

CHAPTER 4
PUBLIC SAFETY

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SECTION 4.01 **BOATING REGULATIONS AND WATER SPORTS**(a) **Intent.**

The intent of this Ordinance is to provide safe and healthful conditions for the enjoyment of aquatic recreation and to reduce ongoing destruction of shoreline consistent with public rights and interest and the capability of the Lake Wisconsin water resource.

(b) **Applicability.**

This Ordinance shall apply to that portion of the waters of Lake Wisconsin within the jurisdiction of the Town of Lodi, and to such tributary waters as are subject to the police power of the Town of Lodi. No person shall use such waters or operate boats thereon except in compliance with the rules of this Ordinance.

(c) **Boating and Safety Laws Adopted.**

The boating and safety laws of the State of Wisconsin found in Wis. Stats. §§ 30.50 to 30.71 are adopted by reference.

(d) **Definitions.**

- (1) **Shore Zone.** All surface waters within 200 feet of the shoreline.
- (2) **Swimming Zone.** An authorized area of water established by regulatory markers to designate a swimming area.
- (3) **Designated Anchorage.** An authorized area of water established by regulatory markers and marked as an anchorage by lawful authority.
- (4) **Public Access.** Any point of access to the waters of Lake Wisconsin by means of public property.
- (5) **Navigation Lane.** An area designated by authorized aids to navigation.
- (6) **Slow-No-Wake.** The slowest possible speed at which a boat moves while still maintaining steering control.
- (7) **Boat.** Every description of watercraft, other than a seaplane on the water, capable of being used as a means of transportation on water.
- (8) **Motorboat.** Any boat equipped with propulsion machinery, whether or not the machinery is the principal source of propulsion.
- (9) **Sailboat.** Any boat propelled by sail.
- (10) **Water Skis.** Any apparatus used to tow a person on the water or above the water by means of ropes or lines attached to a motorboat.

(e) **Water Exhibition Regulations.**

- (1) No person shall conduct or participate in a water ski tournament, boat race, regatta, competition, exhibition or trial therefor (hereinafter called "water exhibition") unless the water exhibition and its sponsor are duly licensed hereunder to operate in a water exhibition restricted area by the Lodi Town Board. Between the dates and during the hours when exclusive use of a water exhibition licensee is authorized, the use of the navigable waters of the area by persons other than law enforcement officials and the water exhibition licensee is prohibited. This prohibition shall not apply in case of an emergency, or to patrol or rescue craft.
- (2) License Area to be Designated. A license issued under this section shall specify the course or area of water to be used by participants in such water exhibition, and the licensee shall be required to place markers, flags or buoys designating the specified area. The Town Board may issue licenses only if it finds that the proposed use of the waters of the Town can be carried out safely and without danger to or substantial obstruction of other watercraft or persons using the water.
- (3) Right of Way to Participants. Boats and participants in any such permitted water exhibition shall have the right of way within the marked area and no other person may obstruct such area during the water exhibition or interfere therewith.
- (4) License Procedure.
 - (A) Any person may apply to the Town Board for a license to use a water exhibition restricted area using forms provided by the Town Clerk-Treasurer. The applicant shall supply the following information:
 - (i) The name, mailing address and telephone number of the license applicant. If the applicant is a corporation, this shall include the state of incorporation and the names and addresses of its officers.
 - (ii) A description of the proposed water exhibition, including the proposed dates and hours of licensed restricted use, the locations of water skiing jumps and pickup/drop off areas, if any. A detailed map showing the precise location of the proposed water exhibition and markers or buoys shall be attached.
 - (iii) A brief description of the applicant's experience, financial responsibility and technical ability to present the proposed water exhibition.
 - (iv) The Town Board may require additional information from any applicant if it deems it necessary for the Town Board to exercise its informed judgment relating to the application.

- (B) The Town Board shall consider the information contained in the application, as well as the following additional factors, when determining whether to grant a license to the applicant:
 - (i) The suitability of the proposed water exhibition for the water exhibition restricted area;
 - (ii) Existing values of land, riparian rights and enterprise within or in the vicinity of the proposed water exhibition restricted area;
 - (iii) Existing flora and/or fauna within or in the vicinity of the proposed water exhibition restricted area whose habitat may be adversely impacted by the proposed water exhibition.
 - (iv) The general public health, safety and welfare.
- (C) All applications shall be submitted at least 30 days prior to the first date of the proposed water exhibition for that particular year. The Town Board's decision shall be final. The applicant may amend the application to conform to reasonable conditions attached to the granting of the license by the Town Board.
- (5) Additional Regulations. The use of the water exhibition restricted area is subject to the following additional requirements:
 - (A) Lighting. The licensee shall provide sufficient lighting to the restricted area in order to permit the reasonably safe presentation of the water exhibition.
 - (B) Boats. No boat shall remain unattended in a water exhibition attended area.
 - (C) Pickup and Drop Off Areas. The licensee shall maintain all pickup and drop off areas authorized in the license.
 - (D) Jumps. The licensee shall maintain any and all waterski jumps authorized in the license. The jumps shall be securely moored during daylight hours on dates of operation, and removed to a designated and approved storage area at a shoreline, which need not be entirely out of the water, between sunset and sunrise, or at any time when unattended or not in use.
 - (E) Sound. Motorboats shall be equipped with closed exhaust systems emitting no more than 86 decibels of sound measured at the limit of the water exhibition restricted area. Engines shall not be tested on Sundays, nor dry-fired.

