

TITLE 12
Parks and Navigable Waters

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CHAPTER 1
Parks and Navigable Waters

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SEC. 12-1-1 PARK REGULATIONS.

- (a) **Purpose and Definition.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the City of Delavan from injury, damage or desecration, these regulations are enacted. The term "park" as hereinafter used in this Chapter shall include all grounds, beaches, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, recreation facility or conservancy district in the City.
- (b) **Specific Regulations.**
- (1) **Littering Prohibited.** No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park or public waters, except in containers provided for that purpose.
 - (2) **Sound Devices.** No person shall operate or play any public address amplifying system unless specific authority is first obtained from the Chief of Police.
 - (3) **Bill Posting.** No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Park and Recreation Commission.
 - (4) **Throwing Stones and Missiles Prohibited.** No person shall throw stones or other missiles in or into any park.
 - (5) **Removal of Park Equipment Prohibited.** No person shall remove benches, seats, tables or other park equipment from any park.
 - (6) **Trapping.** "Trapping" when used in this Section includes the taking, or the attempting to take, of any wild animal by means of setting or operating any device, mechanism or contraption that is designated, built or made to close upon, hold fast or otherwise capture a wild animal or animals; live traps on a person's property are excluded. The trapping of wild animals is hereby prohibited within City parks unless specific authorization is first obtained from the Chief of Police
 - (7) **Making of Fires.** No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.

- (8) Protection of Park Property. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park, except as permitted by this Chapter. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building! structure, apparatus, bench, table, official notice, sign or other property within any park.
- (9) Motorized Vehicles.
- a. No vehicles shall be allowed in or upon the public parks in the City or upon the streets or roads in said parks between the hours of 10:00 p.m. and 5:00 a.m. except as may be driven by persons associated with organizations having permission from the Park and Recreation Commission.
 - b. No vehicles shall exceed a speed of ten (10) miles per hour on any road or street in a public park in the City.
 - c. Motor vehicles are prohibited from operating in City parks on other than roads and travelways provided therein for vehicular travel and parking excepting that snowmobiles may be operated only in those City parks providing for such use and pursuant to public notice given, but there only on those trails specifically designated for such use. Operation of motor vehicles on grass areas in parks is prohibited excepting for authorized park maintenance, emergency, and other authorized vehicles in performance of their duties.
- (10) Snowmobiles. No person shall operate a snowmobile in a City park except in designated areas.
- (11) Speed Limit. No person shall operate any vehicle in a City park in excess of 10 m.p.h. unless otherwise posted.
- (12) Glass Beverage Bottles in Parks Prohibited. No person shall bring into, carry onto or possess while in any public park glass bottles or glass containers, including those containing or normally used for containing soda water, fermented malt beverages or alcohol. The City Council, subject to the prior review of the Parks and Recreation Commission and General Operations Committee, may allow, in conjunction with (1) the approval of a temporary “Class B” wine license or (2) approval of an annual resolution allowing wine and beer during certain concerts held in Phoenix Park, the pouring of wine from original glass wine bottles. (Amended 6-09-2015, Ord. RC-357)
- (13) Reckless Driving in Parks Prohibited. No person shall operate a motor vehicle in a reckless manner in any of the public parks of the City.
- (14) Parking in Parks. No person shall park any motor vehicle in any park in the City except in a designated parking area.
- (15) Horse and Carriages. No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths, except when approval of the Park and Recreation Commission is first obtained. It shall be unlawful for any person to ride a horse or drive a horse-driven vehicle in a careless, negligent or reckless manner which may endanger the safety and well-being of others. Horseback riding shall be allowed only during the daylight hours. No person shall ride a horse which cannot be held under such control that it may be easily turned or stopped. No horse shall be ridden in a reckless manner. Pedestrians shall have the right-of-way when crossing a bridle path, and whenever groups of people are visible within three hundred (300) feet horses shall be ridden at slow gait. Horseback riding shall be allowed only during daylight hours.
- (16) Removing Tree Protectors. No person shall remove any device for the protection of trees or shrubs.

