

BLOOMINGDALE TOWNSHIP

VAN BUREN COUNTY, MICHIGAN

BLOOMINGDALE TOWNSHIP ORDINANCE NO. 11-96

ADOPTED: November 20, 1996

EFFECTIVE: December 29, 1996

BLOOMINGDALE TOWNSHIP BOAT LAUNCHING AND DOCKING REGULATION ORDINANCE

An Ordinance to protect the health, safety, and general welfare of the residents, property owners, and other people within Bloomingdale Township by regulating boat launching, docking, and other activities involving access to a waterway from private property and public rights-of-way.

THE TOWNSHIP OF BLOOMINGDALE

VAN BUREN COUNTY, MICHIGAN

ORDAINS:

ARTICLE I

FINDINGS; INTENT AND PURPOSE; TITLE

- 1.1 Pursuant to its deliberations leading to the adoption of this Ordinance, the Bloomingdale Township Board makes the following findings:
 - A. It is desirable to retain and maintain the physical, ecological, cultural and aesthetic characteristics of the inland lakes within Bloomingdale Township.
 - B. The use of water resources within the Township, including the inland lakes, should be considered within a framework of long-term costs and benefits to the Township and the people living therein or otherwise desiring to engage in recreational activities that involve inland lakes.
 - C. As the shorelines of the inland lakes become more developed the cumulative impact of watercraft and dock placement, and boat and dock usage and activities from private property and public property must be regulated in order to preserve and protect the quality and safety of the lakes, and the rights of riparian property owners and public users of the lakes, as well as the Township as a whole.

- D. Unrestricted boat launching, boat mooring, boat storage, and the placement of docks on private property and public property may cause severe conflict and safety hazards between the various users of the lake resources, and also present severe navigation, parking and public health problems.
 - E. The lack of regulation may result not only in nuisance conditions, but also an impairment of the important and irreplaceable natural resources of the Township, the privilege of citizens to use those resources, and threaten the public health, safety and welfare of all persons making use of the lakes within the Township and properties adjacent thereto.
 - F. The lack of regulation may also be detrimental to the investment of property owners in property adjacent to the lakes in the Township.
- 1.2 Pursuant to the foregoing findings, it is the intent and purpose of the Bloomingdale Township Board to adopt herein reasonable regulations governing the placement and mooring of various types of watercraft, boat storage devices, docks, and the usage of same within Bloomingdale Township.
 - 1.3 This Ordinance shall be known and may be cited and referred to as the "Bloomingdale Township Boat Launching and Docking Regulation Ordinance".

ARTICLE II

**MINIMUM STANDARDS; ENABLING AUTHORITY;
SCOPE AND APPLICATION; NON-PREEMPTION**

- 2.1 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.
- 2.2 This Ordinance is enacted pursuant to MCL 41.181; MSA 5.45(1), as amended, and the Michigan Constitution of 1963, Art. 4, §52.
- 2.3 This Ordinance shall not interfere with, abrogate, annul or repeal any other law, ordinance, rule or regulation previously in effect, including any other ordinance regulating docks, boats, rafts or boat launching or mooring or any related such activity and/or usage. Moreover, in instances where this Ordinance specifically imposes a greater restriction or higher

benefit to the public health, safety and welfare of persons or property.

- ii. That varying or modifying the provisions of this Ordinance for the particular instance would not unduly prevent the realization of the legislative purposes of this Ordinance as set forth herein.
- iii. That varying or modifying the provisions of this Ordinance for the particular instance would not cause substantial harm or detriment to adjacent or nearby lands or watercraft or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance.
- iv. That exceptional or extraordinary circumstances or conditions are involved.

7.2 The Board of Appeals established herein is a public body and shall be governed by the applicable provisions of the Michigan Open Meetings Act.

7.3 A decision by the Board of Appeals on a request to vary or modify any provision of this Ordinance as applied to specific property shall be preceded by a public hearing, notice of which shall be given as follows:

- A. Notice of the hearing/meeting shall be posted at the Township Hall as required by the Open Meetings Act.
- B. Notice of the hearing/meeting shall be published in a newspaper of general circulation in the Township at least 5 days but not more than 15 days before the date of the hearing/meeting.
- C. Notice of the hearing/meeting shall be given by regular first class mail at least 5 days but not more than 15 days before the date of the hearing/meeting to the applicant, and to all property owners within 300 feet of the subject property, as determined pursuant to the current records of the Township.

