

ORDINANCE NO. 06-003

**AN ORDINANCE REPEALING AND RECREATING CHAPTER 47 OF THE
VILLAGE MUNICIPAL CODE, VILLAGE OF LAKE DELTON, SAUK
COUNTY, WISCONSIN**

The Village Board of the Village of Lake Delton, Sauk County, Wisconsin, do ordain as follows:

Section I: That Chapter 47 of the Village of Lake Delton Municipal Code is hereby repealed and re-created as follows:

Chapter 47

Piers and Wharves

- 47.01 Purpose and authority
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47.01 Purpose and authority.

This Chapter is adopted in the interest of public rights in navigation and of preserving the public interest in the waters of Lake Delton. These interests are secured through the regulation of the construction, placement and density of piers and wharves, serving commercial and multi-family facilities, pursuant to s. 30.13(2) and 30.772(3), Wis. Stats.

47.02 Findings and declaration of intent.

1. Lake Delton, Mirror Lake, Blass Lake, Spring Brook, the Wisconsin River and Dell Creek are navigable waters subject to the local jurisdiction of the Village of Lake Delton; and
2. The near shore zones of Lake Delton, Mirror Lake, Blass Lake the Wisconsin River and Dell Creek are highly productive areas that provide important biological functions for the maintenance of aquatic plants and for the feeding, breeding and other habitat needs of terrestrial and aquatic fauna.
3. Riparian owners have a limited right to place piers and other structures on the bed of navigable waters located in the Village of Lake Delton, to moor watercraft and to have access to the lake.
4. Environmentally sensitive areas and other near-shore areas are of heightened concern due to their increased vulnerability to potentially detrimental impacts on water quality and fish and wildlife habitat as a result of the construction and placement of piers, wharves, swimming rafts and moorings; and as a result of increased boating traffic close to the shoreline, sedimentation, and the removal or cutting of vegetation on the shore and within the riparian zone.
5. Individual structures, regardless of whether they are located in environmentally sensitive areas or other near-shore areas, and regardless of whether they are adequately constructed, may have a substantial adverse effect on the public interests in the waters of the Village of Lake Delton due to these potential and cumulative effects of such construction, placement and use.
6. Excessive or inappropriate construction of structures, whether or not they are located in environmentally sensitive areas, may adversely affect public rights and interests and the rights of other riparian owners if such structures are constructed or placed contrary to s. 30.13, Wis. Stats.
7. This ordinance is enacted to minimize the adverse effects of such excessive or inappropriate construction, and to minimize the cumulative effects on environmentally sensitive or other near-shore areas from individual structures constructed, placed and used within the waters of the Village of Lake Delton.
8. This ordinance is enacted to protect navigation and other public interests in waters of the Village of Lake Delton, including interests in preserving scenic beauty, environmental diversity and fishing opportunities. This ordinance is adopted to reduce conflicts between adjacent riparian owners or historic easement holders, while also promoting public safety by establishing standards for the construction, placement, location and density of piers, wharves, swimming rafts and moorings.

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47.03 Applicability.

The provisions of this Ordinance shall apply to the waters of the Village of Lake Delton, located in Sauk County, Wisconsin, the parts, bays, waterways, and channels thereof, including the water bodies known as Lake Delton, Mirror Lake, Dell Creek, Spring Brook the Wisconsin River and Lake Blass located in the Village.

47.04 Definitions.

The definitions as set forth in s. 30.01, Wis. Stats., are incorporated herein by reference as though fully set forth herein. In addition, the terms used in this ordinance are defined as follows:

Historic easement holder means an owner of an easement who is entitled to maintain a pier pursuant to s. 30.131 and 30.133, Wis. Stats.

Lot Frontage means the perpendicular distance between parallel side lot lines measured at the point where the side lot lines meet the ordinary high water mark. The lot frontage of other lots shall be computed by using distances between nonparallel side lot lines which are perpendicular to the line bisecting the angle formed by the side lot lines, but in no event shall the lot frontage so determined be less than the width of a lake lot measured at 90° from the point where either side lot line intersects with the ordinary high water mark.