- (17) Golfing and Sporting Activities. No golfing or practicing golf in City parks or recreation areas shall be allowed except with the use of a whiffle ball. All sporting activities must be held in areas so designated for that purpose.
- (18) Arrows. No person shall use or shoot any bow and arrow in any City park, except in authorized areas.
- (19) Fees and Charges. The Common Council, upon the recommendation of the Park and Recreation Commission, shall have the authority to establish such fees as deemed necessary for use of any park facility, shelter or land area. It shall be unlawful to use such areas without payment of such fee or charge when required.
- (20) Firearms: Hunting. Possessing or discharging of any firearm or weapon of any kind is prohibited in all City parks.
- (21) Fish Cleaning. Cleaning of fish in shelters, toilet facilities or picnic areas is prohibited in all City parks.
- (22) Controlled Substances. Possessing, using or dispensing of a controlled substance in violation of the Uniform Controlled Substances Act is prohibited in all City parks.
- (23) Pets. Pets shall be kept leashed in all City parks and recreation areas.
- (24) Utility Installation and Construction. Any private construction which may in any manner encroach upon or affect the parks and parkways shall be under the direction and jurisdiction of the Common Council and no such installation, repair or construction shall commence without the written permission therefor from the Common Council. All public works, including construction and installation of power lines, hydrants, sewers and the like shall be commenced only after notice to the Common Council of the City's intention so to do. Where practicable, such construction and installation shall be performed pursuant to recommendations by the Common Council.
- (25) Commercial Enterprise. No person shall sell, or offer for sale, any article, thing, privilege or service in any park without prior written permission from the Common Council or Park and Recreation Commission.
- (26) Posted Regulations. In addition to the regulations herein contained and provided, the Park and Recreation Commission may post from time to time specific rules and regulations; and such specific rules and regulations shall be incorporated by reference in to this Chapter as fully as set forth herein.

Cross-Reference: Section 11-4-1(a).

**SEC. 12-1-2 OPERATION OF REMOTE OR RADIO-CONTROLLED TOYS
OR DEVICES PROHIBITED.**

It shall be unlawful for any person to fly, operate or make use of any remote or radio-controlled model airplane, helicopter, vehicle or any other such device in, over or upon any street, park or other public or private property except in areas specifically designated and posted for such purpose and with the consent of the property owner or lessee of the property.

SEC. 12-1-3 TURF PROTECTION ON PUBLIC PROPERTY.

Except as authorized by the Director of Public Works, no person shall dig into the turf of any City-owned park property for any purposes whatsoever or remove any trees or flowers. Absent authorization by the Director of Public Works, the use of metal detectors and digging for buried objects on City park property is prohibited, except beaches where no vegetation is present.

SEC. 12-1-4 PARK HOURS.

(a) **Park Hours.**

- (1) Except for authorized events, no person shall be permitted to be in or upon, or be allowed to remain in or upon, the public parks between the hours of 10:00 p.m. and 5:00 a.m., except as hereinafter provided.
- (2) No vehicles shall be allowed in or upon the public parks in the City or upon the streets or roads in said parks between the hours of 10:00 p.m. and 5:00 a.m., except as hereinafter provided.
- (3) Duly organized religious, philanthropic, charitable, fraternal, veterans, educational, or municipal organizations holding an organizational function may, with the written permission of the Common Council, or its duly authorized agent, be permitted to hold such function for the benefit of its members or the general public as the case may be between the hours of 10:00 p.m. and 5:00 a.m.

- (b) **Park Closing and Opening Dates.** The Park and Recreation Commission will have full authority to open and close any park, swimming pool, recreational facility or area because of season, condition, construction or when, in the interest of public safety, it is deemed necessary.

SEC. 12-1-5 ULTRALIGHT AIRCRAFT REGULATED.

- (a) **Definition.** An ultralight aircraft, vehicle or hang glider is an unpowered or powered aircraft which is not subject to extensive regulation by the Federal Aviation Administration by virtue of its characteristics and which is defined as an ultralight vehicle by 14 C.F.R. Sec. 103.1 and which is defined as an ultralight aircraft by Sec. 114.195, Wis. Stats.

(b) **Regulations Regarding Use.**

- (1) No person shall operate any ultralight aircraft within the City in such a manner or in such a location as to endanger or injure any person or property. No person shall operate an ultralight aircraft in the City in violation of any applicable state and federal regulations and standards. No person shall cause an ultralight aircraft to land or to take off from any property without permission of the owner or occupant of said property, provided that an emergency landing may be made to prevent a catastrophe. In the case of landing or taking off from a City public park or other City property, the operator of such ultralight aircraft shall first obtain a permit from the Common Council. No fee shall be charged by the Common Council for such permit which may be issued for a period up to thirty (30) days nor shall the Common Council sponsor such activity.
- (2) Any person desiring to land or to take off from any property owned by the City of Delavan shall, prior to receiving a permit, procure evidence of insurance providing for not less than Five Hundred Thousand Dollars (\$500,000.00) of coverage for each occurrence for damage to property or personal injury. Evidence of such insurance shall include a certificate of insurance naming the City of Delavan as an additional insured and said certificate shall be filed with the City Clerk at the time the applicant seeks a permit.

