

ORDINANCE NO. ____

ORDINANCE CREATING REGULATIONS FOR THE PLACEMENT OF
PIERS, WHARVES, SWIMMING RAFTS, AND MOORING BUOYS IN
THE WATERS OF ROCK LAKE

THE CITY COUNCIL OF THE CITY OF LAKE MILLS, JEFFERSON COUNTY,
WISCONSIN, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 13 of Title 7 of the City of Lake Mills Municipal Code is hereby created as follows:

Chapter 13

Regulations for the Placement of Piers, Wharves, Swimming Rafts, and
Mooring Buoys in the Waters of Rock Lake

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7-13-1: **PURPOSE AND AUTHORITY:** This Chapter is adopted in the interest of public rights in navigation and in the interest of preserving the public welfare in and to the waters of Rock Lake. These interests are secured through the regulation of the location of piers, wharves, swimming rafts and moorings, and this ordinance is adopted as a joint ordinance with the Town of Lake Mills pursuant to secs. 30.13(2) and 30.772(3) of the Wisconsin Statutes.

7-13-2: **FINDINGS AND DECLARATION OF INTENT:**

- A. The near-shore zone of Rock Lake is a highly productive area that provides important biological functions for the maintenance of aquatic plants and for the feeding, breeding and other habitat needs of terrestrial and aquatic fauna.

- B. Riparian owners have the limited right to place piers and berths on the bed of Rock Lake to moor watercraft and provide access to deeper waters of the lake.
- C. Environmentally sensitive 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.
- D. Individual structures, regardless of whether they are located in environmentally sensitive areas or whether they are adequately constructed, may have a substantial adverse effect on the public interests in the waters of Rock Lake due to the cumulative effects of such construction or placement.
- E. Excessive or inappropriate construction of structures, whether or not they are located in environmentally sensitive areas, can adversely affect public rights and interests and the rights of other riparian owners.
- F. This ordinance is enacted to minimize the adverse effects of such excessive or inappropriate construction, and to minimize the cumulative effects of individual structures constructed and placed within the waters of Rock Lake.
- G. This ordinance is enacted to protect navigation and other public interests in waters of Rock Lake and to reduce conflicts between adjacent riparians 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.

7-13-3: **APPLICABILITY:** The provisions of this Ordinance shall apply to the waters of Rock Lake in the City and Town of Lake Mills, located in Jefferson County, Wisconsin, the parts, bays, waterways, and channels thereof, including the water bodies known as Marsh Lake, and the Mill Pond located in the City.

7-13-4: **DEFINITIONS:** The definitions as set forth in Section 30.01 of the Wisconsin Statutes, are incorporated herein by reference as though fully set forth herein, except as follows:

- A. "Berth" means a space at a pier, wharf, boat shelter, boat hoist, mooring or other location for one watercraft.
- B. "Environmentally Sensitive Area" means an area in which native aquatic plants are present in sufficient abundance and density to support native aquatic flora and fauna, significant spawning, seasonal or life stage habitat for fish or other aquatic life (including rare, threatened, or endangered species) or which are otherwise significant to the protection of water quality or other public interest in water and which have been delineated on a map of sensitive area designations, which is incorporated herein by reference. These areas, as shown on the map, are Schultz Bay, Korth Bay, Marsh Lake, and Mill Pond.

- C. "Historic easement holder" means an owner of an easement who is entitled to maintain a pier pursuant to Section 30.131 of the Wisconsin Statutes.
- D. "Joint Rock Lake Board" or "Board" means that committee created and empowered by separate ordinances of both the City and Town, and which is an advisory body to both entities.
- E. "Lot Frontage" means the perpendicular distance between parallel side lot lines measured at the point where the side lot lines meet the OHWM. 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, as determined in the text and appendix to Wis. Admin. Code Ch. Comm. 85.00, 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 OHWM.
- F. "Ordinary high water mark" or "OHWM" 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.
- G. "Pier" means any structure extending into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing berths for watercraft or for loading or unloading cargo or passengers onto or from watercraft.
- H. "Riparian owner" means the owner of a fee title interest in lands abutting the ordinary high water mark of a navigable water body.
- I. "Riparian zone" means the area of water adjacent to a parcel of riparian land within which the riparian owner may place permitted structures. The riparian zone is bounded by the land and the line of navigation. 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 Planner*, Wisconsin Department of Natural Resources Publication WZ-017.
- J. "Rock Lake Sensitive Area Designations Map" means the map and description delineating the environmentally sensitive areas, which is attached to the Ordinance and incorporated herein. The delineation of such areas may be amended by an ordinance map amendment adopted by both the City and Town of Lake Mills.
- K. "Watercraft" means every description of watercraft other than a seaplane on the water. Watercraft are used or capable of being used as a means of transportation on water, including sailboards, inflatable and personal watercraft (PWCs).
- L. "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 berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

