

## CLEARWATER TOWNSHIP

### **Resolution Supporting Enactment of Clearwater Township Road Ending, Public Access Site and Parks Ordinance**

#### **Recitals**

WHEREAS, residents of Clearwater Township have brought to the attention of the township board problems associated with the unregulated anchoring, hoisting and mooring of unattended boats on the shorelines and bottomlands of lakes and rivers, at road endings and public access sites to lakes and rivers within the township, through statements of the general public, letters, photographs of congested anchoring, hoisting and mooring on Higgins Lake and Torch Lake, and the Torch Lake Property Owners Opinion Survey dated June 1999:

WHEREAS, the Clearwater Township Board is considering the enactment of a Road Ending, Public Access Site and Parks Ordinance to address these problems; and

WHEREAS, the Clearwater Township Board desires to make legislative findings in support of the Road Ending, Public Access Site and Parks Ordinance;

#### **Resolution**

NOW, THEREFORE, BE IT RESOLVED that the Clearwater Township Board makes the following legislative findings in support of the Road Ending, Public Access Site and Parks Ordinance:

1. **Unrestricted Use by Some Can Impair Use by Others.** Unrestricted use of road endings, public access sites and township parks by some individuals can act to impair the rights of township residents and other members of the general public to use and enjoy such facilities.
2. **Natural Resource of Paramount Importance.** The lakes and rivers in this township are significant natural resources of paramount importance to the township and its residents and must be protected from congestion and degradation.
3. **Maintain Desirable Characteristics.** It is desirable to maintain the ecological, aesthetic and recreational characteristics of the lakes and rivers in the township.
4. **Increased Usage.** Intensive development on and near the lakes in this township and increased tourism throughout the township have substantially increased the use of lakes within the township. The cumulative impact of this increased tourism and boating activity has resulted in a need to regulate boating and other activities at road endings, public access sites and township parks and to regulate activities associated with boating that can have adverse impacts on shoreline properties.

The township board finds that these regulations are necessary to protect the public Health, safety and welfare of township residents and members of the general Public who use and enjoy the lakes and rivers within the township.

5. **Harmful Impacts Related to Road Endings, Public Access Sites and Shoreline Property.** The unrestricted docking, mooring, beaching and/or anchoring of unattended boats on the bottomlands of road endings, public access sites, township parks and shoreline property will, or will threaten to, interfere with the launching of other boats, create congested conditions for other boat users and people engaged in other water related activities such as swimming, create a nuisance for other users of the road endings, public access sites, township parks and for adjoining property owners, and will, or will threaten to, create trespasses on the bottomlands of shoreline property owners.
6. **Harmful Impacts Related to the Character and Aesthetics of the Lakes, Rivers and Surrounding Neighborhoods.** The existence of congested conditions and unrestricted activities at and off road endings, public access sites and township parks is not compatible with the character of residential properties adjacent to or near those road endings, public access sites and township parks and are not aesthetically pleasing to residents and other users of the lakes and rivers, making the area less attractive to visitors and negatively impacting the economic welfare of the township as a whole.
- 7 **Harmful Impacts to the Natural Resource.** The unrestricted launching of boats at road endings, public access sites and township parks will, or will threaten to, lead to an increase in pollution or destruction of the lakes' and rivers' shorelines, bottomland and waters, and will have a detrimental effect on wildlife and fish habitat.

BE IT FURTHER RESOLVED that the Clearwater Township Board finds that the above problems can best be addressed through the enactment of the Clearwater Township Road Ending, Public Access Site and Parks Ordinance.

THEREFORE, it is moved by D. Grimm, and seconded by Veen that the Clearwater Township Road Ending, Public Access Site and Parks Ordinance be enacted.

