

LAKE, DOCK, AND BOAT ORDINANCE – NUMBER 38

THE TOWNSHIP OF LINCOLN ORDAINS:

ARTICLE 1. Intent, Purpose and Short Title.

SECTION 1.1 INTENT AND PURPOSE. The Lincoln Township Board recognizes and concludes that the proper and safe use of Lakes in Lincoln Township ("Township") is desirable to retain and maintain the physical, ecological, cultural and aesthetic characteristics of the Lakes in the Township, to preserve and protect the quality and safety of the Lakes, their shorelines and the rights of riparian owners and users as well as the Township as a whole, and to promote the public health, safety and welfare of all persons making use of the Lakes within the Township and properties adjacent to Lakes in the Township. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for watercraft, dock and raft usage, with respect to Lakes, in the Township.

SECTION 1.2 SHORT TITLE. This Ordinance shall be known and may be cited and referred to as the **Lincoln Township Lake Dock and Boat Ordinance,**" and shall hereinafter be referred to as the "Ordinance."

ARTICLE 2. Scope and Application.

SECTION 2.1 MINIMUM STANDARDS. The terms and provisions of this Ordinance shall be interpreted and applied as minimum standards and requirements for the promotion and protection of the public health, safety and welfare, and for the public peace and preservation of natural resources and public and private property within the Township.

SECTION 2.2 INTERPRETATION. This Ordinance is intended to supplement other laws and ordinances. If this Ordinance imposes more stringent requirements than other ordinances, the provisions of this Ordinance shall govern, except as otherwise herein provided.

SECTION 2.3 APPLICATION TO PLANNED UNIT DEVELOPMENTS. The provisions of this Ordinance cannot be overridden in or by an approved Planned Development under the Lincoln Township Zoning Ordinance.

ARTICLE 3. Definitions.

SECTION 3.1 For the purpose of this ordinance:

- (a) "Aerator" or "bubbler" means any device or equipment used within the Lake or that affects the Lake surface so as to prevent the normal formation of ice on the Lake surface.

- (b) "Beached" or "Beaching" means placing or securing a watercraft on or adjacent to the shore of a separate frontage on the Lake.

(c) "Boat cradle" and "shore station" means a device for the purpose of mooring, anchoring or holding a watercraft in, on or above the water in the Lake

(d) "Dock" means a structure, platform or fixture extending from the shore or bottomlands into the Lake.

(e) "Docked" or "docking" means the anchoring, tethering, or mooring of a watercraft directly to a pier, structure, platform, pole, anchor or dock; and also means the placement of a watercraft in an off-shore boat cradle or shore station, or the regular or overnight beaching of a watercraft or anchoring or tethering to the bottomlands of the Lake.

(f) "Lake" or "Lakes" shall mean that portion of a public or private Lake within Lincoln Township

(g) "Mooring" means a space for a single watercraft at or adjacent to a dock, in an offshore boat cradle or shore station, or a beaching location.

(h) "Normal highwater mark" means the normal high water mark of the Lake as determined by the Department of Natural Resources (or successor), or if the Department has not made such a finding, the normal high water mark location shall be determined by the Township Engineer. The measurement shall be made only along a natural shoreline, and shall not include any manmade channel, lagoon, canal or the like.

(i) "Permanent Dock" means a dock specifically designed and manufactured to remain intact as a single unit and prohibits seasonal removal from the water.

(j) "Person" means a human being, partnership, corporation, association (including a condominium association), and any other entity to which the law provides or imposes rights or responsibilities.

(k) "Personal watercraft" shall have the same meaning given to that term under Part 802 of the Natural Resources and Environmental Protection Act, MCL 324.80201, et seq.

(l) "Rigid Roof" any roof covering permanent or temporary other than the support structure and vinyl covering kits provided by most manufactures of cradles and lifts.

