

PORTER TOWNSHIP
CASS COUNTY, MICHIGAN

PART 55

ENVIRONMENTAL PROTECTION
DOCK REGULATION ORDINANCE

ORDINANCE NO: 05-09

ADOPTED 05/09/2017

EFFECTIVE 06/12/2017

An ordinance to add Part 55 “Dock Regulations on Birch Lake Ordinance” to the Porter Township code of Ordinances addressing and regulating the docking of boats on Birch Lake in the township, to provide definitions pertinent thereto: to address safety regulations; to provide for the continuation of existing waterfront and docking activity under certain circumstances; to provide a savings clause; to provide and effective date; and to repeal all conflicting ordinances and ordinance provisions

**PORTER TOWNSHIP
CASS COUNTY, MICHIGAN**

ORDAINS:

Section I
Addition of Part 55 “Dock Regulations on Birch Lake Ordinance”
Section 50 “Environmental Protection” of the
Porter Township Code of Ordinances.

A new part 55 entitled “Dock Regulations on Birch Lake Ordinance” is hereby added to Section 50 “Environmental Regulations” of the Porter Township Code of Ordinances to read as follows:

ENVIRONMENTAL PROTECTION
PART 55
DOCK REGULATIONS ON BIRCH LAKE ORDINANCE

111.315 Dock Regulations.

a) **Intent and Purpose**

- 1) INTENT AND PURPOSE. The Porter Township Board recognizes and concludes that the proper and safe use of water resources in Porter Township ("Township") is desirable to retain and maintain the physical, ecological,

cultural and aesthetic characteristics of Birch Lake in the Township, to preserve and protect the quality and safety of the lakes and 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 Birch Lake within the Township and properties adjacent to such lake. It has further been recognized that the lack of regulation shall result in a nuisance condition and an impairment of these important and irreplaceable natural resources of the township, and shall further result in the destruction of property values and threaten the public health, safety and welfare of all persons making use of Birch Lake and properties adjacent to Birch Lake. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for watercraft, dock and raft usage in Birch Lake.

- 2) **SHORT TITLE.** This Ordinance shall be known and may be cited and referred to as the “Porter Township Regulations on Birch Lake Ordinance”, and shall hereinafter be referred to as the “Ordinance”.

b) Scope and Application.

- 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 Birch Lake.
- 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.
- 3) **APPLICATION TO PLANNED UNIT DEVELOPMENTS.** The provisions of this Ordinance cannot be overridden in or by any approved Planned Unit Development under the Porter Township Zoning Ordinance.

c) Definitions: For the purposes of this Ordinance:

- 1) "Beached" or "Beaching" means placing or securing a watercraft on or adjacent to the shore of a separate frontage on Birch Lake.
- 2) "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.
- 3) "Dock" means a structure, platform or fixture extending from the shore or bottomlands into the lake.

- 4) "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.
 - 5) "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.
 - 6) "Normal high water 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 the Township Engineer. The measurement shall be made only along a natural shoreline, and shall not include any manmade channel, lagoon, canal, or the like.
 - 7) "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.
 - 8) "Separate frontage" means that portion of a lot or parcel of land lawfully existing on documentation recorded with the Cass County Register of Deeds, which abuts or intersects with the normal high water mark of Birch 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.
 - 9) "Watercraft" means any boat, pontoon boat, ballast 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.
 - 10) "Lake" means Birch Lake, Porter Township, and Cass County, Michigan.
- d) General Regulations.
- 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.
 - 2) NUMBER OF DOCKS. Except as otherwise permitted by Section 4.3, no more than one 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 Porter Township Zoning Ordinance for the zoning district in which the lot or parcel is located. If the continuous length of a separate frontage is greater than 100 feet, four (4) additional watercraft may be launched and/or docked for each 100 feet of continuous

frontage in excess of the initial 100 feet. Where more than one (1) dock is permitted for a separate frontage, the docks shall be separated by a minimum of thirty (30) feet. For the purpose of computing the length of frontage, the measurement shall be along the water's edge at the normal high water mark of the lake as determined by the Department of Natural Resources, or if the department has not made such a finding, the normal high water mark location shall be determined at the discretion of the Township.

- 3) **EFFECTIVE DATE.** Following the effective date of this Ordinance, no launching and/or docking shall be permitted with respect to a separate frontage of less than 100 feet, provided, this provision shall not apply to lots or parcels constituting a building site or record prior to the effect date of the Ordinance. (Amended February 22, 2000)

e) Safety Regulations.

- 1) **PERMANENT DOCKS PROHIBITED.** Permanent docks, shore stations, boat cradles and rafts are prohibited. All docks, shore stations, boat cradles and rafts shall be of the type that can be removed seasonally.
- 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.
- 3) **MOOR AGE.** A watercraft or other boat may only be moored or anchored overnight in a lake if it is moored or anchored adjacent to a dock, boat cradle or shore station which complies with this Ordinance.
- 4) **DOCK WIDTH.** All docks shall have a minimum width of two and one-half (2-1/2) 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.
- 5) **DOCK LENGTH.** No dock shall extend more than seventy-five (75) feet into a body of water, 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.
- 6) **DREDGING.** No bottomland soil shall be either removed or added to, or altered in any way, to accommodate mooring or for any other reason.
- 7) **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 or body of water. The following setbacks are also applicable.
- 8) 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.
- 9) 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

- f) Common Docks. Two (2) adjoining lots or parcels which have frontage directly on the lake may share one (1) common dock with no more than six (6) moorings being utilized in total for both parcels. No other docks shall be allowed for the two (2) lots or parcels except the approved one (1) common dock.

- g) 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.

- h) 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 bottom lands 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).
 - 1) This Section h shall apply whether the right-of-way, easement, park, road, common area, alley, or dedicated walkway is public or private.
 - 2) 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-of-way, easement, or other way involved, and this Section h shall not apply to each such separate frontage.

- i) Boat Storage Device Design Requirements. Each boat cradle and shore station used in **Birch Lake** in the Township shall meet all of the following requirements, in addition to the other requirements of this Ordinance.
 - 1) It shall not be permanent as described in Section e.1.
 - 2) It shall not have a rigid roof and walls;
 - 3) It shall not have "tracks" or appurtenances extending onto dry land;
 - 4) All portions of the device shall be located lakeside of the shoreline when in use during the boating season;
 - 5) It shall be designed for not more than one (1) watercraft, except for those designed for personal watercraft which may hold no more than two (2) personal watercraft; and

- 6) It shall be designed so that watercraft are removed from the water and are stored above the water.

- j) Existing Watercraft and Dock Activity.
 - 1) Lots of Record. A Lot of Record includes a lot or parcel that was platted or otherwise lawfully of record prior to the date of this Ordinance.
 - 2) Application to Lots of Record. Lots of record having separate frontage measuring less than one hundred (100) continuous 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 3 below.
 - 3) Continuation of Lawful Existing Uses. The lawful mooring, docking, or launching of watercraft or boats or usage of docks, shore stations, 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 continue without change. However, any change, alteration or 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 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.

Section II
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 nor the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

Section III
Effective Date and Repeal

This Ordinance shall be effective 30 days after publication of a summary thereof. Conflicting ordinances and ordinance provisions are repealed. Part 50 “Boat Regulations Ordinance” is retained and is applicable to all lakes and bodies of water within the Township except Birch Lake.

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Porter Township
Cass County, Michigan
Marty Russell, Clerk

Adopted May 9, 2017
Published May 12, 2017
Effective June 12, 2017