

6.18 PIER REGULATIONS.

I. POLICY. The Town of Waterford, pursuant to Chapter 30 of the Wisconsin Statutes, is empowered to regulate piers, wharves, similar or related structures and facilities, and to establish a pier head line. It is in the interest of the Town of Waterford to establish uniform requirements for the establishment of piers, wharves, and related facilities on Tichigan Lake and the Fox River within the Township of Waterford for the following reasons:

- A. To preserve and protect the property and property values within the Township of Waterford; and,
- B. To preserve and protect Tichigan lake and the Fox River; and,
- C. To protect and clarify public interests and riparian rights in Tichigan Lake and the Fox River within the Township of Waterford, by:
 1. Prohibiting piers and similar structures in environmentally sensitive aquatic habitats; and,
 2. Limiting the number and location of piers and similar structures so as to avoid conflicting uses of adjacent properties, and,
 3. Prevent safety hazards and by controlling pier construction so as to promote uniformity and preserve natural shoreline aesthetics.

II. DEFINITIONS. The definitions contained in the Wisconsin Statutes, and more specifically, Section 30.01 of the Wisconsin Statutes, as the same may be amended from time to time, shall apply to all terms contained in this Ordinance, unless otherwise specifically set forth in this Ordinance. For purposes of this Ordinance, the following terms are defined as follows:

1. "Pier" is defined as any structure extending into navigable waters from the shore of such navigable waters, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from said watercraft, and may include a temporary boat hoist without roof or walls, with fabric canopies permitted.
2. "Wharf" is defined as any structure in navigable waters, extending along the shore and generally connected with uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from said watercraft.
3. "Similar" or related structures and facilities" include seasonal or permanent boat shelters or boat hoists.
 - a. "Raft" is defined as a floating platform that is anchored to the bed of navigable waters and is designated for swimming, diving and related activities.
4. "Riparian" is defined as an owner of land abutting a stream or lake.
5. "Wetland" is defined as an area where water is at, near or above the land surfaces long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.
6. "Ordinary high water mark" is defined as the point on the bank or shore, up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction or prevention of terrestrial vegetation or predomination of aquatic vegetation, or other easily recognized characteristics.
7. "Line of navigation" is defined as the three-foot (3) depth or a greater depth contour, if required, for boats in use or appropriate for the use on the waterway, based on the normal summertime low levels on the waterway or summer minimum levels where established by the DNR.

III. ESTABLISHMENT OF PIER HEAD LINE. Until such time that the Town of Waterford establishes, and the DNR approves, a pier head line on Tichigan Lake and the Fox River within the Township of Waterford which meets the requirements of Section 30.11 of the Wisconsin Statutes and this Ordinance can be amended accordingly, no pier, wharf or similar or related structure or facility may exist beyond the greater of:

1. Boat length; or,
2. A three-foot (3) water depth contour; or,
3. A greater depth contour if required for the watercraft berthed. Piers, wharves and similar or related structures or facilities may not, in any case, interfere with public rights on the waterways and the rights of other riparian owners.

IV. PROCEDURE. Any person desiring to construct any pier, wharf or similar or related structures or facilities on Tichigan Lake or the Fox River within the Town of Waterford, shall follow the procedures hereinafter set forth:

A. Permit.

1. No person may hereinafter construct, place or extend, enlarge or replace a pier, wharf or similar or related structure or facility, or multi-pier development in Tichigan Lake or the Fox River within the Town of Waterford, without first applying for, and obtaining, a permit from the Town of Waterford, for that portion of the Lake or River within the Township of Waterford. Piers, wharves and similar or related structures or facilities which are legally placed as of the date of the adoption of this Ordinance, which are removed and replaced seasonally, are not subject to permits or permit fees, so long as any non-conformity with the requirements of this Ordinance are not expanded, pursuant to Section IV(B)(18).
2. Any person, developer, firm or corporation desiring to erect, construct, place, extend, replace or repair any pier, wharf or similar or related structure or facility, or multi-pier development, below the ordinary high water mark of Tichigan Lake or the Fox River within the Town of Waterford, shall make and file in the Office of the Town Clerk, a written application for permit. Developments with "conceptual approval" shall not be exempt from this requirement. The application shall describe the real estate, pier, wharf or similar or related structure or facility, or multi-pier development or extension thereof in detail, together with its location in regard to the shoreline, pier head line and bulkhead line, if established, ordinary high water mark location, water depth contours, extent of wetland vegetation, and with the distance to all property lines of the abutting neighboring riparian lands, giving the details of the dimensions and kinds of materials, details of fueling and any sewage disposal facilities or other accessory construction, if applicable, together with drawings and any additional details and specifications that the Town Board may require. The application shall contain the name, residence, post office address, telephone number and the signature of the riparian owner of the shoreline on whose behalf the application is made, and shall also state the name, residence, post office address, and telephone number of the applicant, if different. The riparian owner and/or applicant shall also provide the Town Clerk with the names and addresses of the abutting neighboring riparian owners with this application for permit.
3. Upon filing of such application for permit, the Town Clerk shall refer it immediately to the Town of Waterford Planning Commission for

investigation and report at their next regular meeting, which Commission, after considering the application and all evidence presented and hearing all parties desiring to be heard, may recommend approval of or deny such application. The Town Clerk shall notify abutting neighboring riparian owners by mail, no less than seven (7) days prior to the Planning Commission meeting during which this permit application shall be presented.