(m) "Separate frontage" means that portion of a lot or parcel of land lawfully existing on documentation recorded with the Clare County Register of Deeds, which abuts or intersects with the normal highwater mark of the Lake, whether such lot or parcel is owned by one or more persons, is commonly owned by several persons or combinations of persons, or occupied by a multiple-unit residential development.

(n) "Temporary Dock" means a dock specifically designed and manufactured to be removed from the water on a seasonal basis.

(o) "Watercraft" means any boat, pontoon boat, hydrofoil, hovercraft, jet ski, personal watercraft, jet boat, or similar vessel having a propulsion system, or sailboat over twelve (12) feet in length, but does not include canoes, kayaks, paddle boats, rowboats (without an engine) or other human-powered craft or sailboards.

ARTICLE 4. General Regulations.

SECTION 4.1 NUMBER OF WATERCRAFT. Except as otherwise permitted by Section 4.3, not more than four (4) watercraft shall be stored, docked, or maintained from or for each separate parcel, nor shall more than four (4) watercraft be utilized, docked, moored, beached, or kept at, on, or adjacent to each separate parcel.

SECTION 4.2 NUMBER OF DOCKS. Except as otherwise permitted by Section 4.3, no more than one (1) dock shall be allowed, or installed for each platted lot or parcel meeting all legal minimum water frontage, area and width requirements imposed by the Lincoln Township Zoning Ordinance for the zoning district in which the lot or parcel is located.

SECTION 4.3. ADDITIONAL WATERCRAFT AND DOCKS.

(a) Where a separate frontage contains more than one hundred (100) feet of continuous frontage on the Lake (as measured along the water's edge at the normal highwater mark of the lot or parcel), one (1) additional dock shall be allowed and four (4) additional watercraft may be docked if the continuous frontage on the Lake is at least forty (40) feet in excess of the initial one hundred (100) feet of separate frontage. No additional docks or watercraft shall be allowed for additional frontage measuring less than a full forty (40) feet. If a separate frontage is located within a zoning district under the Lincoln Township Zoning Ordinance where the minimum lot width requirement is greater than one hundred (100) feet, the minimum continuous water frontage in this subsection (a) shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located.

(b) Where more than one (1) dock is permitted for a separate frontage, the docks shall be separated by a minimum of thirty (30) feet.

SECTION 4.4 OWNERSHIP IDENTIFICATION. The owners of a floating raft, float, ski jump, trampoline, or swimming platform shall place light reflecting devices at each corner of the raft or platform that makes the item clearly visible during nighttime navigation and a 3 inch by 5 inch (3" by 5") permanent sign or placard on such item that conspicuously identifies the current Lake property address of the owner(s).

ARTICLE 5. Safety Regulations.

SECTION 5.1 PERMANENT ITEMS PROHIBITED. Permanent Docks, shore stations, boat Cradles, rafts, Aerators, and Bubblers are prohibited. Aerators, bubblers, or any other device that prevents the natural formation of ice to occur must be removed prior to the natural formation of ice on the Lake surface and may not be reinstalled until all ice that appears on the Lake has dissipated. Any exceptions in the use of Aerators and bubblers must have prior written approval from the Lincoln Township Board and will be subject to specific requirements and use. All docks, shore stations, boat cradles, rafts, platforms, floats, trampolines, and ski jumps shall be completely removed from the Lake before December 15 of each year and may not be reinstalled before the following March 15. Permanent Docks installed 3 years prior to the date of this ordinance are permitted without change, but light reflecting devices must be installed at each corner of the dock at the furthest point that the dock extends from the shoreline into the Lake and

must be clearly visible at night. Any change, alteration, or expansion, which occurs after the date this ordinance becomes effective, shall fully comply with the provisions of this Ordinance. A Permanent Dock and all pieces of the Permanent Dock structure must be completely removed and can only be replaced by a Temporary Dock at such time as the Permanent Dock becomes unsafe or requires substantial repair. For purposes of this Section 5.1, normal maintenance and repair of docks due to normal wear and tear shall not be deemed a change, alteration, or expansion of prior usage. The burden of asserting a defense under this Section 5.1 is on the property owner who asserts a lawful existing use.

