

ORDINANCE #8 90-1 H.M.

ONEKAMA TOWNSHIP ROAD END ORDINANCE

Section 1 - Purpose

To control the use of the public road ends which terminate on Portage Lake and Lake Michigan to avoid congestion and thereby promote the health, safety and welfare of its residents and visitors, Onekama Township Board enacts this Ordinance to regulate the land at the ends of public lateral roads that terminate at the water's edge of Portage Lake and Lake Michigan and the riparian rights attached to such roads as extended into and under the waters of Portage Lake and Lake Michigan.

Section 2 - Scope

The regulation contained in this Ordinance shall apply to all Township owned riparian road ends. Said Township owned riparian road ends are described as follows by section number, description of street, plat, width and permitted uses:

| <u>Section</u> | <u>Road End</u>                       | <u>Width</u> | <u>Plat</u>                           | <u>Permitted Uses</u>                            |
|----------------|---------------------------------------|--------------|---------------------------------------|--|
| 21             | Lake Mi.<br>Shoreline<br>Lakeside Ave | 300'         | 290<br>Portage<br>Park Add.           | Observation area<br>access to lake<br>& fishing. |
| 21             | Alley<br>Lakeside Ave                 | 25'          | 290<br>Portage<br>Park Add            | Observation area                                 |
| 21             | Alley<br>Lakeside Ave                 | 25'          | 290<br>Portage<br>Park Add            | Open space                                       |
| 28             | 3rd Street                            | 40'          | 410<br>Plat of<br>Portage Point       | Observation area                                 |
| 28             | 7th Street                            | 30'          | 410<br>Plat of<br>Portage Point       | Observation area                                 |
| 28             | 8th Street                            | 30'          | 410<br>Plat of<br>Portage Point       | Observation area                                 |
| 28             | Avenue B                              | 30'          | 370<br>Plat of<br>Portage Park Resort | Open space                                       |

|    |   |     |   |   |
|----|---|-----|---|---|
| 28 | Avenue C  | 30' | 370<br>Plat of<br>Portage Park Resort     | Open space  |
| 28 | Avenue E  | 40' | 370<br>Plat of<br>Portage Park Resort     | Open space  |
| 27 | Sylvan Way  | 66' | 300<br>Amended Plat of<br>Portage Park    | Observation area  |
| 27 | Batimore Way  | 66' | 300<br>Amended Plat of<br>Portage Park    | Observation area  |
| 27 | Golfmore Way  | 66' | 300<br>Amended<br>Plat of<br>Portage Park | Open space,<br>observation area                             |
| 28 | 1st Street  | 40' | 410<br>Plat of<br>Portage Point           | Observation area  |
| 28 | Outlet Avenue   | 60' | 370/410<br>Plat of<br>Portage<br>Point    | Non-exclusive<br>private dock,<br>access to Portage<br>Lake |
| 28 | 12th Street   | 42' | 410<br>Plat of<br>Portage Point           | Open space,<br>observation area                             |
| 33 | Portage Street  | 66' | 650<br>Williamsport                       | Open space,<br>access to South<br>Pier                      |
| 33 | Second Street   |     | 650<br>Williamsport                       | Open space,<br>observation area                             |
| 33 | Third Street  |     | 650<br>Williamsport                       | Open space,<br>observation area                             |
| 35 | Eagle Street (no record of this road end being vacated) |     |   |   |

Section 3 - Docks

A. No more than one non-exclusive private dock with no lateral

extensions shall be allowed at the end of Outlet Avenue leading to Portage Lake. It should be placed so as to extend approximately perpendicular to the shore line and must remain within the right-of-way of the street as extended into the waters of Portage Lake (i.e. not encroaching onto or over the riparian land of adjacent property).

B: Said non-exclusive private dock shall be no more than four (4) feet in width and must have attached to the end of said dock some type of reflective device to promote safe night navigation.

C. Said non-exclusive private dock must bear the name, address and telephone number of the owner thereof or the party responsible for its erection and maintained in safe condition and must be removed from the lakebed and right-of-way of Outlet Avenue before October 15th of each year.

D. Such dock shall be maintained free of any restriction or prohibition against by the general public. Such signs as "Keep Off" or "Private Dock" are prohibited thereon.

E. Overnight mooring of any watercraft to such non-exclusive private dock or within the area of any lateral road end as extended into Portage Lake is prohibited to insure the safe, complete and full use of the area by the general public.

