

Date September 21, 1999

Ordinance No. 214

An Ordinance to amend and renumber certain sections of Chapter 19 of the Municipal Code of the Town of Delavan to adopt regulations applicable to Delavan Lake and Lake Comus consistent with Chapter 30, Wis. Stats., and including regulations relating to the equipment, use or operation of boats or any activities regulated by Secs. 30.50 to 30.71, Stats. the same being identical to the regulations adopted or being adopted by the City of Delavan, the other municipality having jurisdiction thereon.

WHEREAS, By reason of annexation by the City of Delavan of certain Town of Delavan lands, part of Delavan Lake now lies within the City limits and jurisdiction of said City of Delavan; and

WHEREAS, Lake Comus is located partially within the City of Delavan and partially within the Town of Delavan; and

WHEREAS, The Town has previously adopted a number of the statutory sections relating to boating as well as other ordinances pertaining thereto and, additionally others relating more generally to lake use, all intended to apply to Delavan Lake and known as its "Lake Use Ordinance"; and

WHEREAS, The Town has operated a Marine Enforcement Unit for purpose of enforcement of its lake use ordinances on Delavan Lake; and

WHEREAS, Sec. 30.77(3)(a) Stats., permits cities, villages and towns, in the interest of public health, safety or welfare to adopt local regulations applicable on any waters in the state within their local jurisdiction if not contrary or inconsistent with Chapter 30 and if the regulation relates to the equipment, use, or operation of boats or any activity regulated by Secs. 30.50 to 30.71; and

WHEREAS, Sec. 30.77 (3)(d), Stats., provides that local regulations pertaining to equipment, use or operation of boats on inland lakes shall be subject to advisory review by the Department of Natural Resources; that proposed local regulations subject to review are to be submitted by the Clerk to the Department at least 60 days prior to final action by the governing body; and

WHEREAS, The Common Council of the City of Delavan and the Town Board mutually agree that, in the interest of uniformity, that they should be adopting identical regulations by respective ordinances pursuant to Sec. 30.77 (3)(a), Stats., for introduction into their respective codes, as to their respective numberings

thereof, and in referring to respective code chapter(s) or subchapter(s), as the case may be; and

WHEREAS, The City and Town of Delavan have respectively submitted copies of their respective proposed ordinances adopting the mutual regulations hereinafter set forth to the Department of Natural Resources for advisory review at least 60 days prior to final action thereon;

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

Section 1: Chapter 19 of said Municipal Code of the Town of Delavan be and the same is hereby amended to read as follows:

Regulations for Boating on Delavan lake and Lake Comus for the Town of Delavan.

19.00 Purpose. The regulations set forth in this chapter are adopted pursuant to Sec. 30.77(3)(a), Stats., permitting cities, villages, and towns in the interest of public health, safety or welfare to adopt local regulations, which are consistent with Chapter 30, Stats., and are applicable to the waters of Delavan Lake and Lake Comus, being within the state and located only in the jurisdictions of the City and Town of Delavan, such regulations including those relating to the equipment, use or operation of boats or any activity regulated by Secs. 30.50 to 30.71.

19.01 Intent. The intent of this chapter is to provide access to Delavan Lake and Lake Comus for all users and further provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public needs and the capacity of the water resource, recognizing the intensity of their recreational use. This chapter is deemed necessary in the interests of public health, safety and welfare.

19.02 Applicability and Enforcement. The provisions of this chapter apply to the waters of Delavan Lake and Lake Comus and that portion of the inlet and outlet lying wholly within the City of Delavan and Town of Delavan, Walworth County, Wisconsin. The provisions of this chapter shall be enforced by the authorized law enforcement officers of the City of Delavan and the Town of Delavan Police Departments, inclusive of the Town of Delavan Marine Enforcement Unit.

19.03 State Boating and Water Safety Adopted. State boating laws as found in Secs. 30.50 to 30.71, Wisconsin Statutes, are adopted by reference.

19.04 Definitions. (1) Shore Zone. On Delavan Lake, the water area within 200 feet of any shore. On Lake Comus, the shore zone shall be deemed to embrace the whole surface thereof.

(2) Swimming Area. An authorized area within 200 feet from the shore marked by official buoys to designate a swimming area.

(3) Channel. A waterway less than 400 feet wide.

