from the structure and one to the upper deck, if the structure is so equipped, may be permitted. Additional ladders, whether from the structure or to an upper deck, if the structure is so equipped, may also be permitted if the same do not otherwise constitute a safety hazard.

(13) *Telephone jacks, intercoms, etc.* Telephone jacks, intercoms, etc., may be permitted on the structures.

(14) *Furniture.* Permanently mounted chairs and/or benches are permitted on the structures; however, such items shall not impede safe access to or use of the structure. All items must leave a minimum of four (4) feet of clear deck walkway.

(15) *Boat hoist.* Boat hoists will be allowed on a structure only in one of the following two (2) manners:

a. The hoist lifts its load independently with no additional stress to the structure.

b. Certification is provided to the satisfaction of the director of the water and sewer department or his designated representative that the structure of the facility has been specifically designed to support the additional weight of the boat to be hoisted.

(16) *Handicap considerations.* Special permit considerations may be given to structures on a case-by-case basis for those situations involving handicapped persons. The handicapped person receiving consideration must either be the owner of the structure or a member of the owner's immediate family.

(17) *Access.* The applicant shall allow representatives of the city access to the structure at all times and access across applicant's property as necessary to inspect the structure or related facilities.

(18) *Building codes.* All other applicable building codes and technical codes of the City of Tuscaloosa shall be complied with by each structure.

(19) *Size.* Except in regard to structures associated with commercial activities pursuant to permits issued by the city, and notwithstanding the fact that width, length, height or other criteria may result in a larger size structure, the structure or structures, combined, shall not exceed a maximum of one thousand seven hundred fifty (1,750) cumulative total square feet of useable space, including all piers, boathouses, docks, decks, boat slips, on shore boathouses, gazebos, and multiple levels, but excluding stairs, walkways and seawalls per applicant, said applicant being the owner of property adjacent to city property bordering the lake.

Provided, however, [that] if the applicant owns property immediately adjacent to the city's acquisition line around the lake for a distance in excess of one hundred seventy (170) continuous feet of usable frontage on the lake side of the property, they may apply for an additional structure permit subject to all applicable terms and conditions that would otherwise apply if such excess property were, in all respects, separately owned by another and no consideration shall be given or granted to the existence of applicant's other structure(s) or applicant's ownership of adjacent property. Provided, further, that the second or subsequent structure or structures must be separated from each other by a minimum of fifty (50) linear feet and square footages may not, in any case, be combined.

(d) *Vegetation and grading.* It shall be unlawful to cut or remove trees three (3) inches in diameter or larger upon city property surrounding or adjacent to the lake or to change the contour of city property surrounding or adjacent to or in the lake itself by grading, excavating, filling or **dredging** or otherwise, unless the activity is specifically addressed in a permit duly issued in accordance with the provisions hereof. The issuance of a construction permit for a structure pursuant to the provisions hereof does not generally authorize the cutting or removal of trees three (3) inches in diameter or larger upon city property or the changing of the contour of the city property surrounding or adjacent to

the lake or the lake itself by grading, excavating, filling, dredging or otherwise, unless specifically stated therein. Permittee shall always take appropriate erosion control measures.

A permit shall not be required for the cutting of incidental vegetation or grass on city property surrounding the lake by the adjacent property owner; provided, that such activity does not contribute to or create the risk of erosion of the land and/or siltation being deposited in the lake.

(e) *Transfer.* No permit issued pursuant to the terms and conditions hereof is automatically transferable. Upon the sale or other transfer of control of the property adjacent to the city's lakeshore property, in regard to which a permit exists pursuant to the provisions hereof, the new owner or person in control thereof shall immediately notify the director of the water and sewer department or his designated representative. The director of the water and sewer department or his designated representative shall conduct an inspection of the structure, and if upon inspection it is determined that the structure is in compliance with the "existing structure" provision of these regulations (subsection (g) below), then the water and sewer department or his designated representative will authorize the transfer of the permit upon correction of required deficiencies and payment of a fifty dollar (\$50.00) transfer fee.