7-13-5: CONSTRUCTION STANDARDS; LIMITED AUTHORIZATION FOR
CONSTRUCTION OR PLACEMENT WITHOUT A PERMIT:

- A. All riparian owners or historic easement holders who have piers, wharves, swimming rafts or mooring buoys lawfully constructed and placed within the riparian zone at the time this ordinance is adopted, or who can clearly document such placement in the season just prior to the enactment of this ordinance, shall continue to be permitted to maintain or replace materials, seasonally remove and place said structures in the water, and enjoy the same riparian rights as enjoyed prior to the enactment of this ordinance, provided said piers, wharves, swimming rafts, or mooring buoys are seasonally placed in the waters of Rock Lake in the same location and same configuration as when this ordinance was adopted. This right to continue the use of said structures or portions of said structures shall not be extinguished unless and until the structure has suffered damage requiring the replacement of over fifty percent (50%) of the structure, or unless and until three consecutive seasons of non-placement of the structure or portions of said structures has occurred.
- B. Any riparian owner or historic easement holder may construct and place within the riparian zone up to one pier or wharf, and one swimming raft, and one mooring buoy without seeking permits for the same, provided such riparian zone is not situated in the identified environmentally sensitive areas, and provided such construction, placement, location and density meet all of the standards of this section.
- C. Riparian owners or historic easement holders may construct and place piers, wharves, swimming rafts, or mooring buoys within a riparian zone that is situated in environmentally sensitive areas, provided such construction, placement, location and density are in compliance with the permit requirements of section 7-13-6, and provided a permit has been issued by the City or Town of Lake Mills, depending on where the subject riparian zone is located in reference to the municipal boundaries at the time of applying for a permit.
- D. Any riparian owner or historic easement holder may construct and place within the riparian zone, if such zone is not situated in an identified environmentally sensitive area, such piers, wharves, swimming rafts or mooring buoys that may not be in complete compliance with standards set forth in this section, provided such construction, placement, location and density is reviewed and a permit is issued under section 7-13-6 by the City or Town of Lake Mills, depending on where the subject riparian zone is located in reference to the municipal boundaries at the time of applying for a permit.
- E. Any construction, placement, location, or density of any pier, wharf, swimming raft or mooring buoy not listed in paragraphs A, B, C, or D above, shall comply with section 7-13-6.
- F. General standards for piers and wharves:
1. 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.
 2. No pier or wharf may completely enclose any portion of navigable waters.

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3. No pier or wharf may interfere with public rights in the waters or with the rights of other riparian owners.
4. All piers and wharves shall be constructed in compliance with state and federal law, specifically including Sections 30.12 and 30.13, Wis. Stats., and Ch. NR 326, Wis. Adm. Code.
5. All piers and wharves shall be removed annually before freeze up.
6. No pier or wharf may include attached lighting, signs or fuel facilities.
7. No pier or wharf shall be placed less than fifteen feet from the side boundaries of the owner's riparian zone.
8. No pier may extend more than 50 feet waterward from the OHWM, except that a pier may extend up to 100 feet waterward, if necessary, to reach a water depth of 3 feet.
9. No pier may exceed 6 feet in width, except that a pier may be constructed with an "L" or "T" or similar configuration composed of sections less than 6 feet in width, provided that the overall width of the pier including any such extensions is less than 20 feet.
10. No wharf may extend more than 10 feet waterward from the OHWM.
11. No wharf may exceed the lesser of 30 feet in width or one third of the owner's Lot Frontage.

G. General standards for swimming rafts:

1. All swimming rafts 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.
2. No swimming raft shall interfere with public rights in the waters or with the rights of other riparian owners.
3. All swimming rafts shall be constructed in compliance with state and federal law, specifically including Sections 30.12 and 30.13, Wis. Stats. and Ch. NR 326, Wis. Adm. Code.
4. All swimming rafts shall be removed annually before freeze up.
5. No swimming raft may include attached lighting, signs or fuel facilities.
6. No side of a swimming raft shall exceed 10 feet and the total surface area of a swimming raft shall not exceed 100 square feet.
7. All swimming rafts shall be properly anchored not less than 5 feet from the side boundaries of the owner's riparian zone and within 150 feet of the OHWM.