SEC. 12-1-6 RESERVATION OF PARK SPACE. (Repealed and recreated 11/12/02 Ord. RC-151) (Amended 6/12/07 Ordinance RC-233)

- (a) **Policy on Reservation.** The City-owned parks, park facilities and shelter areas are primarily for the nonexclusive use of the residents and visitors of the City. However, under proper circumstances, exclusive use of the same or parts thereof may be permitted. This Section is intended to regulate use of municipally owned parks, park facilities, park shelters or parts thereof, in the City to the end that the general welfare of the City is protected.
- (b) **Reservation of Park Space.** A person or group, firm organization, partnership or corporation may reserve the use of a park shelter by completing and submitting the Facility Reservation Form with the Park and Recreation Department for a permit for exclusive use of the same. The Park and Recreation Department shall issue permits for exclusive use of a park shelter. For reservation of parkland (space) a letter of request, following the requirements as listed in 12-1-6(c), must be submitted to the Park and Recreation Department. The Park and Recreation Commission shall approve exclusive park use requests. Park shelters and land are reserved on a first-requested, first-reserved basis. Renters shall be 18 years of age or older to rent facilities.

Appropriate supervision of youth activities shall be provided by renter.

- (c) **Application.** A letter of request shall be submitted to the Park and Recreation Department at least sixty (60) days prior to the date on which the parkland use is requested. The letter of request for parkland use shall include:
 - (1) The name, address and telephone number of the applicant.
 - (2) The group, firm, organization, partnership or corporation, name, address and telephone number of the headquarters of the same, and the responsible and authorized heads or partners of the same.
 - (3) The name, address and telephone number of the person who will be responsible for the use of the said park, area or facility (if different than above.)
 - (4) A description of the type of event/activity being sponsored.
 - (5) Specific park and location being requested.
 - (6) The date and the hours requested.
 - (7) The anticipated number of persons to use the said park, area or facility.
 - (8) Requested support that may be required by the Park and Recreation Department, i.e. additional picnic tables, garbage cans, etc.
Any additional information which the Park and Recreation Department finds reasonably necessary to a fair determination as to whether a permit should be issued.
- (d) **Deposit.** Security deposit fees shall be established by the Parks and Recreation Commission based upon recommendations from Department staff. Security deposit fees are due at the time of reservation request. Security deposit fees shall be refunded within 7-14 business days provided no damage or clean up charges are deemed necessary by Department staff.
- (e) **Action on Application.** The Park and Recreation Director or designee shall have the authority to approve parkland, facility and equipment requests. The Director may defer to the Parks and Recreation Commission at his discretion. Any decision by the Parks and Recreation Director may be appealed to the Parks and Recreation Commission.

- (f) **Guidelines for Denial.** Applicants may be denied for any of the following reasons:
- (1) Any use which would involve a violation of Federal, State, or local law or ordinances.
 - (2) Any use which would conflict with another granted or pending request.
 - (3) Incomplete facility reservation forms or letters of request.
 - (4) Request submitted outside of the required timeframe.
 - (5) Any use that conflicts with an anticipated non-exclusive by the general public.
 - (6) Any use that will create a substantial risk of injury to persons or damage to property.
 - (7) Any use that, in the judgment of the Parks and Recreation Director is so poorly organized that participants are likely to engage in aggressive or destructive activity.
 - (8) Any use which would substantially reduce the Department's ability to continue to provide high-quality maintenance of the Park system.
 - (9) Any use that would substantially disturb the peace.
 - (10) This list shall not be considered an all-inclusive list, and the Department reserves the right to refuse parkland facility and equipment requests.
- (g) **Indemnification.** Prior to granting any request for exclusive use of parkland, park facilities or parks equipment, the Department may require the Renter to submit a certificate of insurance naming the City and such other third parties as may be injured or damaged as additional insured. Coverage levels required are to be established and reviewed periodically by the Parks and Recreation Commission with guidance from the City Attorney.
- (h) **Permit Not Required For City Activity.** A permit is not required for exclusive use of the park or a park facility sponsored by the City.
- (i) **Permit Revocation.** The City, after granting a permit, may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe, or likelihood of a breach of the peace, or by a major change in the conditions forming the basis of the issuance of the permit.
- (j) **Form of Permit.** Each permit shall be in a form prescribed by the Park and Recreation Department and shall designate the park, park facility, or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use, and the name of the person, group, firm, organization, partnership or corporation to which the permit is issued.
- (k) **Class B Fermented Malt Beverage Licenses.** When fermented malt beverages are sold at any event authorized by this Section, a valid Fermented Malt Beverage license shall be obtained and compliance with the provisions of Sections 7-2-4 and 11-4-1 shall be required. Said license must be held by the person who filed the original license and shall be presented to any law enforcement officer upon request.
- (l) **Care of Facilities.** Persons reserving City facilities or parkland shall be completely responsible for cleaning up the facilities after the event to the satisfaction of Parks and Recreation Department staff. Inadequate cleaning shall result in the forfeiture of the security deposit fees and/or invoice for the balance of Department resources used in the clean up.
- (m) **Cancellations.** Facility rental reservations may be cancelled at any time.
- A. A 100% refund of all fees paid will be granted for cancellations that take place at least 10 business days in advance of the first booking date.
 - B. A 50% refund of the Facility Rental Fee will be granted for all cancellations that take place at least two business day in advance of the first booking date.

