

**TOWNSHIP OF HENRIETTA
COUNTY OF JACKSON, MICHIGAN
PROVISION FOR SHORELINE PROTECTION STRIPS
LAKE BOAT AND DOCK ORDINANCE**

ORDINANCE # 21

ADOPTED JULY 11, 1988
EFFECTIVE AUGUST 4, 1988
AMENDED FEBRUARY 28, 2002
REVISED MARCH 9, 2005

At a regular meeting of the Township Board of the Township of Henrietta, Jackson County, Michigan, held in the Township Hall located at 11120 Musbach Road within the Township on the ninth day of March, 2005 at 7:30 p.m.

Members present: Byerly, Dodge, Faist, Keene and Bamm.

Members absent: None

Whereas, Pleasant Lake, Batteese Lake and White Lake lie within Henrietta Township in Jackson County.

Whereas, Henrietta Township has adopted an ordinance regulating certain activities upon and related to Pleasant Lake, Batteese Lake and White Lake.

Whereas, it is important to provide uniformity of uses upon Pleasant Lake, Batteese Lake and White Lake within Henrietta Township.

Therefore, It was moved by _____ and supported by _____ that the following Ordinance be adopted:

ORDINANCE #21

WITH RESPECT TO PLEASANT LAKE, BATTEESE LAKE
AND WHITE LAKE, AN ORDINANCE TO REGULATE THE
NUMBER AND PLACEMENT OF DOCKS, TO REGULATE
DOCKING, MOORING AND LAUNCHING OF
WATERCRAFT AND OTHER MATTERS AND TO PROVIDE
PENALTIES FOR THE VIOLATION OF THESE
REGULATIONS.

THE TOWNSHIP OF HENRIETTA ORDAINS:

ARTICLE 1. Intent, Purpose and Short Title.

SECTION 1.1 INTENT AND PURPOSE. The Henrietta Township Board recognizes and concludes that the proper and safe use of Pleasant Lake, Batteese Lake and White Lake (“Lakes”) in Henrietta Township (“Township”) is desirable to retain and maintain the physical, ecological, cultural and aesthetic characteristics of the Lakes, their shorelines and the rights of riparian owners and users as well as the Township as a whole, and to promote the public health, safety and welfare of all persons making use of the Lakes within the Township and properties adjacent to the Lakes in the Township. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for watercraft, dock and raft usage, with respect to the Lakes in the Township.

SECTION 1.2 SHORT TITLE. This Ordinance shall be known and may be cited and referred to as the “Henrietta Township Provision for Shoreland Protect Strips, Lake Boat and Dock Ordinance”, and shall hereinafter be referred to as the “Ordinance”.

ARTICLE 2. Scope and Application.

SECTION 2.1 MINIMUM STANDARDS. The terms and provisions of this Ordinance shall be interpreted and applied as minimum standards and requirements for the promotion and protection of the public health, safety and welfare, and for the public peace and preservation of natural resources and public and private property within the Township.

SECTION 2.2 INTERPRETATION. This Ordinance is intended to supplement other laws and ordinances. If this Ordinance imposes more stringent requirements than other ordinances, the provisions of this Ordinance shall govern, except as otherwise herein provided.

SECTION 2.3 APPLICATION TO PLANNED UNIT DEVELOPMENTS. The provisions of this Ordinance cannot be overridden in or by an approved Planned Development under the Henrietta Township Zoning Ordinance.

ARTICLE 3. Definitions.

SECTION 3.1 For the purposes of this Ordinance:

- (a) “Beached” or “Beaching” means placing or securing a watercraft on or adjacent to the shore of a separate frontage on the Lake.
- (b) “Boat Cradle” and “shore station” means a device for the purpose of mooring, anchoring or holding a watercraft in, on or above the water in the Lake.
- (c) “Dock” means a structure, platform or fixture extending from the shore or bottomlands into the Lake.
- (d) “Docked” or “docking” means the anchoring, tethering, or mooring of a watercraft directly to a pier, structure, platform, pole, anchor or dock; and also means the placement of a watercraft in an off-shore boat cradle or shore

station, or the regular or overnight beaching of a watercraft or anchoring or tethering to the bottomlands of the Lake.