Multi-family means any use other than a single family/duplex residential unit

Ordinary high water mark means the point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction or terrestrial vegetation, or other easily recognized characteristic.

Pier means any structure extending into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing slips for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

Pier Planner means the guidance document published by the Wisconsin Department of Natural Resources, and as amended.

Riparian owner means the owner of a fee title interest in lands abutting the ordinary high water mark of a navigable water body.

Riparian zone means the area of water adjacent to a parcel of riparian land within which the riparian owner may place permitted structures. The land and the line of navigation bound the riparian zone. The side boundaries of the riparian zone are generally the extended side lot lines of the riparian parcel. However, the side boundaries of the riparian zone may be determined by another method when the

shore is irregular and another method must be employed to properly determine the boundaries between contiguous properties, as generally shown in the *Pier Platter*.

Single family/duplex riparian owners means the owner of lands abutting the ordinary high water mark of a navigable body of water located within the Village of Lake Delton and which at the time of enactment of this ordinance was occupied as a single family/duplex residential use.

Slip means a space at a pier, wharf, boat hoist, or mooring for one watercraft on or directly over the water. "Slip" does not mean the temporary placement of watercraft partially in the water and partially on the shore, or the temporary placement of a watercraft on top of a pier or wharf so that no portion of the watercraft is in the water or on a boat hoist. "Slip" does not mean the location of docking facilities in a boathouse.

Unit means the room or combination of rooms intended for separate occupancy.

Watercraft means any device, designed and used for transportation on the water, except seaplanes, regardless of whether a motor is utilized for propulsion.

Wharf means any structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a slip for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

47.05 Limited authorization for construction or placement of piers and wharves without a permit.

Single-family/duplex residential riparian owners, or historic easement holders, may place a pier within the riparian zone without a permit. Any such pier so installed shall be subject to and comply with the provisions of the standards set forth in 47.07 and 47.09, below.

47.06 Permit required; application.

Permits issued prior to the effective date of this ordinance shall remain in full force and effect unless the pier or use of the property changes or the permit holder violates the terms of the permit. Except as provided in 47.05, any person desiring to locate, construct or maintain a pier or wharf, serving commercial and/or multi-family parcels in the Village of Lake Delton shall make and file a written application for a pier permit with the Village Clerk. The application shall include all of the following:

- a. The legal description or tax parcel number of the riparian lot or parcel(s) or historic easement from which the proposed structure is proposed.
- b. The name and address of each owner or grantee of the riparian parcel or historic easement.

- c. The names and addresses of the owners or grantees of the adjoining riparian parcels or historic easements within 200 feet of the proposed location.
- d. A description of each existing and proposed pier or wharf, within the riparian zone of the parcel owned by the applicant(s) or easement granted to the applicant and any proposed modification of any such structure.
- e. A scale drawing illustrating the dimensions and configuration of the proposed structure, the boundaries of the property or easement, and the adjoining riparian properties or easements, which illustrates the proposed location of the structure, the shoreline, the water depth contours, the length of the structure and the distance from the proposed structure to the property lines of adjoining riparian properties.
- f. A description of the construction of the proposed structure including material and design of representative sections.
- g. Such other information concerning the proposed structure as the Village Board may request.

47.07 Criteria for issuance of a permit.

In its review of an application for a pier permit the Village Board shall consider the following:

- a. Whether the pier or wharf interferes with public rights in navigable waters;
- b. Whether the pier or wharf interfere with rights of other riparian proprietors;
- c. Whether the pier or wharf allows for the free movement of water beneath and in a manner, which will not cause the formation of land upon the bed of the waterway;
- d. Whether the pier or wharf exceeds the standards of this ordinance, and if so, how has the application addressed that non-compliance and does the Village Board find that such application, if granted a permit or a conditional permit, would not interfere with any of the interests and rights of the public or neighboring properties.

47.08 Issuance of permits.

Following the presentation of evidence the Village Board shall close the hearing and upon proper motion, approve, reject or approve subject to special conditions, the permit. Nothing herein shall prohibit the Village Board from continuing the hearing under proper circumstances.

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47.09 Standards.