- (F) Safety. The licensee shall provide for the safety of participants and spectators by the provision of sufficient ambulances and/or safety boats as approved by the Town Board.
 - (G) Buoys. If the water exhibition is contemplated to last more than two consecutive days, the licensee shall remove the markers, flags or buoys designating the specified area during the hours of darkness. All such markers, flags or buoys shall be materials which are safe for flora, fauna and the waters utilized.
 - (H) Insurance. Prior to the first scheduled water exhibition, the licensee shall file a liability insurance policy or binder with the Town Clerk-Treasurer by a company authorized to do business in the State of Wisconsin, with liability limits of not less than \$1 million per person and \$100,000 for property damage.
 - (I) Fee. The fee for a water exhibition permit shall be as established under Section 2.71.
 - (J) Operation Outside Restricted Area. The licensee shall not permit participants in the water exhibition to make test runs or similar high performance activities outside the marked restricted area for the water exhibition.
- (f) **Controlled Areas.**
- (1) No person shall operate a motorboat or other motor-driven device in excess of the slow, no-wake speed within a water area which has been clearly marked with regulatory markers designating the area for such speed. The following areas, more particularly described in diagrams or aerial photographs on file with the Wisconsin Department of Natural Resources, are hereby designated as slow, no-wake areas:
 - (A) Okee Area -- Highway V Bridge. This slow, no-wake zone extends from the northerly and southerly faces of the Columbia County Trunk Highway V bridge into the waters of Lake Wisconsin a distance of 150 feet.
 - (B) Harmony Grove Lagoons. This slow, no-wake zone includes the five lagoons located on the southerly shore of Lake Wisconsin in Section 4, Town of Lodi, including the entire lagoons from their termini to their mouths, as well as extending 150 feet out into Lake Wisconsin from a line extending from each point of land across lagoon entrances.

- (C) Okee Area -- Back Bay of Okee Bay. This slow, no-wake zone includes the area commonly known as the back bay of Okee Bay, adjacent to the mouth of Spring Creek. This area is bounded on the north by a line drawn from a starting point on the easterly shore of Okee Bay at the end of Red Cedar Drive extended southwesterly across Okee Bay to the westerly shore of Okee Bay adjacent to the blue silo abutting the Chicago & Northwestern Railroad tracks adjacent to State Trunk Highway 113.
- (2) No person shall cause, allow or permit any person to move, remove, molest, tamper with, destroy or moor a boat (except to mooring buoys) to any navigation aids or regulatory markers, signs or other devices established and maintained for boaters on waters on the Town of Lodi.
- (3) This Section does not apply to the operation of a boat in the case of an emergency, or to patrol or rescue craft.
- (g) **Penalties.** Wisconsin State boating penalties, as found in Wis. Stats. § 30.80, and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, are hereby adopted by reference, with all references to fines amended to forfeitures and all references to imprisonment deleted. Any person violating a provision of this Ordinance for which no statutory equivalent exists in Wis. Stats. Chap. 30 shall forfeit not less than \$25.00 nor more than \$100.00 upon conviction for the first offense, and not less than \$50.00 nor more than \$200.00 upon conviction for the second or subsequent offenses in the same year, together with costs and any applicable assessments.
- (h) **Enforcement.**
- (1) The provisions of this Ordinance shall be enforced by the Columbia County Sheriff's Department and/or by one or more of the Supervisors of the Town.
- (2) Form of Citation. The form of the citation to be issued shall conform to Section 1.11(b) of the Lodi Municipal Code.
- (3) Schedule of Deposits. The schedule of cash deposits for provisions of this Ordinance for which no statutory equivalent exists in Wis. Stats. Chapter 30 for which a citation may be issued are as established on the deposit schedule adopted in Section 1.11(c) of the Lodi Municipal Code. In addition to the deposit amount listed, the deposit shall include the penalty assessment imposed by Wis. Stats. § 165.87, jail assessment as imposed by Wis. Stats. § 302.46(1) and court costs as imposed by Wis. Stats. § 814.63.
- (4) In cases in which enforcement is undertaken by the Columbia County Sheriff's Department, the procedures of Wis. Stats. §§ 23.50 to 23.99 shall apply, and actions shall be commenced by use of the citation authorized herein and in Wis.

