

STATE OF WISCONSIN, TOWN OF LAGRANGE, WALWORTH COUNTY

ORDINANCE NO. LB 2018-01

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION XVI OF ORDINANCE NO. LB-2 ENTITLED LAKE ORDINANCE FOR PLEASANT LAKE WITH REGARD TO REGULATING WHARFS, PIERS AND MOORING FACILITIES FOR PLEASANT LAKE

WHEREAS, the Pleasant Lake Protection and Rehabilitation District has proposed certain revisions to the Town of LaGrange Ordinance Number LB-2 which regulates Pleasant Lake, with such revisions specifically related to wharves, piers and mooring facilities; and

WHEREAS, this ordinance is adopted pursuant to Wisconsin Statutes Sections 30.772(3); and

WHEREAS, pursuant to Wisconsin Statutes Section 30.772(3)(a), the Town Clerk has submitted this ordinance to the Department of Natural Resources for review at least 60 days prior to the Town of LaGrange taking final action in the matter; and

WHEREAS, the placement of structures in and on Pleasant Lake 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; and

WHEREAS, the Town of LaGrange Town Board has closely considered the changes proposed by the Pleasant Lake Protection and Rehabilitation District and concurs in the recommendations and hereby establishes the following regulations for Pleasant Lake.

NOW, THEREFORE, the Town Board of LaGrange, Walworth County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Ordinance No. LB-2 entitled Lake Ordinance for Pleasant Lake, Section XVI entitled Wharf and Pier Placement is hereby repealed and re-created as follows:

SECTION XVI TO REGULATE WHARFS, PIERS AND MOORING FACILITIES FOR PLEASANT LAKE

SECTION 1. DEFINITIONS:

- A. The definitions as set forth in Section 30.01 of the Wisconsin Statutes, as amended from time to time, are hereby adopted by reference the same as if they were set out verbatim.
- 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, wet boat house, boat shelter, boat lift or boat hoist. By way of example, a pier of sufficient size to moor two (2) boats counts as two (2) mooring facilities.
- C. Raft is any properly anchored structure, which floats on the water by means of inflation, barrels, logs, or similar means, and is designed for swimming and related activities, and is not used for transportation.

- D. Wharf is a structure built over the water that is parallel and adjacent to the shoreline and must be floating or placed on piles or posts.
- E. Environmentally Sensitive Areas. Sites 1-4 as described in Pleasant Lake (Walworth County, Wisconsin) Integrated Sensitive Area Report March 5, 2009.
- F. New Pier. Any wharf, pier or mooring facility not legally existing in place as of the date of adoption of this ordinance.
- G. Riparian proprietor. The owner of the shoreline.

SECTION 2. [Reserved.]

SECTION 3. [Reserved.]

SECTION 4. PRE-EXISTING PIERS, WHARFS, AND MOORING FACILITIES:

- A. A pier or wharf that was placed on the bed of navigable water before April 17, 2012, is grandfathered by the State of Wisconsin.
- B. Any complying or non-complying pier or wharf legally existing in place as of that date may be maintained and repaired so long as the pier or wharf is not expanded or enlarged in any way and remains in the footprint of the current pier or wharf. Repairs to the decking or handrails of a pier or wharf may be made to any pier or wharf without a permit. Repairs or replacement of any vertical supports of a pier or wharf constitutes replacement and a permit is required.

SECTION 5. PERMITS

- A. No riparian proprietor may hereafter construct, place or extend, enlarge or replace a wharf or pier or mooring facility in Pleasant Lake without first applying for and obtaining a permit from the Town of LaGrange, Walworth County, Wisconsin.
- B. Pre-Existing Non-Conforming Piers. Any non-conforming wharf, pier or mooring facility legally existing in place as of April 17, 2012, may be repaired without a permit so long as the size of the structure is not expanded or enlarged. A permit is also not needed to bring a non-conforming pier into conformance.
- C. New Piers. Any wharf, pier or mooring facility not in place as of the date of adoption of this ordinance will require a permit. A permit will not be required to repair a new pier so long as the size of the structure is not expanded or enlarged.

SECTION 6. 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 Pleasant Lake.

SECTION 7. SWIMMING RAFTS:

- A. A riparian owner may place a properly anchored swimming raft or water trampoline within 200 feet of shore.
- B. No permit is needed for a swimming raft or water trampoline as long as the size is no greater than 200 square feet and does not exceed 38 inches in height, or is removed from the water each night.
- C. No person may use a swimming raft or water trampoline greater than 200 square feet in surface area on Pleasant Lake.
- D. Reflectors shall be affixed to the outside perimeter of all swimming rafts or water trampolines floating on Pleasant Lake.
- E. Swimming rafts and water trampolines placed in DNR designated swimming areas, such as for municipal beaches or private campgrounds, may be placed without a permit and do not have to follow the size limitations.
- F. In all cases, the raft or trampoline must be confined to your riparian zone of interest and may not interfere with public rights in the waterway. Keep them as close to shore as possible to avoid interfering with boat traffic.

SECTION 8. PIERS IN THE ENVIRONMENTALLY SENSITIVE AREAS:

Construction of new piers in environmentally sensitive areas will be restricted based on the recommendations contained in the Pleasant Lake (Walworth County, Wisconsin) Integrated Sensitive Area Report March 5, 2009, and this ordinance.

- A. Sensitive Area #1 & 3: No new piers, slips, boardwalks or mooring facilities will be permitted.
- B. Sensitive Area #2: No Piers along the currently undeveloped shoreline.
No New Piers permitted along the currently developed shoreline.
Existing piers may be repaired or replaced but must be in the footprint of the current pier.
All existing piers, slips, boardwalks or mooring facilities will be grandfathered as of April 17, 2012.
- C. Sensitive Area #4: New piers will be permitted but strictly limited.
All new piers, wharfs or mooring facilities shall require a permit from the Town of LaGrange.
Existing piers may be repaired or replaced but must be in the footprint of the current pier.