- (e) “Mooring” means a space for a single watercraft at or adjacent to a dock, in an offshore boat cradle or shore station, or a beaching location.
- (f) “Normal highwater mark” means the normal high water mark of the Lake as determined by the Department of Natural Resources (or successor), or if the Department has not made such a finding, the normal high water mark location shall be determined by a licensed engineer. The measurement shall be made only along a natural shoreline, and shall not include any manmade channel, lagoon, canal or the like.
- (g) “Person” means a human being, partnership, corporation, association (including a condominium association), and any other entity to which the law provides or imposes rights or responsibilities.
- (h) “Personal watercraft” shall have the same meaning given to that term under Part 802 of the Natural Resources and Environmental Protection Act, MCL
- (i) “Separate frontage” means that portion of a lot or parcel of land lawfully existing on documentation recorded with the Jackson County Register of Deeds, which abuts or intersects with the normal highwater mark of the Lake, whether such lot or parcel is owned by one or more persons, is commonly owned by several persons or combinations of persons, or occupied by a multiple-unit residential development.
- (j) “Watercraft” means any boat, pontoon boat, hydrofoil, hovercraft, jet ski, personal watercraft, jet boat, or similar vessel having a propulsion system of six (6) horsepower or more, or sailboat over twelve (12) feet in length, but does not include canoes, kayaks, paddle boats, rowboats (without an engine) or other human-powered craft or sailboards.
- (k) “Lake” or “Lakes” means Pleasant Lake, Batteese Lake and White Lake within Henrietta Township.

ARTICLE 4. General Regulations.

SECTION 4.1 NUMBER OF WATERCRAFT. Except as otherwise permitted by Section 4.3, not more than four (4) watercraft shall be launched from or for each separate frontage, nor shall more than four (4) watercraft be utilized, docked, moored, beached, or kept at, on, or adjacent to each separate frontage.

SECTION 4.2 NUMBER OF DOCKS. Except as otherwise permitted by Section 4.3, no more than one (1) dock shall be allowed, used, or installed for each platted lot or parcel meeting all legal minimum water frontage, area and width requirements imposed by the Henrietta Township Zoning Ordinance for the zoning district in which the lot or parcel is located.

SECTION 4.3 ADDITIONAL WATERCRAFT AND DOCKS.

- (a) Where a separate frontage contains more than eighty (80) feet of continuous frontage on the Lake (as measured along the water’s edge at the normal highwater mark of the lot or parcel), one (1) additional dock shall be allowed

and four (4) additional watercraft may be launched and/or docked for each full eighty (80) feet of continuous water frontage in excess of the initial eighty (80) feet of separate frontage. No additional docks or watercraft shall be allowed for additional frontage measuring less than a full eighty (80) feet. If a separate frontage is located within a zoning district under the Henrietta Township Zoning Ordinance where the minimum lot width requirement is greater than eighty (80) feet, the minimum continuous water frontage in this subsection (a) shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located.

(b) Where more than one (1) dock is permitted for a separate frontage, the docks shall be separated by a minimum of thirty-five (35) feet.

SECTION 4.4 RAFT AND DOCK OWNERSHIP IDENTIFICATION. The owners of a raft, dock or swimming platform shall place a sign or placard on such item that conspicuously identifies the current Lake property address of the owner(s).

ARTICLE 5. Safety Regulations.

SECTION 5.1 PERMANENT DOCKS PROHIBITED. Permanent docks, shore stations, boat cradles and rafts are prohibited. All docks, shore stations, boat cradles and rafts shall be completely removed from the Lake before December 15 of each year and may not be reinstalled before the following March 15.