7.4 If the Board of Appeals determines to grant a request to vary or modify any of the regulatory provisions of this Ordinance the Board may impose reasonable conditions on the approved variance or modification.

7.5 The Bloomingdale Township Board is hereby authorized to establish by motion or resolution fees for applications made pursuant to this section of the Ordinance.

ARTICLE VIII

ENFORCEMENT AND SANCTIONS

- 8.1 Any person who violates any of the regulations or provisions of this Ordinance, whether as owner, lessee, licensee, agent, servant, or employee, shall be liable as a principal.
- 8.2 Any violation of this Ordinance shall constitute a basis for injunctive relief against the violator, restraining and prohibiting continuation of the violation, in addition to any other relief or sanction herein set forth or allowed by law.
- 8.3 Any person who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
--- 1st offense within 3-year period*	\$ 75.00	\$500.00
--- 2nd offense within 3-year period*	150.00	500.00
--- 3rd offense within 3-year period*	325.00	500.00
--- 4th or more offense within 3-year period*	500.00	500.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Bloomingdale Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. Each day that a violation exists shall constitute a separate offense.

ARTICLE IX

SEVERABILITY

- 9.1 If any part of this Ordinance is declared by any court of competent jurisdiction to be invalid or unenforceable the remainder of the Ordinance shall remain in full force and effect.

non-motorized boats, or boats with a propulsion system of less than six (6) horsepower.

ARTICLE V

ADDITIONAL REGULATIONS

The following safety regulations shall apply to all lakes within the Township, in addition to the regulations set forth in Article IV of this Ordinance:

- 5.1 No person shall cause or allow a motorboat to be stored or kept overnight on the shoreline, or moored or anchored overnight in a lake adjacent to a separate frontage, except adjacent to or moored at a dock, dock space, boat cradle or shore station which complies with this Ordinance.
- 5.2 No person shall cause or allow a dock or mooring for boats to be placed, used or maintained at, on, or offshore from a public road right-of-way, public park, public road, dedicated public walkway or public easement which abuts or terminates at a lake unless approved by the Township and, where applicable, by the Van Buren County Road Commission. The Township Board shall determine whether to permit placement of a dock and/or mooring for boats on or adjacent to any such public property.
- 5.3 No person shall cause or allow boats, docks or moorings (other than those approved pursuant to Section 5.2 of this Ordinance), shore stations or other items not owned by a governmental unit to be stored, kept or moored overnight or for longer than eighteen (18) hours during any 24-hour time period on or at a public road right-of-way, public park, public road, dedicated public walkway or public easement which abuts or terminates at a lake or on the bottomlands thereof.
- 5.4 The Township Board may by resolution from time to time promulgate reasonable rules and regulations governing some or all public road rights-of-way, public parks, public roads, dedicated public walkways and public easements which abut or terminate at a lake, and a violation of any such rules and regulations shall constitute a violation of this Ordinance. The Township Board recognizes that, with respect to rules and regulations governing public roads which abut or terminate at a lake, the authority of the Township Board may be concurrent with the Van Buren County Road Commission.

ARTICLE VI

EXISTING BOAT AND DOCK ACTIVITIES

- 6.1 Upon the effective date of this Ordinance a lot or parcel that does not have a separate frontage of at least 100 feet, but which was existing as a matter of record with the Van Buren County Register of Deeds before the effective date of this Ordinance, shall be considered to have a separate frontage of 100 feet for purposes of applying the regulations set forth in this Ordinance.
- 6.2 The lawful docking, mooring, or launching of boats, including motor boats, and the lawful use of docks, shore stations, or boat cradles occurring prior to the date of adoption of this Ordinance shall be allowed to continue, without change, notwithstanding nonconformance with any provision of this Ordinance. However, any such lawfully established existing activities shall not be altered, expanded, or increased in any manner whatsoever without fully complying with the applicable provisions of this Ordinance. For purposes of this Section normal maintenance and repair of docks, shore stations, or boat cradles due to normal wear and tear, otherwise without change, shall not be considered to be an alteration.

