

ORDINANCE NO. 34C

AN ORDINANCE TO REPEAL ORDINANCE NO. 34A AND 34B AND TO CREATE ORDINANCE NO. 34C ENTITLED: "AN ORDINANCE REGULATING BOATING AND RELATED ACTIVITIES"

BE IT ORDAINED, that ordinance No. 34A and 34B are hereby repealed and Ordinance No. 34C is hereby created, entitled "AN ORDINANCE REGULATING BOATING AND RELATED ACTIVITIES: to read as follows:

WHEREAS, it is in the interest of the public health, safety and welfare that the City of Delafield adopt local regulations concerning boating and related activities, which local regulations shall be in strict conformity with sections 30.50 through 30.71 of the Wisconsin Statutes, and in addition thereto adopt further such regulations not contrary to, or inconsistent with, Chapter 30 of the Wisconsin statutes; and it being deemed advisable that all such regulations be codified and embraced in a single ordinance; and WHEREAS, the Village of Nashotah and the City of Delafield are the only municipalities which have jurisdiction of the waters of Nagawicka Lake, and the Village of Nashotah hereby adopts Ordinance No. 29A which is identical with this ordinance;

NOW THEREFORE, the Common Council of the City of Delafield and the Village Board of the Village of Nashotah do hereby ordain as follows:

SECTION 1. Pursuant to the authority granted by Sec. 30.77 (2) and Sec. 30.79, Wis. Statutes, as created by Ch. 505, laws of 1959, said City of Delafield does hereby recreate the City of Delafield Water Safety Patrol Unit, for the purpose of enforcing ss. 30.50 to 30.80 of the statutes and any rule or ordinances enacted pursuant thereto, including this ordinance, upon the waters of Nagawicka Lake and its tributaries to which said City is riparian.

SECTION 2. The provisions of sections 30.50 through 30.71 of the Wisconsin statutes, so far as applicable, and all acts. amendatory thereof, and the rules of the Wisconsin Department of Natural Resources heretofore or hereafter enacted pursuant to such sections, so far as applicable, are hereby adopted and enacted by reference, except that nothing herein contained shall be deemed to require local numbering, registration or licensing of boats.

SECTION 3. No person shall operate any motor boat at a speed in excess of forty-five 45 miles per hour which is hereby ordained to be a speed over which a motor boat cannot be operated reasonable and prudently under the conditions and having regard for the actual and potential hazards existing on Lake Nagawicka nor shall any person operate any motor boat in any restricted area at a speed in excess of three (3) miles per hour or in excess of a speed which creates a wake, whichever is less. A restricted area within the meaning of this section is defined as any waters lying within 300 feet of a shore line and includes all channels along and in said shore line, and such other waters as shall from time to time be clearly marked as "SLOW 3 MPH" by buoy markers or other clearly discernible sign or device by authority of the police department or governing bodies of the enacting municipalities acting for the protection of persons and property on account of hazards which may from time to time arise and exist. The chief of police or any police officer acting in his absence is hereby granted the right and authority to declare certain waters restricted and to mark them as such, upon the happening of any event or circumstance which in his opinion, constitutes a hazard and renders it advisable so to restrict a water area or areas. The speed limitation contained in this section shall not apply in case of emergency, nor to patrol or rescue craft, nor to a normal and otherwise lawful starting or "picking-up" of a water skier, aquaplaner, or person engaged in a similar activity.

SECTION 4. Except for the purpose of anchoring, mooring, casting off, or other necessary purpose, no person shall operate or ride in any motor boat while the same is under way, unless such person is in a sitting or kneeling position.

SECTION 5 . No person may operate a motor boat towing a person on waterskis, aquaplane or similar device, unless there is in the boat a competent person in addition to the operator in a position to observe the progress of the person being towed. An observer is hereby ordained to` be competent if he is over the age of twelve years and can in fact observe the person being towed and is physically and mentally capable of relaying any signals to -the operator and of rendering assistance to a water skier in distress.

SECTION 6. Except for normal and otherwise lawful ingress to and egress from the shore, and except for tournaments, expositions or I instructions conducted pursuant 'to specific permit previously granted by the police department or governing body of either of the enacting municipalities, no person engaged in water skiing, aquaplaning, or similar activities, and no operator of a motor boat towing such person, shall pass within 150 feet of any bather, or swimmer, nor within the limits of any of the channels or "Kettle" of Nagawicka Lake.

SECTION 7. No person, persons or corporation shall place upon the waters of Nagawicka Lake a water ski jump or any other apparatus designed for the purpose of creating a jump for water skiers, provided however, that in the event a special water ski show or other similar event of a short duration is scheduled a permit may be granted for the duration of this event upon application to the Common Council of the City of Delafield.