SECTION 5.2 DOCK REPAIR. All docks, shore stations, boat cradles and rafts shall be kept in good repair. Good repair means free from defects which might cause a hazard to persons or watercraft and free from defects which may result in interference with navigation of watercraft in lakes.

SECTION 5.3 SIZE AND LOCATION RESTRICTIONS. Floating rafts, trampolines, floats, ski jumps, or platforms with an exposed surface area exceeding eighty-five (85) square feet shall not be anchored, placed, or used in the Lake. Docks, floating rafts, trampolines, floats, ski jumps, or platforms shall not be located in the Lake so as to impede navigation or present a safety hazard to watercraft. No person shall install or maintain a dock or anchor a raft, ski jump, trampoline, float, or platform except on bottomlands owned by that person.

SECTION 5.4 MOORAGE. A watercraft or other boat may only be moored or anchored overnight in the Lake if it is moored or anchored adjacent to a dock, boat cradle or shore station which complies with this Ordinance.

SECTION 5.5 DOCK LOCATION. No dock shall be placed or maintained in a location where it can present a hazard to navigation, or create a risk that watercraft will run aground while attempting to moor at the dock.

SECTION 5.6 DOCK WIDTH. All docks shall have a minimum width of two and one-half (2 ½) feet, but shall not exceed a maximum width of six (6) feet. "T" or "L" sections may

be used, however, the “T” or “L” section shall not extend laterally a distance of more than twenty (20) feet.

SECTION 5.7 DOCK LENGTH. No dock shall extend more than seventy-five (75) feet into the Lake, measured perpendicularly from the shoreline, unless necessary to reach water with a depth of three (3) feet, and then no further than necessary to reach such depth.

SECTION 5.8 SETBACK REQUIREMENTS. No dock shall be placed within ten (10) feet of the side lot lines of a lot or parcel as extended to the center of the Lake.

- (a) No shore station or boat cradle shall be located within two (2) feet of a side lot line as so extended to the center of the Lake.
- (b) No watercraft or other boat shall be launched, stored, moored or docked within two (2) feet of the side lot lines of a property as extended to the center of the Lake.

SECTION 5.9 COMMON DOCKS. Two (2) adjoining lots or parcels which have frontage directly on the Lake may share one (1) common dock, which may be located on the common boundary line of the two (2) lots or parcels or within ten (10) feet thereof, with no more than eight (8) moorings being utilized in total for both parcels if the Safety board of Appeals determines that the common dock is safe and consistent with free navigability and approves the same in writing. No other docks shall be allowed for the two (2) lots or parcels except the approved one (1) common dock.

SECTION 5.10 PUBLIC LANDS. Any land, easement, lake access property, or park under the ownership, possession or control of the Township or any governmental agency or unit having access to or frontage on the Lake shall be fully subject to the provisions of this Ordinance.

SECTION 5.11 PARKS, EASEMENTS, AND COMMON AREAS. No dock or mooring for watercraft (or any boat) shall be located at or on any right-of-way, park, road, common area, alley, dedicated walkway, or easement (or bottomlands thereof) which abuts or terminates at the Lake, nor shall any watercraft, boat, canoe, kayak, paddle boat, rowboat, or similar vessel be anchored, moored, beached, or stored at or on any such park, right-of-way, common area, road, dedicated walkway, or easement (or bottomlands thereof).

- (a) This Section 5.11 shall apply whether the right-of-way, easement, park, road, common area, alley, or dedicated walkway is public or private.
- (b) Exception. If lots or parcels front on a road right-of-way, easement, or similar way which runs along and parallel to the shoreline of the Lake and such abutting lots or parcels are deemed to be riparian pursuant to Michigan law, then each individual lot or parcel so deemed to be a riparian property under Michigan law shall be considered a “separate frontage” for purposes of this Ordinance as to each such parcel or lot’s portion of the right-so-way, easement, or other way involved, and this Section 5.11 shall not apply to each such separate frontage.

