

STATE OF WISCONSIN
TOWNS OF LAGRANGE & SUGAR CREEK
WALWORTH.COUNTY

7-13-09

ORDINANCE NO. 2009-05

AN ORDINANCE TO REGULATE WHARFS, PIERS AND MOORING FACILITIES AND.
ESTABLISH A PIERHEAD LINE FOR LAUDERDALE LAKES

WHEREAS, the placement of structures in and on Lauderdale Lakes may materially impact the health, safety and welfare of the public, environmental concerns relating to clean water, and aquatic habitat for fish and plant life, and recreational opportunities for all;

NOW, THEREFORE, the Town Boards of LaGrange and Sugar Creek enact this ordinance.

SECTION 1. DEFINITIONS

A. The definitions set forth in Section 30.01, Wis. Stats., as amended from time to time, are adopted by reference.

B. Mooring facility - means any allotted space, place or contrivance to which a single water craft is attached, secured or berthed, including, but not limited to, a mooring buoy, pier slip or shore station. By way of example, a pier of sufficient size to moor two (2) boats counts as two (2) mooring facilities.

C. Pier head line - means the distance into the water from the ordinary high water mark, as defined in NR 320.03(4), Wisconsin Administrative Code, in which area piers maybe allowed.

D. Raft - is any structure which floats on the water by means of inflation, barrels, logs, or similar means, and is not used for transportation.

SECTION II. PERMIT REQUIRED

No property owner, tenant, agent, business or person may do any of the following: construct;

- place;
- extend;
- enlarge;
- replace, except seasonal replacement; or
- repair an existing NON-COMPLYING pier greater than 10% of its surface square feet in one year or more than 50% of the posts of a permanent pier in one year, a wharf, pier, or mooring facility in Lauderdale Lakes without obtaining a permit from the Town of LaGrange for the portion of the lakes in the Town of LaGrange and from the Town of Sugar Creek for the portion of the lakes in the Town of Sugar Creek.

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SECTION III. APPLICATION FOR PERMIT

Any person, firm, corporation or association desiring to erect, construct, place, extend or replace or repair to an extent defined in Section II any wharf, pier or mooring facility on or about the bed of Lauderdale Lakes along or beyond the shoreline as it exists or as it may have been determined and established by ordinance shall be required, regardless of other permits obtained, make and file a written application in the office of the Building Inspector of the Town of LaGrange or Town of Sugar Creek. The application shall contain the following information:

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A. Describe the real estate, existing mooring facilities, and wharf, pier, mooring facility or extension thereof in detail;

- B. The structures location in regard to the shoreline and pier head line;
- C. Distances to all property lines of the abutting riparian lands;
- D. Details of the dimensions and kinds of materials, together with drawings;
- E. Any additional details and specifications that the Town Board may request;
- F. The name, addresses of legal residence of riparian property, and signature of the riparian proprietor of the shoreline or easement holder who otherwise meets the criteria in Sec. 30.131, Stats., on whose behalf the application is made, and the name and post office address of the applicant, if different;
- G. A fee in the amount established from time to time by the respective Town Board; and
- H. In the case of repair or replacement of a legally nonconforming pier, the year the pier, wharf or mooring facility was originally placed in the water and the number of mooring facilities in existence as of May 16, 1981.

SECTION IV STANDARDS AND PROCEDURE FOR GRANTING PERMITS

There shall be two (2) procedures for obtaining a permit. All applicants shall submit an application to the Building Inspector which shall include photographs of the current shoreline showing all mooring facilities and drawings of the proposed construction and or modification of the all mooring facilities.

Procedure 1:

The Building Inspector is authorized to issue permits to riparian owners or easement holders which meet the following standards:

1. Meets the criteria in Sec. 30.131, Stats., for piers, wharfs, mooring facilities and shore stations.
2. Not longer than the established pier head line, (35ft);
3. No pier wider than 5 feet measured at its point of greatest width, except the pier or wharf may exceed 5 feet width for a triangle at an angle of an L or T shaped pier or wharf, no greater than 3 feet on any side of the triangle attached to the pier or wharf;
4. Constructed so as to allow the free movement of water underneath all parts of the structure extending beyond the natural shore;
5. Constructed in such manner as will not cause the formation of land on the lake bed;
6. No more than one mooring facility for each twenty-two (22) feet, or fraction thereof, of shoreline owned by the riparian owner;
7. No more than five (5) mooring facilities per lot regardless of the size of the riparian owner's shoreline;
8. Placed in a location not inconsistent with the pier planner used by the Department of Natural Resources, as amended from time to time;
9. No mooring facility shall be located closer than eight (8) feet to a lot line; and
- 10; Not in an environmentally sensitive: area delineated by the Department of Natural Resources.