TOWNSHIP OF CLEARWATER

By: \_\_\_\_\_  
David Grimm, Supervisor

By: \_\_\_\_\_  
Julie K. Vance, Clerk

**CLEARWATER TOWNSHIP**  
**Ordinance No. 20 of 2007**

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO REGULATE ACTIVITIES ON ROAD ENDINGS THAT TERMINATE ON THE SHORELINE OF LAKES AND RIVERS AND PUBLIC ACCESS SITES WITHIN THE TOWNSHIP, TO REGULATE THE ANCHORING, HOISTING AND MOORING OF UNATTENDED BOATS ON THE SHORELINES AND BOTTOMLANDS OF LAKES AND RIVERS WITHIN THE TOWNSHIP, TO REGULATE PUBLIC PARKS WITHIN THE TOWNSHIP, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

THE TOWNSHIP OF CLEARWATER ORDAINS:

**Section 1. Title.**

This Ordinance shall be known as the Clearwater Township Road Ending, Public Access Site and Parks Ordinance.

**Section 2. Purpose.**

Based on the findings which have been made by the Clearwater Township Board, the purposes of this Ordinance are to protect and promote the public health, safety and welfare of Township residents and to conserve and protect the inland lakes and rivers within the Township from pollution, destruction or impairment by regulating the use of road endings and public access sites, by regulating the anchoring, hoisting and mooring of unattended boats on the shorelines and bottomlands of those lakes and rivers, and by regulating activities within township parks.

**Section 3. Definitions.**

- (a) "Anchor" means the act of dropping a weighted object that is attached to a boat by means of a chain, cable, rope or other device to the bottomland of a lake or river or the act of placing a weighted object on upland property for the purpose of preventing or restricting the motion of the boat to which it is attached.
- (b) "Beach" means the act of pulling a boat on upland property or grounding a boat on the bottomlands for the purpose of preventing or restricting the motion of the boat.
- (c) "Boat" means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft and nonmotorized boats such as canoes, rowboats and rafts. "Boat," however, does not include an air mattress, paddleboard, boogie board or similar device used by one (1) or two (2) persons for floating or paddling.

- (d) “Bottomlands” means the land beneath the water of a lake or river that attaches to upland and riparian property by operation of law.
- (e) “Decibel (dB)” means a unit of measuring the volume of sound, equal to twenty (20) times the logarithm of the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals [twenty (20) micronewtons per square meter].
- (f) “Dock” means a pier, platform or other structure extending from the shore of a lake or river out over the water.
- (g) “Hoist” means a mechanical device attached permanently or temporarily to the bottomland of a lake or river and used to raise or lift a boat out of the water for the purpose of preventing or restricting the motion of the boat.
- (h) “Lake” means an inland lake or portion of an inland lake located within Clearwater Township.
- (i) “Motor vehicle” means any wheeled vehicle which is designed to be self-propelled.
- (j) “Moor” or “Mooring” means the act of securing a boat to a buoy attached or anchored to the bottomlands of a lake or river by means of a chain, cable, rope or other device or to a dock by means of a chain, cable, rope or other device for the purpose of preventing or restricting the motion of the boat.
- (k) “Person” means an individual, firm, corporation, association, partnership, limited liability company or other legal entity.
- (l) “Public Access Site” means a non-road ending, riparian property owned or controlled by Clearwater Township, including its associated bottomlands, intended by the Township to serve as a means for the public to gain access to the lake or river to which it abuts.
- (m) “River” means a navigable and natural stream of water flowing in a definite course or channel within Clearwater Township.
- (n) “Road ending” means a public road or way owned or controlled by Clearwater Township which terminates at the water’s edge of a lake or river, including its associated bottomlands.
- (o) “Shoreline property” means riparian property within Clearwater Township which abuts a lake or river, including its associated bottomlands.
- (p) “Sound level meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighing net-

works used to measure sound pressure levels and that meets the standards of ANSI S-14 1983, or its successor.

