

**Leighton Township
Proposed Zoning Ordinance Amendments
Relating To the Regulation of Lake Access. (Funneling Ordinance)**

**LEIGHTON TOWNSHIP
ORDINANCE NO. 2005-11-02**

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF LEIGHTON TOWNSHIP
FOR THE PURPOSE OF REGULATING LAKE ACCESS

THE TOWNSHIP OF LEIGHTON, ALLEGAN COUNTY, MICHIGAN ORDAINS:

ARTICLE 1 Chapter 3 Definitions shall be amended to redefine certain existing terms and incorporate certain new terms and their definitions as follows:

Boat – Any watercraft, powered or non-powered, that is required by the State of Michigan to be registered.

Boat Access – The access envelope used for launching, mooring, docking and/or over night anchoring of any boat.

Family:

- A. A person living alone or two or more persons related by blood, marriage, or adoption, including foster children and domestic help living together as a single housekeeping unit in one dwelling unit.
- B. A group of persons cooking and living together in one dwelling unit whose relationship is of a continuing, non-transient domestic character and which represents a single nonprofit housekeeping unit intended to endure for the indefinite future. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, organization, group of students or other group of persons whose domestic relationship is of a transitory, seasonal or commercial in nature, or is for an anticipated limited duration such as a school term or a period of rehabilitation or treatment.

Lake – Any natural or man made body of water, including the adjacent creeks or canals, to which riparian rights or other access has been extended.

Multi-Unit boat access - Any situation involving multiple or divided ownership or interest in the property that is immediately adjacent to a lake or boat access site including but not limited to corporations, condominium associations, and co-ops is considered a multi-unit boat access site and shall be subject to the limitations and regulations for such facilities contained herein.

Public Access – A parcel or property/boat access site that is immediately adjacent to a lake that is owned or operated by a governmental entity, including access from a public road authorized expressly or implied by a governmental entity.

Single Unit boat access – The boat access that is provided for not more than one single family residential parcel, lot, family trust, condominium unit or dwelling unit.

Access Envelope - An area extending over the water surface which sides are formed by lines extending from the property corners of a parcel of property, lot or condominium unit that is immediately adjacent to a lake to a point at the center of the lake which denotes the area limits of certain activities regulated herein.

ARTICLE 2 Section 12.26 Lake Access shall be added to Chapter 12, General Provisions of the Zoning Ordinance. Section 12.26 shall read in its entirety as follows:

Sec.12.26 LAKE ACCESS

The following restrictions are intended to limit and regulate the number of users and types of uses of lake frontage in order to preserve the qualities of the waters, minimize conflicting land uses, promote safety and minimize boating and water related accidents, minimize overcrowding and pollution and help preserve the quality of recreational use of lands and waters within the Township.

(a) Development Parcels

In all zoning districts, for any new lot created after the effective date of this ordinance amendment, there shall be at least (100) one hundred feet of water frontage by 100 feet of depth for a boat access. A straight line that intersects each side lot line as it intersects the waters edge shall be used to measure frontage and the side lot line shall be used to measure depth. Each lot or parcel shall otherwise meet the minimum dimensional requirements for such lots in the zoning district in which it is located.

(b) Access (Kevhole) Parcels

(1) In any zoning district where there is a parcel of record existing on or before the effective date of this ordinance amendment having water frontage of less than one hundred (100) feet, which by its dimensional or physical limitations will not support building development, such parcel or lot may be used or conveyed as not more that one (1) single boat access.

(2) In any zoning district where there is an intent to create and use a new lot, condominium unit parcel, easement or common area for the purpose of providing riparian rights or other access rights to the lake, the new lot, condominium unit parcel, easement or common area shall have at least one hundred (100) lineal feet of water frontage and a depth of at least 100 feet. The number of parcels, lots, condominium units, dwelling units or apartments permitted to have deeded boat access over the lot, parcel, easement or common area shall be one (1) for the first one hundred (100) feet of water frontage, plus one (1) additional access for each one hundred (100) feet of frontage that the parcel has on the body of water. Deeded general common areas for condominium units, apartments, co-op etc shall not have a boat access.

(c) No single unit boat access site or parcel or lot and no multi-unit boat access site shall accommodate the launching, anchoring, docking, dry docking or mooring of more than six (6) boats or vessels.

