

19.17 STATIONARY ARTIFICIAL STRUCTURES

1) DECLARATION OF PURPOSE

- (a) The purpose of this Section is to promote the public health, safety and welfare of all persons using the navigable waters of the Town. It is recognized that the indiscriminate location of stationary artificial structures within and upon such waters, without any municipal supervision or regulation thereof, constitutes a danger and hazard to the healthful and safe enjoyment of the rights of such waters.
- (b) This Section is not intended to interfere with the riparian rights of riparian owners.

2) PERMIT TO ESTABLISH STATIONARY ARTIFICIAL STRUCTURES NECESSARY

(a) REQUIRED

- i. No person shall establish by anchor, pilings, or other type of construction, an artificial stationary structure, raft, buoy or other contrivance used or designed as an aid to navigation on water, within or upon the navigable waters of the Town, without first obtaining a permit from the Town Board to erect such a structure. This section shall not apply to the construction or maintenance of a wharf or pier within the shore zone.
- ii. The section shall not apply to those structures regulated by the Public Service Commission under Section 30.12, Wisconsin Statutes.

(b) APPLICATION

- i. Application for such permit shall be made on forms furnished by the Town Clerk, and shall state the name of the applicant, the proposed location of the structure, its design and dimensions, including, but not limited to the height above and below the water line, lighting and reflection equipment to be

installed, nature of anchorage to water bed, permanency of structure, purpose for which it will be used, together with such additional pertinent information as the Town Board may require.

(c) **REQUIREMENTS**

- i. Pursuant to Sections 30.13 and 30.772, Wisconsin Statutes, the Town of Delavan does hereby enact local regulations and restrictions upon the granting and issuance of permits for establishing artificial stationary structures in the navigable waters in Delavan Lake.

(d) **BOUYS**

- i. No permit for the placement of a mooring buoy in the navigable waters of Delavan Lake may be granted unless all of the following criteria are satisfied:
 1. Only riparian property owners shall be permitted to place mooring buoys for use by said owner.
 2. For purposes of this ordinance the location of any mooring buoy shall include the distance from the center of the mooring buoy outward in any direction, in a radius of thirty (30) feet. Except as provided in section 2)(d)i. 7. e, placement of the mooring buoys shall be within the pier-head line established in Section 19.18(2) of this Municipal Code and also be within the setback requirement of Section 19.18(3) of this Municipal Code. Further, no mooring buoy may extend beyond the riparian owner's pier.
 3. The placement of any mooring buoy within the limitations set forth herein shall not be permitted if a pier, wharf, mooring, or other structure owned by someone other than the applicant exists within the area where the mooring buoy is to be placed.
 4. No stationary mooring buoy may be placed within ninety feet (90') of a location ordinarily used as either a swimming area or boat launch or any other area that may interfere with navigation on any waterway.

5. This section applies to mooring buoys only and not to aids to navigation that require a permit from the Department of Natural Resources.
6. No mooring buoys may be placed under this ordinance more than two hundred (200') feet from the nearest ordinary high-water shoreline mark, unless a permit for same is obtained from the State of Wisconsin Department of Natural Resources.
7. No mooring buoy may be placed or used in any navigable waters if:
 - a. The mooring buoy obstructs or interferes with public rights or interest in the navigable waters.
 - b. The mooring buoy or use of the mooring buoy interferes with the rights of other riparian owners.
 - c. If the Wisconsin Department of Natural Resources determines that the mooring buoy or use of the mooring buoy adversely affects critical or significant fish or wildlife habitat.
 - d. The mooring buoy violates any other rules of the Department of Natural Resources or the placement or use of the mooring buoy violates a condition or restriction on a permit issued by the Wisconsin Department of Natural Resources.
 - e. The mooring buoy anchor is placed outside of the pier-head line unless one of the following applies:
 - i. A permit is obtained from the Town of Delavan and approved by the Department of Natural Resources.
 - ii. A permit is obtained from the Department of Natural Resources.
 - iii. The mooring buoy is properly within a designated mooring buoy area.

