

ORDINANCE NO. 2010-002**AN ORDINANCE TO AMEND CHAPTER 21 – LAKE PEWAUKEE REGULATIONS
OF THE TOWN'S MUNICIPAL CODE**

WHEREAS, the Town Board has entered into an agreement with the Village of Pewaukee to provide lake patrol services for Pewaukee Lake. In order to remain consistent with that action, there are several amendments that need to be made to Chapter 21 of the Town of Delafield Municipal Code.

NOW THEREFORE, the Town Board of the Town of Delafield hereby enacts the following ordinance:

SECTION 1: Section 21.01(2) shall be repealed and recreated to read as follows:

The provisions of this Ordinance shall apply to the water of Pewaukee Lake within the jurisdiction of the Town of Delafield, the Village of Pewaukee, and the City of Pewaukee. The provisions of this Ordinance and Wisconsin statutes, when applicable, shall be enforced by the officers of the Water Safety Patrol Unit of the joint jurisdiction of the Town of Delafield, the Village of Pewaukee and the City of Pewaukee, under the direction of the Village of Pewaukee Police Chief as the Chief of the Pewaukee Lake Water Safety Patrol, the Waukesha County Sheriff's Department and the Wisconsin Department of Natural Resources.

SECTION 2: Section 21.01(3) shall be repealed and recreated to read as follows:

- a. Whenever an incident within the provisions of current or future Chapters 939 to 948, §§ 86.06, 86.192, 134.66, 254.92, 961.472, and 961.571-961.577, Stats., occurs upon the water or ice of Pewaukee Lake, below the ordinary high water mark as that is defined by NR§322.03(8), Wis. Adm. Code, the Village of Pewaukee Police Department shall investigate and provide police services regardless of the jurisdiction of the Town or City over that portion of the lake where the incident occurred.
- b. All municipal citation tickets shall be returnable to the Village of Pewaukee Municipal Court, regardless of the jurisdiction of the municipality where the incident occurs on Pewaukee Lake.

SECTION 3: Section 21.01(12)(d) shall be repealed and recreated to read as follows:

- d. Exceptions.
The limitations of this Section shall not apply to participants in ski meets or exhibitions authorized and conducted as provided in subsection (13).

SECTION 4: Section 21.01(15)(b) shall be repealed and recreated to read as follows:

- b. The Chief of the Water Safety Patrol is authorized to impose additional speed limit or other additional special emergency restrictions regarding the use of Pewaukee Lake when the water exceeds the established water level in subsection a. Any order for additional special emergency restrictions shall be in effect for no longer than 48 hours, unless extended in conformity with the procedure stated herein. In the event the Chief believes that additional special emergency restrictions should be in effect for a period longer than 48 hours, the Mayor, Village President and Town Chairman or their designees may approve such additional time after consultation with and recommendations of the Chief of the Water Safety Patrol, Village Director of Public Works, the City's Director of Public Works, and the Lake Pewaukee Sanitary District Superintendent. Upon written approval of a majority of the parties, the additional special emergency restrictions shall be implemented upon the terms approved by the parties.

SECTION 5: Section 21.01(16) shall be repealed and recreated to read as follows:

16. PENALTIES AND DEPOSITS.

Any officer of the Pewaukee Lake Water Safety Patrol has authority to issue citations and when warranted to arrest a person for violation of this Ordinance or applicable Wisconsin statutes and shall either permit such person to make a money deposit as proved in the approved bail/deposit schedule pursuant to Section 30.80, Wis. Stats., or bring the person arrested before the Municipal Court for the Village of Pewaukee or Waukesha County Circuit Court as the case may be without unnecessary delay. Deposits may be made by mail or delivery to locations designed by the Chief of the Water Safety Patrol.

SECTION 6: Section 21.02(2) shall be repealed and recreated to read as follows:

2. APPLICABILITY AND ENFORCEMENT. (Cr. #05-23)

The provisions of the Pewaukee Lake Winter Regulations and previously enacted Winter Regulations, not inconsistent with this ordinance, shall apply to the icebound water of Pewaukee Lake, within the jurisdiction of the Town of Delafield, City of Pewaukee or Village of Pewaukee. The provisions of this ordinance and Wisconsin Statutes, when applicable, shall be enforced by the officers of the Water Safety Patrol Unit of the joint jurisdiction of the Town of Delafield, City of Pewaukee and Village of Pewaukee, under the direction of the Village of Pewaukee Police Chief as the Chief of the Pewaukee Lake Water Safety Patrol; the Waukesha County Sheriff's Department and the Wisconsin Department of Natural Resources.

