

DNR #765

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2004-7

**AN ORDINANCE TO AMEND THE SPEED RESTRICTIONS
ON UPPER PHANTOM LAKE IN THE TOWN OF MUKWONAGO**

WHEREAS, Upper Phantom Lake is entirely within the jurisdiction of the Town of Mukwonago; and

WHEREAS, Town of Mukwonago Ordinance No. 92-5 entitled Boating Code, establishes numerous rules and regulations applicable to boating regulations in the Town of Mukwonago; and

WHEREAS, Officer Dennis Nork of the Town of Mukwonago Police Department indicates that bigger and faster boats are coming onto the lakes in the Town of Mukwonago. He indicates he has measured speeds as high as 75 miles per hour on Upper Phantom Lake. Increased boat traffic on the lake leads to congestion at times, and within the past year several incidents occurred where a speeding boat almost hit a skier; and

WHEREAS, Officer Nork recommends that speed limit regulations be adopted for Upper Phantom Lake in the Town of Mukwonago; and

WHEREAS, The Phantom Lake Association has advised that they are in favor of this amendment to impose speed limits on Upper Phantom Lake; and

WHEREAS, upon receipt of the Town of Mukwonago Police Officer Nork's recommendation in this regard, this matter was referred to the Town Board of the Town of Mukwonago who directed the Town Attorney to prepare the necessary amendments and to send the proposed amendments to the State of Wisconsin Department of Natural Resources for advisory review as described in Wisconsin Statute Section 30.77(3)(d), and 60 days have passed since the date the matter was referred to the Department of Natural Resources; and

WHEREAS, the Town Chair has received correspondence from the State of Wisconsin Department of Natural Resources dated February 5, 2004, regarding the proposed amendment. Julie Fitzgerald of the DNR has recommended that the speed limit be reduced to 40 miles per hour rather than 50 miles per hour as originally proposed and has also recommended that the ordinance modify the previously existing 10 mile per hour limitation to a slow no wake limitation, and these recommendations of the DNR have been incorporated within this ordinance; and

WHEREAS, by establishing speed limits on Upper Phantom Lake, the Town will best be able to protect the health, safety and welfare of the users of the lake, particularly taking into account the type, size, shape and depth of this lake, the amount, type and speed of the boating traffic on this lake, and the degree to which the boat traffic affects other recreational uses and the public's health, safety and welfare, including the public's interest in preserving the State's natural resources.

NOW, THEREFORE, the Town Board of the Town of Mukwonago, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The Town of Mukwonago Ordinance No. 92-5 entitled "Boating Code in the Town of Mukwonago", Section 2.06 entitled "Specific Rules for Upper Phantom Lake", subsection C entitled "Speed" is hereby repealed and recreated as follows:

C. SPEED.

1. MAXIMUM SPEED RESTRICTION. A speed limit of 40 miles per hour is established on the waters of Upper Phantom Lake. No person shall operate a boat faster than the established speed limit.
2. ADDITIONAL RESTRICTIONS FOR CERTAIN HOURS. No person shall operate a boat in excess of S-N-W (Slow-No-Wake) between the hours of 7:00 p.m. and sunset on Monday, Tuesday, Wednesday, Thursday or Friday, and between the hours of 4:00 p.m. and sunset on Saturday, Sunday and Holidays.

SECTION 2: INTENT. The intent of this ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of the water resources. This ordinance amends only the

specific section of Ordinance 92-5 of the Boating Code in the Town of Mukwonago, and all provisions of such ordinance not amended hereby shall continue in full force and effect.

SECTION 3: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 27th day of May, 2004.

TOWN OF MUKWONAGO

Dave Dubey
Dave Dubey, Town Chairperson

ATTEST:

Katherine W. Wilson
Katherine W. Wilson, Town Clerk

Published and/or posted this 28th day of May, 2004.