Stats. § 23.53. Where enforcement is undertaken by one or more of the Town Supervisors, forfeiture actions shall be commenced pursuant to Wis. Stats. §§ 778.10 to 778.11.

- (5) Nonexclusivity. The adoption of this Ordinance does not preclude the Town Board from adopting any other Ordinances providing for the enforcement of any other law or Ordinance relating to the same or any other matters. The issuance of citation or a Complaint under this Ordinance in no way precludes the proceeding under any other law or Ordinance relating to the same or any other matter.
- (i) Severability of Provisions.
The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this Ordinance or the application to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected.

History Note: Adopted June 29, 1993.

SECTION 4.02 **SEAPLANES REGULATED**(a) **Purpose.**

The purpose of this Ordinance is to adopt safety regulations relating to seaplanes as authorized by Wis. Stats. § 30.78 for that area of Lake Wisconsin known as Okee Bay. This area is now virtually surrounded with residences, most of which own watercraft using Okee Bay. Many other watercraft owners utilize Okee Bay through available public boat launch sites. Okee Bay is also a very popular site for fishing and watersports. Unrestricted seaplane usage in this small area with its high degree of public usage is hazardous and contrary to the public welfare.

(b) **Applicability.**

This Ordinance shall apply to that portion of Lake Wisconsin commonly known as Okee Bay, consisting of all of Lake Wisconsin lying southerly of the County Trunk Highway V bridge crossing said lake in Section 8.

(c) **Restrictions on Commercial Use.**

(1) It shall be unlawful for any person to take off or land with any commercial aircraft upon the waters of Okee Bay. This prohibition shall not apply to emergency landings, military aircraft nor to aircraft responding to any medical emergency.

(2) For purposes of this Ordinance, the term "commercial aircraft" shall include any aircraft carrying passengers for hire or operated in connection with any other business and carrying passengers primarily for amusement or sightseeing excursions.

(d) **Restrictions on Flight Instruction and Practice.**

(1) It shall be unlawful for any aircraft, whether commercial or otherwise, to make repetitive landings and takeoffs, commonly known as "touch and goes," upon the waters of Okee Bay.

(2) It shall be unlawful for any pilot to use the waters of Okee Bay as a site for flight instruction.

(e) **Speed of Operation.**

No aircraft shall taxi or otherwise operate on the surface of Okee Bay at a speed in excess of 15 miles per hour when within 500 feet of the shore thereof, or of any other aircraft, or of any other person or of any other watercraft, with the exception of take-offs or landings.

(f) **Hours of Operation.**

It shall be unlawful for any aircraft to operate on the waters of Okee Bay during hours of darkness. For purposes of this Ordinance, "hours of darkness" means the time of day

commencing 60 minutes after sunset and ending 60 minutes before sunrise the following day.

(g) **Days of Operation.**

It shall be unlawful for any aircraft to operate on the waters of Okee Bay on Saturdays, Sundays and holidays between 10:00 a.m. and 7:00 p.m. commencing on the Saturday before Memorial Day and ending on Labor Day of each year. Operation will be allowed from 10:00 a.m. to 7:00 p.m. on these days.

(h) **Reporting.**

Every court in which a violation of this Ordinance is prosecuted shall make a written report of any conviction to the Federal Aviation Administration.

(i) **Severability.**

The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this Ordinance or the application to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected.

History Note: Adopted February 22, 1994.

SECTION 4.03 **AIRPORT HEIGHT LIMITATIONS**(a) **Statutory Authorization.**

This Ordinance is adopted pursuant to Wis. Stats. § 114.136.

(b) **Definitions.**

- (1) Airport. Lodi-Lakeland Field, located in Sections 22 and 23, Town 10 North, Range 8 East, Columbia County, Wisconsin.
- (2) Nonconforming Use. Any structure which does not conform to the provisions of this Ordinance or an amendment thereto, as of the effective date of this Ordinance.
- (3) Person. Any individual, firm, partnership, corporation, company, association, joint stock association, limited liability company, limited liability partnership or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (4) Structure. Any object, including a mobile object, constructed, installed or located by a person.
- (5) Height. Elevation above Mean Sea Level of the top of the structure, including any appurtenance installed thereon.
- (6) Permit. Written permission from the Town of Lodi on a form provided by the Town of Lodi stating that the proposed structure site either conforms to this Ordinance, or has been granted a variance per Section (f).