- C. No Facility Rental Fees shall be refunded after that point.
- D. A 100% refund of the Security Deposit Fee shall be refunded for cancelled rentals.
- E. A 100% refund of other fees charged for Departmental support costs that have not been incurred by the Department at the time of cancellation shall be refunded.

(n) **Facility Rental Fees, Security Deposits and Other Fees.**

- A. Facility Rental Fees shall be established by the Parks and Recreation commission based upon recommendations from Department staff.
- B. Security Deposit Fees shall be established by the Parks and Recreation Commission based upon recommendations from Department staff. Security Deposit Fees are due at the time of reservation request. Security Deposit Fees shall be refunded within 7-14 business day provided no damage or clean-up charges are deemed necessary by Department staff.
- C. Other Fees shall be charged to recover any Departmental support costs associated with the event including but not limited to labor, vehicle/equipment use and consumable supplies. These fees shall cover hauling and set-up of requested equipment not already available at the facility, take-down and hauling of the same, excess cleaning and maintenance made necessary by improper or insufficient clean-up or damage caused by the Renter.
- D. Waiver or Reduction of Fees. Requests to waive or reduce Facility Rental Fees and Security Deposit Fees shall be reviewed on a case-by-case basis. Requests must be made in writing at least 60 days prior to the first booking date and will be reviewed by the commission at their next regular meeting. General guidelines for the reduction or waiver of fees:
 - 1. Facility Rental Fees shall be waived for local schools; churches; legally recognized, non-profit organizations or other not-for-profit groups when donations and/or in-kind services of equal or greater value have been committed/given to the Department in the same calendar year.
 - 2. Facility Rental Fees shall be waived for all Delavan-Darien School District or Wisconsin School for the Deaf sponsored events.
 - 3. Facility Rental Fees may be waived or reduced for other local schools, churches and legally recognized, non-profit organizations.
 - 4. Security Deposit Fees may be waived for local schools, churches and legally recognized non-profit organizations.
 - 5. No Departmental Support cost fees shall be waived.

(o) **General Parkland and Facility Regulations.**

- a. The individual applying for parkland or facility use will be personally responsible for the condition of the facility and the conduct of the group using the facility.
- b. Users shall not deface or otherwise mark or damage the shelter, picnic tables, trash containers, trees or anything else.
- c. Glass bottles are prohibited. The City Council, subject to the prior review of the Parks and Recreation Commission and General Operations Committee, may allow, in conjunction with (1) the approval of a temporary "Class B" Wine license or (2) approval of an annual resolution allowing wine and beer during certain concerts held in Phoenix Park, the pouring of wine from original glass wine bottles. (Amended 6-09-2015, Ord. RC-357)
- d. Users shall clean picnic tables.

- (p) **Alcohol Sales and Consumption.** (Amended 06-09-15, Ord. RC-357)
- (1) Temporary Class B Fermented Malt Beverage and Temporary “Class B” Wine Licenses. The City Council, subject to the prior review of the Parks and Recreation Commission and General Operations Committee, may issue to a qualifying organization temporary Class “B” Fermented Malt Beverage and temporary “Class B” Wine licenses for approved events in any city park. Compliance with the provisions of municipal code Sections 7-2-11 and 11-4-1 shall be required. Said license shall be held by the individual who filed the original license and shall be presented to any law enforcement officer upon request.
 - (2) Beer consumption is permitted in the Veteran's Park and Fest Park.
 - (3) Beer consumption is permitted in the Upper Springs Park Shelter by permit only. Beer privileges are requested on the Facility Reservation Form.
 - (4) Beer and wine consumption in Phoenix Park may be allowed by a separate annual resolution reviewed by the Parks and Recreation Commission and the General Operations Committee and approved by the City Council.
 - (6) Consumption of beer or wine shall not be allowed in parking areas, playgrounds, restrooms or woods.
 - (7) No other intoxicating beverages are permitted.
 - (8) All laws pertaining to the consumption of alcohol by minors shall be observed.
- (q) **Parkland Rental Rental Hours.**
- (1) Park rental hours are from 10:00 am to 10:00 pm. All City Parks close at 10:00 p.m. Facility rentals shall be ended by 9:00 pm to allow for clean up
- (r) **Mill Pond Rental Use Regulations.**
- (1) No more than 50 individuals permitted.
 - (2) Rentals may not begin until 10:00 a.m. and must be completed by 8:00 p.m.
 - (3) No smoking is permitted in the building.
 - (4) Alcoholic Beverages are prohibited.
 - (5) No one is permitted on the beach without proper supervision.
 - (6) Any group who wishes to swim must provide evidence of a licensed/certified lifeguard.

Cross Reference: Sections 7-2-11 and 11-4-1.

SEC. 12-1-7 OPERATION OF MOTOR VEHICLES ON ICE.

