

STATE OF WISCONSIN: COUNTY OF WAUKESHA: VILLAGE AND TOWN OF MUKWONAGO

ORDINANCE NO. 88-4 #29

An ordinance to repeal and recreate the
BOATING CODE
FOR LOWER PHANTOM LAKE
in the
TOWN OF MUKWONAGO
AND THE
VILLAGE OF MUKWONAGO

AUG 1 1988

The Town Board of the Town of Mukwonago and the Village Board of the Village of Mukwonago, Waukesha County, State of Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: An ordinance to regulate the use or operation of boats the water traffic, and the water sports upon or under all waters lying within the Town of Mukwonago and the Village of Mukwonago on Lower Phantom Lake and to restrict or prohibit the use or operation of all motorized vehicles on the surfaces of the frozen waters lying within the Town of Mukwonago and to declare and impose penalties and enforce the same for any violation of such ordinance. All prior ordinances, are hereby repealed and recreated to read as follows:

LOWER PHANTOM LAKE

WHEREAS, the Town of Mukwonago and the Village of Mukwonago have within their corporate boundaries a beautiful spring fed lake known as Lower Phantom Lake; and

WHEREAS, Lower Phantom Lake is a 433 acre impoundment created and controlled by a mill dam on the Mukwonago River; and

WHEREAS, Lower Phantom Lake consists largely of marshland; and

WHEREAS, Lower Phantom Lake is heavily used, mainly by the angler and wildlife enthusiast, and its greatest attribute is as a fishery; and

WHEREAS, the Phantom Lakes Management District was given the power to protect and monitor the ecosystem, and it is their conclusion that there should be laws that govern the use of the lake.

THEREFORE, the Town of Mukwonago and the Village of Mukwonago, in the best interest of the public health, safety, and welfare, deems it necessary that special regulations be adopted to protect life, property, and environmental quality of Lower Phantom Lake.

CHAPTER 2

BOATING CODE

- 2.11 APPLICABILITY
- 2.12 STATE BOATING AND WATER SAFETY LAWS ADOPTED
- 2.13 DEFINITIONS
- 2.14 GENERAL RULES FOR ALL WATERS
- 2.15 SPECIFIC RULES FOR LOWER PHANTOM LAKE
- 2.16 PENALTY
- 2.17 ENFORCEMENT

2.11 APPLICABILITY

The provisions of this ordinance shall apply to the waters of Lower Phantom Lake, within the jurisdiction of the Town of Mukwonago and, the Village of Mukwonago. The provisions of this ordinance shall be enforced by the officers of the Water Safety Patrol Unit and police of the jurisdiction of the Town of Mukwonago.

2.12 STATE BOATING AND WATER SAFETY LAWS ADOPTED

Except as otherwise specifically provided in this ordinance, the current and future statutory provisions describing and defining regulations with respect to water traffic, boats, boating, and related water activities in CHAPTERS 30.29, 30.50 up to and including 30.71, and 30.81 of the WISCONSIN STATUTES, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this ordinance. Any future additions, amendments, revisions, or modifications of the statutes incorporated herein are intended to be made part of this ordinance in order to secure uniform state-wide regulation of the waterways of the state.

2.13 DEFINITIONS

- A. **BOAT:** or vessel means every description of watercraft other than a seaplane on the water, used or capable of being used as a means of transportation on water including sailboards and inflatables.
- B. **DESIGNATED ANCHORAGES:** an area of water established and marked as an anchorage by lawful authority.
- C. **MOTORBOAT:** means any boat equipped with propulsion machinery whether in use or not.
- D. **MOTOR VEHICLE:** shall be construed to mean any kind of device or thing designed or utilized for propulsion or movement using a motor, whether internal combustion design or not, and includes all vehicles which are of any type or kind in any way self-propelled, but is not limited to any automobile, mini-bike, go-cart, trail bike, all-terrain vehicle, motorcycle, mo-ped, jeep, motor truck, or snowmobile.
- E. **OPERATE:** or use when used in reference to a motorboat or vessel means to navigate or employ.

- F. OPERATE: or use when used in reference to a motor vehicle means to drive or be in actual physical control of a motor vehicle.
- G. PUBLIC ACCESS: any access to the water by means of public property.
- H. SHORE ZONE: all surface water within 100 feet of any shore.
- I. SLOW-NO-WAKE: means that speed at which a boat moves as slowly as possible while still maintaining steerage control.
- J. SWIMMING ZONE: an authorized area marked by regulatory markers to designate a swimming area.
- K. WATERSKIING: the use of waterskis, surfboard, innertube, or any similar device while being towed.

2.14 GENERAL RULES FOR ALL WATERS

A. RACING PROHIBITED

No person shall operate a motorboat in a race or speed contest with any other motorboat except as provided in properly regulated races, regattas, sporting events, and exhibitions authorized by the Town Board and Village Board.

B. SWIMMING REGULATIONS

1. SWIMMING FROM BOAT. No person shall swim from any unmanned boat unless such boat is anchored.
2. DISTANCE FROM SHORE OR RAFT. Unless in a designated swimming zone no person shall swim more than 150 feet from shore or more than 50 feet from a diving raft unless accompanied by a boat for the protection of the swimmer and as an aid to other boats in determining the location of the swimmer, and such swimmer shall not be more than 50 feet from the accompanying boat.
3. HOURS LIMITED. No person shall swim more than 150 feet from the shoreline between sunset and sunrise.
4. SWIMMING ZONES. The Town Board and Village Board may, by resolution, designate swimming areas and cause such areas to be appropriately marked. Both governing bodies must approve said areas.