SECTION 7: Section 21.02(3) shall be repealed and recreated to read as follows:

3. STATE OFFENSES ADOPTED. (Cr. #05-23)

- (a) Whenever an incident within the provisions of current or future Chapters 939 to 948, §§ 86.06, 86.192, 134.66, 254.92, 961.472, and 961.571-961.577, Stats., occurs upon the water or ice of Pewaukee Lake, below the ordinary high water mark as that is defined by

NR§322.03(8), Wis. Adm. Code, the Village of Pewaukee Police Department shall investigate and provide police services regardless of the jurisdiction of the Town or City over that portion of the lake where the incident occurred.

- (b) All municipal citation tickets shall be returnable to the Village of Pewaukee Municipal Court, regardless of the jurisdiction of the municipality where the incident occurs on Pewaukee Lake.

SECTION 8: Section 21.02(7)(b) shall be repealed and recreated to read as follows:

- (b) All vehicles shall avoid and may not operate on cleared skating areas and in areas where prohibited and/or events are being held.

SECTION 9: Section 21.02(7), (8), (9), and (10) shall be repealed and recreated to read as follows:

8. ICE SHANTIES.

- (a) No ice shanty may be placed or left on the ice after March 5 or before December 1, unless a shorter period is ordered by the Chief of the Water Safety Patrol. Any ice shanty placed or left in violation of this regulation shall be impounded and the owner fined as stipulated herein.
- (b) Ice shanties shall at all times display a red light reflective material of at least 9 sq. in. in size on all sides approximately 3 ½ feet from the bottom of the shanty and visible from 100' away.
- (c) Ice shanties or shelters left on the lake overnight shall display the name, address and phone number of the owner on or near the door or entryway on the exterior of the shanty.
- (d) Ice shanties shall be constructed of materials which will not be destroyed or quickly deteriorated by wind and rain.

9. ICE CUTTING.

- (a) Holes cut, augured or chiseled in the ice for purposes of fishing shall be no larger than 12" in the largest dimension.
- (b) Holes cut, augured or chiseled in the ice for purposes of diving may be larger than 12" in the largest dimension, but such holes must be clearly marked with light reflective markers and when not in use, the ice replaced in the hole and markers placed until the hole freezes solid and is not a hazard.

10. WINTER LAKE PATROL DESIGNATED.

Any officer of the Pewaukee Lake Water Safety Patrol has authority to issue citations and, when warranted, to arrest a person for violation of the Pewaukee Lake Winter Regulations or applicable Wisconsin Statutes and shall either permit such person to make a money deposit as provided in an

approved bail/deposit schedule per §30.80, Stats., or bring the person arrested before the Village of Pewaukee Municipal Court or Waukesha County Circuit Court, as the case may be, without unnecessary delay. Deposits may be made by mail or delivery to locations designated by the Chief of the Water Safety Patrol. All municipal citation tickets shall be returnable to the Village of Pewaukee Municipal Court, regardless of the jurisdiction of the municipality where the incident occurs on Pewaukee Lake. (Rep. & Recr. #05-23)

11. SPECIAL EVENTS, RISKS AND LIABILITIES.

No specific sporting event, fisherie, iceboat race or exhibition shall be conducted on Pewaukee Lake unless such event has been authorized and a permit issued in writing by the Chief of the Water Safety Patrol for such activity or event. There is no cost for a permit for a one-time only event, but for any activity or event reoccurring through the ice season, there shall be a one-time \$20.00 permit fee. The permit application shall specify the course or area of the lake to be used by participants in such events and the permittee shall be required to place markers, flags or other similar devices approved by the Chief of the Water Safety Patrol to designate the specific event area or course. Permits shall only be issued if, in the opinion of the Chief, the proposed use of the ice can be carried out safely and without danger to or substantial obstruction of other persons and craft using the ice. Permits shall be valid only for the hours and areas specified therein.

SECTION 10: Severability.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 11: Effective Date.

This ordinance shall be effective upon publication or posting as provided by law.

Dated this 25th day of May 2010.

TOWN OF DELAFIELD



Paul L. Kanter, Chairman

ATTEST:


Mary Elsner, Clerk