SECTION 5.2 DOCK REPAIR. All docks, shore stations, boat cradles and rafts shall be kept in good repair. Good repair means free from defects which might cause a hazard to persons or watercraft.

SECTION 5.3 SIZE AND LOCATION RESTRICTIONS. Floating rafts, trampolines, floats, ski jumps, or platforms with an exposed surface area exceeding eighty-five (85) square feet or twelve (12) feet in diameter, or any measurement exceeding twelve (12) feet shall not be anchored, placed, or used in the Lake. Docks, floating rafts, trampolines, floats, ski jumps, or platforms shall not be located in the Lake where they present a safety hazard to watercraft. No person shall install or maintain a dock or anchor a raft, ski jump, trampoline, float, or platform except within the side lot lines of a lot or parcel as extended to the center of the Lake. All floating rafts, floats, ski jumps, trampolines, and swimming platforms must be placed no more than fifty (50) feet of the normal high water mark of the Lake.

SECTION 5.4 MOORAGE. A watercraft or other boat may only be moored or anchored overnight in the Lake if it is moored or anchored adjacent to a dock, boat cradle or shore station which complies with this Ordinance.

SECTION 5.5 DOCK WIDTH. All docks shall have a minimum width of two and one-half (2-1/2) feet, but shall not exceed a maximum width of four (4) feet. "L" or "T" sections may be used, however, the "L" or "T" section shall not extend laterally a distance of more than eight (8) feet in total, and must meet side setback requirements.

SECTION 5.6 DOCK LENGTH. No dock shall extend more than forty (40) feet into the Lake, measured perpendicularly from the shoreline, unless necessary to reach water with a depth of three (3) feet, and then no further than fifty (50) feet or a point necessary to reach such depth, whichever occurs first.

SECTION 5.7 SETBACK REQUIREMENTS. No dock shall be placed within twelve (12) feet of the side lot lines of a lot or parcel as extended to the center of the Lake.

(a) No shore station or boat cradle shall be located within two (2) feet of a side lot line as so extended to the center of the Lake.

(b) No watercraft or other boat shall be launched, stored, moored or docked within two (2) feet of the side lot lines of a property as extended to the center of the Lake.

SECTION 5.8 COMMON DOCKS. Two (2) adjoining lots or parcels owned by separate individuals, which have frontage directly on the Lake may share one (1) common dock, which may be located on the common boundary line of the two (2) lots or parcels or within twelve (12) feet thereof, with no more than eight (8) moorings being utilized in total for both parcels if the Zoning Administrator determines that the common dock is safe and consistent with free navigability and approves the same in writing. No other docks shall be allowed for the two (2) lots or parcels except the approved one (1) common dock.

SECTION 5.9 PUBLIC LANDS. Any land, easement, lake access property, or park under the ownership, possession or control of the Township or any governmental

agency or unit having access to or frontage on the Lake shall be fully subject to the provisions of this Ordinance.

SECTION 5.10 PARKS, EASEMENTS, AND COMMON AREAS. No dock shall be located at or on any right-of-way, road, common area, alley, dedicated walkway, or easement (or bottomlands thereof) which abuts or terminates at the Lake. The Lincoln Township Board reserves the right to maintain a public dock in such locations at their discretion.

(a) This Section 5.10 shall apply whether the right-of-way, easement, park, road, common area, alley, or dedicated walkway is public or private.

SECTION 5.11 BOAT STORAGE DEVICE DESIGN REQUIREMENTS. Each boat cradle and shore station used in conjunction with a Lake shall meet all of the following requirements, in addition to the other requirements of this Ordinance.

(a) It shall not have a Rigid Roof and walls;

(b) It shall not have "tracks" or appurtenances extending onto dry land;

(c) All portions of the device shall be located lakeside of the shoreline when in use during the boating season;

(d) It shall be designed for not more than one (1) watercraft, except for those designed for personal watercraft which may hold no more than two (2) personal watercraft; and

(e) It shall be designed so that watercraft are removed from the water and are stored above the water.