The Building Inspector shall review the application and forward the application, together with an investigation and report, to the Town Board of LaGrange or Sugar Creek for all applications for piers, wharfs, mooring facilities, moorings, mooring buoys and mooring anchors which do not meet the standards established in Procedure 1 of this ordinance. Any application which does not meet the standards shall be forwarded to the Town Board which may grant or deny the permit pursuant to Procedure 2.

Procedure 2:

At a Town Board meeting, the Town Board may, after considering the application and all evidence presented, and hearing all parties desiring to be heard, grant a permit to riparian owners for piers, wharfs, mooring facilities, moorings, mooring buoys and mooring anchors meeting the following standards and considering the following factors:

1. The location, design and construction will not detrimentally impact the health, safety and welfare of the public which consideration shall include water quality, aquatic habitat and other environmental concerns, including factors considered by the DNR, and of the owners of the abutting riparian property. No new nor enhancement of established piers, wharfs, mooring facilities, moorings, mooring buoys and mooring anchors shall be permitted in DNR defined environmentally sensitive areas.
2. The location, design and construction will not interfere with public rights in the waters or with the rights of neighboring riparian proprietors or occupants;
3. Constructed so as to allow the free movement of water underneath all parts of the structure extending beyond the natural shore;
4. Constructed in such manner as will not cause the formation of land on the lake bed;
5. No more than one mooring facility for each twenty-two (22) feet, or fraction thereof, of shoreline owned by the riparian owner; however, this is not a guarantee that a permit will be granted;
6. Placed in a location not inconsistent with the pier planner used by the Department of Natural Resources, as amended from time to time;
7. No mooring facility shall be located closer than eight (8) feet to the lot line; and
8. Additional Requirements for Mooring Buoys and Anchors:
 - a. No permit for placement of a mooring buoy or anchor shall be granted by the Town Board beyond 60 feet from the ordinary high water mark;
 - b. Mooring buoys shall extend eighteen (18) inches above the waterline, be white in color with a blue band clearly visible above the waterline, and be spherical or ovate in shape;
 - c. The painter or line between a mooring buoy and any watercraft attached to it shall not exceed ten (10) feet in length; and
 - d. Section 30.722(d) 1 through 4, Stats., are adopted by reference as though fully set forth herein and as amended from time to time.
9. For replacement or repair for which a permit is required for legally nonconforming piers, wharfs or mooring facilities, the Town Board shall grant permits authorizing structures for the number of mooring facilities in existence as of May, 1981 or grant permits to the extent reasonably possible, or grant permits consistent with the other standards in this ordinance.
- D. All permits granted shall state the location and size of the allowed mooring facility, as well as the number of permitted watercraft.
- E. The Town Board of the town in which the pier is located may grant variances from the terms of Section C. of this Ordinance for extraordinary circumstances when the riparian owner will suffer a hardship by literal application of the standards established in this ordinance when the hardship is not of the riparian owner's own making.

SECTION V. MAINTENANCE

All wharfs, piers, and mooring facilities extending beyond the natural shore shall be so maintained as to prevent any part or parts thereof from floating or sinking into and obstructing the waters or impeding free navigation of Lauderdale Lakes.

SECTION VI. PREEXISTING PIERS, WHARFS AND MOORING FACILITIES

A. Any NON-COMPLYING wharf, pier or mooring facility legally existing in place as of the date of adoption of this ordinance may be repaired during one year up to 10% of the square feet of the surface of the structure and, if permanent, up to 50% of the posts, so long as the size of the structure is not expanded.

B. In order to protect the legitimate rights of persons with preexisting piers, wharfs and mooring facilities, all persons with a wharf, pier or mooring facility legally in place as of July 10, 2006 shall provide the following information to the LaGrange Town Building inspector by September 1, 2007: Name of riparian owner, address of owner, address where pier is located, year pier first placed in Lauderdale Lakes, length of pier, width of pier and number of mooring facilities. All persons failing to file this information with the Town Building Inspector shall be deemed not to own a pier, wharf or mooring facility with rights as a preexisting pier, wharf or mooring facility and such structures shall conform to the standards established in this ordinance.

SECTION VII. PIERHEAD LINE REGULATED

A. Policy. The Towns of LaGrange and Sugar Creek, pursuant to Chapter 30 of the Wisconsin Statutes, are empowered to regulate wharfs and piers and to establish a pier head line. It is in the interest of the Towns of LaGrange and Sugar Creek to preserve and protect the property within the Town of LaGrange and Sugar Creek at the same time as preserving and protecting public rights in navigable waters and non-uniformity with respect to wharfs and piers in Lauderdale Lakes can be detrimental to these interests. It is in the interest of the Towns of LaGrange and Sugar Creek and the public to establish uniform requirements for the establishment of piers and wharfs on Lauderdale Lakes, Walworth County, Wisconsin. To that end, a pier head line should be established.