Provided, however, [that] if the structure does not comply with the "existing structure" provisions of these regulations, subsection (g) below, then the owner must obtain a new permit pursuant to the terms and conditions contained herein.

The new owner or person in control of any transferred property as provided for herein, adjacent to which is located a permitted structure, must apply for either a transferred permit or a new permit pursuant to the terms and conditions hereof within one year from the date of transfer of ownership or control, or remove the structure and restore the shoreline of the lake and city property. A failure to notify the director of the water and sewer department or his designated representative within the times specified herein shall require the payment of a twenty-five dollar (\$25.00) delinquent fee.

(f) *Onshore boathouses and related structures.* Permits may be issued pursuant to all applicable provisions of this division for certain onshore boathouses and related storage structures located upon city property adjacent to the lake or adjoining the lake shoreline.

Such structures shall be non habitable and utilized only for passive storage of boats and items incidental and directly related to lake recreational activities. The structure shall not exceed a maximum size of nine hundred (900) square feet and there shall be no more than one such structure permitted for each applicant. No increases of ground or flood elevations on city property shall be permitted.

Such structures shall not be heated, cooled or contain sanitary facilities and shall be included within the calculations for maximum allowable size, width and length of structures, pursuant to the provisions hereof.

(g) *Existing structures.* All structures on any real property of the city surrounding Lake Tuscaloosa or on the lake for which permits were issued by the city prior to July 31, 1996, shall not be required to obtain a new permit pursuant to the applicable provisions of this section; provided, that:

(1) The structure is not expanded, altered or enlarged by fifty (50) per cent or more (see notes numbered 2 and 3 below).

(2) The structure is maintained in a usable and safe condition at all times.

NOTE 1: If any portion of the framing or siding (not including decorative screens) of any structure is in contact with the water at normal pool level, then a presumption shall arise that it is unsafe.

(3) The structure does not occasion a threat to life or property or is not a navigational hazard.

(4) The structure does not materially or substantially contravene any of the general criteria for evaluating structure permits as set forth in subsections (b)(1)--(6) above.

(5) The structure is properly transferred pursuant to the provisions of subsection (e) above or is otherwise abandoned.

(6) The structure has a valid identification tag issued and affixed in accordance with the provisions of section 18-93.

(7) The user fee for the structure is not more than one year delinquent.

(8) A provision of this section specifically requiring repair of the structure.

NOTE 2: The repair of an "existing" structure shall not cause the structure to lose its status as an "existing" structure if the repairs do not involve more than fifty (50) per cent of the structure as determined by the director of the water and sewer department or his designated representative. Alteration of more than fifty (50) per cent of a structure as determined by the director of the water and sewer department or his designated representative will cause the structure to lose its "existing" status and, therefore, the entire structure must comply with all applicable ordinances and regulations.

NOTE 3: Any repairs or modifications to existing structures must comply with subsections (b) and (c) of this section.

NOTE 4: In the event a permit is applied for [for] an existing structure after April 15, 1995, but before July 31, 1996, and the structure was never permitted previously, an application fee of one hundred dollars (\$100.00) shall be assessed by the director of the water and sewer department or his designated representative. After July 31, 1996, no permits for existing structures will be issued. Structures subject to "existing structure" permits must be completely constructed no later than July 31, 1997.

NOTE 5: A failure or refusal by any person to comply with notices from the director of the water and sewer department or his designated representative or their designated representatives to correct or repair deficiencies may result in loss of status as an existing structure.

(9) Any structure removed from the original location for which it was permitted shall cause the entire structure to lose its status as an "existing structure", and application shall be made in accordance with the provisions of this section.

(h) **Dredging or tree removal.** All persons, firms, corporations or any other entity who (or which) desire to dredge, remove or otherwise disturb the land, shoreline, sediment or lake bottom or shall seek to remove any tree or trees located on city property in or surrounding Lake Tuscaloosa, must first make application on a form provided for such purpose to the City of Tuscaloosa Water and Sewer Department--Lakes Division. The applicant, in order to qualify for consideration of a permit as herein

provided, must own and produce evidence of ownership of property immediately adjacent to the city's acquisition line around the lake on the lake side of property. The application must be accompanied by the payment of a nonrefundable application fee to the city. The application fee shall be in the amount of one hundred dollars (\$100.00). Such application fee, however, may be waived upon the water and sewer department--lakes division manager's determination that such tree removal furthers public safety by protection of property and persons.

