

ORDINANCE NO. 2017-002

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION IV OF ORDINANCE NO. 2009-05 ENTITLED AN ORDINANCE TO REGULATE WHARVES, PIERS AND MOORING FACILITIES AND ESTABLISH A PIERHEAD LINE FOR LAUDERDALE LAKES, WITH REGARD TO VARIANCE PROCEDURES

WHEREAS, on or about July 13, 2009, Ordinance No. 2009-05 entitled An Ordinance to Regulate Wharves, Piers, and Mooring Facilities and Establish a Pierhead line for Lauderdale Lakes was adopted by the Town Boards for the Town of LaGrange and Sugar Creek; and

WHEREAS, Ordinance No. 2009-05 included an incorrect internal code reference, and also gave very little explanation as to variance authority, and the Town Boards of the Towns of La Grange and Sugar Creek hereby intend to address these issues.

NOW, THEREFORE, the Town Boards of the Town of LaGrange and Town of Sugar Creek, Walworth County, Wisconsin DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Ordinance No. 2009-05 entitled An Ordinance to Regulate Wharves, Piers, and Mooring Facilities and Establish a Pierhead Line for Lauderdale Lakes, Section IV entitled Standards and Procedures for granting permits, is hereby repealed and re-created as follows:

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 all the mooring facilities.

A. 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 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.
- B. 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 Subsection A 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 Subsection C Procedure 2.
- C. 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 reach 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 30.772(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 Subsection C Procedure 2 of this Ordinance, which may be considered as follows.

1. Petition for a variance under this subsection may be made only by the riparian owner. Such petition shall be filed with the Town Clerk of the town where the property is located.
2. The Town Board may by resolution establish reasonable filing fees for variance petitions. Such filing fees shall be paid at the time of filing of the petition with the Town Clerk.
3. A public hearing shall be held on each petition within a reasonable time following receipt of a complete application.
4. Notice of hearing shall be given by Class 2 notice, under Ch. 985, Wis. Stats., the last insertion to be at least one week prior to the date set for the hearing. In addition, written notice shall be given at the same time to the Department of Natural Resources, the petitioner, the Town Clerks of the Town of Sugar Creek and the Town of LaGrange, the owners of each parcel of land adjoining the petitioner's riparian land in question and any applicable statutorily created lake district. At the hearing, any person may appear in person, by agent, or by attorney.
5. Following the hearing, the Town Board may authorize such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. In making its determination the Town Board shall consider whether the proposed variance would detrimentally impact the health, safety and welfare of the public which consideration shall include water quality, aquatic habitat and other environmental concerns. The following standards also apply:
 - a. The hardship or difficulty must be peculiar to the parcel in question, due to unique property features, and not something that affects other parcels similarly.
 - b. Loss of profit or financial hardship and/or additional expense incurred to comply with the ordinance is not in and of itself sufficient grounds for a variance.
 - c. Self-imposed hardship is not grounds for a variance.
 - d. The hardship cannot be one that would have existed in the absence of the ordinance.
 - e. The public interest must be protected.

- f. No variance can be granted that would conflict with a deed restriction that was required by the Town or Walworth County, whether noted in a plat, certified survey map, or separately recorded.
6. If the variance is granted, the Town Board may impose such requirements and conditions with respect to locations, construction, maintenance and operation, in addition to any which may be stipulated in this chapter or are deemed by the Town Board to be reasonable and appropriate for the protection of adjacent properties and the public interest and welfare.
7. The decision on any variance petition shall be in writing and shall be made within a reasonable time after completion of the hearing thereon.
8. A variance granted under this subsection shall be recorded in the office of the Walworth County Register of Deeds, and runs with the land.
9. This subsection shall not be interpreted to authorize variance from applicable preemptive requirements of State or federal laws, codes, regulations or other lawful orders.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

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.

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

Dated this 14th day of August, 2017.

TOWN OF LAGRANGE

Frank Taylor, Town Chair

ATTEST:

Crystal Hoffmann, Town Clerk

Published and/or posted this 24th day of August, 2017.

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

Dated this 21st day of August, 2017.

TOWN OF SUGAR CREEK

David Duwe, Town Chair

ATTEST:

Diane Boyd, Town Clerk