

**CHARTER TOWNSHIP OF WHITE LAKE  
OAKLAND COUNTY, MICHIGAN**

**ORDINANCE NO. 119  
LAKE CONTROL ORDINANCE**

AN ORDINANCE TO PROVIDE STANDARDS AND SPECIFICATIONS FOR THE STUDY AND EXAMINATION OF LAKES WITHIN THE CHARTER TOWNSHIP OF WHITE LAKE TO DETERMINE WHETHER TOWNSHIP REGULATION IS NECESSARY AND APPROPRIATE, AND TO PROVIDE FOR REGULATIONS ENFORCEMENT, AND PENALTIES.

THE CHARTER TOWNSHIP OF WHITE LAKE ORDAINS:

1. Purpose. The Charter Township of White Lake is a rapidly developing urbanized township with many lakes of varying sizes and characteristics. Citizens and property owners concerned about lake ecology and the safe use of lakes within the township have requested that the township adopt ordinances regulating the use of lakes in a manner which will promote their safe use and preserve them as community assets. The Township Board of Trustees recognizes that in some cases the character and intensity of lake use can create conditions amounting to a nuisance, impair important and irreplaceable natural resources, substantially impair property values, and threaten the health, safety and welfare of the public. The Charter Township of White Lake, by adoption of this ordinance, intends to adopt certain general regulations, establish a framework for further study of specific township lakes on an "as needed" basis. Further study will have the purpose of determining whether it is appropriate to regulate the use of the lake and if so the appropriate degree of regulation necessary to eliminate the conditions which are a nuisance, impair important and irreplaceable natural resources, substantially impair property values, and threaten the health, safety and welfare of the public.

2. Definitions. The following words or terms use in this ordinance shall have the meaning stated in this section.

2.1 DIRECT LAKE ACCESS property shall mean lake front property or other property on a navigable tributary of a lake which is used to access a lake exclusively by the owner or occupant of the property.

2.2 KEYHOLE LAKE ACCESS property shall mean property which abuts a lake or a navigable tributary thereto and which provides lake access to owners or occupants of nearby property which does not abut the lake.

- 2.3 LAKE includes navigable tributaries of a lake.
  - 2.4 PERSON shall mean person, sole proprietorship, partnership, association, firm, limited liability company, corporation or other legal entity recognized by the laws of the State of Michigan.
  - 2.5 PRIVATE ACCESS shall mean a site for water access under the jurisdiction of a condominium association, subdivision association, property owner's association, or other entity, which is intended to provide water access to a subdivision, condominium, or any type of group of property owners.
  - 2.6 PUBLIC ACCESS shall mean a site for lake access under the jurisdiction of the State of Michigan or any political subdivision thereof, a commercial marina or other property owner for the use of the general public whether with or without charge.
  - 2.7 RECORD OWNER(S) shall mean the person whose name appears upon the last township tax assessment records as the owner of the parcel of property.
  - 2.8 RIPARIAN OWNER(S) shall mean a person whose property adjoins a lake or who has rights of access to a lake because of a recorded instrument granting such rights.
  - 2.9 TOWNSHIP means the Charter Township of White Lake, 7525 Highland Road, White Lake Michigan 48383.
3. Petitions for Lake Review. On its own initiative or upon written petition signed by the Record Owners of fifty (50) percent or more of the Riparian Owners with an interest in a lake, accompanied by a Lake Study, accomplished at the petitioner's expense, and meeting the requirements set forth in this ordinance, the Township shall undertake a review of a specific lake for purposes of determining whether the protection of the health, safety and welfare of the citizens of the Township requires the regulation of lake usage and the extent of the regulation needed, if any. It is the intent of the Township to impose the appropriate degree of degree of regulation necessary to eliminate a threat to the public health, safety and welfare.
4. Lake Study Requirements. Upon receipt of a petition for lake review, the Township Board shall determine the extent of the Lake Study required to properly analyze the request for regulation. A lake study undertaken by any Person for consideration by the Township, under this Ordinance may meet any number of the following requirements, as determined by the Township:
- 4.1 The Study shall be conducted under the direction of a registered civil engineer.