The application shall contain and shall be submitted with the following:

- (1) Name, address, and telephone number of applicant.
- (2) Address or location of permit site and attached map indicating the permit site in relation to Lake Tuscaloosa (tax map is acceptable).
- (3) Name of contractor if any and types of equipment and personnel that will be involved.
- (4) Location where dredged material or tree(s) are to be taken.
- (5) If the permit is sought for **dredging**, the following shall also be required:
  - a. A detailed plan or drawing indicating the approximate length, width, and depth of the area to be dredged and the approximate number of cubic yards of material that will be removed.
  - b. A map or plat showing the contour which represents the normal pool elevation of the lake, as well as the city's acquisition line and a detailed drawing indicating the permit site thereon.
  - c. Location of turbidity curtains.
- (6) If the permit is sought for the removal of a tree(s), the applicant shall state the number of trees to be removed and the reason for the removal.
- (7) A copy of the applicant's homeowners or contractors insurance policy which names the city as an additional insured in an amount not less than five hundred thousand dollars (\$500,000.00). In the alternative, the property owner or contractor may enter into an indemnity agreement with the city upon such terms and conditions as the city may require.

Locations for the disposal of dredged materials and removed trees must be approved by the water and sewer department--lakes division. Dredged material and removed trees shall not be disposed of or deposited in Lake Tuscaloosa nor in any part of the Lake Tuscaloosa drainage basin which would allow the runoff of these materials to drain into the lake.

The application may either be mailed or delivered to the City of Tuscaloosa Water and Sewer Department--Lakes Division, 3650 Lake Nicol Road, Tuscaloosa, Alabama, 35406 and addressed to the attention of the lakes division manager. Upon receipt of the application, the attachments thereto and the permit fee, lakes division personnel shall process the application and contact the applicant concerning the request. Lakes division personnel shall also inspect and photograph the site as identified by the application and the attached plan(s), drawing(s) and map(s).

The lakes division shall review the application and make its determination on the basis that the activity will not damage or adversely affect Lake Tuscaloosa or the surrounding property owners. The permit will not be granted if the application seeks to substantially disturb or change the natural shoreline of Lake Tuscaloosa or would have that effect prospectively. If approved, the application will be returned to the applicant for the notarized and sealed signature of the applicant(s). The applicant(s), after signature, shall return the executed application for final approval and execution by the lakes division manager. Upon execution by the lakes division manager, the permit shall be mailed to the applicant.

The lakes division may monitor and inspect the work performed under the permit at any time and the permitted shall guarantee access. If there is a determination that additional work is required, in addition to the specifications as set forth in the permit, the lakes division, at their discretion, may allow the additional work to proceed under the existing permit or may require a new permit application for the additional work. All work performed by the applicant or contractor shall be to the satisfaction of the lakes division. The applicant or contractor shall notify the lakes division for its approval upon completion of the project. The lakes division shall inspect the work performed and the permit will be terminated if the project is approved. If the applicant or contractor fails to complete the work to the satisfaction of the lakes division or as set forth in the permit application or fails to comply with the technical provisions of this section, the permit shall be revoked and such violations or omissions shall be subject to the penalties as set forth in section 18-99.

#### **Sec. 18-88. Annual structure user fee.**

(a) All persons, firms or corporations who (or which) own or control structures that are located in whole or in part upon city property surrounding or upon Lake Tuscaloosa shall pay an annual user fee to the city in the amount of twenty-five dollars (\$25.00). All such annual user fees shall be due and payable to the city on the first day of May of each year and shall be delinquent thirty (30) days thereafter.

(b) A penalty of twenty-five dollars (\$25.00) shall be assessed if the user fee is not paid within thirty (30) days of the due date.