8. All swimming rafts shall be equipped with reflectors 6 inches above the waterline on each corner.

H. General standards for mooring buoys:

1. No more than one boat shall be attached to any mooring buoy.
2. All mooring buoys shall be removed annually before freeze up.
3. All mooring buoys shall be constructed in compliance with state and federal law, specifically including Section 30.772 and Ch. NR 5.09, Wis. Adm. Code.
4. No mooring buoy shall be placed in a location that interferes with public rights in the waters or the rights of other riparian owners.
5. All mooring buoys shall be properly anchored not less than 5 feet from the side boundaries of the owner's riparian zone and within 150 feet of the OHWM.
6. No mooring buoy may include attached lighting, signs or fuel facilities.

I. Construction Standards for piers, wharves, swimming rafts and mooring buoys; Construction Materials. Piers, wharves, swimming rafts and mooring buoys may be constructed of wood, metal, or other material, except that the following may not be used:

1. Materials previously used to store hazardous materials as defined in Ch. NR 181.12, Wis. Adm. Code., or any product residue or pollutant.
2. Material that is unprotected against corrosive forces.
3. Material that may readily fragment such as unprotected polystyrene or polyurethane floats.

J. Accessories to piers, wharves, swimming rafts and mooring buoys. No accessory fixtures or equipment may be attached to a pier, wharf, swimming raft or mooring buoys, except as follows:

1. A pier or wharf may include the following accessories:
 - a. A seasonal boat shelter or boat hoist in conformance with Ch. NR 326, Wis. Adm. Code;
 - b. A permanent boat shelter for which any required conditional use permit has been granted by either the City or the Town of Lake Mills, and for which a permit pursuant to Ch. NR 326, Wis. Adm. Code has been issued by the Wisconsin Department of Natural Resources and is in effect.
 - c. A single bench not to exceed 6 feet long and 4 feet high.
2. A pier, wharf or swimming raft may include a boarding ladder.

K. Location Standards:

1. No pier, wharf, mooring buoy or boatlift may be placed less than 15 feet from the side lot line of the riparian parcel from which it extends.
2. Piers and berths shall be consolidated as close together as practical at a single location for each lot.
3. Piers and berths shall be located immediately waterward from the shoreline where any boathouse or boat lift is located.

L. Density Standards:

1. The total number of berths (whether at piers, boat lifts, mooring buoys or otherwise) shall not exceed two for parcels with less than 50 feet of shoreline width. The total number of such berths shall not exceed three for parcels with at least 50 feet but less than 100 feet of shoreline width. In no case shall the number of berths on any parcel exceed four.
2. No more than one pier may be placed on a lot that is less than 100 feet in shoreline width. No more than two piers may be placed on any lot, regardless of its shoreline width.

7-13-6: PERMIT REQUIRED; EXCEPTIONS: Except as expressly authorized in either paragraph A or B of section 7-13-5, no person may locate, erect, construct or maintain a pier, wharf, swimming raft or mooring buoy, without a permit issued by the City of Lake Mills or the Town of Lake Mills, depending on the municipal boundaries in which the riparian zone is located.

A. Application and Plans. A riparian owner desiring to locate, construct or maintain a pier, wharf, swimming raft or mooring buoy in Rock Lake shall make and file a written application with the City Clerk or the Town Clerk, as appropriate. The application shall include all of the following:

1. The legal description or tax parcel number of the riparian lot or parcel from which the proposed structure is proposed.
2. The name and address of each owner of the riparian parcel.
3. The names and addresses of the owners of the adjoining riparian parcels within 200 feet of the proposed location..
4. A description of each existing and proposed pier, wharf, swimming raft or mooring buoy within the riparian zone of the parcel owned by the applicant(s) and any proposed modification of any such structure.
5. A scale drawing illustrating the dimensions and configuration of the proposed structure, the boundaries of the property, and the adjoining riparian properties, which illustrates the proposed location of the structure, the shoreline, the water depth contours, the distances from the lakeward end of the structure to any

established bulkhead line or pierhead line and the distance from the proposed structure to the property lines of adjoining riparian properties.