- 4.2 A detailed graphical lake study plan shall be attached and shall meet these requirements:
  - 4.2.1 Drawn to scale of 1" equal 100'.
  - 4.2.2 Sheet size shall be 24" x 36".
  - 4.2.3 General descriptive and identification data shall include:
    - 4.2.3.1 Petitioner's name, address, telephone number.
    - 4.2.3.2 Preparer's name, address, telephone number.
    - 4.2.3.3 Title block
    - 4.2.3.4 Scale
    - 4.2.3.5 North point
    - 4.2.3.6 Date of submission and revisions
- 4.3 Show gross size of lake in acres or fractions of acres.
- 4.4 Show a contour line 100 feet from shore. Calculate and show number of acres inside this band.
- 4.5 Show lineal feet of navigable tributaries (including canals).
- 4.6 Show length of lake shoreline (excluding navigable tributaries) in feet.
- 4.7 Show location of existing watersheds, drainage courses, canals, flood plains, wetlands, rivers and streams within one-half mile which affect the lake.
- 4.8 Include a depth chart with contour lines at two (2) foot intervals.
- 4.9 Include a lake bottom soils survey using methods and providing data sufficient to accurately depict the type and distribution of lake bottom soils.
- 4.10 Show existing and proposed lake access sites, whether by easement, subdivision plat or declaration of covenants and restrictions, condominium master deed, stock or membership corporation or any other means.
- 4.11 Show location and size of recreation and open space areas.
- 4.12 Show location and size of vacant parcels of land with lake frontage.

- 4.13 Show all points of general or limited Public Access.
- 4.14 Show actual use of properties with Direct Lake Access.
- 4.15 Show actual use of properties with current Keyhole Lake Access.
- 4.16 Show zoning and master plan for properties with Direct Lake Access.
- 4.17 Show zoning and master plan for properties with current Keyhole Lake Access.
- 4.18 Show existing docks, rafts, regulated buoys including water-ski courses
- 4.19 For all properties with Keyhole Lake Access, attach copies of Declaration of Covenants and Restrictions, Master Deeds or similar recorded instruments providing authority for such access.
- 4.20 Include a use study showing the following:
  - 4.20.1 number of watercraft currently docked or stored for immediate lake use by those with current rights to lake access. Distinguish by type:
    - 4.20.1.1 sail craft,
    - 4.20.1.2 human powered,
    - 4.20.1.3 personal watercraft,
    - 4.20.1.4 pontoon,
    - 4.20.1.5 inboard/outboard,
    - 4.20.1.6 inboard (ski boat),
    - 4.20.1.7 outboard less than forty horsepower, and
    - 4.20.1.8 outboard greater than forty horsepower.
  - 4.20.2 number of watercraft using the lake during the months of May through September.
  - 4.20.3 number of reported watercraft accidents, citations, warnings or incidents for the previous three (3) years.
    - 4.20.3.1 break down of those involved in lake accidents as follows:
      - 4.20.3.1.1 relationship to lake
        - 4.20.3.1.1.1 stranger
        - 4.20.3.1.1.2 Direct Lake Access owner

4.20.3.1.1.3	Keyhole Lake Access owner
4.20.3.1.1.4	other

4.20.3.1.2	fault
4.20.3.1.3	injury
4.20.3.1.4	property damage
4.20.3.1.5	nuisance behavior
4.20.3.1.6	other basis for reported incidents

- 4.21 Provide a water quality report.
- 4.22 Provide a status report detailing shoreline erosion conditions.
- 4.23 Provide a report of wildlife, waterfowl and fish habitat conditions on and surrounding the lake.
- 4.24 List all subdivision associations, condominium associations and public interest groups with an interest in the Lake.
- 4.25 If the lake borders another political subdivision list all regulations affecting lake access.
- 4.26 Provide information regarding any other factor impacting or relating to the need for regulation of lake usage as a means of protecting the public health, safety and welfare.

5. Assessing Department Review. Petitions for Township review of a specific Lake shall be referred to the Assessing Department for verification as to validity.