(4) Public Landing. A marina or landing facility and the adjoining public shore line under the ownership or operation of the State, County, City or Town.

(5) Designated Anchorage. That area of water established and marked as an anchorage by lawful authority.

(6) Marine Enforcement Unit Officer. Any duly authorized law enforcement officer, including City and Town Police Officers, and Walworth County Sheriff's Deputies.

(7) Person. "Person" includes any individual, firm, partnership, corporation, company, association, or body politic, except the United States and the State of Wisconsin, and includes any agent, trustee, personal representative, receiver, assignee or similar representative thereof.

(8) Slow-No-Wake. Slow-no-wake means that speed at which a boat moves as slowly as possible while still maintaining steerage control.

19.05 Speed Restrictions: (1) Notwithstanding other provisions to the contrary appearing herein or adopted by reference, on Lake Comus no person shall operate a boat in excess of slow-so-wake, except for emergency water craft.

(2) No person shall operate a boat in excess of slow-no-wake in the west bay area of Lake Delavan as defined by "slow-no-wake" buoys placed in a line starting 200 feet from the Chicago Club stairs to the lakeshore on the north shore of the lake to within 200 feet of Blue Gill Road on the south shore of the lake. In addition, no person shall operate a boat in excess of slow-no-wake in the inlet of Lake Delavan, defined as that area north of the Highway 50 bridge across Lake Delavan, and in the outlet of Lake Delavan, defined as that area west of the North Shore Bridge, on North Shore Drive of Lake Delavan.

(3) No person shall operate a boat in excess of slow-no-wake between sunset and sunrise, except for Marine Enforcement Unit or emergency water craft.

19.06 Operation of Motor Vehicles on Ice. (1) No person shall operate an automobile, farm truck, motor bus, motor truck, truck tractor or any other motor vehicle with a shipping weight of more than 1,000 pounds on the frozen waters of Delavan Lake and Lake Comus.

(2) This section shall not apply to authorized emergency vehicles or other vehicles operating with the specific authorization of the City of Delavan Police Department or the Town of Delavan Police Department.

(3) The statutory definitions contained in Sec.340.01, Wisconsin Stats. are hereby adopted and by reference made a part of this section as if fully set forth herein.

19.07 Safe Operation Required. No person may operate or use any boat or manipulate any water skis, aquaplane or similar device upon the waters of this state in a careless, negligent or reckless manner so as to endanger that person's life, property or person or the life, property or person of another.

19.08 Water Skiing. In addition to Sec.30.68, Wis. Stats., the following other restrictions shall apply: (1) Any boat engaged in starting, towing, dropping or releasing a person on water skis, aquaplane or similar device must conform to all sections of this chapter, and in addition must operate only in a traffic lane.

(2) There shall be no more than two tow lines per boat and no more than one person using each tow line as a means of water skiing or similar sport. The persons being towed shall be equipped with a coast guard approved personal floatation device.

19.09 Additional Traffic Rule(s). In addition to the traffic rules in Sec. 30.65, Wis. Stats., the following rule shall apply to boats using the waters covered by this chapter:

Right-of-Way at Docks, Piers and Wharfs. All boats leaving or departing from a pier, dock or wharf have the right-of-way over all other watercraft approaching such dock, pier or wharf.

19.10 Intoxication and Intoxicating Liquors. Intoxicated Persons Not to Ride in Boats. In addition to Subsec. 30.68(1) Wis. Stats., no person shall permit any person who is so intoxicated as to be unable to provide for his own safety or the safety of others to ride as a passenger in any boat operated by him or her.

19.11 Overnight Mooring Prohibited. The anchoring drifting or mooring of boats on open water, upon which people are living, sleeping or camping is prohibited between 10:00 p.m. and 4:00 a.m.

19.12 Swimming Regulations. (1) No person shall swim, snorkel or skin dive in the shore zone from any boat unless such boat is anchored and such boat is equipped with personal floatation devices, and unless the swimmers, snorkelers and skin divers stay within 25 feet of the boat.

(2) Swimming in Traffic Lane; Distance Swimming. No person shall swim, snorkel, or skin dive in Delavan Lake more than 200 feet from shore unless he/she is accompanied by a boat and such boat is anchored and unless the swimmers, snorkelers or skin divers stay within 25 feet of the boat, and such boat is equipped with personal floatation devices (PFDs).