(c) The director of the water and sewer department or his designated representative shall send a written notice at least thirty (30) days prior to the first day of May each year, via the United States mail, to the last known address of each person, firm or corporation who (or which) owns or controls a structure or structures that are located in whole or in part upon city property surrounding or upon Lake Tuscaloosa and to whom (or which) the city has issued a permit for a structure pursuant to the provisions of subsections 18-87(c) or (d). Provided, however, a failure of the director of the water and sewer department or his designated representative to provide the foregoing written notice shall not excuse the payment of the user fee, although it shall excuse the payment of any delinquent fee.

#### **Sec. 18-89. Signs on structures.**

(a) No advertising or other sign of any kind shall be permitted on any structure on the lake or on any land or rights-of-way of the city in the vicinity of the lake.

(b) The city may require the placement of safety signs or guide signs on such structures or may authorize placement of the same by the owner of the structure, but only as the city may direct.

(Ord. No. 3885, § 4, 6-2-94; Ord. No. 6317, 3-26-02)

### **Sec. 18-90. Routine inspection and structures in violation.**

All structures in and upon city property around or on Lake Tuscaloosa are subject to periodic inspection by authorized representatives of the city. It shall be unlawful for the owner or person in control of any structure to fail to correct any deviation or violation of the provisions of this Code within the time established by the authorized representatives of the city.

### **Sec. 18-91. Permit revocation and removal of structures.**

(a) *Notice to owner of noncompliance.* Whenever the director of the water and sewer department or his designated representative shall find that any structure upon city property around Lake Tuscaloosa, or in or upon the lake, fails to comply with the provisions of this Code, the director of the water and sewer department or his designated representative shall give written notice to the person, firm or corporation listed on the records of the city for the structure as owner, or if there is not a permit, then to the person, firm or corporation last assessing the property for state taxes which is adjacent to the city property on the lake nearest to the location of the structure.

(b) *Service of notice; contents and timeframe; extension.* Such notice shall be given by registered or certified mail to said address. The notice shall advise the person of the violations or deficiencies found to exist in regard to the structure and that the same must be remedied either through repair or correction of the structure or removal of the structure, as the director of the water and sewer department or his designated representative may determine, within thirty (30) days. If, in the opinion of the director of the water and sewer department or his designated representative, the owner is making progress in good faith to correct the structure, the director of the water and sewer department or his designated representative may grant up to sixty (60) additional days.

(c) *Posting.* Notice of such order or a copy thereof shall also be posted at or within three (3) feet of the structure.

(d) *Appeal of director of the water and sewer department or his designated representative's decision.* Within thirty (30) days from the date of said notice, any person, firm or corporation having an interest in such structure may file a written appeal with the director of the water and sewer department or his designated representative for a hearing before the City of Tuscaloosa public projects committee, together with his objections to the findings by the director of the water and sewer department or his designated representative. The filing of such request shall hold in abeyance any action on the findings or orders of the director of the water and sewer department or his designated representative until a hearing and determination thereon is made. The director of the water and sewer department or his designated representative shall give the person, firm or corporation making such request written notice of the time, date and place of the hearing in regard to the appeal.

(e) *Determination of public projects committee.* Upon holding such a hearing, which shall not be held less than ten (10) nor more than sixty (60) days after such request, the public projects committee shall determine whether to recommend to the city council that the opinion of the director of the water and sewer department or his designated representative should be sustained, modified or reversed; whether to recommend to the city council that such structure should be removed as a danger to the public health, safety and welfare; or to recommend to the city council whether, and to what extent, the structure fails to comply with any applicable division of law or ordinance and what remedial or corrective action is or may be necessary. At the hearing, the owner of the structure, the director of the water and sewer department or his designated representative and any other parties having interest therein shall have an opportunity to be heard and to present evidence to the public projects committee in regard to the matter. Once the public projects committee has made such determination, it will make a recommendation to the city council for a final hearing.