6. Planning Commission Review. At the direction of the Township Board, a Lake Study submitted to the Township under the terms of this Ordinance may be referred to the Planning Commission for review. The Planning Commission shall confirm compliance with this Ordinance and report its recommendation to the Township Board.

7. Regulatory Alternatives. The following regulatory alternatives or any combination of them) may be considered by the Planning Commission and/or Township Board:

- 7.1 Restricting lake access to parcels of land with Direct Lake Access.

- 7.2 Restricting lake access to parcels of land that once were a part of another parcel with Direct Lake Access and which can trace ownership to a common grantor within the last sale or transaction involving the parcel.
  - 7.3 Restricting lake access to parcels with Direct Lake Access, Keyhole Lake Access or parcels with access provided by plat, condominium master deed, conveyance, easement or restrictive covenant predating the date of this Ordinance.
  - 7.4 Distinguishing between rights of usage based upon Direct Lake Access, Keyhole Lake Access or Riparian rights.
  - 7.5 Restricting the number or type of boats which can access the lake.
  - 7.6 Any other regulatory options which meet the intent and purpose of this Ordinance.
8. Planning Commission Recommendation. The Planning Commission's recommendation (if any) shall list all regulatory alternatives and specifically state which alternative(s) it recommends and why. The Planning Commission shall recommend whether to regulate lake usage based upon an amendment to the Township Zoning Ordinance or adoption of an ordinance pursuant to Public Act 246 of 1945 as amended.
9. Township Board Consideration. Following receipt of any Planning Commission's recommendation the Township Board of Trustees shall determine whether to regulate lake access and usage taking into consideration the following factors:
- 9.1 Limited Township resources to enforce any lake regulation affecting the lake in question.
  - 9.2 Whether water quality or lake usage exceeds safe limits, taking into consideration the data provided pursuant to Section four (4) above.
  - 9.3 Whether use of the lake is resulting in a significant reduction in water quality.
  - 9.4 Whether the living environment of those living directly on the lake is declining because of current use patterns, taking into consideration:
    - 9.4.1 water quality
    - 9.4.2 availability of lake for reasonable uses normally associated with lake front living.
    - 9.4.3 noise
    - 9.4.4 odor

9.4.5 physical safety

10. Action by Township Board of Trustees. The Township Board of Trustees, following a public hearing may take action to pass a lake specific ordinance regulating usage and access of the lake under study, may adopt amendments to this Ordinance, may forward a recommendation to the Planning Commission for consideration of an amendment to the Township Zoning Ordinance or to this ordinance with regard to the lake under study, or may elect to take no action.

11. Lake Specific Regulations. The following regulations are imposed with regard to the lakes identified therein:

(reserved for future lake-specific regulations).

12. Enforcement.

(A) It is a violation of this ordinance for any person to erect any dock, or launch any boats from any public or private access site, without written consent of the entity or governmental body having jurisdiction over the public or private access site or unless such activity is expressly within any applicable dedication language. If it cannot be determined what entity has jurisdiction over the property, a request for written permission shall be submitted to the Township which will send copies to any homeowners association whose members own property abutting said lake.

(B) If a boat, which is registered with the State of Michigan to someone other than the property owner where the boat is docked, has remained on that property for a period of seventy-two (72) consecutive hours, the police agency shall do all of the following:

(1) Determine if the boat has been reported stolen;

(2) Affix a written notice to the boat, which shall contain the following information:

i. The date and time of the notice was affixed;

ii. The man and address of the police agency taking the action;

iii. The name and badge number of the police officer affixing the notice;

iv. The date and time the vehicle may be taken into custody and stored at the owner's expense; and,

v. The year, make identification number of the boat, if available.