- (d) No boat dock or mooring facility may be located or extend a distance of greater than 100 feet from the shoreline of the associated boat access site or parcel unless a greater distance or length is needed to achieve a water depth necessary for normal and safe vessel docking operations without the need of dredging or other measurable disruption to the lake bottom. Any dock or mooring proposed to extend greater than 150 feet from shore shall require review and approval as a Class I Special Use.
- (e) All boat access facilities, (Boats, boat ramps, shore stations, docks, and boat launches) extending into the lake shall be located entirely within the confines of an envelope that extends into the water which sides are formed by lines extending from the subject property corners, to a point at the center of the lake. Such facilities shall be designed, located and operated within the envelope to avoid or minimizes conflict with adjacent access envelopes.
- (f) In all zoning districts, no lake or boat access site, or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional or non-residential uses or purposes unless such use complies with the requirements of the zoning district in which it is located and is first reviewed and approved as a Class II Special Land Use.
- (g) In addition to the above limitations, no easement, private park, common area, or property abutting or adjoining a lake that is created after the effective date of this amendment shall be used to permit access to the lake for more than one (1) single-family property, dwelling unit, condominium unit, site condominium unit or apartment unit condominium arrangement, lake or boat access device or facility or lot or boat access site unless such access site, device or facility is also approved as a Class II Special Land Use.
- (h) No new channel or canal shall be created abutting, enlarging or tied into a lake, nor shall existing canals or channels be enlarged. Canals or channels which touch or abut a lake and were lawfully in existence as of the date of enactment of this ordinance may be cleaned and maintained in accordance with applicable laws of the State of Michigan so long as they are not enlarged beyond their original dimensions.
- (i) The restrictions of this Section shall apply to all lots, condominium units and parcels on or abutting any lake, regardless of whether access to the lake shoreline or waters shall be by easement, park, trust, common-fee ownership, single-fee ownership, condominium arrangement, license, lease or other method.
- (j) No one, other than a person owning or residing on a property, parcel, lot or unit that is immediately adjacent to a lake may moor or anchor a watercraft in excess of 3 consecutive nights within an access envelope or in the waters adjacent to an access envelope. Nor shall any person enter into an agreement to permit anyone to use the shoreline (or boat access) or water unless such person is leasing a residence on the property and is in possession of the entire property.
- (k) The nonconforming use provisions of Chapter XIV of this Zoning Ordinance shall be applicable to this Section except the following shall be permissible notwithstanding the provisions of Chapter XIV of this Zoning Ordinance:
 - (1) Any lot of record on or before the effective date of this ordinance amendment having frontage on a body of water may have one (1) boat access even though the lot has less than one hundred (100) feet of frontage on the water. This Section

shall not be construed to prevent docks, even if docks have not been installed, where recorded vested rights were granted prior to the adoption of this zoning ordinance amendment.

- (2) No easement, park, common area or Public property having frontage on a lake which lawfully exists as of the date of the adoption of this Section, or in the future, shall have a boat access unless such boat access existed prior to the date of this amendment or permission was granted by a court of competent jurisdiction.
- (3) If a given property, easement, park, common area or access property has a right to have a boat access under this Section, that right to utilize a boat dock or other boat access structure shall continue even if the boat access structure is seasonal in nature, or has to be repaired or replaced. No boat dock or other boat access structure in existence on the effective date of this amendment, or that was in existence on 09-01-2005, that is classified as non-conforming for reasons of length, size or location may be repaired, replaced or extended in a manner that increases its non-conformity. The use of a boat dock or structure that is non-conforming for reasons of length, size or location and that has been left unused for a period of three consecutive years may not be recommenced unless it is modified or replaced so as to conform to the standards of Section 12.26(c),(d) and (e).
- (1) Nothing in this ordinance shall be interpreted to grant any individual or entity the right to use any property that is owned, operated or controlled by Leighton Township or any other government entity, or act to waive or release any right of Leighton Township or any other governmental entity from terminating any individual's or entities existing or future usage of any property owned, operated or controlled by Leighton Township or any other governmental entity.

ARTICLE 3 The following use shall be added to the list of Class I special land uses contained in Chapter 20, Special Land Uses, Section 20.02(a.):

- (5) Single unit boat access docks or mooring facilities extending more than 150 feet from the shoreline.

ARTICLE 4 The following uses shall be added to the list of Class II Special Land Uses contained in Chapter 20, Special Land Uses, Section 20.02(b):

- (9) Multi-unit boat access sites, structures, devices and facilities
- (10) Any commercial, business, outdoor recreational (or entertainment) facility, institutional, non-residential or non-agricultural uses abutting the lake shoreline or involving lake access.

ARTICLE 5 SECTION 7.04 AREA REGULATIONS, Subsection d Lot Area and Width shall be amended to read as to read as follows:

SECTION 7.04 AREA REGULATIONS (Single Family) –The minimum lot area and width for a single family dwelling shall be fifteen thousand (15,000) square feet and one hundred (100) feet, respectively; provided, however, that the minimum frontage for lots

served with public water and public sewer may be reduced to eighty-five (85) feet on the building line and the lot areas may be reduced to 12,000 square feet. Notwithstanding the lot frontage reduction allowable for lots having public utilities, the width of lots as measured along any lakefront shall be one hundred (100) feet. All buildings, including accessory buildings, shall not cover more than 20 percent of the total lot area.

Article 5. Chapter XI-A PLD Lakeside development District, Section 11-A.03 Development Requirements, subsection (e) Waterfront Use shall be amended to read in its entirety as follows:

- (e) Waterfront Use – In addition to the lake access standards contained in Section 12.26 Lake Access the following standards shall be used in reviewing and approving applications for PD's which are within the PLD District and contiguous to a body of water:
- (1) In the case of a PD proposed for more than one (1) dwelling and which is to also include waterfront recreation area held in common, the common recreational area shall have a depth of not less than one hundred (100) feet and a length along the shoreline of 100 feet, plus one hundred (100) additional feet of shoreline for each dwelling unit proposed therein to be granted access to the lake.
 - (2) In the case of a PD site which is currently, or proposed to be, divided into two (2) or more separately owned lots, units or parcels, the use of single-family residential waterfront properties shall be restricted to that right of use provided under the provisions of Section 12.26 unless a common waterfront area has been designated for use by other owners or tenants of the PD in accordance with dimensions suggested in subsection (e) & (1) above.

Article 6 Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Article 7 Effective Date.

This Ordinance shall become effective seven days after publication in a newspaper of general circulation in the Township.

Mary Lou Deuvenhuis
Leighton Township Clerk