(f) *Determination of city council.* Upon receiving the recommendation from the public projects committee, the city council shall hold a hearing, which hearing shall be held not less than ten (10) nor more than sixty (60) days after such recommendation, the city council shall determine whether the recommendation of the public projects committee should be sustained, modified or reversed. At the hearing, the owner of the structure, the director of the water and sewer department or his designated representative and any other parties having interest therein shall have an opportunity to be heard and to present evidence to the city council in regard to the matter.

(g) *Additional compliance time; failure to correct prohibited.* The city council may grant a person, firm or corporation a reasonable additional period of time to comply with the order of the director of the water and sewer department or his designated representative. It shall be unlawful for the owner or person in control of any structure to fail to correct any deviations or violations of law or ordinance by the structure and/or remove the structure as finally determined by the director of the water and sewer department or his designated representative or the city council, as the case may be.

(h) *Demolition and removal.* In the event after all notices required herein have been given and no appeal is taken from the determination of the director of the water and sewer department or his designated representative to remove and demolish the structure or on appeal the determination has been made by the city council to remove and demolish said structure, such structure may be removed and demolished by the city through the use of its own forces or it may provide by contract for such removal and demolition. The city may sell or otherwise dispose of salvaged materials resulting from such removal and demolition as it sees fit. The city water and sewer department shall keep an accounting of all cost and expenses incurred for any such removal and demolition and demand payment thereof from said person, firm or corporation.

(i) *Applications.* Applicants for permits for structures in or upon Lake Tuscaloosa may appeal the decision of the director of the water and sewer department or his designated representative in regard to the provisions of this article, pursuant to subsections (d) and (e) above.

### **Sec. 18-92. Emergency removal of structures.**

(a) Nothing herein to the contrary withstanding, in the event a structure is determined by the director of the water and sewer department or his designated representative or the general manager of the water and sewer department or the chief of police to pose an immediate threat to the public health, safety and welfare, appropriate action may be taken immediately by representatives of the city to abate the threat.

(b) Immediately thereafter, the director of the water and sewer department or his designated representative shall, utilizing the notice and hearing procedures provided for above, [make] an effort to notify the person, firm or corporation of the action taken by city representatives and the reasons therefore.

(c) Any structures which have become severed from their mooring above the normal pool elevation so as to be subject to floating free and/or sinking in the lake are hereby declared to be navigational hazards, a threat to the public health, safety and welfare, and public nuisances.

### **Sec. 18-93. Structure identification tags and markers.**

Structure or structures subject to the provisions of this article shall have permanently affixed upon one of said structure(s), facing lake ward (perpendicular from the shoreline), the following:

(a) An identification tag as determined by and issued by the director of the water and sewer department or his designated representative. The identification tag and/or the replacement thereof shall be issued for a fee of ten dollars (\$10.00). Identification tags shall be affixed to the structure by the owner within ten (10) days from the date of final inspection.

(b) All structures extending into or upon the lake at normal pool elevations shall have installed thereon so as to be clearly visible to any watercraft from any direction for a distance of fifty (50) feet at night, proper reflection or warning devices.

### **Sec. 18-94. Governmental structures.**

Structures and facilities owned or operated by other governments and/or the City of Tuscaloosa are subject to the provisions of this division to the extent applicable and those owned or operated by other governments in or around the lake pursuant to special permits issued by the City of Tuscaloosa are subject to the terms and provisions of the permit.

### **Sec. 18-95. Structure maintenance.**

All structures on any land of the city in the vicinity of or upon Lake Tuscaloosa must be operated, maintained and used in a safe, healthful condition at all times.

## **Sec. 18-96. Miscellaneous structure regulations.**

(a) *Recreational accessories.* Diving boards and swings, (excluding porch-type swings) and other playground-type equipment (except slides) are not permitted.

However, if a diving board was attached to an existing structure before July 31, 1995, and the structure is permitted as an existing structure in accordance with the provisions of section 18-87, then the same may remain so long as the structure, as well as the diving board, comply with the provisions of section 18-87 and other applicable provisions of the City Code.

Any person, firm or corporation that has removed prior to August 17, 1995, a diving board from an existing structure may reinstall or reattach the same diving board that was so removed or reattach or reinstall a diving board that is substantially similar to the one that was removed.