SECTION 8. No person, persons or corporation shall place upon the waters of Nagawicka Lake a water ski jump or any other apparatus designed for the purpose of creating a jump for water skiers, provided however, that with the explicit permission of the Common Council of the City of Delafield, upon recommendation of the Lake Welfare Committee and approval of the Village Board of the Village of Nashotah, a jump may be placed on the lake under the following criteria:

1. Liability insurance of \$100,000 or more is obtained by the applicant for said jump and a certificate of this insurance is filed with the City of Delafield and Village of Nashotah.
2. Proper safety markings appropriately visible, appropriate for both night and daytime safety will be placed on said jump.
3. The jump shall be so constructed as to restrict its use only to the applicant, its agents, servants and employees. Use of the jump by the general public shall not be permitted.
4. The Lake Welfare Committee of the City of Delafield, in cooperation with the party requesting said jump, will establish a location for said- jump that is to be permanent for the boating season (except during times when the jump. is needed in a different location for special shows or events. Such location shall be subject to the approval of the Village of Nashotah.)
5. After the boating season, the permit for said jump will terminate. However, upon application duly made, such permit may be extended by the Common Council of the City of Delafield and the Village Board of the Village of Nashotah for each subsequent boating season upon the afore said conditions, and such new conditions as the City of Delafield and Village of Nashotah shall deem necessary.
6. The applicant shall agree to and shall subsequently execute a "Hold Harmless" agreement whereby he agrees to indemnify and hold the City of Delafield and Village of Nashotah harmless from any loss, damages, or expenses arising out of the operation of the jump or the placing of same upon Lake Nagawicka pursuant to this section.

SECTION 9. No person shall deposit, place or throw into any of the waters within the jurisdiction of the enacting municipalities, or upon any of the shores thereof, or upon any rafts or piers located on said waters or their shores, or upon the ice of such water: any cans, bottles, debris, refuse, or other. waste material.

SECTION 10. No operator, owner or person in charge of any motor boat shall permit any person in said boat to violate any of the rules and regulations pertaining to boat operation as contained in sections 30.65, 30.66, 30.68 and 30.69 of the Wisconsin Status or as contained in the previous sections of this ordinance.

SECTION 11. All of the provisions of this ordinance, including those provisions of the Wisconsin statutes enacted by reference, shall apply to the waters of Nagawicka Lake, its tributaries, bays and channels.

SECTION 12.

(a) Any person found guilty of violating any provisions of sections 30.50 -through 30.7. of the Wisconsin statutes, which are herein enacted by reference, for which a penalty is not provided by subsection (c) hereof, and any person violating any other provisions of this ordinance, shall forfeit a sum not to exceed \$50.00 plus the costs of prosecution, or on default of such payment, shall be imprisoned in the county jail for not to exceed 30 days.

(b) Any person found guilty of violating the same provision of the sections of the Wisconsin statutes enacted by reference or of this ordinance, for which a penalty is provided in subsection (a) hereof, a second or subsequent time within one year of the first violation thereof, shall forfeit a sum not to exceed \$100.00 plus the costs of prosecution, or in default of such payment, shall be imprisoned in the county jail for not to exceed 90 days.

(c) Any person found guilty of violating section 30.67 (1) or section 30.68 (1) of the Wisconsin statutes by this ordinance adopted by reference, shall forfeit a sum not to exceed \$200.00 plus the costs of prosecution, or on default of such payment, shall

be imprisoned in the county jail for not to exceed 6 months. Any person convicted of violating section 30.68 by this ordinance adopted by reference shall be required to obtain a certificate of satisfactory completion of a safety course under section 30.74 (1).

SECTION 13. Citations for violations of any provision of this ordinance and the deposits, stipulations and municipal court procedures that result therefrom shall be governed by the provisions of sections 30.76 and 66.12 of the Wisconsin statutes.

SECTION 14. Any violation of Section 8 of this ordinance shall be penalized as provided under Section 13. However each separate day that the violation occurs shall constitute a distinct separate offense. The City of Delafield and the Village of Nashotah shall in addition have the right to remove said ski jump apparatus from the waters of Nagawicka Lake upon giving ten (10) days notice to the owner or owners of said apparatus of their intention to do so.

SECTION 15. All ordinances or parts of ordinances in conflict with, or contravening, the provisions of this ordinance are hereby repealed.

SECTION 16. The several sections, paragraphs and sentences of this ordinance are hereby declared to be severable, and should any provision of this ordinance, whether or not enacted by reference to the Wisconsin statutes, be held for any reason void or otherwise unenforceable, such provision shall be deemed severable from all other provisions of this ordinance, and shall not affect the validity of the other provisions of this ordinance.

SECTION 17. This ordinance shall take effect upon its passage and publication  
8-7-74