4. No permit shall be granted by the Town Board unless they determine that such construction will comply with the requirements of this Ordinance and will be consistent with Section I of this Ordinance. The fee for such permit shall be as described in the Permit Fee Schedule.
5. In the event the pier, wharf or similar or related structure or facility, or multi-pier development for which a permit has been granted, shall not be erected, constructed, placed, extended or maintained in accordance with the plans, specifications, details, and drawings submitted or in accordance with any conditions imposed on the permit, or in the event such pier, wharf or similar or related structure or facility or multi- pier development shall not be used or that it is used in a manner detrimental to the general public or interferes with the rights of the neighboring riparian owners or adversely affects a critical or significant fish and/or wildlife habitat area, then in such event, the Town Board may cancel and revoke the permit, provided it shall first hold a hearing after fixing a time and place of hearing and shall cause a written notice thereof to be issued and delivered or mailed to the holder of such permit, and also to be abutting neighboring riparian owners, not less than seven (7) days before the time fixed for such hearing.

B. General Requirements.

1. Riparian owners may construct, place, extend, enlarge or replace piers, wharves, or similar or related structures or facilities, or multi-pier developments in the waters of Tichigan Lake or the Fox River within the Town of Waterford in aid of navigation, provided that such piers, wharves, similar or related structures and facilities, or multi-pier developments do not interfere with public rights and safety in the waters or with the rights of neighboring riparian owners or occupants and do not adversely affect a critical or significant fish and/or wildlife habitat area, are subject to any establishment pier head line and other requirements of this Ordinance, and must be consistent with the permit and objectives of Section I of this Ordinance.

2. Piers and wharves shall not exceed six (6) feet in width. One deck, per riparian owner, is allowable on one pier. This deck shall not exceed 112 square feet, including that portion of the pier to which it is attached. (See diagram on file with the Town Clerk for basic concept).

2(A) One raft of up to 100 square feet in area may be allowed, per riparian owner. A permit is required. A raft may not be moored within the normal line of navigation and, in all cases, must be moored within 75 feet of the shore. All rafts must have reflectors or reflective tape visible from all directions. All rafts must have the last name and house number of the riparian owner inscribed and visible. All rafts must be removed or moved to shore from November 1st through April 1st of each year. In order to be "grandfathered", rafts existing prior to the passing of this ordinance must be registered with the Town Clerk within 90 days of May 31st, 2002.

3. Extensions or appurtenances to piers, must comply with all of the requirements of this Ordinance, including all permit requirements.
4. Construction shall be of materials of white, natural or earthen colors, aluminum, or shall be visually inconspicuous as viewed against the shoreline. Aluminum piers are permissible.
5. Lighting on a pier, wharf or similar or related structure or facility, or multi-pier development shall be down- focused white or yellow lights for safety and/or to facilitate docking. Intermittent lighting, strobe or similar lighting is prohibited.

5(A) Riparian owners are required, for safety reasons, to display their house number some place on the shore or on the dock, clearly visible from the water.

6. All piers, wharfs or similar related structures or facilities, or multiplier developments, left in during the winter, shall include reflective white or amber safety markers, no more than five inches square, placed on the farthest-most corners of the permanent structure.
7. Any pier, wharf or similar or related structure or facility, or multi-pier development extending beyond the natural shore or established bulkhead line shall be so constructed as to allow the free movement of water underneath and in such manner as will not cause the formation of land on the bed of Tichigan Lake or the Fox River within the Township of Waterford.
8. Piers, mooring structures, rafts and watercraft moored, shall be set back a minimum of ten (10) feet from common riparian rights lines

and any additional distance required to confine approach and docking of watercraft to the owner's riparian zone.

8(A) A riparian owner may not place more than one pier or wharf per total contiguous frontage owned, assuming compliance with the remainder of this ordinance. Any request for an additional pier or wharf (or mooring in excess of the limit of four) shall be subject to Planning Board recommendation and Town Board approval on a case-by-case basis. In considering a request for an additional pier or wharf, the Planning Commission and the Town Board shall consider the policy dictates found in Section 6.18(l) of this ordinance and its past practice of not allowing more than one (1) pier per riparian for each one hundred (100) feet of frontage in the event the applicant has more than one hundred (100) feet of frontage.

9. There shall be a maximum of four (4) permanently moored watercraft per pier, including watercraft on lifts and mooring buoys. For purposes of this paragraph, *permanently moored* is defined as being moored longer than three consecutive days.

9(A) Permanently moored watercraft shall be the property of the riparian owner or waterfront resident only, unless a law enforcement officer's or rescue vessel authorized by the Town of Waterford.