- (a) No person shall operate an automobile, farm truck, motor bus, motor truck, truck tractor or any other motor vehicle with a shipping weight of more than one thousand (1,000) pounds on the frozen waters of any body of water within the City of Delavan corporate limits.
- (b) This Section shall not apply to authorized emergency vehicles or other vehicles operating with the written authorization of the City of Delavan Police Department.
- (c) The statutory definitions contained in Sec. 340.01, Wis. Stats., are hereby adopted and by reference made a part of this Section as if fully set forth herein.

CHAPTER 2

Mutual Lake District Regulations

12-2-1	Purpose
12-2-2	Intent
12-2-3	Applicability and Enforcement
12-2-4	State Boating and Water Safety Laws Adopted
12-2-5	Definitions
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12-2-12	Water Skiing
12-2-13	Swimming Regulations
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12-2-18	Public Landings
12-2-19	Markers and Navigation Aids
12-2-20	Enforcement
12-2-21	Penalties

SEC. 12-2-1 PURPOSE.

The regulations set forth in this Chapter are adopted pursuant to Sec. 30.77(3)(a), Wis. Stats., permitting cities, villages, and towns in the interest of public health, safety or welfare to adopt local regulations, which are consistent with Chapter 30, Wis. Stats., and are applicable to the waters of Delavan Lake and Lake Comus, being within the state and located only in the jurisdictions of the City and Town of Delavan, such regulations including those relating to the equipment, use or operation of boats or any activity regulated by Sections 30.61 to 30.71, Wis. Stats., thereby requiring identical local regulations enacted by all towns, cities and villages having jurisdiction. These regulations hereinafter set forth are accordingly substantively identical for the Town and City.

SEC. 12-2-2 INTENT.

The intent of this Chapter is to provide access to Delavan Lake and Lake Comus for all users and further provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public needs and the capacity of the water resource, recognizing the intensity of their recreational use. This Chapter is deemed necessary in the interests of public health, safety and welfare.

SEC. 12-2-3 APPLICABILITY AND ENFORCEMENT.

The provisions of this Chapter apply to the waters of Delavan Lake and Lake Comus and that portion of the inlet and outlet lying wholly within the City of Delavan and Town of Delavan, Walworth County, Wisconsin. The provisions

of this Chapter shall be enforced by the authorized law enforcement officers of the City of Delavan and Town of Delavan police departments, inclusive of the Water Safety Patrol.

SEC. 12-2-4 STATE BOATING AND WATER SAFETY LAWS ADOPTED. (Repealed and recreated 06/08/2010 Ord. RC-289).

The statutory provisions describing and defining regulations with respect to water traffic, boats, boating and related water activities in the following enumerated sections or subsections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed for the punishment for violation of such statutes, together with any future amendments, modifications, revisions, additions or deletions of the Wisconsin Statutes incorporated herein, shall be incorporated herein and made a part of this Code of Ordinances in order to secure uniform regulations of lake use; are hereby adopted and by reference made a part of this Section, as if fully set forth herein:

- 30.50 Definitions.
- 30.501 Capacity plates on boats.
- 30.51 Certificate of number and registration; requirements; exemptions.
- 30.52 Certificate of number and registration; application; certification and registration period; fees; issuance.
- 30.523 Certification or registration card to be on board; display of stickers or decals and identification number
- 30.531 Certificate of title; requirements; exemptions.
- 30.54 Lost, stolen or mutilated certificates.
- 30.541 Transfers of boat titles.
- 30.543 Report of stolen or abandoned boats.
- 30.544 Inspection of boats purchased out-of-state.
- 30.549 Transfer of ownership of boats with a certificate of title, certificate of number or registration.
- 30.55 Notice of abandonment or destruction of boat or change of address.
- 30.60 Classification of motorboats.
- 30.61 Lighting equipment.
- 30.62 Other equipment.
- 30.63 Sale and use of certain outboard motors restricted.
- 30.64 Patrol boats.
- 30.65 Traffic rules.
- 30.66 Speed restrictions.
- 30.67 Accidents and accident reports.
- 30.675 Distress signal flag.
- 30.68 Prohibited operation.
- 30.681(1) Intoxicated boating.
- 30.682 Preliminary breath screening test.
- 30.683 Implied consent.
- 30.684 Chemical tests.

- 30.686 Report arrest to department.
- 30.687 Officer's action after arrest for violating intoxicated boating law.
- 30.69 Water skiing.
- 30.70 Skindiving.
- 30.71 Boats equipped with toilets.
- 30.07 Transportation of aquatic plants and animals; placement of objects in navigable waters

SEC. 12-2-5 DEFINITIONS. (Adopted 06/08/2010 Ord. RC-289).