SECTION 5.12. STATE REGULATIONS. It should be recognized that docks are also regulated by the State of Michigan. All township residents are required to meet all State of Michigan along with all township ordinance requirements. Nothing in this ordinance supercedes requirements that are established by the State of Michigan.

ARTICLE 6. Existing Watercraft and Dock Activity.

SECTION 6.1 LOTS OF RECORD. A Lot of Record includes a lot or parcel that was platted or otherwise lawfully of record prior to the effective date of this Ordinance

SECTION 6.2 APPLICATION OF ORDINANCE TO LOTS OF RECORD. Lots of record in existence prior to the date of adoption of this ordinance having separate frontage measuring at least thirty (30) feet of continuous lake frontage but less than one hundred (100) continuous feet (or the minimum frontage required in the zone district involved if such requirement is over 100 feet) are permitted to have not more than four (4) watercraft launched, docked, moored or beached from their separate frontage and are permitted to have not more than (1) dock on their separate frontage. Lots of record must comply with all other provisions of this Ordinance.

ARTICLE 7. Variances and Modifications.

SECTION 7.1 POWERS. The Township Planning Commission may interpret the provisions of this Ordinance if questions arise. The Zoning Board of Appeals may grant a variance if it determines that any one of the following facts or conditions exist:

- (a) There are practical considerations regarding a particular property that will not reasonably allow a dock or other permitted use because strict interpretations of this ordinance will cause an excessive burden to the development of and /or use of the property.
- (b) The condition or situation of the property is unique and not shared by neighboring properties, so that the strict enforcement of this ordinance is not a reasonable solution.
- (c) The variance would not be significantly detrimental to adjacent property and granting of the variance would not be detrimental to the health, safety, and general welfare of the public.
- (d) Literal enforcement of this ordinance would cause undue hardship in a given case or circumstance and granting of a variance would not be detrimental to public health, safety, and general welfare.

ARTICLE 8. Penalties and Enforcement.

SECTION 8.1 PENALTY. Violation of this Ordinance is a civil infraction punishable by a fine of One Hundred Dollars (\$100) for the first civil infraction in any year, Two Hundred and Fifty Dollars (\$250.00) for the second civil infraction in any year, and a fine of Five Hundred Dollars (\$500) for the third and all subsequent civil infractions in a year together with actual attorney fees and costs authorized by the court enforcing the civil infraction. Each day during which a violation continues shall be deemed a separate offense.

SECTION 8.2 INJUNCTION. Any violation of this Ordinance is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Section 8.1 above, the Township or any Township resident, upon submission of a written complaint, may institute an appropriate action in a court of general jurisdiction seeking injunctive or equitable relief together with actual attorney fees and all other costs, damages and expenses provided by law.

SECTION 8.3 ENFORCEMENT AND ADMINISTRATION. This Ordinance shall be enforced and administered by the Township Zoning Administrator, or such other Township official as may be designated from time to time by resolution by the Township Board.

ARTICLE 9. Severability and Interpretation

SECTION 9.1 SEVERABILITY. In the event that anyone or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

ARTICLE 10. Effective Date

SECTION 10.1 EFFECTIVE DATE. The provisions of Ordinance Number 38 shall take effect thirty (30) days from the date of publication of the Ordinance or a summary of its provisions in accordance with law.

YEAS: Members: West, Galloway, Branam, Ringley and Majewski

NAYS: Members: None

ABSTAIN/ABSENT: Members:

ORDINANCE DECLARED ADOPTED.

Carol Majewski
Lincoln Township Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of Ordinance Number 38, adopted by the Township Board of the Township of Lincoln at a regular meeting held on 10 September 2007, pursuant to the required statutory procedures, and that a summary of the Ordinance was published in the Clare County Review on 21 September 2007.

Carol Majewski
Lincoln Township Clerk