6. A description of the construction of the proposed structure including material and design of representative sections.
 7. Such other information concerning the proposed structure as the City or Town may request.
- B. Within thirty (30) days following receipt of a completed application under this section, the City Clerk-Treasurer or the Town Clerk shall provide notice of a public hearing on the proposed application. Notice of the public hearing shall be published as a Class 2 notice by the issuing municipality. 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, to the secretary of the Joint Rock Lake Board and to any organization or association that has filed a written request for notice with the City Clerk-Treasurer and the Town Clerk.
- C. The Joint Rock Lake Board shall conduct a public hearing at the noticed time and location and shall review the application and any supporting documentation, and any reports or comments received and made part of the record at the public hearing, which may be adjourned from time to time, provided a final recommendation of the Board is rendered within fifteen (15) days of the commencement of the public hearing. The Board shall provide the record of the public hearing and its written recommendation to either the City Clerk-Treasurer or the Town Clerk, whichever is appropriate.
- D. The City Council or Town Board shall receive and consider the written report with recommendations from the Board and the record from the public hearing. Additional information from any interested party may also be provided in person or in writing at a duly convened meeting of the Council or Town Board, provided the applicant and Board Secretary and any adjoining riparian property owners are given written notice of the contents of such additional information at least three (3) days prior to its presentation to either the Council or Town Board.
- E. The City Council or Town Board shall make findings of fact and shall render its written decision on whether to grant, deny, or conditionally grant a permit. Any conditions required as part of the permit shall be reasonably supported by information in the record, or by conditions made lawful under ch. 30 of Wis. Stats., or by conditions reasonably related to the purposes and intent of this ordinance.
1. If the permit requested is for a pier or wharf, the City Council or Town Board shall grant the permit, along with any conditions imposed under this paragraph, if it finds that the proposed pier or wharf does not conflict with sections 7-9-5-F-1, 2, 3, 4, or 7, and is in compliance with sections 7-9-5-I, J, K, and L.
 2. If the permit requested is for a swimming raft, the City Council or Town Board shall grant the permit, along with any conditions imposed under this paragraph, if it finds that the proposed swimming raft does not conflict with section 7-13-5-G-1, 2, 3, 5, 7, or 8 and is in compliance with sections 7-13-5-I, J, K, and L.
 3. If the permit requested is for a mooring buoy, the City Council or Town Board shall grant the permit, along with any conditions imposed under this paragraph, if

it finds that the proposed mooring buoy does not conflict with sections 7-13-5-H-1 or 2, and is in compliance with sections 7-13-5-I, J, K, and L.

- F. If the City or Town finds that the permit requested under E-1, 2, or 3 above does not meet the requirements of said subparagraphs, then the City Council or Town Board shall state its findings in writing and deny the permit application. Any aggrieved person may appeal the decision under this section by seeking the same under the municipal administrative procedures set forth in chapter 68 of the Wisconsin Statutes.
- G. The requirements of section 7-13-5 or 7-13-6 shall not be applicable to riparian property owned or controlled by a municipal corporation and used for seasonal rental for the mooring of watercraft or other municipally sponsored or provided purposes.

7-13-7: PERMIT AND APPEAL FEES. Each applicant for a permit and any 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 City or Town of Lake Mills.

7-13-8: REMOVAL OF UNLAWFUL CONSTRUCTION: Any pier, wharf, swimming raft or mooring buoy that is not in compliance with the requirements of this ordinance shall constitute an unlawful obstruction to navigable waters, unless a permit from the Department of Natural Resources has been granted for the same. The procedures for removal of such unlawful structures shall be as provided in sec. 30.13, Wis. Stats.

7-13-9: ENFORCEMENT; FORFEITURES: In addition to sec. 7-13-8, the municipality with jurisdiction over the pier, wharf, swimming raft or mooring buoy not in compliance with this ordinance may impose a forfeiture of up to \$50, plus court costs, for each violation, and each day of such violation may constitute a separate violation.

7-13-10: NONCONFORMING STRUCTURES A NUISANCE: Any pier, wharf, swimming raft or mooring buoy that is not in compliance with the provisions of sec. 7-13-5-A or B, or that does not have a permit, shall constitute a public nuisance.

7-13-11: OTHER REMEDIES: No provision of this ordinance is intended to prevent the City of Town of Lake Mills from seeking any other remedy available for enforcing this ordinance or any other law.

7-13-12: AMENDMENTS: This joint ordinance may be amended by majority votes of both governing bodies, or it may be repealed in its entirety, as it is applicable to any individual municipality, by the majority vote of either the City Council or the Town Board.

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7-13-13: SEVERABILITY: If any section, clause, provision, or portion of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall continue to be in effect to the extent that its applicability is not affected thereby.

Section 2. This ordinance shall become effective upon its passage and publication as provided by law.

Dated this _____ day of _____, 2001.

Dan Stevens, City Council President

Attest:

James E. Heilman, City Clerk-Treasurer

Rock Lake – Sensitive Area Designations
(based on lot numbers)

Korth Bay: from T7N R13E Section 10 Lot 43-2 & Lot 43-12 (White Oak Drive)
to T7N R13E Section 15 Lot 42-24 & Lot 42-12

Schultz Bay: from T7N R13E Section 2 Lower Rock Lake Park & Lot 33-28
to T7N R13E Section 10 Ferry Park & Lot 41-31

Marsh Lake – entire lake

Mill Pond – entire pond