(c) **Airport Height Restriction Areas.**

All areas established by this Section are as shown on the map dated December 17, 1997, entitled "Height Limitation Area Map, Lodi-Lakeland Field, Columbia County, Wisconsin," which is attached hereto and adopted as part of this Ordinance.

(d) **Nonconforming Uses.**

- (1) Not Retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other change or alteration of any structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use, except as otherwise provided by Section (f)(2). Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this Ordinance, and if such is diligently prosecuted.

- (2) Removal by Purchase. This Section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.
- (e) **Airport Height Limitations.**
No structure shall be constructed, altered or located to a height in excess of the elevation indicated on the map referred to in Section (c) of this Ordinance. Any structure constructed, altered or located in violation of this Ordinance shall be removed at the owner's expense.
- (f) **Permits.**
- (1) **Future Uses.** No structure shall hereafter be constructed or located in any area created by Section (c) of this Ordinance until the owner or his or her agent shall have applied in writing and obtained a permit from the Town Building Inspector. Application for such permit shall indicate the purpose for which the permit is desired, with sufficient information to permit the Town Building Inspector to determine whether such structure would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
- (2) **Existing Uses.** Before any nonconforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed in Section (f)(1) authorizing such change, replacement or repair. Such permit shall be granted if the structure will not become a greater hazard to air navigation than it was on the effective date of this Ordinance, or than it was when the application for permit was made.
- (3) **Exemptions.** Applications for permits are not required for structures which are less than thirty-five (35) feet in height above ground level at the structure site.
- (4) **Posting.** Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment.
- (5) **Variances.** Upon appeal in special cases, the Board of Appeals may, after investigation and public hearing, granted a variance from the terms of this Ordinance. Such variance shall not be contrary to the public interest or create a hazard to the safe, normal operation of aircraft.
- (g) **Administration.**
It shall be the duty of the Town Building Inspector to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made on a form provided by the Town Building Inspector. Applications for permits shall be granted or denied within forty-five (45) days from the date of filing. Applications for variances shall be granted or denied within forty-five (45) days from the date of filing. Applications for variances shall include evidence of Federal Aviation Administration review of the proposed construction (FAA Form 7460-1 "Notice of Proposed

Construction"). Appeals shall be transmitted by the Town Clerk-Treasurer to the Board of Appeals for hearing and decision.

(h) **Board of Appeals.**

There is hereby created an Airport Board of Appeals, consisting of five members appointed by the Town Board Chairperson, subject to confirmation by the Town Board, for terms of three years, excepting that of those first appointed. Of the members first appointed, one shall serve for one year; two for two years; and two for three years. Selection of members shall occur at the first Town Board meeting after the Annual Town Meeting in April of each year. The Airport Board of Appeals shall have the following powers:

- (1) To hear and decide appeals from any determination made by the Town Building Inspector in the enforcement of this Ordinance; and
- (2) To hear and decide specific variances.
- (3) The Airport Board of Appeals shall adopt rules for its governance in harmony with the provisions of this Ordinance.

(i) **Appeals and Review.**

- (1) Aggrieved Person. Any person aggrieved or affected by any decision or action of the Town Building Inspector made in the administration of this Ordinance may appeal such decision or action to the Airport Board of Appeals.
- (2) Procedure. Any appeal taken pursuant to this Section shall be in conformity with the procedure established by the applicable Wisconsin Statutes.
- (3) Meetings. All meetings and hearings of the Airport Board of Appeals shall be open to the public. Notice of all meetings of the Airport Board of Appeals shall be given to the applicant, the Lodi-Lakeland Aero Club, the Lodi Town Clerk-Treasurer and the Clerk of the Municipality where the property of the aggrieved person is located. The Airport Board of Appeals shall conduct a public hearing on each matter that comes before it, preceded by publication of a Class 1 notice.
- (4) Fees.
 - (A) The applicant shall pay a permit fee as established under Section 2.71 to the Town Building Inspector at the time of applying under Section (g).
 - (B) The applicant shall pay an appeal fee as established under Section 2.71 to the Town Clerk-Treasurer for any matter the applicant brings to the Airport Board of Appeals. In addition, the applicant shall be responsible for the actual costs relating to the public hearing, including the cost of publishing notice of the public hearing and mailing notices.

- (j) **Penalties.**
Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to a forfeiture as set forth in Section 1.21 of the Lodi Municipal Code.

- (k) **Conflicting Regulations.**
Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, the more stringent limitations or requirements shall govern and prevail.

Adopted August 14, 1997, amended July 28, 1998

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