1. The following general standards for piers and wharves apply to all piers and wharves, whether or not a permit is required, in the Village of Lake Delton:
 - a. All piers and wharves shall be constructed to allow the free movement of water underneath and in a manner that will not cause the formation of land upon the bed of the waterway.
 - b. No pier or wharf may completely enclose any portion of navigable waters.
 - c. No pier or wharf may interfere with public rights in the waters or with the rights of other riparian owners.
 - d. All piers and wharves shall be constructed in compliance with state and federal law, including s. 30.12 and 30.13, Wis. Stats., and Ch. NR 326, Wisconsin Administrative Code.
 - e. All piers and wharves, if they are only seasonally placed in the riparian zone, shall be removed annually before freeze up.
 - f. No pier or wharf may include attached lighting, signs or fuel facilities.
 - g. Unless the riparian zone is less than 26 feet in width, no pier or wharf may be placed less than ten feet from the side boundaries of the owner's riparian zone.
 - h. No pier may extend more than is necessary to reach a water depth of 3 feet.
 - j. There shall be 1 pier with 2 slips for each single family, duplex, commercial and multi-family parcels, except as otherwise established in this chapter.
 - k. No wharf may exceed 32 feet in width, except as otherwise approved by the Village Board.
 - l. Piers shall not be placed within 20 feet of a side lot line.
2. Construction Standards. Piers and wharves may be constructed of wood, metal, or other material, except that the following may not be used:
 - a. Materials previously used to store hazardous materials as defined in Ch. NR 181.12, Wisconsin Administrative Code, or any product residue or pollutant.
 - b. Material that is unprotected against corrosive forces.
 - c. Material that may readily fragment such as unprotected polystyrene or polyurethane floats.

3. No Pier Head Line established. It is not the intent of the Village of Lake Delton in enacting this ordinance to establish a pier headline under s. 30.13 (3), Wis. Stats.

4. Piers and wharves shall be installed and maintained in conformity with the approved application and plans. Relocation of a pier or failure to place the pier in accordance with the application and plans shall void the permit.

5. In reviewing an application for a pier permit the Village Board shall take into consideration the guidance provided in the *Pier Planner* published by the Wisconsin Department of Natural Resources.

47.10 Commercial/Multi-family permits.

1. The Village Board may grant conditional pier permits for commercial, and multi-family permits to qualified properties upon the presentation by the applicant evidence in a form acceptable to the Village establishing compliance with the following regulations:

- a. That the proposed pier or wharf will not be detrimental to or endanger the public safety
- b. That adequate measures will be taken to minimize any adverse impact on the navigable waters and near shore area in the Village of Lake Delton.
- c. That the issuance of the permit will not undermine the purposes of this Chapter.
- d. That the proposed pier or wharf will not substantially impair or diminish the uses, value and enjoyment of other property in the neighborhood for purposes already permitted and the proposed pier or wharf is compatible with the adjacent land
- e. That the proposed pier and or wharf is in conformity with all other provisions of this ordinance.
- f. That for commercial multi-family uses 8 or fewer units the maximum number of slips shall be 8.
- g. That for commercial multi-family uses of more than 8 units the maximum number of slips shall be 10.
- h. All piers serving commercial/multi-family properties must be 6 feet in width, to conform to ADA requirements, except that a pier may be constructed with an "L" or "T", tuning fork, or similar configuration, provided that the overall width of the pier, including any such extensions is less than 30 feet, and provided no portion of the waterway is enclosed as a result of the configuration.
- i. When more than two piers are permitted, piers must be at least 400 apart
- j. There shall be no more than 4 slips per pier.
- k. No pier may be located 50 feet from any side lot line.

2. Applications for commercial/multi-family permits shall be made to the Village Board and in addition to the information required under s 47.07 the application shall also contain information sufficient to establish that the applicant has met the conditions set

forth in paragraph 1 above. The Village Board may grant, modify with conditions, deny or request that the applicant provide additional information.

3. In the event of a conflict between this section and any other provision of this ordinance the provisions of this section will control.