The following definitions shall be applicable in this Chapter:

- (a) **Traffic Lane.** The traffic lane on Delavan Lake embraces the entire surface thereof, excepting therefrom those areas designated "shore zone" or "swimming zone" as defined herein and identified on the map marked Exhibit "A" on file in the City Clerk and Town Clerk's office. No traffic lane is designated for Lake Comus. (See definition of "Shore Zone" as it pertains to Lake Comus.)
- (b) **Shore Zone.** On Delavan Lake, the water area within two hundred (200) feet of any shore. On Lake Comus, the shore zone shall be deemed to embrace the whole surface thereof.
- (c) **Swimming Area.** An authorized area within two hundred (200) feet from shore marked by official buoys to designate a swimming area.
- (d) **Channel.** A waterway less than four hundred (400) feet wide.
- (e) **Public Landing.** A marina or landing facility and the adjoining public shore line under the ownership or operation of the State, County, City or Town.
- (f) **Designated Anchorage.** That area of water established and marked as an anchorage by lawful authority.
- (g) **Water Safety Patrol Officer.** Any duly authorized law enforcement officer, including City and Town police officers and Walworth County Sheriff's Department deputies.
- (h) **Person.** "Person" includes any individual, firm, partnership, corporation, company, association, or body politic, except for United States and the State of Wisconsin, and includes any agent, trustee, personal representative, receiver, assignee or other similar representative thereof.
- (i) **Sailboat.** Any watercraft propelled by sail. When a sailboat is propelled by machinery instead of by sail, it shall be deemed to be a motorboat.
- (j) **Slow-No-Wake.** Operation at a speed so that the watercraft leaves no pronounced wake following such watercraft.
- (k) **Invasive Species.** The species defined in Chapter NR 40 and all amendments and additions thereto.

SEC. 12-2-6 SPEED RESTRICTIONS.

- (a) No person shall at any time operate a boat at a speed in excess of slow-no-wake within the shore zone, or within two hundred (200) feet of any swimmer, marked swimming area, diving flag, canoe, rowboat, sailboat, non-operating motorboat, bridge or public landing or anchorage.
- (b) No person shall operate a boat in excess of fifteen (15) miles per hour within the traffic lane between sunset and sunrise, except for water safety patrol or emergency watercraft.
- (c) Notwithstanding other provisions to the contrary appearing herein or adopted by reference, on Lake Comus no person shall operate a boat in excess of slow-no-wake except for emergency watercraft.

SEC. 12-2-7 OPERATION OF MOTOR VEHICLES ON ICE.

- (a) No person shall operate an automobile, farm truck, motor bus, motor truck, truck tractor or any other motor vehicle with a shipping weight or more than one thousand (1,000) pounds on the frozen waters of Delavan Lake or Lake Comus.
- (b) This Section shall not apply to authorized emergency vehicles or other vehicles operating with the specific authorization of the City of Delavan Police Department or Town of Delavan Police Department.
- (c) The statutory definitions contained in Sec. 340.01, Wis. Stats., are hereby adopted by reference made a part of this Section as if fully set forth herein.

SEC. 12-2-8 CAPACITY.

- (a) **Restrictions.** No person shall operate or own, rent or permit a boat to leave the place where it is customarily kept for operation on the waters covered by this Chapter with passengers or cargo in excess of the capacity recommended by the manufacturer's rating.
- (b) **Horsepower Capacity.** No person shall operate or loan, rent or permit a boat to leave the place where it is customarily kept for operation on the waters covered by this Chapter, powered by a motor with horsepower in excess of the capacity recommended by the manufacturer of said boat.

SEC. 12-2-9 ADDITIONAL TRAFFIC RULES.

In addition to the traffic rules in Sec. 30.65, Wis. Stats., the following rule(s) shall apply to boats using the waters covered by this Chapter:

- (a) **Right-of-Way at Docks, Piers and Wharfs.** All boats leaving or departing from a pier, dock or wharf have the right-of-way over all other watercraft approaching such dock, pier or wharf.

SEC. 12-2-10 INTOXICATION AND INTOXICATION LIQUORS.

In addition to Sec. 30.681(1), Wis. Stats., no person shall permit any person who is so intoxicated as to be unable to provide for his own safety or the safety of others to ride as a passenger in any boat operated by him.

SEC. 12-2-11 SAFE OPERATION REQUIRED.

No person shall operate, direct or handle a boat in such manner as to unreasonably annoy, unnecessarily frighten or endanger the occupants of his or other boats. In addition, no person shall operate, direct or handle a boat in a negligent manner or in any other manner that could endanger the life, property or person of another. Continued violations of this Section by a minor could subject the parent, guardian, lessor or owner to arrest and persecution for contributing to the delinquency of a minor.

SEC. 12-2-12 WATER SKIING.