In the event an existing structure to which is attached a diving board pursuant to the provisions hereof must be repaired through alteration of more than fifty (50) per cent of the same, as determined by the director of the water and sewer department or his designated representative, then at that time such diving board shall be removed. In the event an existing structure to which a diving board is attached pursuant to the provisions hereof loses its status as such then such diving board and/or slide shall be removed.

Provided, however, nothing to the contrary withstanding, all diving boards and slides must at all times be maintained in a useable and safe condition and not, in the opinion of the director of the water and sewer department or his designated representative, be a danger to any user nor occasion a threat to life or property or constitute a hazard to navigation. No diving board or slide should materially or substantially contravene any of the general criteria for evaluating structure permits as set forth in subsections (b)(1) through (6) of section 18-87.

(b) *Decorative items.* Decorative items will be permitted so long as they do not impair or impede safe usage and meet section 18-87 criteria.

(c) *Activities:*

(1) Fishing by pole, rod or reel is permitted from the structure.

(2) Sunbathing, lounging or other quiescent pastimes are permitted on structures.

(3) Diving from a structure is not recommended due to the potential for injury.

(4) Swimming in the vicinity of a structure, while not specifically prohibited, is not encouraged due to potential conflicts with boats.

(5) It shall be unlawful for any private person, firm or corporation to place buoys or other navigational markings in the lake without a permit issued by the city.

(d) *Sanitary facilities.* It shall be unlawful for any structure to contain or have located thereon any sanitary system or facility as defined by this chapter. Any such structure having such facilities or sanitary systems shall have the same removed there from immediately.

(e) *Habitation.* No structure or any boat moored thereto or upon the waters of the lake shall be used as a place of habitation or as a full- or part-time residence. No structure shall be heated, cooled or contain sanitary facilities.

(f) *Fueling facilities.* Fueling facilities are strictly prohibited on all structures subject to these regulations, except for existing fueling facilities of the Police Lake Patrol and permitted commercial facilities.

(g) *Environmentally hazardous materials.* Creosote, penta or other treated materials that may be determined by the city to be an environmental hazard due to contact with the water of the lake or potential for the same, are strictly prohibited on any structure for any purpose. Provided, however, such materials may be permitted to remain on existing structures, but such materials may not be used for replacement, repair or new construction.

(h) *Use of tires prohibited.* Vehicle tires or portions thereof shall not be utilized in lieu of proper marine devices.

### **Sec. 18-97. Installation and operation of geothermal/water source heat pump systems.**

Geothermal water source heat pump systems and related appurtenances and facilities (the system) are prohibited in or upon Lake Tuscaloosa, or the city property surrounding the lake, except by permit issued in accordance with the applicable provisions of this division and subject to the following additional criteria:

(1) The system shall be for residential use only to serve the property adjoining and adjacent to Lake Tuscaloosa. Commercial and/or industrial systems are prohibited.

(2) The system must be designed by a qualified professional who shall submit plans and drawings thereof to the director of the water and sewer department or his designated representative prior to any construction or installation activity in regard to the same. The director of the water and sewer department or his designated representative may reject any plans and drawings which he determines are inadequate or insufficient or require further information regarding any aspect of the system.

(3) The system shall be of a "closed loop" design and operation. "Open loop" systems are prohibited. The system must be designed and constructed to automatically shut down in the event of a leak. Makeup water or solution lines are prohibited. Heat pump equipment shall be rated for extended range operation (ARI 330).

(4) The system may utilize water or the additive propylene glycol only. No system may utilize more than a total of four hundred (400) gallons of water/glycol solution. No more than fourteen (14) per cent of the entire system's solution may be glycol, with the remaining being water. Ethylene glycol, alcohol/water mixture or other additive solutions are strictly prohibited and illegal. It shall be illegal to subsequently add any other solutions to the system's water or propylene glycol exceeding the amounts as set forth herein.

