

TORCH LAKE TOWNSHIP
PUBLIC ACCESS and MOORING ORDINANCE
Ordinance Number 09-2007; Effective May 5, 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 LAKE ACCESS SITES UNDER THE JURISDICTION OF THE TOWNSHIP, TO REGULATE THE ANCHORING, HOISTING AND MOORING OF BOATS ON THE SHORELINES AND BOTTOMLANDS OF LAKES AND RIVERS WITHIN THE TOWNSHIP, AND TO PROVIDE PENALTIES FOR VIOLATION OF THE ORDINANCE.

THE TOWNSHIP OF TORCH LAKE ORDAINS:

Section 1. Title

This ordinance shall be known as the Torch Lake Township Public Access and Mooring Ordinance.

Section 2. Purpose

Based upon the findings that have been made by the Torch Lake Township Board of Trustees, 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 lake access sites and by regulating the anchoring, hoisting and mooring of boats on the shorelines and bottomlands of those lakes and rivers.

Section 3. Definitions as used in this Ordinance

- (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 the 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 non-motorized boats such as canoes, rowboats and rafts. Boat, however, does not include an air mattress, paddleboard, paddleboat, 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 of 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).

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- (f) “Dock” means a pier, platform or other structure extending from shore or a lake or river over the water to which a boat is moored.
- (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 Torch Lake Township.
- (i) “Moor” or “Mooring” means the act of securing a boat to a buoy or other device 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.
- (j) “Person” means an individual, firm, corporation, association, partnership, Limited Liability Company or other legal entity.
- (k) “Public Access Site” means the non-road ending, riparian property owned by Torch Lake Township to serve as a means for the public to gain access to the lake or river to which it abuts.
- (l) “River” means a navigable and natural stream of water flowing in a definite course or channel within Torch Lake Township.
- (m) “Road ending” means a public road or way under the jurisdiction of Torch Lake Township that terminates at the water’s edge of a lake or river, including associated bottomlands.
- (n) “Shoreline property” means riparian property within Torch Lake Township that abuts a lake or river, including associated bottomlands.
- (o) “Sound level meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighing networks used to measure sound pressure levels and that meets the standards of ANSI S-14 1983, or is its successor.
- (p) “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 or shoreline property, except as provided in this subsection. Torch Lake Township may construct, place and maintain a nonexclusive dock on a road ending or public access site to aid the general public in gaining access to a lake or river. In addition, unless otherwise prohibited by State law or the Torch Lake 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.

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- (b) Anchor, beach or moor an unattended boat on a road ending, public access site or shoreline property 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. Unless otherwise prohibited by State law or the Torch Lake 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 shoreline property in any manner that:
 - a. Unreasonably interferes with ingress or egress to the water.

 - b. 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:
 - i. Playing or using a radio, phonograph, compact disk player, tape player, television, musical instrument, sound amplifier, or other electronic or mechanical sound-producing device in such a manner or with such volume so as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivities.

 - ii. 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.

 - iii. Sounding or using any horn, siren, whistle, bell or other warning device on a boat so as to unreasonably disturb the quiet, comfort or repose of a reasonable person of normal sensitivities, unless the sounding or use of such horn, siren, whistle, bell or other warning device is authorized by State law and is necessary to the safe operation of the boat.

 - iv. Making any noise exceeding sixty (60) dB (A), weighted sound level, as measured by a sound level meter from the nearest shoreline between the hours of 11:00 PM and 5:00 AM. Evidence of such noise shall serve as prima facie evidence that such noise disturbs the quiet, comfort or repose of reasonable persons of normal sensitivities in the area. However, this subsection shall not be applied to noise created by the motor of a boat during the operation of that boat.

 - c. Causes littering on the road ending, access site or adjoining property.

 - d. Results in trespassing on adjoining property.

 - e. Unreasonably interferes with the use and enjoyment of shoreline property.

 - f. Creates any other nuisance condition.

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- (d) Drive or back a trailer into the water at a road ending or public access site for the purpose of launching a boat into the lake or river, unless the Township designates that road ending or public access site as an official boat launching site.
- (e) Camp on a road ending or public access site at any time.
- (f) Start, use or maintain a campfire, bonfire or other recreational fire on a road ending or public access site.
- (g) Remain on a road ending or public access site after being requested by a police officer to leave the road ending or public access site.

Section 5. Removal of boat; Report of Emergency or Mechanical Problems

If an unattended boat is anchored, beached or moored greater than five (5) consecutive hours as prohibited in Section 4(b) above, that boat must be removed from the road ending, public access site or shoreline property 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 Antrim County Sheriff's Department.

Section 6. Violations and Penalties

- (a) Any person who violates any provision of this Ordinance, except Section 4(g), 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) 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 and Fifty and 00/100 (\$250) Dollars.
 - (3) For a third or subsequent offense within two (2) year 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) Dollars.
- (b) Any person who knowingly violates Section 4(g) of this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred and 00/100 (\$500) 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 Township Supervisor, Township Constable and/or the Antrim County Sheriff's Department.

Section 7. Enforcement Officials

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The Township Supervisor, Township Constable and police officers of the Antrim County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing 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 criminal prosecution, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 10. Nonexclusively

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. 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 12. Effective Date

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