- (q) “Township Park” means property owned or controlled by Clearwater Township that is open to the general public for recreational activities.
- (r) “Weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

**Section 4. Regulations.** No person shall:

- (a) Construct, place or maintain a dock, hoist or mooring device on a road ending, public access site, shoreline property or within a township park, except as provided in this subsection. Clearwater Township may construct, place and maintain a nonexclusive dock on a road ending or public access site or within a township park to aid the general public in gaining access to the lake or river. In addition, unless otherwise prohibited by state law or the Clearwater Township Zoning Ordinance, a person who is the owner of shoreline property or a person with the permission of the shoreline property owner may construct, place and maintain a dock, hoist or mooring device on that owner’s shoreline property.
- (b) Anchor, beach or moor an unattended boat on a road ending, public access site, shoreline property or within a township park for more than five (5) consecutive hours, except in the case of an emergency, the mechanical breakdown of the boat or as otherwise provided in this subsection. In addition, unless otherwise prohibited by state law or the Clearwater Township Zoning Ordinance, a person who is the owner of shoreline property or a person with the permission of the shoreline property owner may anchor, beach or moor an unattended boat on that owner’s shoreline property for more than five (5) consecutive hours.
- (c) Use a road ending, public access site or township park in any manner that:
  - (1) Unreasonably interferes with ingress and egress to the road ending, public access site, township park or to the adjacent water.
  - (2) Causes or creates any loud noise or sound that endangers or injures the safety or health of humans or animals or that annoys or disturbs a reasonable person of normal sensitivities, including but not limited to:
    - (A) Playing or using a radio, phonograph, compact disc player, tape player, television, musical instrument, sound amplifier, or other electronic or mechanical sound-producing device in such manner or with such volume as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivities.

- (B) Yelling, shouting, hooting, singing or making other noise that because of its volume, frequency or shrillness unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.
  - (C) Sounding or using any horn, siren, whistle, bell or other warning device on a boat so as to unreasonable disturb the quiet, comfort or repose of a reasonable person of normal sensitivities, unless the sounding or use of such warning device is authorized by state law and necessary to the safe operation of the boat.
  - (D) Making any noise exceeding 60 dB(A), weighted sound level, as measured by a sound level meter from the nearest shoreline between the hours of 11:00 p.m. and 6:00 a.m. Evidence of such noise shall serve as prima facie evidence that such noise disturbs the comfort, quiet and repose of reasonable persons of normal sensitivities in the area. However, this subsection shall not be applied to the noise created by the motor of a boat during normal operation of that boat.
- (3) Causes littering on the road ending, public access site, township park or adjoining property.
  - (4) Results in trespassing on property adjoining the road ending, public access site or township park.
  - (5) Unreasonably interferes with the use and enjoyment of the road ending, public access site, township park or property adjacent to the road ending, public access site or township park by other persons.
  - (6) Creates any other nuisance condition on the road ending, public access site or township park.
- (d) Drive or back a trailer into the water at a road ending, public access site or township park for the purpose of launching a boat into the lake or river, unless the Township designates that road ending, public access site or township park as an official boat launching site.
  - (e) Camp on a road ending, public access site or township park at any time.
  - (f) Start, use or maintain a campfire, bonfire or other recreational fire on a road ending at any time.
  - (g) Start, use or maintain a campfire, bonfire or other recreational fire on a public access site or within a township park, except that a fire for cooking may be used if it is within the grills provided for that purpose or within a privately-owned grill

which is designed to retain the ashes and prevent their deposit upon the ground.

- (h) Enter or remain in a road ending, public access site or township park between the hours of 11:00 p.m. and 6:00 a.m.
- (i) Bring a dog or other animal onto a road ending, public access site or township park unless such dog or other animal is on a leash or kept within a secure container that prevents its release.
- (j) Fail to clean up manure or other messes caused by the dog or other animal brought onto the road ending, public access site or township park.
- (k) Possess or consume alcoholic beverages on or in a road ending, public access site or township park.
- (l) Operate a boat propelled by a motor within one hundred (100) feet directly offshore of the shore-line of a road ending, public access site or township park.
- (m) Park a motor vehicle on or in a road ending, public access site or township park in violation of official parking signs or in a manner that shall hamper the immediate ingress or egress of any other motor vehicle.
- (n) Park a trailer or recreational vehicle at any road ending, public access site or township park except at the township parks at Birch Street and Cedar Street on the south side of Crystal Beach Road.
- (o) Remain on a road ending or public access site or within a township park after being requested by a police officer to leave.
- (p) Pump or otherwise remove water from a lake or river at a road ending, public access site or township park except for fire suppression or training purposes.