B. WATERSKIING

The Town Board and Village Board prohibit waterskiing or towing a waterskier during the following hours:

- No waterskiing any day before 10:00 A.M.
- No waterskiing after 7:00 P.M. on Monday, Tuesday, Wednesday, Thursday or Friday.
- No waterskiing after 4:00 P.M. on Saturday, Sunday, or holidays.

C. AQUA-PLANES AND PARA-SAILING

Aqua-planing and para-sailing are not allowed at any time on Lower Phantom Lake

2.16 PENALTY

A. STATE BOATING AND WATER SAFETY LAWS AND ALL OTHER VIOLATIONS AS SET FORTH IN SECTION 2.12 OF THIS ORDINANCE

Any forfeiture for violation of the State Statutes adopted by reference in Section 2.12 of this ordinance shall conform to the forfeiture permitted to be imposed for violation of such statutes as set forth in the Uniform Wisconsin Deposit and Bail Schedule for Conservation, Boating, Snowmobile, and ATV Violations, including any variations or increases for subsequent offenses, which schedule is adopted by reference.

B. LOCAL BOATING LAWS AS SET FORTH IN SECTION 2.14 AND 2.15 OF THIS ORDINANCE

1. GENERAL PROVISIONS. Any person 16 years or older violating the provisions of this ordinance shall be subject to a forfeiture of not more than \$500.00 plus court costs and penalty assessment. Failure to pay any forfeiture hereunder shall subject the violator to imprisonment in the County Jail until full payment is made but not to exceed 90 days.

Any persons 14 or 15 years of age shall be subject to a forfeiture of not less than \$10.00 nor more than \$25.00 plus court costs and penalty assessment per each offense or referred to the proper authorities as provided in Chapter 48, Wisconsin Statutes. Failure to pay any forfeiture hereunder shall subject the violator to the provisions of Section 48.17(2), Wisconsin Statutes.

Any person under the age of 14 shall be referred to the proper authorities as provided in Chapter 48, Wisconsin Statutes.

2. DEPOSIT SCHEDULE

2.12 Applicable sections of Uniform Wisconsin Deposit and Bail Schedule for Conservation, Boating, Snowmobile, and ATV Violations.

2.14(A)	\$50.00 plus court costs and penalty assessment.
2.14(B)(1)	\$50.00 plus court costs and penalty assessment.
2.14(B)(2)	\$50.00 plus court costs and penalty assessment.
2.14(B)(3)	\$50.00 plus court costs and penalty assessment.
2.14(C)	\$50.00 plus court costs and penalty assessment.
2.14(D)	\$50.00 plus court costs and penalty assessment. (except metal and glass).
2.14(D)	\$100.00 plus court costs and penalty assessment (metal and glass only).
2.14(E)	\$50.00 plus court costs and penalty assessment.
2.14(F)	\$50.00 plus court costs and penalty assessment.
2.15	\$50.00 plus court costs and penalty assessment.

3. DEPOSIT FOR REPEAT OFFENSES

Any person found guilty of violating this ordinance or any part thereof who was previously convicted of the same section within the last year shall forfeit twice the deposit delineated above plus court costs and penalty assessment.

4. NON-SCHEDULED DEPOSIT

If a deposit schedule has not been established for a specific violation, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted hereunder.

2.17 ENFORCEMENT

A. ENFORCEMENT PROCEDURE

The statutory provisions of sections 66.115, 66.119, 66.12, 30.29, 30.50 to 30.71, and Chapter 199, Wisconsin Statutes, are adopted and by reference made a part of this Ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required of prohibited by this Ordinance. Any future amendments, revisions, or modifications of the statutes incorporated herein are intended to be made part of this Ordinance in order to secure uniform state-wide regulation and enforcement of boating ordinance violations. Further, the Town of Mukwonago and Village of Mukwonago specifically elects to use the citation method of enforcement.

B. DEPOSITS

1. SCHEDULE OF DEPOSITS

The schedule of cash deposits shall be as set forth in Section 2.16 of this Ordinance. Also included in the cash deposit will be a current penalty assessment fee and the current court costs if applicable.

2. DEPOSITORY

Deposits should be made in cash, money order, or certified check to the clerk of Circuit Court of Waukesha County, who shall issue a receipt therefore as required by Wisconsin Statute. If the deposit is mailed, the signed statement required by Wisconsin Statute shall be mailed with the deposit.

C. ISSUANCE OF CITATIONS

All sections of this Ordinance shall be enforced by a Town police officer or lake patrol officer.

D. NONEXCLUSIVITY

1. OTHER ORDINANCES

Adoption of this Ordinance does not preclude the Town Board or Village Board from adopting any other Ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

2. OTHER REMEDIES

The issuance of a citation hereunder shall not preclude the Town Board or Village Board or any authorized office from proceedings under any other Ordinance of Law or by any other enforcement method to enforce any Ordinance, regulation, or order.

SECTION 2: The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or non-enforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and not affect the validity of all other provisions, sections, or portions

thereof of the ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions or this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and adopted this 11th day of July, 1988.

BY ORDER OF THE BOARD OF THE TOWN OF
MUKWONAGO, WAUKESHA COUNTY, WISCONSIN

John G. Maher
John G. Maher, Town Chairman

ATTEST:

Estelle L. Jost
Estelle L. Jost, Town Clerk

Published or posted on the 25th day of July, 1988.