47.11 Notice of Public Hearing.

Within thirty (30) days following receipt of a completed application for a conditional pier permit, the Village Clerk shall provide notice of a public hearing on the proposed application or applications. Notice of the public hearing shall be published as a Class 1 notice. Notice shall also be made by mailing a copy of said notice to the riparian owners of parcels located within 200 feet of the proposed location. If the identity of any historic easement holders may be reasonably ascertained, notice shall also be mailed to such persons with property interests within 200 feet of the proposed location.

47.12 Public hearing on application.

The Village Board shall conduct a public hearing on the application for a conditional pier permit required under section 47.10. at which time the publication may present facts supporting the application and members of the public may submit their support or objection to the application. Written objections or letters of support received by the Village Clerk prior to the hearing shall be presented to the Village Board and included in the record. Upon hearing the presentation of the applicant and any argument or information presented in opposition, the Village Board shall close the hearing and make its findings of fact and shall render its decision on whether to grant, deny, or conditionally grant a permit.

47.13 Appeals. Denial of any permit application shall be in writing and state the reasons for such decision. Appeal of a decision of the Village Board denying a permit under this chapter shall be to the Sauk County Circuit Court.

47.14 No Bulkhead line established. Nothing in this chapter shall be construed as establishing a bulkhead line along navigable waters in the Village.

47.15 Exemptions.

The requirements of this section 47.05 shall not be applicable to the following:

- a. Piers installed pursuant to a water exhibition license issued pursuant to Village Ordinance No. 12-03-345, and
- c. Publicly owned piers and wharves.
- d. Piers and wharfs operated by licensed marinas.

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47.16 Standards for Conditional Use Permits.

1. In addition to the standards set forth on s. 47.09, the Village Board may grant conditional pier permits upon the presentation by the applicant evidence in a form acceptable to the Village establishing that the strict application of the regulations:
 - a. Creates an undue hardship on the property owner
 - b. Unfairly restricts the property owner's enjoyment of riparian rights
 - c. That the granting of the conditional permit will not be detrimental to or endanger the public safety
 - d. That adequate measures will be taken to minimize any adverse impact on the navigable waters and near shore area in the Village of Lake Delton.
 - e. That the issuance of the conditional permit will not undermine the purposes of this Chapter.
 - f. That the proposed pier or wharf will not substantially impair or diminish the uses, value and enjoyment of other property in the neighborhood for purposes already permitted and the proposed pier or wharf is compatible with the adjacent land
- 47 That the proposed pier and or wharf is in conformity with all other provisions of this ordinance.

2. Applications for conditional use permits shall be made to the Village Board and shall contain information sufficient to determine whether there is compliance with the standards set forth herein. The Village Board may grant, modify with conditions, deny or refer the application to the Village Plan Commission for further review.

47.17 Recording permits.

When a commercial multi-family permit is issued, the licensee shall record the permit in the Office of Register of Deeds for Sauk County.

47.18 Permit and appeal fees

Each applicant for a permit and any aggrieved person who appeals a decision under this ordinance shall pay a fee to cover costs of public notice and other reasonable costs in an amount established by resolution adopted from time to time by the Village Board.

47.19 Unlawful construction; enforcement

1. Any pier, wharf, or mooring buoy that is not in compliance with the requirements of this ordinance shall be presumed to be an unlawful obstruction to navigable waters, unless a permit if required has been granted. The Village Building Inspector is responsible for the enforcement of this ordinance. Any person, agent, firm or corporation violating any provision of this Ordinance shall, upon conviction thereof, forfeit not more than \$100.00 for the first offense with a deposit required of \$ 100.00 and not more than \$500.00 for the second offense, with a deposit required of \$500.00, and the costs of prosecution. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

2. In addition to the penalties set forth in subparagraph A above, the Village Building Inspector may have the unlawful pier, wharf, swimming raft or mooring buoy or any other obstruction of navigable waters removed pursuant to the authority granted under s. 30.13 (5m), Wis. Stats. The cost of the removal shall be charged against the real estate on which or adjacent to which the wharf or pier is located.

Effective date

The effective date of this ordinance shall be June 1, 2006.

Village President

Village Clerk

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