

ARTICLE III. LAKE ACCESS AND DOCKING REGULATIONS

Sec. 24-50. [Purpose.]

In its deliberations leading to the adoption of this article, the township board has recognized and concluded that the use of water resources, including the inland lakes situated in the Charter Township of Highland, should be considered within a framework of longterm costs and benefits to the township, and that it is desirable to retain and maintain the physical, cultural and aesthetic characteristics of the township lakes. Moreover, it has been recognized that the shorelines of each respective property must be regulated in order to preserve and protect the rights of riparian owners, as well as the township as a whole. It has further been recognized that the lack of regulation would result in a nuisance condition and an impairment of these important and irreplaceable natural resources of the township, and would further result in the destruction of property values and threaten the public health, safety and welfare of all persons making use of the lakes in the township. Accordingly, it is the intent and purpose of the township board to adopt reasonable regulations for lake access and docking within the township.

(Ord. No. 421, § 1, 9-26-01)

Sec. 24-51. Definitions.

Boat means any watercraft having a motor, engine or other machinery of more than five (5) horsepower or the equivalent, and any "personal watercraft" as defined in the Marine Safety Act, Act 303 of the Public Acts of Michigan of 1967, as amended.

Boat access includes boat launching, mooring and docking, and over-night anchoring within fifty (50) feet of the shore from or incidental to a single private riparian property, public or private road end abutting an inland lake, and/or a public or private multiboat access site.

Dock or *docking* means the mooring of a boat directly to a pier, which is a platform or other permanent or seasonal fixture extending from the shore out to the line of navigability, and which is directly accessible to a lake frontage lot. "Dock" or "docking" shall also mean the regular anchoring of a boat adjacent to a lake frontage lot.

Lake frontage means that portion of a lot or parcel of land, existing on documentation recorded within the Oakland County Register of Deeds, which abuts or intersects with the ordinary high water mark of a lake, whether such lot or parcel is owned by one or more persons, or any legal entity.

Lake study plan means a plan compiled by a developer and used by the township to establish the specific carrying capacity and levels of lake access on respective lakes. The plan shall include the following information:

- (1) *Lake characteristics:*
 - a. Surface size.
 - b. Lake configuration (round, irregular, etc.).
 - c. Bank types.
 - d. Water depth.
 - e. Inlet types.
 - f. Outlet types.
 - g. Source of water supply

- h. Nature of beds (sand, clay, etc.).
- i. Existing land uses on the lake, proximity of land uses to the lake and reasonably foreseeable trends in land use development (including areas at risk by type).
- j. Estimation of existing dockage by type and character.
- k. Estimation of number of boats currently docked and/or used on the lake.
- m. Existing surface water use (fishing, water skiing, sailing, jet skiing, etc.) by daily average and peak use.

(2) *Environmental characteristics:*

- a. Natural characteristics of the watershed (water quality, etc.).
- b. Vegetative cover around the lake.
- c. Habitat considerations, including types and amounts of aquatic life.
- d. Relationship to other water courses.
- e. Presence of wetlands.
- f. Amount of shoreline presently conserved in natural state and anticipation of future use of that shoreline.

(3) *Land use characteristics:*

- a. Average frontage of building sites on the lake.
- b. Minimum lot width under the township zoning ordinance for property on the lake.
- c. Consideration of size and ownership of properties adjacent to the lake.
- d. Township master plan for properties adjacent to the lake.
- e. Extent of shoreline development and anticipation of development in the foreseeable future.

(4) *Lake access:*

- a. Availability and extent of public access.
- b. Availability and extent of access from other watercourses.
- c. Availability and extent of private multiboat access sites.

Multiboat access site means a facility which extends into or over a lake, or provides docking space for mooring or docking of boats during the boating season. A facility on lake frontage for the mooring or docking of a boat owned and operated exclusively by a single family residing in one (1) dwelling unit located on lake frontage shall not be included within the definition and meaning of "multiboat access site." Examples of multiboat access sites include public and private marinas, state and local boat launches, boat clubs and road ends. In no event shall a multiboat access site include a full-time or part-time residence.

Ordinary high water mark is used to measure the length of lake frontage, as determined by the Michigan Department of Natural Resources, or if the department has not made such a finding, then as determined by a finding of the township board. The measurement shall be made only along a natural shoreline, and shall not include any man-made or naturally existing channels, lagoons, canals, drainage ditches, or the like.

Public access means a multiboat access site operated by a governmental entity, including

access from a public road authorized expressly or impliedly by a governmental entity.

Riparian refers to owners of property abutting a water body, whether a lake or a stream.

(Ord. No. 421, § 1, 9-26-01)

Sec. 24-52. Regulations.

(a) Unless otherwise provided herein, or unless otherwise allowed through special land use or planned unit development, no more than four (4) boats shall be launched from and/or docked adjacent to each lake frontage for a period of seventy-two (72) consecutive hours. All such boats shall be registered with the State of Michigan to the property owner where the boat is docked.

