

Ordinance: 3-89

AN ORDINANCE REGULATING THE PLACEMENT AND USE OF MOORINGS IN THE VILLAGE OF WILLIAMS BAY

The Village Board of the Village of Williams Bay do ordain as follows:

SECTION 1: MOORINGS.

A. Intent. The intent of this Ordinance is to provide safe conditions for the mooring of boats consistent with public rights and interest and the capability of the water resource of Geneva Lake.

B. STATE MOORING AND SAFETY LAWS ADOPTED BY REFERENCE. State mooring regulations and regulations applicable to moorings as found in sections:

30.15 Penalty for unlawful obstruction of navigable waters; 30.16 Removal of obstructions to navigation; 30.772 Placement and use of moorings; restrictions; permits; 30.773 Designated mooring areas; 30.74(2) Uniform Navigation Aids;

Wisconsin Statutes are adopted by reference as if the same were set forth at length herein. The 1985-1986 Wisconsin Statutes are initially adopted by reference herein. Any future amendment, revision, or modification of the statutes incorporated herein are intended to be made a part of this subsection and are automatically adopted by reference herein.

SECTION 2: MOORINGS PROHIBITED. No person shall place a mooring or moorings for boats or watercraft of any type upon those waters of Geneva Lake within the corporate limits of the Village of Williams Bay without first obtaining a permit therefore from the Village in accordance with the provisions of this Ordinance.

A. Applications for buoys to be placed 200 feet or less from the ordinary high water mark of Geneva Lake are subject to the regulations of this Ordinance and are not required to be submitted to the Department of Natural Resources for approval.

B. Applications for buoys to be placed greater than 200 feet from the ordinary high water mark of Geneva Lake require the application to be acted on by the Village and the Department of Natural Resources. Applications for buoys greater than 200 feet from the ordinary high water mark of Geneva Lake will: (1) First be acted on by the Village to determine if a permit will be issued independent of the Department of Natural Resources investigation, and (2) If a permit will be allowed by the Village, then the conditionally granted permit by the Village will be submitted to the Wisconsin Department of Natural Resources for its investigation and approval. Upon DNR approval, the permit will become effective.

SECTION 3: PERMITS. Applications for permits shall in the form prescribed by the Wisconsin Department of Natural Resources, "Waterway Marker Placement Application - In Water," Form 8700-58 and necessary attachments thereto as prescribed by the Village to comply with the requirements of this Ordinance. Completed forms are to be filed with the Village Clerk and shall contain the following information:

A. Name, address, and telephone number of the applicant.

B. The name, address, and telephone number of the owner of the land in front of which the mooring is to be placed.

C. The description of the real estate in front of which the mooring is to be placed.

D. The written consent of the aforesaid land owner to the placing of such mooring.

E. A sketch or chart showing the proposed location of the mooring, its distance from the ordinary high water mark, and its relationship, if any, to other existing mooring, established traffic lanes, marked swimming or bathing areas, and structures including piers, rafts, docks, shore stations, boat hoists, and wharves located within the riparian space of the consenting riparian owner.

F. A description of the type of mooring, including its physical description, markings, approximate depth of water, and the approximate length of rope, cable, or chain connecting the mooring buoy to its mooring anchor and connecting the mooring buoy to the boat to be attached thereto.

G. A full description of the boat the applicant intends to moor to the mooring. If the applicant intends to moor more than one boat to the mooring such is permitted, provided a full description of all such boats are contained in the application and all such boats are owned by the applicant. A full description of the boat means the full name and address contained in the actual registration of the boat (must be the same as the applicant), the state of registration, the state registration number assigned the boat, the length, color, make, and description of the boat. Only one boat may be moored to the mooring at any one time, however.

SECTION 4: DURATION AND CONDITIONS OF PERMIT TO BE ISSUED. ADDENDUM TO PERMIT.

A. Each permit to be issued hereunder will be valid for one seasonal year only or portion thereof with such seasonal year to begin on the first day of spring or the date of the granting of the permit if later than the first day of spring and end on the first day of winter for each year. Such permit's duration shall also be limited to that period during which the riparian owners consent continues for the placement of such mooring in front of such riparian's property. A riparian owner can object and cancel his consent at any time during the permit term at which point the permit will be immediately rendered null and void. A permit is further conditional upon the placement upon the mooring of the designated boat or boats only. Any attempt to moor a boat or boats other than as described in the permit shall void the mooring permit. Any attempt to moor more than one designated boat at a time shall void the mooring permit. The permit shall further be conditioned upon each mooring having at all times attached or affixed to it the authorized mooring buoy number, which will be assigned by the Village at the time the permit applied for is granted. As a condition of the permit remaining in effect, the buoy mooring number must be affixed or attached thereto at all times. The buoy mooring number will conform to the Wisconsin Marking System.

B. An applicant possessing a valid mooring permit who thereafter desires to moor a non-designated boat owned by the applicant may do so provided the boat is of equal size or smaller than the largest designated boat by filing with the Village Clerk an addendum to the application providing a full description of the new boat in compliance with Section 3.G. herein and paying the addendum fee.

SECTION 5: DEFINITIONS.

A. The definitions as set forth in Sec. 30.01, Stats., are hereby adopted and incorporated herein by reference as if the same were set forth at length herein. Any future amendment, revision or modification of the definitions incorporated herein are intended to be made a part of this subsection.

B. In response to a complaint relating to the rights of an adjacent riparian, the guidance in Wisconsin Administrative Code NR 326.07 will be used.