19.13 Polluting and Littering Waters Prohibited. (1) No person shall deposit, place, or throw or allow or cause to be deposited, placed, or thrown from the shore or from any boat, raft, pier platform or similar structure any cans, paper, bottles, debris, refuse, garbage, solid or liquid waste into the water of the lake or on the ice of the lake.

(2) No person shall discharge or cause or allow to be discharged any solid or liquid waste from his residence onto the grounds or shore land so that waste could either artificially or naturally flow into the water of the lake or upon the ice of the lake.

19.14 Buoys Marking Race Courses. No person may place such buoys unless they are in compliance with NR5.09(7)(B) of Wisconsin Administrative Code of DNR and will require a permit or authorization from the Town of Delavan. Buoys marking race courses may not be placed for more that 14 days without a DNR permit.

19.15 Mooring or Anchoring in Swimming Areas. No person shall moor or anchor any boat, at any time, other than an emergency craft, in marked swimming areas.

19.16 Public Landings. No person shall moor or anchor any boat at public beaches, park or landings other than at piers as designated by the controlling government agency.

19.17 Markers and Navigation Aids: Posting Chapter. (1) Maintenance. The City of Delavan or the Town of Delavan shall place and maintain or have placed and maintained suitable markers, navigation aids and signs in such water areas as shall be appropriate to advise the public of the provisions of this chapter and post and maintain a copy of this chapter at all public access points within the jurisdiction of the Town and City.

(2) Standard Markers. All markers placed upon the waters of the lake shall comply with the regulations of the State Department of Natural resources and/or any State statutory provision.

(3) Interference with Markers prohibited. No person shall, without authority, remove, damage or destroy or moor or attach any water craft to any buoy (except mooring buoys when authorized), beacon or marker placed in the waters of the lake by the authority of the United States, State, City or Town, or by any private person pursuant to the provisions of this chapter.

19.18 Enforcement. (1) Powers. An officer patrolling the waters may stop and board any boat for the purpose of enforcing Secs. 30.50 to 30.80, Wis. Stats., or any rules or ordinances enacted pursuant thereto, if he has reasonable cause to believe there is a violation of such sections, rules or ordinances, or if the stopping and boarding of any boat is essential to conduct a search and rescue operation.

(2) Arrest for Violation. Any person violating any provision of this chapter shall be subject to arrest, whether at the time of arrest he or she is on the waterways or upon the shore and any Marine Enforcement Unit offices may pursue the offender to enforce the terms hereof.

(3) Procedure on Arrest. Whenever a person is arrested for violation of this chapter, the Marine Enforcement Unit officers may permit such person to make money deposit. Such deposit shall be made to the Town or City of Delavan or to the Municipal Judge of the Town or City in an amount not to exceed the amount of the maximum forfeiture which may be imposed after the accused is found guilty, or other such amounts as may be fixed by that particular court in the setting up of a bail bond schedule.

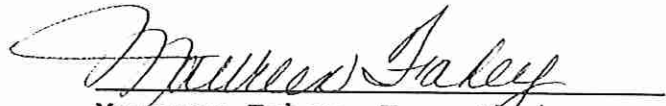
(4) Failure of Dependant to Appear. If the person so arrested and released fails to appear personally or by an authorized attorney or agent before the court at the time fixed for hearing, the money deposit by the accused, pursuant to the previous subsection, shall be retained and used for the payment of the forfeiture, which forfeiture may be imposed either with or without costs as determined by the court after an ex parte hearing upon the accused. the excess, if any, shall be returned to the person who makes the deposit upon making his application for the same. if the accused is found not guilty, the entire amount of the deposit shall be refunded to the depositor upon making application for the same.

19.19 Penalties. Wisconsin state boating penalties as found in Sec. 30.80, Wis. Stats., and deposits are established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference with all references to fines amended to forfeitures and all references to imprisonment deleted.

19.20 Repeal of Conflicting Ordinances. All ordinances regulating traffic, boats, boating or water sports upon the waters covered by this chapter and all ordinances or parts of ordinances in conflict with this chapter heretofore enacted are hereby repealed.

This ordinance will become effective upon passage and the day after publication.

Dated this 21st day of September, 1999.


Maureen Fahey, Town Chairman

Attest:


Dorothy C. Burwell, Town Clerk