

Reference Ordinance 111.803

53.000

**RIPARIAN WATERFRONT LOT USE REGULATIONS
KEYHOLE OR FUNNEL WATERFRONT ACCESS**

53.001

INTENT: It is the intent of this ordinance to promote the integrity of the lakes and waterways within Porter Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes and waterways by discouraging excess use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes and waterways and to maintain the natural beauty of the lakes and waterways by minimizing man-made adjustments to the established shorelines.

53.002

REGULATIONS: In any zoning district where a parcel of land is contiguous to a lake or waterway, such parcel of land may be used as Access Property or as common open space by the general public; or by a subdivision, association or any similar agency; or by virtue of the terms of a plat of record; or deed provision of record; or by two or more dwelling units located away from the waterfront, only if the following conditions are met.

(A) That said parcel of land must (a) contain a minimum of 7,000 square feet; and (b) contain a minimum of fifty (50) lineal feet of water frontage for each individual dwelling unit or each single family unit to which such privileges are extended or dedicated, provided however, that this subsection A (b) of this Section II does not apply to public parks or public access sites owned, provided and maintained by any unit of state, county, or local government; and (c) have a minimum depth of a least one-hundred forty (140) feet; and (d) contain at least two hundred (200) feet of water frontage. Water frontage shall be measured by a straight line, which intersects each side lot line at the water's edge. Depth shall be measured as the average of three (3) points (each side lot line and the center of said parcel), by a straight line from the high water mark to the road right of way.

(B) That in no event shall water frontage of each parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be wetland by the Michigan DNR; and that in no event shall a swamp, marsh, or bog be altered by dredging, the addition of earth or fill material or by the drainage of water which has the effect of increasing the water frontage required by this regulation.

(C) That in no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.

(D) That Access Property, as provided for in, and meeting the conditions of, this ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or structure(s), or for any commercial or business use; and no structures or improvements, including, but not limited to paving, septic or other toilet facilities may be constructed, installed, or expanded or altered on such Access

Property unless consistent with zoning requirements for the zoning district classification in which such Access Property is located.

(E) That piers or docks on such Access Property shall not be closer than fifty (50) feet from another pier or dock, nor longer than the average length of the four (4) adjacent residential lot piers, or docks two(2) in each direction on either side of the Access Property at the time this ordinance is adopted.

53.003 NONCONFORMING USES: In any district in which Access Property has been established before the effective date of this ordinance, such Access Property shall retain historic uses to the extent otherwise lawful with the following exceptions;

(A)Undeveloped Deeded lots shall not be used as Access Property, except strictly in accordance with express provisions in a deed first creating such Access Property and recorded before the effective date of this ordinance.; piers or docking stations (e.g. boat lifts) will be permitted on or from (including on submerged bottomland) such Access Property only strictly in accordance with express provisions in a deed first creating such Access Property and recorded before the effective date of this ordinance

(B)Developed deeded lots at the time this ordinance is adopted shall be permitted historic use but must comply to the pier length and distances as outlined in Section II E of this ordinance. Existing docking stations (e.g., boat lifts) will be permitted prior to the adopted date of this ordinance. With the adopted date of this ordinance no new docking stations (e.g., boat lifts) will be permitted, except strictly in with express provisions in a deed first creating such Access Property and recorded before the effective date of this ordinance. It is the intent of this ordinance to permit such lawful non- conformance to continue, with the above stated exceptions, but no to encourage additional uses and Access Property.

(C)This ordinance does not authorize any uses, which were not lawful before the date of this ordinance, or nor does this ordinance prevent any person or governmental body from contesting or otherwise taking action regarding any uses, which before the date of this ordinance were not lawful.

53.004 SEVERABILITY CLAUSE: Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or part thereof other than the part so declared to be unconstitutional or invalid.

53.005 DEFINITIONS

(A) “Access Property” shall mean a property, parcel, or lot abutting a lake or waterway, and used or intended to be used, for providing access to a lake or waterway by pedestrian or vehicular traffic to and from off-shore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

(B) “Undeveloped Deeded Lots” means property intended to be used as access property but not being used as access property prior to and at the time this ordinance is adopted.

(C) “Developed Deeded Lots” means property used as access property prior to and at the time this ordinance is adopted.

53.006

ADMINISTRATION AND ENFORCEMENT OF ORDINANCE

(A)Whenever any violation shall be found, seen or brought to the attention of the Enforcement Officer, the Enforcement Officer, or his authorized representative, shall attempt initial informal contact(s) to correct the violation, but if not successful or if the violation is not corrected or exists again on another occasion, shall serve a written Notice of Violation thereof ordering the abatement or removal thereof within fifteen (15) calendar days at his/her expense and appear at the Township Office within fourteen (14) days and pay the scheduled fine.

(B)All fines and enforcement procedures required by this ordinance shall be subject to the procedures outlined in the Township Decriminalization Ordinance, Ordinance number 27 as was adopted June 9, 1998 and amended May 11, 1999.

53.007

ADOPTION DATE This Ordinance is hereby declared to have been adopted by the Township Board of the Township Board of the Township of Porter, Cass County, Michigan at a meeting held on the 11th day of June, A.D., 2002; and this ordinance is ordered to be published by law.