In addition to Sec. 30.69, Wis. Stats., the following other restrictions shall apply:

- (a) Any boat engaged in starting, towing, dropping, or releasing a person on water skis, aquaplane or similar device must conform to all sections of this Chapter, and in addition, must operate only in the traffic lane.
- (b) There shall be no more than two (2) tow lines per boat and no more than one (1) person using each tow line as a means of water skiing or similar sport. The persons being towed shall be equipped with a coast guard approved personal flotation device.

SEC. 12-2-13 SWIMMING REGULATIONS.

- a) **Swimming From Boats Prohibited.** No person shall swim, snorkel or skin dive in the shore zone from any boat unless such boat is anchored and unless the swimmers, snorkelers and skin divers stay within twenty-five (25) feet of the boat.
- (b) **Swimming in Traffic Lane; Distance Swimming.** No person in Delavan Lake shall swim, snorkel or skin dive in the traffic lane [more than two hundred (200) feet from shore]. No person in Delavan Lake or Lake Comus shall do any distance swimming, snorkeling or skin diving unless he is accompanied by a boat carrying a ring buoy and containing a competent observer. For this type of swimming, if there be more than one (1) swimmer, snorkeler or skin diver, each shall be accompanied by a boat.

SEC. 12-2-14 POLLUTING AND LITTERING WATERS PROHIBITED. (Adopted 06/08/2010 Ord. RC-289).

- (a) No person shall deposit, place or throw, or allow or cause to be deposited, placed or thrown from the shore or from any boat, raft, pier platform or similar structure any cans, paper, bottles, debris, refuse, garbage, solid or liquid waste into the water of the lake or on the ice of the lake.
- (b) No person shall discharge or cause or allow to be discharged any solid or liquid waste from his residence onto the grounds or shore land so that waste could either artificially or naturally flow into the water of the lake or upon the ice of the lake.
- (c) No person shall launch or place a vehicle, boat, boat trailer, equipment or gear of any type into the waters of the State which has an aquatic plant or aquatic animal attached to the exterior.
- (d) No person shall transport a vehicle, boat, boat trailer, equipment, or gear of any type on a public highway which has an aquatic plant or an aquatic animal attached to the exterior.
- (e) No person shall fail to comply with a law enforcement officer's order to remove all aquatic plants or animals before placing any vehicle, boat, seaplane or other object in the navigable water, or to remove the vehicle, boat, seaplane or other object from the navigable water.
- (f) No person shall fail to comply with a law enforcement officer's order not to transport or operate a vehicle, watercraft or other object on a highway if the officer has reason to believe it has aquatic plants or animals attached.
- (g) No person shall unlawfully introduce non native aquatic plants into the waters of the State of Wisconsin.

SEC. 12-2-15 OVERNIGHT MOORING PROHIBITED.

The anchoring, drifting or mooring of boats on open water, upon which people are living, sleeping or camping is prohibited between 10:00 p.m. and 4:00 a.m.

SEC. 12-2-16 BUOYS MARKING RACE COURSES.

Such buoys may be set without lighting and no permit is required from the Water Safety Patrol. Such buoys shall be of a bright color and made of materials which will not damage a boat if struck. Authorization shall be obtained from the City of Delavan or the Town of Delavan for any buoy marking race courses between sunset and sunrise.

SEC. 12-2-17 MOORING OR ANCHORING IN SWIMMING AREAS.

No person shall moor or anchor any boat, at any time, other than an emergency craft, in marked swimming areas.

SEC. 12-2-18 PUBLIC LANDINGS.

No person shall moor or anchor any boat at public beaches, park or landings other than at piers as designated by the controlling government agency.

SEC. 12-2-19 MARKERS AND NAVIGATION AIDS.

- (a) **Maintenance.** The City of Delavan or the Town of Delavan shall place and maintain or have placed and maintained suitable markers, navigation aids and signs in such water areas as shall be appropriate to advise the public of the provisions of this Chapter and post and maintain a copy of this Chapter at all public access points within the jurisdiction of the Town and City.
- (b) **Standard Markers.** All markers placed upon the waters of the lake shall comply with the regulations of the State Department of Natural Resources and/or any State statutory provision.
- (c) **Interference With Markers Prohibited.** No person shall, without authority, remove, damage or destroy or moor or attach any watercraft to any buoy (except mooring buoys when authorized), beacon or marker placed in the waters of the lake by the authority of the United States, State, City or Town or by any private person pursuant to the provisions of this Chapter.

SEC. 12-2-20 ENFORCEMENT.

- (a) **Powers.** An officer patrolling the waters may stop and board any boat for the purpose of enforcing Sections 30.50 to 30.80, Wis. Stats., or any rules or ordinances enacted pursuant thereto, if he has reasonable cause to believe there is a violation of such sections, rules or ordinances, or if the stopping and boarding of any boat is essential to conduct a search and rescue operation.
- (b) **Arrest for Violation.** Any person violating any provision of this Chapter shall be subject to arrest, whether at the time of arrest he is on the waterways or upon shore and any water patrol officer may pursue the offender ashore to enforce the terms hereof.

