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ORDINANCE NO. 195

JANUARY 21st, 1997

An ordinance to create, repeal and recreate certain portions of Sec. 19.16 of the Town of Delavan Municipal Code, relating to stationary artificial structures in navigable waters in the Town of Delavan.

The Town Board of the Town of Delavan, Walworth County, Wisconsin, does hereby ordain as follows:

Section 1: Section 19.16(2)(bm) of the Municipal Code of the Town of Delavan is hereby created to read as follows:

19.16(2)(bm) REQUIREMENTS. Pursuant to Secs. 30.13 and 30.772, Wis. Stats., the Town of Delavan does hereby enact local regulations and restrictions upon the granting and issuance of permits for establishing artificial stationary structures in the navigable waters in Delavan Lake.

I. BUOYS. No permit for the placement of a mooring buoy in the navigable waters of Delavan Lake may be granted unless all of the following criteria are satisfied:

A. Only riparian property owners shall be permitted to place mooring buoys for use by said owner.

B. For purposes of this ordinance the location of any mooring buoy shall include the distance from the center of the mooring buoy outward in any direction, in a radius of thirty feet. Placement of the mooring buoys shall be within the pierhead line established Sec. 19.17 (A)(2) of this Municipal Code and also be within the setback requirement of Sec. 19.17(A)(3)(e) 1. of this Municipal Code. Further, no mooring buoy may extend beyond the riparian owner's pier.

C. The placement of any mooring buoy within the limitations set forth herein shall not be permitted if any other pier, wharf, mooring, or other permanent structure exists within the area where the mooring buoy is to be placed.

D. No stationary mooring buoy may be placed within ninety feet of a location ordinarily used as a swimming or fishing area, boat launch nor any other area that may interfere with navigation on any waterway.

E. This section applies to mooring buoys only and not to aids to navigation that require a permit from the Department of Natural Resources.

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F. No mooring buoy may be placed under this ordinance more than two hundred (200) feet from the nearest ordinary high-water shoreline mark, unless a permit for same is obtained from the State of Wisconsin Department of Natural Resources.

G. No mooring buoy may be placed or used in any navigable waters if:

1. The mooring buoy obstructs or interferes with public rights or interest in the navigable waters.
2. The riparian owner does not give written permission for the placement and use of the mooring buoy.
3. The mooring buoy or use of the mooring buoy interferes with the rights of other riparian owners.
4. The mooring buoy or use of the mooring buoy adversely affects critical or significant fish or wildlife habitat.
5. The mooring buoy violates any other rules of the Department of Natural Resources or the placement or use of the mooring buoy violates a condition or restriction on a permit issued by the Department of Natural Resources.
6. The mooring buoy anchor is placed more than two hundred (200) feet from the ordinary high-water mark unless one of the following applies:
 - a. A permit is obtained from the Town of Delavan and approved by the Department of Natural Resources.
 - b. A permit is obtained from the Department of Natural Resources.
 - c. The mooring buoy is properly within a designated mooring buoy area.

II. RAFTS. No permit for the placement of any permanent raft in the navigable waters of Delavan Lake may be granted unless all of the following criteria are satisfied:

A. Rafts may not be used to secure permanent attachments for boats or personal watercraft.

B. All rafts shall have a minimum of twenty-four square inches of reflective material on each side that is plainly visible to boat traffic.

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C. Rafts shall have the permit number of the riparian owner affixed to said raft, which is clearly visible for purposes of identification.

D. All rafts shall be no more than 100 feet from shore.

E. All rafts shall have an elevation of at least twelve inches above the water line at flat water.

Section 2: Section 19.16(2)(d) of the Town of Delavan Municipal Code is hereby repealed and recreated to read as follows:

19.16(2)(d) ISSUANCE OF PERMITS. If satisfied that the proposed structure will not be a danger or hazard to the health and safe enjoyment, and the free navigation of the navigable waters of Delavan Lake by all users thereof, and upon payment of a permit fee of \$10.00, the Town Board shall issue a permit to establish such structure, signed by the Town Chairman and the Town Clerk, which permit shall specify the conditions under which the structure may be established and used. Such permit may be revoked or suspended for cause, by the Town Board upon written, verified complaint. Prior to revocation or suspension of such permit, the Town Board shall notify the permittee in writing that a hearing on such proposed action will be held by the Board. Such written notice of hearing, containing the alleged reasons for the proposed action, shall be served upon the permittee at least 10 days prior to the date set for the hearing. These requirements shall be in addition to the requirements of the State, as presently enforced by the Town. All permits issued pursuant to this section shall be effective for 3 years from the date of issuance.

Section 3: Section 19.16(2)(e) of the Town of Delavan Municipal Code is hereby repealed and recreated to read as follows:

19.16(2)(e) PENALTIES AND REMEDIES. If any structure is established in violation of this chapter, the following remedies and penalties may be imposed:

i. After a structure permit is issued, the Town may revoke the permit if the structure subsequently violates any provision of this chapter or state law.

ii. A structure violating any provision of this chapter or state law shall constitute a nuisance pursuant to Ch.30.294, Wis. Stats., punishable by a forfeiture not to exceed \$50.00 for each such violation. Under this subsection, each day constitutes a separate offense.

iii. The unlawful structure may, additionally, or as an alternative remedy, to sub. (ii), be removed by Town officials pursuant to the procedures of Sec. 66.0495, Wis. Stats.

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Section 4: Section 19.16(2)(j) of the Town of Delavan Municipal Code is hereby created to read as follows:

19.16(2)(j) The procedures and provisions of Chapter 68, Wis. Stats., shall apply to the grant, denial or revocation of a structure permit by the Town.

Section 5: This ordinance shall be effective the next day following its publication subsequent to its adoption.

Wayne K. Polzin
Town Chairman

Attest:

Patricia A. Kohler
Town Clerk

(SEAL)