ARTICLE VII

BOARD OF APPEALS

- 7.1 The Township Board shall constitute and serve as a Board of Appeals for purposes of this Ordinance. The Board of Appeals shall have only the following authority and powers:
- A. To interpret the provisions of this Ordinance upon the request of any affected party, or upon the initiative of the Board itself.
 - B. To determine the normal highwater mark or line in the context of specific property, upon the request of an affected party or at the initiation of the Board itself.
 - C. To vary or modify the regulatory provisions of this Ordinance as applied to specific property when the Board determines that the literal interpretation and enforcement of the Ordinance would cause unreasonable hardship in the particular case or circumstance, and upon finding that all of the following criteria exist:
 - i. That the enforcement of this Ordinance would unnecessarily prevent the reasonable use of the land or motorboat involved without resulting

standard than other ordinances, the provisions of this Ordinance shall govern.

- 2.4 This Ordinance is not intended to conflict with and/or preempt application of the Michigan Inland Lakes and Streams Act, as amended, or the Michigan Marine Safety Act, as amended, but is intended to supplement such statutes in a compatible manner so as to enhance water usage in a manner consistent with the public interest and safety.

ARTICLE III

DEFINITIONS

- 3.1 As used in this Ordinance the following terms shall have the designated specific definitions:
- A. "Boat" means a vessel of any kind capable of being used as a means of transportation on water.
 - B. "Boat cradle" and "shore station" shall mean a device or devices placed on, at or near the shore of a separate frontage on a lake for the purpose of mooring, anchoring or holding a boat or other watercraft in, on or above the water in the lake.
 - C. "Docked" or "docking" shall mean the anchoring or mooring of a motorboat directly to a pier, structure, platform, pole, anchor, or dock in a lake, which is a platform or fixture extending from the shore or bottomlands, and is directly accessible to a separate frontage on a lake; and shall also mean the placement of a motorboat in a boat cradle or shore station off-shore or the regular or overnight anchoring, mooring or storage of a motorboat adjacent to a separate frontage or on shore on a separate frontage on a lake.
 - D. "Mooring" or "slip" shall mean a space for a single motorboat at or adjacent to a dock or in an offshore boat cradle or shore station.
 - E. "Motorboat" shall mean any watercraft, boat, sailboat, hydrofoil, hovercraft, jet ski or other personal watercraft, jet boat, or similar vessel having a motor, engine or propulsion system of six (6) horsepower or more.
 - F. "Normal highwater mark" or "normal highwater line" shall mean the lot or parcel boundary line adjacent to the lake, including, where applicable, the boundary line that

is ascertainable by reference to survey rods or other markers.

G. "Person" shall mean an individual, partnership, corporation, association, including a condominium association, and any other entity of any kind.

H. "Separate Frontage" means that portion of a lawful lot or parcel of land existing on documentation recorded with the Van Buren County Register of Deeds, which abuts or intersects with the normal highwater mark of a lake, whether such lot or parcel is owned by one or more persons, or is commonly owned by several persons, or combinations of persons.

3.2 As used in this Ordinance terms that do not have a specific meaning pursuant to Section 3.1 of this Ordinance shall be defined pursuant to the common meaning and usage of the term that is most applicable to the context of the term.

ARTICLE IV

BOAT LAUNCHING AND DOCKING REGULATIONS

The following regulations shall apply to all lakes within the Township:

4.1 No person shall cause or allow more than three (3) motorboats to be launched from or for each separate frontage, and no person shall cause or allow more than three (3) motorboats to be kept at, used, moored or docked on or adjacent to each separate frontage; provided that where a separate frontage contains more than one hundred (100) feet of continuous frontage on a lake (as measured between the lot lines of the lot or parcel at the normal highwater mark), up to three (3) additional motorboats may be launched and/or docked for each additional one hundred (100) feet of such continuous frontage in excess of the initial one hundred (100) feet of frontage.

4.2 No person shall cause or allow more than one (1) dock to be erected, used or maintained for each separate frontage; provided that where a separate frontage contains more than one hundred (100) feet of continuous frontage on a lake (as measured between the lot lines of the lot or parcel at the normal highwater mark), one (1) additional dock is permitted for each additional one hundred (100) feet of such continuous frontage in excess of the initial one hundred (100) feet of frontage.

4.3 The regulations in Section 4.1 and 4.2 of this Ordinance shall not be construed to affect the launching, docking or use of

ARTICLE X

EFFECTIVE DATE

10.1 This Ordinance shall take effect 30 days after publication as required by law.

Linda Stange, Clerk
Bloomingdale Township