- (3) If a boat is not removed within forty-eight (48) hours after the date of the notice was affixed, the police agency may have the vehicle taken into custody.
- (4) Within seven (7) days after taking the boat into custody, the police agency shall send to the registered owner and any secured party of record, by first class mail or personal service, notice that the boat has been taken into custody.
- (5) Within twenty (20) days after the notice of custody has been sent to the registered owner or secured party of record, the owner may request a hearing for review of the procedures or reasonableness of towing and storage fees.
- (6) The owner of the boat who request a hearing may obtain release of the boat by posting a towing and storage bond with the court in an amount equal to the towing and storage fees. If the court finds that procedures were not properly followed, the police agency shall reimburse the owner of the boat for the accrued towing and storage fees.
- (7) If the owner does not request a hearing, he or she may obtain the release of the boat by paying the accrued charges to the custodian of the boat.
- (8) If the owner does not redeem the boat or request a hearing within twenty (20) days after the date of the notice of custody, any secured party of record may obtain the release of the boat by paying the accrued charges and costs to the custodian of the boat and the police agency.
- (9) Not less than twenty (20) days after the disposition of the hearing described in subsection (5), or if a hearing is not requested, no less than twenty (20) days after the date of the notice of custody, the police agency shall offer the boat for sale at a public hearing.

13. Civil Infraction Enforcement and Penalties.

- 13.1 Civil Remedies. The provisions of this Ordinance shall be enforceable through any and all remedies available at law or in equity in any court of competent jurisdiction. Any violation of this Ordinance is deemed to be a nuisance per se.
- 13.2 Presumption of Civil Infraction. A violation of this Ordinance shall be deemed to be a municipal civil infraction.
- 13.3 Violation and Penalties.



a. The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular ordinance provision:

i) <u>The First Offense.</u> The civil fine for a first offense violation shall be in an amount of One Hundred Dollars (\$150.00), plus costs and other sanctions, for each offense.
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ii) First Repeat of Offense. The civil fine for any offense which is a first repeat offense shall be in an amount of Three Hundred Dollars (\$300.00), plus costs and other sanctions, for each offense.

iii) Second (or any subsequent) Repeat of Offense. The civil fine for any offense which is a second or subsequent repeat offense shall be in an amount of Six Hundred Dollars (\$600.00), plus costs and other sanctions, for each offense.

b. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the Judge or Magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this ordinance.

c. Continuing Offense. Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense.

d. Remedies Not Exclusive. In addition to any remedies provided for in this ordinance, any equitable or other remedies available may be sought.

e. Judge or Magistrate. The Judge or Magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

f. Default on Payment of Fines and Costs. A default in the payment of a civil fine, costs, damages or expenses ordered under Subsection A or B or an installment of the fine, costs, damages or expenses as allowed by the court, may be collected by the Township of White Lake by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et. seq.*, MSA 27A.101, *et. seq.*, as amended.

g. Failure to Comply With Judgment or Order. If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Section I.

h. Failure to Appear in Court. A defendant who fails to answer a citation or notice to appear in court for a violation of this ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500.00), plus costs and/or imprisonment not to exceed ninety (90) days.

i. Civil Contempt.

i) If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the district court, upon motion of the Township of White Lake or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.

ii) If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.

iii) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.

iv) If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.

v) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30.00) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30.00) per day.

vi) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, damages or expenses shall not be discharged from custody until one of the following occurs:

- (a) Defendant is credited with an amount due pursuant to Subsection I(5).
- (b) The amount due is collected through execution of process or otherwise.
- (c) The amount due is satisfied pursuant to a combination of Subdivisions I(6)(a) and (b).

vii) The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection I(6).

14. Savings. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

15. Severability. If any section, clause or provision of this ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this ordinance; but the remainder of this ordinance shall stand and be in full force and effect.

16. Repealer. All other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

17. Effective Date. The provisions of this ordinance are hereby ordered to take effect following publication in the manner prescribed by the law.

18. Adoption. This ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of White Lake at a meeting thereof duly called and held on the \_\_\_\_ day of \_\_\_\_\_, 2003, and ordered to be given publication in the manner prescribed by the law.

AYES:

NAYS:

ABSENT:

**Lake Control Ordinance**  
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ABSTENTIONS:

STATE OF MICHIGAN)

)SS.

COUNTY OF OAKLAND)

I, the undersigned, the duly qualified and acting Township Clerk of the Charter Township of White Lake, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of the Charter Township of White Lake ordinance \_\_\_\_ adopted by the Township Board of the said Township at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2003, the original of which is on file in my office.

Ms. Carol Burkard, Township Clerk  
Charter Township of White Lake

Adopted:

Effective: