

NOV 29 1999

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TOWN OF MILLTOWN  
Polk County, Wisconsin

ORDINANCE No. 99- 02

RELATING TO  
REGULATION OF BOATING  
ON ANTLER LAKE

WHEREAS, it has been determined that personal watercraft differ in their operation from other boats due to their high speeds of up to 60 mph; maneuverability, facilitating erratic and unpredictable travel paths; frequent operation in multiple numbers in a confined area; air and underwater noise frequencies and amplitudes; and shallow draft which allows them to be operated at high speeds close to shore; and

WHEREAS, Antler Lake has a total surface area of approximately 100 acres, a significant area of which is unsuitable for the operation of personal watercraft due to the existence of islands, marshes, and small bays; and

WHEREAS, Antler Lake is an environmentally sensitive area and provides nesting, feeding and spawning habitat for fish and numerous wildlife and waterfowl species due to its excellent water quality as found in the May 1996 Barr Engineering Water Quality Study, shallow water depths, and a complex community of native plants characteristic of open, wet marsh vegetation; and

WHEREAS, Antler Lake has a maximum depth of 22 feet, with significant areas of a depth of not more than 10 feet, and the operation of personal watercraft poses a threat to the ecological integrity of Antler Lake due to their capability to navigate in shallow water depths and to operate in areas in which native aquatic plants are present in sufficient abundance and density to support significant spawning, seasonal or lifestage habitat for fish or other aquatic life, and to increase shoreline erosion and sediment suspension within Antler Lake; and

WHEREAS, swimming activity by persons of all ages occurs on all parts of the Lake, and the safety of persons swimming across portions of the Lake or in unmarked swimming areas would be threatened by the operation characteristics unique to personal watercraft, including speed and maneuverability; and

WHEREAS, although s. 30.66 of the Wisconsin Statutes regulates permissible boating speeds, the characteristic operation of personal watercraft, including rapid acceleration and deceleration and rare straight-line travel, significantly diminishes the ability of law enforcement personnel to determine vessel speed; and

WHEREAS, Antler Lake provides a relatively quiet area suitable for use by anglers and other recreational users by canoe, kayak and other small craft; and

WHEREAS, although s. 30.62(2) of the Wisconsin Statutes regulates noise level standards, that regulation does not address the cumulative air and underwater noise of personal watercraft operating in the same area, the annoying impact of watercraft that are not destination-bound, and other noise characteristics unique to personal watercraft.

WHEREAS, it has been determined that prohibiting the operation of personal watercraft on Antler Lake will protect fish and wildlife habitat, enhance the opportunity for enjoyment of the special environmental features for anglers and other recreational users, minimize shoreline erosion and sediment suspension in these areas, and promote the safety of all persons using Antler Lake; and

WHEREAS, pursuant to Section 30.77 of the Wisconsin Statutes, the Town is authorized to enact and enforce ordinances regulating the use, equipment and operation of boats on Antler Lake, located wholly within the Town, in the interest of public health, safety and welfare, including the public's interest in the preservation of natural resources; and

WHEREAS, the Town finds that restrictions on the use and operation of personal watercraft on all or parts of inland lakes within the jurisdiction of the town, consistent with Sections 30.50 to 30.71 of the Wisconsin Statutes, are necessary in the interest of public health, safety and welfare, including the public's interest in preserving the state's natural resources; and

WHEREAS, in enacting this Ordinance, the Town has considered the type, size, shape and depth of Antler Lake; its ecologically significant areas; boating congestion and safety; the amount, type and speed of boating traffic; and the effect of boating traffic on other recreational uses and the public health, safety and welfare, including the public's interest in preserving the state's natural resources;

NOW, THEREFORE, the Town Board of the Town of Milltown, pursuant to the authority granted under the laws of the State of Wisconsin, including Section 30.77 of the Wisconsin Statutes, DOES ORDAIN as follows:

SECTION 1. An ordinance to regulate the use and operation of personal watercraft on the surface waters of Antler Lake, which is wholly located within the Town, is hereby created to read as follows:

Section I	General Provisions
Section II	Interpretation
Section III	Definitions
Section IV	Use of Personal Watercraft Prohibited; Exception

Section V Enforcement  
 Section VI Severability  
 Section VII Posting

**Section I. GENERAL PROVISIONS.** (A) **APPLICABILITY.** The provisions of this Ordinance shall apply to Antler Lake, which is located wholly within the Town of Milltown, Polk County, Wisconsin.

(B) **PURPOSE.** The purpose of this Ordinance is to promote the public health, safety and welfare, including the public's interest in preserving the state's natural resources.

(C) **AUTHORITY.** This Ordinance is adopted by the Town Board of the Town of Milltown pursuant to the powers granted by Section 30.77 of the Wisconsin Statutes.

**Section II. INTERPRETATION.** The sections of this Ordinance pertaining to the use, operation or equipment of boats and other vehicles as well as the activities which are regulated by Sections 30.50 to 30.71 of the Wisconsin Statutes and the rules and regulations of the Department of Natural Resources established pursuant thereto, shall be construed and interpreted, if possible, to be consistent with, and not contrary to said statute sections, rules and regulations, nothing to the contrary herein notwithstanding.

**Section III. DEFINITIONS.** The definitions as set forth in Section 30.01 of the Wisconsin Statutes are incorporated herein by reference as though fully set forth herein.

(A) "Personal watercraft" means a motorboat, as that term is defined in s. 30.50(6) of the Wisconsin Statutes, that uses an inboard motor powering a water jet pump or a caged propeller as its primary source of motive power and that is designed to be operated by a person standing on, kneeling or sitting astride the watercraft.

(B) **TOWN.** "Town" means the Town of Milltown, Polk County, Wisconsin.

**Section IV. USE OF PERSONAL WATERCRAFT PROHIBITED; EXCEPTION.**

(A) Except as specified under subsection (B) of this section, no person shall operate a personal watercraft on the waters of Antler Lake.

(B) This section shall not prohibit the use of personal watercraft by law enforcement personnel for law enforcement purposes, or for the purpose of providing emergency services.

**Section V. ENFORCEMENT.** (A) **ENFORCEMENT AUTHORITY.** This Ordinance may be enforced by law enforcement officers of the Town, the Polk County Sheriff's Department, and the Wisconsin Department of Natural Resources.

(B) RESISTING OR OBSTRUCTING LAW ENFORCEMENT OFFICERS. No person shall resist or obstruct any law enforcement officer in the performance of his or her duties under this Ordinance.

(C) ENFORCEMENT PROCEDURE. The statutory provisions of Sections 66.115, 66.119, 66.12, 30.50 to 30.71, and Chapter 799 of the Wisconsin Statutes are adopted and by reference made a part of this Ordinance as if fully set forth herein. Any future additions, amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this Ordinance in order to secure uniform state-wide regulation and enforcement of boating ordinance violations. The Town specifically elects to use the citation method of enforcement.

(D) OTHER REMEDIES. The issuance of a citation hereunder shall not preclude the Town or any authorized officer from proceeding under any other ordinance of law or by any other enforcement method to enforce any ordinance, regulation or order.

(E) PENALTIES AND DEPOSITS. Any person violating the provisions of this Ordinance shall be subject to penalties as provided for in Section 30.80 of the Wisconsin Statutes and deposits as established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conference, which are hereby adopted by this Ordinance with all references therein to "fines" amended to "forfeitures" and all references to "imprisonment" deleted.

**Section VI. SEVERABILITY.** The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town 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.

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Section VII. POSTING. In conformity with Section 30.77(4) of the Wisconsin Statutes, this Ordinance shall be prominently posted at all public access points on all lakes to which this Ordinance is applicable.

SECTION 2. This Ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, at a duly convened meeting of the Town Board of the Town of Milltown, at \_\_\_\_\_, Wisconsin.

Roll Call on Ordinance 1999-\_\_\_: Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_

TOWN OF MILLTOWN

BY: \_\_\_\_\_  
Michael Dau, Chairman

ATTEST: \_\_\_\_\_  
Virgil A. Hansen, Clerk

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CERTIFICATION

The undersigned, Virgil A. Hansen, certifies as follows:

- (1) that he is the Clerk of the Town of Milltown;
- (2) that pursuant to a notice published in the \_\_\_\_\_ on \_\_\_\_\_, 1999, and mailed to the Wisconsin Department of Natural Resources, c/o John Lecenski, Boating Section, 101 S. Webster Street, LE/5, Madison, WI 53703, and to the Antler Lake Association, c/o Mike Schumann, 541 Dayton Avenue, St. Paul, MN 55102, on \_\_\_\_\_, 1999, the Town Board of the Town of Milltown held a public hearing on this Ordinance as proposed at \_\_\_\_\_ .m. on \_\_\_\_\_, 1999, at \_\_\_\_\_ Wisconsin;
- (3) that this Ordinance as proposed was mailed to the Wisconsin Department of Natural Resources for its advisory review pursuant to Sec. 30.77(3)(d), Wis. Stats., on \_\_\_\_\_, 1999;
- (4) that this Ordinance 1999-\_\_\_ was duly adopted by the Town Board on the \_\_\_ day of \_\_\_\_\_, 1999, by a vote of \_\_\_ Ayes and \_\_\_ Noes; (5) that this Ordinance 1999-\_\_\_ was published in the \_\_\_\_\_ on \_\_\_\_\_, 1999; (6) that this Ordinance 1999-\_\_\_ was prominently posted at the \_\_\_\_\_ lake access sites on \_\_\_\_\_, 1999; and (7) that this Ordinance 1999-\_\_\_ was filed with the Wisconsin Department of Natural Resources on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Virgil A. Hansen, Clerk  
Town of Milltown