**Section 5. Removal of Boat; Report of Emergency or Mechanical Breakdown.**

If an unattended boat is anchored, beached or moored greater than five (5) consecutive hours as prohibited in Section 4(b) above, but is so anchored, beached or moored because of emergency or mechanical breakdown, that boat must be removed from the road ending, public access site, shoreline property or township park in the shortest time necessary to end the emergency or mechanical breakdown. If the boat is not removed within twenty-four (24) hours, the owner or operator of the boat shall report the emergency or mechanical breakdown to the Kalkaska County Sheriff's Department.

## **Section 6. Violations and Penalties.**

- (a) Any person who violates any provision of this Ordinance, except Section 4(o), shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:
  - (1) For a first offense, the offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars.
  - (2) For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
  - (3) For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 (\$500.00) Dollars.
- (b) Any person who knowingly violates Section 4(o) of this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars and/or by imprisonment in the county jail for not more than ninety (90) days.
- (c) Each day this Ordinance is violated shall be considered a separate violation.
- (d) Violations of this Ordinance may be reported to the Clearwater Township Supervisor and/or to the Kalkaska County Sheriff's Department and/or Clearwater Township Zoning Administrator.

## **Section 7. Enforcement Officials.**

The Clearwater Township Supervisor, Clearwater Township Zoning Administrator and police officers of the Kalkaska County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

## **Section 8. Nuisance Per Se.**

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

## **Section 9. Separate Court Action.**

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding or a criminal prosecution, the Clearwater Township Supervisor may initiate



proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

**Section 10. Nonexclusivity.**

The regulations in this Ordinance shall be in addition to, and not exclusive of, any other local police power ordinance or zoning ordinance or any other state law or regulation, including but not limited to Part 301 of the Natural Resources and Environmental Protection Act, as amended (Inland Lakes and Streams), being MCLA 324.30101, and Part 801 of the Natural Resources and Environmental Protection Act, as amended, (Marine Safety), being MCLA 324.80101.

**Section 11. Repeal.**

The Clearwater Township Park Regulation Ordinance, being Clearwater Township Ordinance No. 10, is hereby repealed in its entirety.

**Section 12. Validity.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 13. Effective Date.**

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

**TOWNSHIP OF CLEARWATER**

By: \_\_\_\_\_  
**David Grimm, Supervisor**

By: \_\_\_\_\_  
**Julie K. Vance, Clerk**

5/15/07

**ORDINANCE CERTIFICATION**

At a regular meeting of the Clearwater Township Board, Kalkaska County, held in the Clearwater Township Hall, located in Rapid City, Michigan, on May 15 2007, at 7:00p.m.

PRESENT: D. Grimm, Veen, Belanger, Vance, S. Grimm

ABSENT: None

It was moved by Veen and supported by D. Grimm that the following ordinance be adopted: (See attached Clearwater Township Ordinance)

YES: Vance-Yes; Belanger-Yes; S. Grimm-Yes; Veen-Yes; D. Grimm-Yes

NO: None

**ORDINANCE DECLARED ADOPTED.**

CLEARWATER TOWNSHIP

By: \_\_\_\_\_  
David Grimm, Supervisor

I, the undersigned, the Clerk of the Township of Clearwater, Kalkaska County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Clearwater Township Board of said County at its regular meeting held on May 15, 2007 relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act; this ordinance was published in the \_\_\_\_\_ on \_\_\_\_\_, 2007, and was filed with the County Clerk on \_\_\_\_\_, 2007.

Dated: \_\_\_\_\_  
Julie K. Vance, Clerk

**Note:** The ordinance and this certification should be filed with the County Clerk within one (1) week of publication, and the ordinance should be placed in the township ordinance book.