SECTION 5.12 BOAT STORAGE DEVICE DESIGN REQUIREMENTS. Each boat cradle and shorestation used in conjunction with the Lake shall meet all of the following requirements, in addition to the other requirements of this Ordinance.

- (a) It shall not have a rigid roof and walls;
- (b) It shall not have “tracks” or appurtenances extending onto dry land;
- (c) All Portions of the device shall be located lakeside of the shoreline when in use during the boating season;
- (d) It shall be designed for not more than one (1) watercraft, except for those designed for person watercraft which may hold no more than two (2) personal watercraft; and
- (e) It shall be designed so that watercraft are removed from the water and are stored above the water.

SECTION 5.13 CHANNELS AND CANALS. No watercraft, boat, canoe, rowboat, sailboat, or similar item shall be launched from or utilized in or from any canal or channel or any property abutting a channel or canal which has no other Lake frontage. Furthermore, no dock or mooring shall be allowed, used, or installed along any channel or canal or any property abutting any channel or canal. This Section 5.13 shall not apply to any channel or canal which lawfully existed prior to March 9, 2005, nor to any properties which abutted or fronted on any such channel or canal lawfully in existence prior to that date.

SECTION 5.14 SINGLE FAMILY USAGE ONLY. For all properties with frontage on the Lake in any residential or agricultural zone district under the Henrietta Township Zoning Ordinance, as amended, only boats or watercraft owned by the owner of the Lake property involved may be moored, beached, docked, or stored on that property (or the bottomlands thereof) overnight.

ARTICLE 6. Existing Watercraft and Dock Activity.

SECTION 6.1 LOTS OF RECORD. A Lot of Record includes a lot or parcel that was platted or otherwise lawfully of record prior to the effective date of this Ordinance.

SECTION 6.2 APPLICATION OF ORDINANCE TO LOTS OF RECORD. Lots of record having separate frontage measuring less than eighty (80) continuous feet (or the minimum frontage required in the zone district involved if such requirement is over 80 feet) are permitted to have not more than four (4) watercraft launched, docked, moored or beached from their separate frontage and are permitted to have not more than one (1) dock on their separate frontage. Lots of record must comply with all other provisions of this Ordinance, except as otherwise allowed by Section 6.3, below.

SECTION 6.3 CONTINUATION OF LAWFUL EXISTING USES. The lawful mooring, docking, or launching of watercraft or boats or usage of docks, shorestations, boat cradles, or rafts on or from a particular lot, parcel, or separate frontage occurring prior to the date of adoption of this Ordinance shall be permitted to continuum without change. However, any

change, alteration, or expansion of such prior usage which occurs after the date this Ordinance becomes effective shall fully comply with the provisions of this Ordinance. For purposes of this Section 6.3, normal maintenance and repair of docks due to normal wear and tear shall not be deemed a change, alteration, or expansion of prior usage. The burden of asserting a defense under this Section 6.3 is on the property owner who asserts a lawful existing use. The Board of Safety Appeals mentioned below may hear and decide appeals regarding the existence or expansion of any lawful existing uses under this Section 6.3. The Board of Safety Appeals shall not decide any such appeal until after it has held an informational hearing pursuant to Section 7.5 of this Ordinance.

ARTICLE 7. Variances and Modifications.

SECTION 7.1 BOARD OF SAFETY APPEALS. The Township Board shall appoint a five (5) member Township Board of Safety Appeals (“Board”) for purposes of this Ordinance. Not more than two (2) members shall reside at or own property fronting on the Lake with the Township. The remaining members shall be made up of other residents who may be members of the Township Board or Planning Commission or Zoning Board of Appeals. Members shall be appointed for terms of three (3) years.