(e) **RAFTS**

- i. No permit for the placement of any raft in the

navigable waters of Delavan Lake may be granted unless all of the following criteria are satisfied:

1. Rafts may not be used to secure permanent attachments for boats or personal water craft.
2. All rafts shall have a minimum of twenty-four (24) square inches of reflective material on each side that is plainly visible to boat traffic.
3. Rafts shall have the permit number of the riparian owner affixed to said raft clearly visible for purposes of identification. Such numbers shall be a minimum of three inches in height in a color that contrasts with the color of the raft.
4. All rafts shall be no more than one-hundred (100') feet from shore.
5. All rafts shall have an elevation of at least twelve (12") inches above the water line at flat water.
6. No raft may obstruct or interfere with public rights or the riparian rights of other property owners.

(f) **DETERMINATION BY TOWN BOARD**

- i. Within thirty (30) days after receipt of the application, the Town Board, or its designated agent, shall personally inspect the structure and area of its designated agent, for which a permit is requested, and shall make a determination as to whether the erection of the proposed structure will be detrimental to the health, safety and welfare of the users of the navigable waters of the Town, or whether it will constitute an unreasonable obstruction or interference with the free navigation of such waters. The determination shall be made on the bases of the information contained in the application, and a personal inspection of the structure and its proposed location by the members of the Town Board, or its designated agent. The following considerations shall be included in those weighted by the Board in reaching its determination:

1. The proposed location of the structure;
2. The length of time it is to be established in such location;
3. Dimensions of the structure;
4. Composition and design of the structure;
5. Warning lights and reflector lights on the structure;
6. Heights above and depth below the water line at the proposed locations;
7. Use or uses to be made of the structure;
8. Existing uses made of the waters in which the structure is to be established;
9. Effect of structure on free navigation of such waters;

10. Effect of structure on health, safety and welfare of all users of such waters.
11. The Town Board shall thereupon grant or deny the permit in accordance with such determination.

(g) **ISSUANCE OF PERMITS**

- i. If satisfied that the proposed structure will not be a danger or hazard to the health and safe enjoyment, and the free navigation of the navigable waters of Delavan Lake by all users thereof, and upon payment of a permit fee of thirty (\$30.00) dollars, the Town Board shall issue a permit to establish such structure, signed by the Town Chairperson and the Town Clerk, which permit shall specify the conditions under which the structure may be established and used. Such permit may be revoked or suspended for cause, by the Town Board following hearing upon a written, verified complaint. Prior to revocation or suspension of such permit, the Town Board shall serve upon the permittee at least 10 days prior to the date set for the hearing a written notice of hearing, containing the alleged reasons for the proposed action. These requirements shall be in addition to the requirements of the State, as presently enforced by the Town. All permits issued pursuant to this section shall be effective for 3 years from the date of issuance.

(h) **PENALTIES AND REMEDIES**

i. If any structure is established in violation of this chapter, the following remedies and penalties may be imposed:

1. After structure permit is issued, the Town may revoke the permit if the structure subsequently violates any provision of this chapter or state law.
2. A structure violating any provision of this chapter or state law shall constitute a public nuisance pursuant to Section 30.294, Wisconsin Statutes and is a violation of 10.01(1) of the Town of Delavan Municipal Code. Under this subsection, each day constitutes a separate offense.
3. If the unlawful structure is a raft, it may, additionally, or as an alternative remedy, to Subsection 2 of this Section, be removed by town officials pursuant to the procedures of Section 30.13 (5m), and chapter 823 Wisconsin Statutes. The raft cannot be removed under authority of section 10.08 of Town of Delavan municipal code unless the inspecting officer determines that the raft creates a great and immediate danger to the public.
4. If the unlawful structure is anything other than a raft, pier or wharf it may, additionally, or as an alternative remedy, to Subsection 2 of this Section, be removed by town officials pursuant to the authority and procedures of Section of section 10.08 of Town of Delavan municipal code.

(i) **RETROSPECTIVE OPERATION**

i. Because this chapter is enacted under the power of the Town Board to enact regulations for the health, safety and welfare of its citizens, its terms shall operate retroactively upon existing structures that come within its scope, where the persons establishing such structures have no vested rights in them. No vested rights shall be considered to exist where the person establishing the structure was or should have been aware of the intention of the Town Board to regulate such establishments,

prior to the expenditure by such person of substantial moneys in the establishment of such structure.

(j) **MOORING AND ANCHORING IN SWIMMING AREA**

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

(k) **PUBLIC LANDINGS**

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

(l) **PROCEDURES**

- i. The procedures and provisions of Chapter 68, Wisconsin Statutes, shall apply to the grant, denial or revocation of a structure permit by the Town.