(5) The coils of the system shall be tight bundles with spacers; loose bundle coils are prohibited. Bundle coils shall be securely anchored to the bottom of the lake at a minimum depth of fifteen (15) feet from normal pool elevation. At the permittee's expense, this needs to be verified by sending a diver down and providing in writing that the bundles are secured to the bottom in areas where there is potential for swift water moving them. System coils, including access piping (exterior and lake piping) to and from the lake, shall be constructed of only thermally fused high density polyethylene

(PE3408) with ultraviolet protection (black) and heat fused joints. Copper, glued plastic (PVC), tubing with band clamp joints or other types of material for coil or pipe construction are prohibited.

All connections shall be either thermally socket fused or heat fused.

All coils and access piping transporting the solution to and from the lake must be adequately protected. The director of the water and sewer department or his designated representative may require access piping to be trenched or otherwise protected if he determines that there is any potential risk to the integrity of the piping. Access piping at the point of entry and exit from the lake, as well as the area of the lake beneath which the coils are anchored, may also be required by the director of the water and sewer department or his designated representative to be adequately protected, either through coverage by existing structure or the construction of a structure, all in accordance with the provisions of this division.

(6) Systems shall not be allowed in areas of the lake where the director of the water and sewer department or his designated representative determines it may pose a potential threat to navigation, including anchorage of vessels, or interfere with the effective utilization of the lake by others. Permittee agrees that, if at any time the City of Tuscaloosa or the Tuscaloosa County Health Department ascertains or determines that the system is not being properly maintained or operated, the permittee will take whatever actions are reasonably necessary to correct the same, including removal of the system at permittee's expense. The permittee shall be solely responsible for and shall bear all cost of the upkeep, maintenance and operation of the system. In the event the same shall fall into a state of disrepair, become unsightly, unsanitary, unsafe, or defective, the city shall have the right, after notice, to remove the same at the cost and expense of the permittee. The permittee shall be solely responsible for the system and shall immediately repair, replace or remove the system or any portion thereof that is defective or broken. A surface buoy(s) or other sign(s), as specified by the director of the water and sewer department or his designated representative, shall be installed and maintained by and at the expense of the permittee, warning of the existence of the system.

(7) The permittee shall, at least once a year, and at any other time when requested by the director of the water and sewer department or his designated representative, at the permittee's expense, have the system tested by a qualified professional who shall certify the results thereof and submit the same to the director of the water and sewer department or his designated representative. The permittee acknowledges that the city reserves the right and hereby grants the city the right to enter in and upon the property served by the system and upon which the system or any portion thereof may be located to inspect the same.

All provisions of this division shall apply equally to the permitting of geothermal/water source heat pump systems, except where the context thereof, due to the very nature of the structure clearly indicates otherwise, and in circumstances where the provisions of this subsection directly conflict with any other provisions, the former shall prevail over the latter to the extent of any conflict.

#### **Sec. 18-98. Permit required for organized events.**

(a) It shall be unlawful for any person, firm or corporation to conduct, allow, permit, or participate in any organized and/or sanctioned event of vessels as defined in division 2 of this article upon the waters of Lake Tuscaloosa or any such type activity or event upon city property surrounding the lake without first having obtained a permit for the same pursuant to the provisions hereof.

(b) All permits for organized activities in, upon, or around Lake Tuscaloosa shall be approved by resolution duly adopted by the city council of the City of Tuscaloosa.

(c) Applications for such a permit shall be made to the City of Tuscaloosa Legal Department on a form provided for that purpose.

(d) The permittee must agree to abide by all terms and conditions of the permit including, but not limited to, the following requirements:

(1) Organized activities shall be limited to the area and/or location specified in the permit.

(2) All participants, contestants, supervisors and other persons involved and/or associated with the event shall conduct themselves in a careful and prudent manner and abide by all rules and regulations promulgated and/or adopted by the City of Tuscaloosa or the Tuscaloosa County Park and Recreation Authority as well as all applicable state laws including, but not limited to, all laws and/or ordinances regulating operation of vessels and the use of alcoholic beverages in, around, or upon Lake Tuscaloosa.