C. Ordinary high water mark as used herein is elevation 864.30 feet above sea level.

SECTION 6: RESTRICTIONS. No mooring permits shall be issued for any of the following:

A. Any mooring which obstructs or interferes with public rights or interests in the navigable waters.

B. Any mooring for which the riparian owner has not given written permission for the placement and use.

C. Any mooring which interferes with or encroaches upon the rights of adjacent riparian owners.

D. Any mooring which adversely affects critical or significant fish or wildlife habitat.

E. Any mooring which is determined by the Village to be a safety hazard because of its proximity to any other mooring, any properly marked and established lane, any properly marked swimming or bathing area or any structure, including any pier, raft, dock, wharf, shore station, or boat hoist.

F. Any mooring which will have more than one boat attached. Stardocks are specifically excluded as moorings.

G. Any mooring which would be in violation of or in conflict with the "Uniform Navigation Aids" rules established by the Department of Natural Resources

SECTION 7: DELEGATION OF AUTHORITY TO HARBOR COMMISSION TO ISSUE MOORING PERMITS IN ACCORDANCE WITH THE PROVISIONS OF THIS ORDINANCE. The Village Board does delegate to the Harbor Commission of the Village of Williams Bay the authority to receive applications for and issue permits for moorings in accordance with the provisions of this Ordinance. No

permit shall be granted until the Harbor Commission determines that all requirements of this Ordinance, applicable laws of the State of Wisconsin and rules and orders of the Wisconsin Department of Natural Resources have been complied with. The Harbor Commission shall state the reasons for granting or denying said permit, which shall be stated in writing and mailed by certified mail to the applicant and which shall also be stated in the minutes of the meeting. The Harbor Commission may also place restrictions or conditions on any permit so issued under this section in order to effectuate the provisions of this ordinance.

SECTION 8: APPLICATIONS FOR THE PLACEMENT OF MOORINGS MORE THAN 200 FEET FROM THE ORDINARY HIGH WATERMARK OF GENEVA LAKE. No person shall place a mooring or moorings more than 200 feet from the

ordinary high water mark of Lake Geneva within the corporate limits of the Village of Williams Bay without first obtaining a permit therefore from the Village and the Department of Natural Resources. The procedure for the issuance of such permits shall be in accordance with Section 2.B. of this Ordinance and this section:

A. Pursuant to Sec. 30.74, Wis. Stats., and the pertinent provisions of the Wisconsin Administrative Code pertaining thereto, no mooring buoy shall be installed or placed more than 200 feet from the ordinary high water mark of Geneva Lake unless a permit is first conditionally granted for the placement and use of the mooring buoy by the Village, and such conditionally granted permit is then subsequently approved by the Wisconsin Department of Natural Resources. If the Wisconsin Department of Natural Resources fails to subsequently approve such conditionally granted permit by the Village, such conditionally granted permit shall become null and void.

B. Applications for more than 200 foot buoys shall be on forms prescribed and approved by the Wisconsin Department of Natural Resources in accordance with Section 3 of this ordinance.

C. Such applications shall be initially filed with the Village and acted upon first by the village in accordance with the requirements and procedures set forth in this Ordinance as far as practicable. A copy of the permit shall, after approval by the Village, be transmitted to the Wisconsin Department of Natural Resources for its consideration and investigation. If the Village fails to approve the application and conditionally grant the permit, such application shall not be forwarded to the Wisconsin Department of Natural Resources. The Wisconsin Department of Natural Resources will only review a conditionally approved permit after favorable action by the Village.

SECTION 9: REVOCATION OF PERMIT. The Village Board may revoke a permit if the permittee's placement of a mooring buoy subsequently violates any provisions of this Ordinance or applicable laws of the State of Wisconsin or rules and orders of the Wisconsin Department of Natural Resources.

SECTION 10: APPEALS. Any persons aggrieved by a decision of the Harbor Commission of the Village of Williams Bay may appeal such decision to the Village Board of the Village of Williams Bay for final determination. The procedure for such appeals shall be as follows:

A. Within 30 days of the decision and the mailing of the letter stating the reasons for granting or denying said permit by the Harbor Commission regarding the placement of a mooring, such aggrieved applicant shall file with the Chairman of the Harbor Commission a request for a hearing on the matter. The Chairman of the Harbor Commission shall schedule a hearing of the Harbor Commission within a reasonable time of the filing of the request for same but not later than 30 days after such filing, providing reasonable notice of the date, time, and place of such hearing to the requesting applicant therefore. The Harbor Commission hearing will have as its objective the resolution of the matter. If the matter is not resolved to the satisfaction of the applicant, then all matters including the findings and reasons of the Harbor Commission shall be turned over to the Village Board for appropriate action. The Village Board will review the findings and reasons of the Harbor Commission and make a final determination with regard thereto. The Village Board may at its sole option schedule a second hearing before it to attempt to resolve the matter.

B. Any persons aggrieved by a decision of the Wisconsin Department of Natural Resources with regard to applications for buoy permits more than 200 feet from the high water mark appeal rights will be satisfied by the issuance by the Department of Natural Resources of a "Notice of Appeal Rights" substantially in the following form:

"If you wish to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to sections 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

This notice is provided pursuant to section 227.48(2), Stats."

SECTION 11: PERMIT FEE. Applications for permits and addendums to permits shall be accompanied by a non-refundable permit fee or addendum fee in the amount to be determined by the Village Board from time to time by resolution, which charge shall be sufficient to defray the costs of processing of such applications and the issuance of permits or the processing of addendums to such permits provided for in this Ordinance.

SECTION 12: PENALTY. Any person who violates any provisions of this Ordinance shall be subject to a forfeiture not to exceed \$50.00 together with costs. Each day during which a violation of this Ordinance exists shall be a separate offense.

SECTION 13: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon and after its passage, approval, and publication by the Village and approval by the Wisconsin Department of Natural Resources, as required by law.

3-20-89