SECTION 9. APPLICATION AND PLANS FOR PERMIT:

Any person, firm or corporation desiring to erect, construct, place, extend, enlarge, replace or maintain any wharf or pier or mooring facility in or above the bed of Pleasant Lake along or beyond the shoreline

as it exists or as it may have been determined and established by proper ordinances shall be required, regardless of other permits obtained, to make and file in the office of the Clerk of the Town of LaGrange or the Building Inspector or Town Designee as determined by the Town Board, a written application for permit. The application shall contain the following information:

- A. Describe the real estate, existing mooring facilities, wharfs, and piers, and describe proposed mooring facilities, wharfs, and piers or extension thereof in detail together with;
- B. Its location in with regard to the shoreline, pierhead and bulkhead line if established and with;
- C. The distances to the property lines of the abutting neighboring riparian lands giving;
- D. Details of the dimensions and kinds of materials together with drawings together with;
- E. Any additional details and specifications that the Town Board might require and;
- F. It shall also state the name, legal residence and post office of the applicant and of the riparian property owner and the 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 LaGrange Town Board:
- H. In the case of replacement of a legally non-conforming pier, the year the pier, wharf or mooring facility was originally placed in the water and the number of the mooring facilities in existence as of April 17, 2012.

SECTION 10. 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 or Town Designee 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 or Town Designee 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 boat shelters;
- 2. No new nor enhancement of established piers, wharfs, mooring facilities, moorings, mooring buoys, and mooring anchors shall be permitted in any environmentally sensitive area as delineated by the Department of Natural Resources;
- 3. A pier may exceed 35 feet in length if necessary to reach water of an adequate depth for mooring a boat, or using a boat hoist or boat lift.

4. Six (6) feet is the maximum width allowed for any portion of a pier or wharf. Although six (6) feet is the maximum width allowed, the pier or wharf may have an area wider than six feet as a loading platform. The surface area of the platform must not exceed 200 square feet.
 5. Constructed so as to allow the free movement of water underneath all parts of the structure extending beyond the nature shore;
 6. Constructed in such a manner as will not cause the formation of land on the lakebed;
 7. The total of all watercraft docked at a pier or wharf, including boats in a boat lift or hoist, is limited to two (2) boat slips for the first fifty (50) feet of the riparian owner's shoreline frontage and no more than one (1) boat slip for each additional full fifty (50) feet of 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. Any pier, wharf, mooring facility or moored watercraft shall be placed entirely within the "riparian zone".
 10. Solid piers on fill and piers on rock-filled timber cribs or similar foundations required a DNR permit, and are only authorized in specific waterways under limited circumstances.
- B. The Building Inspector or Town Designee shall review the application and forward the application, together with an investigation and report, to the Town Board of LaGrange 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. A pier may exceed 35 feet in length if necessary to reach water of an adequate depth for mooring a boat, or using a boat hoist or boat lift.
 4. Six (6) feet is the maximum width allowed for any portion of a pier or wharf. Although six (6) feet is the maximum width allowed, the pier or wharf may have an area wider than six feet as a loading platform. The surface area of the platform must not exceed 200 square feet.
 5. Constructed so as to allow the free movement of water underneath all parts of the structure extending beyond the natural shore;
 6. Constructed in such manner as will not cause the formation of land on the bed of Pleasant Lake;
 7. The total of all watercraft docked at a pier or wharf, including boats in a boat lift or hoist, is limited to two (2) boat slips for the first fifty (50) feet of the riparian owner's shoreline frontage and no more than one (1) boat slip for each additional full fifty (50) feet of shoreline; however, this is not a guarantee that a permit will be granted;
 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. Any pier, wharf, mooring facility or moored watercraft shall be placed entirely within the "riparian zone".
 10. Solid piers on fill and piers on rock-filled timber cribs or similar foundations required a DNR permit, and are only authorized in specific waterways under limited circumstances.
 11. Additional Requirements for Mooring Buoys and Anchors: Requirements consistent with Chapter 30.772, Wisconsin State Statutes. Generally, a standard mooring buoy may be placed in one's riparian zone of interest within 150 feet of the OHWM without a permit from the DNR.
 12. 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 April 17, 2012, 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 LaGrange Town Board 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 LaGrange Town Clerk.

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 LaGrange Town Clerk, 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 separate record.
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. The holder of any variance granted under this subsection shall record it in the office of the Walworth County Register of Deeds and provide proof of recording to the Town Clerk, and the variance 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 11. REVOCATION, REMEDIES AND PENALTIES:

- A. All actions to recover forfeitures and penalty assessments under this ordinance are civil actions in the name of the Town of LaGrange and shall be heard in Circuit Court for Walworth County.
- B. Any person (riparian owner and/or contractor) violating any provisions of the 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 the wharf or pier or 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 wharf or pier or mooring facility shall not be constructed within one (1) year from date permit was granted, or shall not be used 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 Town 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 or Town Designee of the Town of LaGrange is authorized to issue citations for violations of this ordinance.

SECTION 12. 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 13. EFFECTIVE DATE AND CLERK'S DUTY

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 Wisconsin Department of Natural Resources offices in Madison, Wisconsin.

Dated this 10th day of September, 2018.

TOWN OF LAGRANGE

Frank Taylor

Frank Taylor, Town Chair

ATTEST:

Crystal Hoffmann

Crystal Hoffmann, Town Clerk

Published and/or posted this _____ day of _____, 2018.