- (c) **Procedure on Arrest.** Whenever a person is arrested for violation of this Chapter, the Water Safety Patrol officers may permit such person to make a money deposit. Such deposit shall be made to the Town or City of Delavan or to the Municipal Judge of the Town or City in an amount not to exceed the amount of the maximum forfeiture which may be imposed after the accused is found guilty, or other such amount as may be fixed by that particular Court in the setting up of a bail bond schedule.
- (d) **Failure of Defendant to Appear.** If the person so arrested and released fails to appear personally or by an authorized attorney or agent before the Court at the time fixed for hearing, the money deposit by the accused, pursuant to the previous subsection, shall be retained and used for the payment of the forfeiture, which forfeiture may be imposed either with or without costs as determined by the Court after an ex parte hearing upon the accused. The excess, if any, Mutual Lake District Regulations shall be returned to the person who makes the deposit upon his making application for the same. If the accused is found not guilty, the entire amount of the deposit shall be refunded to the depositor upon his making application for the same.

SEC. 12-2-21 PENALTIES. (Adopted 06/08/2010 Ord. RC-289).

- (a) Any person who shall violate any provision of this Chapter or any provision of Chapter 30, Wis. Stats., adopted by reference, for which a penalty is not hereinafter provided in this Section, shall, upon conviction thereof; forfeit not more than Fifty Dollars (\$50.00) for the first offense and not more than One Hundred Dollars (\$100.00) for the second or subsequent offense within one (1) year, together with the costs of prosecution and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until full payment thereof is made, but not exceeding sixty (60) days.
- (b)
 - (1) Any person who shall violate that portion of Section 12-2-4 of this Chapter, incorporating by reference Sec. 30.67(1), Wis. Stats., or 30.68(2), Wis. Stats., shall, upon conviction thereof, forfeit not more than Two Hundred Dollars (\$200.00), together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until full payment thereof is made, but not exceeding sixty (60) days.
 - (2) Any person violating said Sec. 30.68, Wis. Stats., herein adopted by reference, shall be required to obtain a certificate of satisfactory completion of a safety course under Sec.30.74(1), Wis. Stats.
- (c) Any person who shall violate that portion of Section 12-2-4 of this Chapter, incorporating by reference Sec. 30.67(2), Wis. Stats., shall, upon conviction thereof, forfeit not more than Two Hundred Dollars (\$200.00), together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until full payment there is made, but not exceeding sixty (60) days.
- (d) A person who shall violate that portion of Section 12-2-4 of this Chapter, incorporating by reference Sections 30.681(1) and 30.684(5), Wis. Stats., respectively:
 - (1) Upon conviction thereof for first offense, shall forfeit not less than One Hundred Fifty Dollars (\$150.00) nor more than Three Hundred Dollars (\$300.00), together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until full payment be made, but not exceeding sixty (60) days.
 - (2) In addition to any other penalty or order, a person who violates said Sections 30.681(1) or 30.684(5), Wis. Stats., herein adopted by reference, if the violation involves the operation of a motorboat, shall be ordered by the Court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol or controlled substances.

- (3) In addition to any other penalty or order, a person who violates said Sections 30.681(1) or 30.684(5), Wis. Stats., herein adopted by reference, if the violation involves the operation of a motorboat, shall be ordered by the Court to obtain a certificate of satisfactory completion of a safety course under Sec. 30.74(1), Wis. Stats.
- (e) Any person who has been required or ordered to obtain a certificate of satisfactory completion of a safety course under Sec. 30.74(1), Wis. Stats., and who operates a motorcraft before obtaining such certificate, shall, upon being found guilty thereof, pay a forfeiture of not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00), together with costs of prosecution and, upon failure to pay such forfeiture, be confined in the County Jail for not to exceed sixty (60) days, or until such forfeiture be sooner paid.
- (f) Any person who violates Section 12-2-14(c) of this Ordinance shall forfeit not less than \$295 and no more than \$767.50 for a first offense and no less than \$547 and no more than \$2,657.50 for a second offense within three (3) years.
- (g) Any person violating Section 12-2-14(d) of this Ordinance shall forfeit not less than \$232 and no more than \$767.50 for a first offense, and no less than \$358 and no more than \$2,657.50 for a second offense within three (3) years.
- (h) Any person who violates Section 12-2-14(e) shall forfeit not less than \$358 and not more than \$767.50 for a first offense, and no less than \$610 and no more than \$2,657.50 for a second offense within three (3) years.
- (i) Any person who violates Section 12-2-14(f) shall forfeit not less than \$295 and no more than \$767.50 for a first offense, and no less than \$421 and no more than \$2,657.50 for a second offense within three (3) years.
- (j) Any person who violates Section 12-2-14(g) shall forfeit no less \$389.50 for a first offense.