(b) If a boat, which is registered with the State of Michigan to someone other than the property owner where the boat is docked, has remained on that property for a period of seventy-two (72) consecutive hours, the police agency shall do all of the following:

- (1) Determine if the boat has been reported stolen.
- (2) Affix a written notice to the boat, which shall contain the following information:
 - a. The date and time the notice was affixed;
 - b. The name and address of the police agency taking the action;
 - c. The name and badge number of the police officer affixing the notice;
 - d. The date and time the vehicle may be taken into custody and stored at the owner's expense; and
 - e. The year, make identification number of the boat, if available.
- (3) If a boat is not removed within forty-eight (48) hours after the date the notice was affixed, the police agency may have the vehicle taken into custody.
- (4) Within seven (7) days after taking the boat into custody, the police agency shall send to the registered owner and any secured party of record, by first class mail or personal service, notice that the boat has been taken into custody.
- (5) Within twenty (20) days after the notice of custody has been sent to the registered owner or secured party of record, the owner may request a hearing for review of the procedures or reasonableness of towing and storage fees.
- (6) The owner of the boat who requests a hearing may obtain release of the boat by posting a towing and storage bond with the court in an amount equal to the towing and storage fees. If the court finds that procedures were not properly followed, the police agency shall reimburse the owner of the boat for the accrued towing and storage fees.
- (7) If the owner does not request a hearing, he or she may obtain the release of the boat by paying the accrued charges to the custodian of the boat.
- (8) If the owner does not redeem the boat or request a hearing within twenty (20) days after the date of the notice of custody, any secured party of record may obtain the release of the boat by paying the accrued charges and costs to the custodian of the boat and the police agency.
- (9) Not less than twenty (20) days after the disposition of the hearing described in subsection (5), or if a hearing is not requested, not less than twenty (20) days after the date of the notice of custody, the police agency shall offer the boat for sale at a public sale.

(c) Not more than one (1) dock shall be permitted or used for each lot which has lake frontage and which meets all lot area and frontage requirements of the zoning ordinance.

(d) No multiunit residential development that is located upon a lot or parcel of land with lake frontage shall permit boat access by more than one (1) single-family home, dwelling unit, cottage, condominium unit, site condominium unit or apartment unit for each ten (10) feet of lake frontage on such lot or parcel of land, as measured along the ordinary high water mark line of the lake in such common lake front area. Such access is limited to one (1) boat per each ten (10) feet of lake frontage.

(e) Notwithstanding the preceding, no multiunit residential development shall have more than one (1) dock for each forty (40) feet of lake frontage, as measured along the ordinary high water mark of the lake in any zoning district in the township.

(f) No lake frontage shall be used for boat access to the owners or occupants of newly developed adjacent or neighboring subdivisions, multiple-residential developments, cluster housing developments or mobile home parks, unless the parcel is designated as a special land use multiboat access site. Such designation may be approved by the township board, following a recommendation by the township planning commission after submittal by the developer of a lake study plan, if the proposed special land use meets all of the following standards:

- (1) The resulting conditions will be consistent with the intent of this article.
- (2) The resulting conditions will not create or substantially add to traffic or safety hazards in the area, either on roadways or waterways.
- (3) The available public services and facilities will adequately serve the proposed use.
- (4) The proposed use will be sufficiently designed to protect the lakes, natural systems, natural resources, and the health, safety and social and economic welfare of those who will use the proposed use, residents and landowners adjacent to the proposed use, and the community as a whole.
- (5) The minimum lake frontage requirements shall be not less than ten (10) feet per single-family home, dwelling unit, cottage, condominium unit, site condominium unit or apartment unit proposed to have access to or utilize such lake frontage.

(g) No boat access, multiboat access, boat ramp, boat launch, dock or lake frontage shall be used for any nonresidential use or purpose, including, but not limited to, any commercial use, business use, entertainment facility or institutional uses or purposes, unless the use is otherwise authorized by the zoning ordinance as a special land use or a planned unit development. This section shall not apply to governmental structures or uses.

(Ord. No. 421, § 1, 9-26-01)

Sec. 24-53. Civil infraction enforcement and penalties.

(a) *Civil remedies.* The provisions of this chapter shall be enforceable through any and all remedies available at law or in equity in any court of competent jurisdiction. Any violation of this chapter is deemed to be a nuisance per se.

(b) *Presumption of civil infraction.* A violation of this chapter shall be deemed to be a municipal civil infraction.

(c) *Violation and penalties.*

- (1) *[Civil fines.]* The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular ordinance provision:

a. *The first offense.* The civil fine for a first offense violation shall be in an amount of one hundred fifty dollars (\$150.00) plus costs and other sanctions, for each offense.

b. *First repeat of offense.* The civil fine for any offense which is a first repeat offense shall be in an amount of three hundred dollars (\$300.00), plus costs and other sanctions, for each offense.

c. *Second (or any subsequent) repeat of offense.* The civil fine for any offense which is a second or subsequent repeat offense shall be in an amount of six hundred dollars (\$600.00), plus costs and other sanctions, for each offense.

(2) *[Enforcement.]* In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this chapter.

(3) *Continuing offense.* Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense.

(4) *Remedies not exclusive.* In addition to any remedies provided for in this chapter, any equitable or other remedies available may be sought.

(5) *Judge or magistrate.* The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

(6) *Failure to appear in court.* A defendant who fails to answer a citation or notice to appear in court for a violation of this chapter is guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00), plus costs and/or imprisonment not to exceed ninety (90) days.

(7) *Civil contempt.* If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the district court, upon motion of the Township of Highland or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.

(Ord. No. 433, § 1, 5-26-04)