B. Establishment of Pier head Line. There is established, in the Towns of LaGrange and Sugar Creek on Lauderdale Lakes, a pier head line. Such pier head line is established at a distance of thirty-five (35) feet channel ward from the ordinary high water mark of the shore. No pier or wharf shall be so placed or so constructed such that it extends a distance greater than the established pier head line channel ward from the ordinary high water mark of the shore from which such pier or Wharf is constructed, unless the permit from the Town Board as required by Section IV.C. has been obtained. No pier or wharf may exist more than thirty-five (35) feet from the ordinary high water mark of the shore, except as hereinafter set forth. "Ordinary high water mark" is defined by NR 320.03(4), Wisconsin Administrative Code. Where the bank or shore, at any particular place, is of such a character that it is impossible or difficult to ascertain where the point of ordinary high water mark is, recourse may be had to other places on the shore of the lake to determine whether a given stage of water is above or below the ordinary high water mark.

C. Prohibition and Exceptions. Any wharf or pier extending into navigable water beyond the limit set forth herein constitutes an unlawful obstruction of navigable water unless a permit for such wharf or pier has been obtained by the Town Board and pursuant to Section 30.12(2) of the Wisconsin Statutes, or is otherwise accepted.

SECTION VIII. RAFTS REQUIRED

A. Size Limitation. No person may use a raft greater than 200 square feet in surface area on Lauderdale Lakes unless that person proves that he/she owned the raft prior to September 30, 2000.

- B. B. Reflectors. All rafts floating on Lauderdale Lakes shall have reflectors affixed to the outside perimeter.

SECTION IX. REMEDIES AND PENAL TIES

- A. All actions to recover forfeitures and penalty assessments under this ordinance are civil actions in the name of the Town of LaGrange or Town of Sugar Creek and shall be heard in Circuit Court for Walworth County.
- B. Any person (riparian owner and / or contractor) violating any provisions of this ordinance relating to mooring facilities shall forfeit not less than \$10 nor more than \$200 for each day that a violation takes place or continues, plus costs and assessments. The cash deposit amount shall be \$100 plus costs and assessments per day for each day that a violation takes place or continues.
- C. Any permit issued which is contrary to any law or ordinance or rule, or regulation of. the Department of Natural Resources, or with which the applicant has not complied, shall be void and of no effect.
- D. In the event a mooring facility for which a permit has been granted shall not be erected, constructed, placed, extended or maintained in accordance with the plans, specifications, details and drawings submitted, or not maintained in a safe condition, or in the event such mooring facility shall not be constructed within one (1) year from date permit was granted, or that it be used in a manner detrimental to the general public, or interfere with the rights of the neighboring riparian owners, then, in such event, the board may cancel and revoke the permit provided it shall first hold a meeting after fixing a time and place of hearing and shall cause a written notice thereof to be issued and delivered or mailed to the holder of such permit, and also to the owners of the neighboring abutting riparian lands, not less than five (5) days before the time fixed for hearing.
- E. Every pier, wharf or mooring facility constructed, placed or extended, enlarged or replaced in violation of this ordinance is declared to be a public nuisance, and the construction thereof may be enjoined and the maintenance thereof may be abated by action at the suit of the Town.
- F. The Building Inspector(s) of the Towns of LaGrange and Sugar Creek are authorized to issue citations for violations of this ordinance.

SECTION X. SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Boards would have passed the other provisions of this ordinance irrespective as to whether or not one or more provisions may be declared invalid and any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions, other persons or circumstances shall not be affected thereby.

SECTION XI. REPEAL OF CONFLICTING ORDINANCE

All ordinances and parts of ordinances in conflict with this ordinance heretofore enacted by the Towns of LaGrange and Sugar Creek, Walworth County, Wisconsin, are hereby repealed.

XII. EFFECTIVE DATE AND CLERK'S DUTY

- A. This ordinance shall take effect and be in force from and after its passage and publication as provided by law and after review by the Department of Natural Resources.

B. The LaGrange Clerk is directed to file a signed copy of this ordinance with the Department of Natural Resources in Madison, Wisconsin.

Enacted by the Town Board of LaGrange this 13th day of July, 2009.

Approved:
Frank Taylor
Mark Bromley
Donald Sukala
Richard Callaway
Jeff Schramm

ATTEST:
Crystal Hoffmann, Town Clerk, LaGrange

Enacted by the Town Board of Sugar Creek this _____ day of August, 2009.

Approved:

ATTEST:
Diane Boyd, Town Clerk, Sugar Creek