(3) All permittees shall have adequate personnel and equipment to facilitate, assist and aid all participants in the event and shall obey all instructions of the Tuscaloosa Police Department.

(4) Permittees shall have present during the entire course of the event trained personnel who are certified in water safety, CPR and other medical aid.

(5) The application and the permit shall be limited to a reasonable time, place, date and location.

(6) All participants shall execute a release, prepared and provided by the City of Tuscaloosa Legal Department prior to the event beginning and return executed copies of all such releases to the City of Tuscaloosa. All permittees shall agree to be solely responsible for the safety and welfare of their members and participants in the event and shall agree to release, indemnify and hold harmless the City of Tuscaloosa, its officers, agents and employees from and of any and all claims, demands, suits, and/or damages of any sort including but not limited to property damage, bodily injury and/or death, arising out of or in any way related to any activity or conduct pursuant to the permit.

(7) The permittee shall provide at the boat launch or other event site location adequate restroom facilities for all participants and/or spectators.

(8) The permittee shall be required to provide proof of carriage of general liability special event insurance in the amount of one million dollars (\$1,000,000.00) listing the City of Tuscaloosa, its officers, agents and employees as additional insured and furnish a copy of the certificate of insurance of such to the City of Tuscaloosa Legal Department and to immediately notify such department of any changes in or modifications to or cancellation of said policy.

(9) Permittee shall be responsible for maintaining the area of activity free and clean of all garbage, trash and litter. Permittee shall be responsible for any damage to public property or facilities, insure that all fires (if permissible) are properly extinguished, and that all public equipment or facilities are maintained in their proper position and order.

(e) That in regard to the granting of any such permit pursuant to the terms and conditions of this section the City of Tuscaloosa reserves all its rights and police powers including the right to control and regulate the flow and activity of vessels in or upon Lake Tuscaloosa and activity on city property surrounding the lake. That by the granting of the permit the City of Tuscaloosa does not abdicate or relinquish any of its authority or control in regard to regulating activity in or upon Lake Tuscaloosa or the surrounding area of the lake.

(f) The City of Tuscaloosa reserves the right by action of the city council, the mayor, chief of police, director of water and sewer department or their designated representative to revoke and/or suspend any permit issued pursuant to the terms and condition thereof in the event it is determined that the permittee's activities violate the permit, or are illegal and/or pose a threat to the public health, safety and/or welfare.

(g) All applications for permits, prior to being submitted to the city council, shall be reviewed by the legal department and receive the approval of the Tuscaloosa Police Department Lake Patrol Division in regard to matters effecting its operations.

(h) The permit shall contain such other and further requirements as city representatives determine is reasonably necessary.

#### **Sec. 18-99. Offenses.**

(a) Except for the purpose of construction or repair thereof pursuant to the requirements of section 18-87, it shall be unlawful to utilize, occupy or remain upon a structure (boathouse, dock, pier, gazebo, etc.), or to permit or allow others to do so, until the construction or repair activity on such structure has been completed as required by the provisions of this division and an identification tag has been issued by the director of the water and sewer department or his designated representative pursuant to section 18-93.

(b) It shall be unlawful for any person, firm, corporation, or contractor to knowingly construct or repair a structure (boathouse, dock, piers, gazebos, seawalls, etc.) upon the lake which violates any provision of subsection 18-87(c), "Technical criteria."

(c) Any person, firm, corporation or contractor who knowingly fails to submit an application and fee for dredging or tree removal on city property in or surrounding Lake Tuscaloosa and undertakes action of the same, shall be deemed in violation of subsection 18-87(h) and subject to the penalties as set forth in this section.

Any such person, firm, or contractor that knowingly constructs or repairs such structure upon the lake that violates the technical requirements of subsection 18-87(c) or knowingly dredges or engages in the removal of tree(s) located on city property in or surrounding the lake that violates the technical requirements of subsection 18-87(h) may be subject to sanctions by the city including, but not limited to, criminal fines and/or penalties pursuant to section 1-8 of the City Code of Tuscaloosa, revocation, suspension or non-renewal of business licenses and/or expulsion from the lake for a period of time to be determined by the city council.