9(B) No rental of boat slips is allowed.

10. Subdivisions, multi-unit developments and planned unit developments which share a common waterfront lot, parcel or common area may not place more than one (1) pier or wharf per 100 feet of shoreline. All multi-pier developments and similar or related structures and facilities, serving subdivisions, multi-unit developments, planned unit developments, condominiums and home owner's associations, shall be constructed no less than 100 feet from any abutting neighboring lot line.
11. No easements of access shall be granted over existing lots, and no such easement shall be shown on a subdivision plat, multi-unit development plat, planned unit development plat, condominium plat, or in a condominium agreement or homeowner association agreement, which provides greater access than provided above.
12. Pursuant to Section 236.16 of the Wisconsin Statutes, subdivisions with water frontage are required to dedicate a public access to waterways, which, under this Ordinance, must meet with Town, County and DNR approval or be waived by the same.

13. Piers, wharves and similar or related structures and facilities may be placed and maintained only by riparian owners.
14. Electrical, fueling and waste disposal facilities for business or commercial facilities shall comply with all NEC, DILHR, DNR and Town and County Codes, and any other applicable safety and environmental protection laws. In addition, fuel and waste holding tanks must be set back from the ordinary high water mark per applicable DNR regulations.
15. Such piers, wharves and similar or related structures or facilities, or multi-pier developments shall be subject to the pier head line which may be established pursuant to the provisions of Section 30.13(3) of the Wisconsin Statutes.
16. All piers, wharves and similar or related structures and facilities or multi-pier developments extending beyond the natural shore or established bulkhead line shall be so maintained as to prevent any part or parts thereof from floating free into the waters of Tichigan Lake or the Fox River, and as to prevent said structures from becoming unsafe, unserviceable or unsightly.
17. The respective rights of neighboring riparian owners shall be determined, so as to give each riparian owner his due proportion of the line of navigation, by the extension of lot lines from the shoreline to the line of navigation, by drawing a chord between each pair of property lines at the point where each line meets the shoreline, and bisecting the resulting angle (coterminous riparian rights line extension), or by other DNR approved methods of determining riparian zones. All structures must be confined within each riparian owner's respective zone.
18. Every pier, wharf and similar or related structure or facility, or multi-pier development constructed, placed, extended or replaced in Tichigan Lake or the Fox River within the Town of Waterford in violation of this Ordinance, is declared to be a public nuisance, and the construction thereof may be enjoined and the maintenance thereof may be abated by action initiated by the Town of Waterford.
19. Any pier, wharf or similar or related structure or facility, or multi-pier development existing in place as of the date of adoption of this amended ordinance and registered with the Town Clerk in the Town of Waterford on or before July 5, 1992, shall be considered to meet the requirements of this Section. Said structure may be repaired or replaced, so long as any non- conformity with the requirements of this Section is not expanded.

20. Any person, developer, firm or corporation who owns real estate abutting the shoreline of Tichigan Lake or the Fox River within the Township of Waterford, shall register the length, width, construction and side-yard setbacks of any of their piers, wharves or similar or related structures or facilities, or multi-pier developments, with the Town Clerk in the Town of Waterford on or before July 5, 1992, along with a color photograph(s) of such structure(s). Any such structure in place as of the date of adoption of this amended Ordinance and registered before July 5, 1992, shall be considered to meet the requirements of this Section. Any pier, wharf or similar or related structure or facility, or multi-pier development not registered by July 5, 1992, shall be required to comply with the terms of this Ordinance.
21. Any pier, wharf or similar or related structure or facility, or multi-pier development which is legally placed as of the date of adoption of this subsection and which does not conform to this Ordinance, shall be considered "permissible and pre-existing", and shall not constitute an unlawful obstruction of navigable waters, so long as said structures are registered as provided herein before July 5, 1992, and are otherwise consistent with applicable Town, County and DNR regulations and laws.
22. With respect to Sections 19, 20, and 21 above, and when said sections refer to July 5th, 1992, the following additional language shall be included after such reference date....*or with an approved permit prior to May 31st 2002.* In order to be *grandfathered*, rafts existing prior to the passing of this ordinance must have been registered with the Town Clerk within 90 days of May 31st, 2002.

V. PROHIBITION AND EXCEPTIONS. Any pier, wharf and similar or related structure or facility, or multi-pier development extending into navigable waters beyond the limits set forth herein, constitutes an unlawful obstruction of navigable waters. Beyond the requirements within this Ordinance, riparian owners must further comply with any requirements of Chapter 30 of the Wisconsin Statutes, Chapter NR 326 of the Wisconsin Administrative Code, administered by the DNR, as well as any structural, land use or zoning requirements administered by the Racine County Department of Planning and Development.

- VI. PENALTY AND ENFORCEMENT. The penalty for violation of this ordinance, or any party thereof, shall be as is stated in Section 11.08 of the Municipal Code. This ordinance shall be enforced by the Town of Waterford Police Department.

All references to Tichigan Lake and/or the Fox River are also applicable to that body of water known as the Fox River Impoundment.