SECTION 7.2 POWERS. The Board may interpret the provisions of this Ordinance if questions arise and may approve modifications to particular provisions of this Ordinance for a given case if it determines that the literal enforcement of this Ordinance would cause undue hardship in a given case or circumstance.

SECTION 7.3 STANDARDS FOR VARIANCE. The Board shall not grant a variance to any provision of this Ordinance unless the Board makes all of the following findings:

- (a) That the enforcement of this Ordinance would unnecessarily prevent the reasonable use of the land or watercraft involved without resulting benefit to the public health, safety and welfare of persons or property;
- (b) That granting a variance to the provisions of this Ordinance for the particular instance would not unduly prevent the realization of the purposes of this Ordinance;
- (c) That granting a variance to the provisions of this Ordinance for the particular instance would not cause substantial harm or detriment to adjacent or nearby lands or watercraft or the public interest or safety, or be contrary to the intent or purposes of this Ordinance; and
- (d) That exceptional or extraordinary circumstances or conditions are involved.

SECTION 7.4 VARIANCE. Upon the making of the findings set forth above, the Board may grant a variance to a particular provision or provisions of this Ordinance for a given property. The Board may grant a variance to a provision of this Ordinance only upon a concurring vote of at least four (4) of its members. In granting any such variance, the Board shall include in its minutes the reasons or grounds for its decision. The Board may attach reasonable conditions to the granting of a variance.

SECTION 7.5 INFORMATIONAL HEARING. A variance application shall be considered only at a duly held meeting of the Board. At least ten (10) days before the meeting, written notification that an application will be reviewed shall be sent to all property owners within three hundred (300) feet of the property for which the variance is being sought. The Township shall also give at least ten (10) days' prior written notice of such hearing to any lake or property owners' association for the Lake involved if such association has provided its address to the Township beforehand. Notice shall be provided to the required parties through delivery via first-class mail. Failure to give or receive such notice shall not affect the validity of the Board's proceedings.

SECTION 7.6 FEES. The Township Board may set fees from time-to-time by resolution for applications hereunder.

ARTICLE 8. Penalties and Enforcement.

SECTION 8.1 PENALTY. Violation of this Ordinance is a civil infraction, for which the fines shall be not less than One Hundred Dollars (\$100) or more than Five Hundred Dollars (\$500) for the first offense and not less than Two Hundred Dollars (\$200) nor more than Two Thousand Five Hundred Dollars (\$2500) for subsequent offenses, in the discretion of the Court, and in addition to all of the costs, damages and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within twelve (12) months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one (1) week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

SECTION 8.2 INJUNCTION. Any violation of this Ordinance is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Section 8.1 above, the Township or any Township resident, upon submission of a written complaint, may institute an appropriate action in a court of general jurisdiction seeking injunctive or equitable relief.

SECTION 8.3 ENFORCEMENT AND ADMINISTRATION. This Ordinance shall be enforced and administered by the Township Ordinance Enforcement Official, or such other Township official as may be designated from time to time by resolution by the Township Board.

ARTICLE 9. Severability and Interpretation.

SECTION 9.1 SEVERABILITY. In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

SECTION 9.2 INTERPRETATION. This Ordinance shall not affect, nor be interpreted to affect, any body of water within the Township other than Pleasant Lake, Batteese Lake or White Lake.

ARTICLE 10. Effective Date.

SECTION 10.1 EFFECTIVE DATE. The provisions of Ordinance #21 shall take effect thirty (30) day from the date of publication of the Ordinance or a summary of its provisions in accordance with law.

AYES:

NAYS:

ABSTAIN/ABSENT:

ORDINANCE DECLARED ADOPTED.

Sally J. Keene
Henrietta Township Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of Ordinance #21 adopted by the Township Board of the Township of Henrietta at a regular meeting held on March 9, 2005, pursuant to the required statutory procedures, and that a summary of the Ordinance was published in the Jackson Citizen Patriot on .

Sally J. Keene
Henrietta Township Clerk