F. Any individual or group of individuals erecting a dock according to this Ordinance, for the use of the general public, hereby assumes an liability for its erection and public use, and agrees by the erection of this non-exclusive private dock to hold Onekama Township and its officials harmless from any liability for its erection and public Use. Any such individual or group of individuals erecting a dock according to this Ordinance shall, before installing such dock, provide proof of liability insurance coverage in a minimal amount of \$300,000.00 per incident naming Onekama Township as an additional insured to the Onekama Township Clerk and shall maintain such insurance coverage in effect entail such dock is removed.

#### Section 4 - Permanent Anchoring Devices - Boat Hoists

A. The auguring or driving of any boat mooring post, the placing of any permanent or seasonal boat anchoring device or swimming rafts within the area of any public lateral road ends as extended into Lake Michigan or Portage Lake is prohibited.

B. Encroachments or appropriations by any individual for private purposes, other than one non-exclusive private dock placed at the end of Outlet Avenue as permitted by this Ordinance, are prohibited within the area of any lateral road ends as extended into Lake Michigan or Portage Lake to insure the safe, complete and full use of these areas by the general public.

Section 5 - Lateral Road Ends - Parking and Encroachments

- A. Parking of any motor vehicle and of any boat trailers within the area of any lateral road end right-of-way is prohibited.
- B. Storage of any boats, boat hoists, docks, ice shanties or any other such encroachments within the public road end right-of-way of any lateral road end is absolutely prohibited at any time.

Section 6 - Lateral Road Ends - Improvements and /or Maintenance

- A. No lateral road end terminating at the water's edge of Portage Lake shall be altered and/or improved upon in any manner by any individual or group of individuals without first obtaining the written permission for such improvements from the Onekama Township Board of Commissioners, and the Michigan Department of Natural Resources, and without compliance with MCL 689.1201 et seq and MCL 282.101 et seq.
- B. Any individual or governmental body responsible for changes in the use or characteristics of a lateral road ends by erection of any structure, placement of litter barrels, or the like shall also be held responsible for their proper upkeep and maintenance to assure health, safety and environmental protection

Section 7 - General Use

- A. As to those road ends whose permissible uses are described as "open space" and "obsevation" (as defined by Webster), it is the intent that they shall be limited to being maintained in a natural state and used for pedestrian traffic to and from the lake and shall not be used as boat launch areas.
- B. Except as otherwise prohibited by this Ordinance, the general public may utilize any lateral road end and/or right-of-way as extended into Lake Michigan and Portage Lake for firefighting water, access to the lakes, fishing, boating, and uses incidental thereto, provided such activities do not create a safety hazard, cause unreasonable congestion, interfere with the intended use, or otherwise disturb the peace. Campfires, grills, hibachi or similar devices and the use of any controlled substances are prohibited within and/or into the extended area of any alteral road end.\*\*
- C. Where provisions fo this Ordinance conflict with the Sand Dunes Protection Act, the Sand Dunes Protection act shall prevail.

Section - 8 Penalties and/or Enforcement of Ordinance

- A. any violation by a person of any provision of this Ordinance shall constitute a misdemeanor and upon conviction shall be subject

to a fine not exceeding \$100.00 for each and every day the violation continues, or by imprisonment in the county jail for a period not to exceed 90 days, or both such fines and imprisonment.

B. Any violation by any person of any provision of this Ordinance will result in the Onekama Township Ordinance Enforcement Officer or his authorized agent removing and towing away and placing in storage said motor vehicle, boat, dock, and/or hoist and/or encroachment at the owner's expense.

C. The Township Board, the Township Ordinance Enforcement Officer, the Attorney of the Township or any owner or owners of real estate within the Township may institute a nuisance, injunction, mandamus, abatement or any other appropriate action or actions proceeding or proceedings to prevent, enjoin, abate or remove any said unlawful boat dock, boat hoist, erection, construction or use not permitted under this Ordinance in Manistee County Circuit Court.

#### Section - 9 Severability

Shall any portion of this Ordinance be declared invalid by Court action, the Ordinance as a whole and all remaining portions shall be considered valid and in full force and effect.

#### Section - 10 Effective Date

This Ordinance shall become effective October 31, 1990.

\*\* Regarding State of Michigan Court of Appeals LS#107378,  
Jacobs, et. al. Lyon Township, Lower Court No. 86-4267-CZ\*\*

#### CERTIFICATE.

Helen Mathieu, Clerk of Onekama Township, hereby certifies that the foregoing Ordinance was adopted by the Township Board of the Township at a Special meeting of said Board held on June 15, 1990. Thereafter at the Regular meeting July 3, 1990 of the Township Board; that said original Ordinance was ordered to take effect on October 31, 1990.

*Helen Mathieu*

Helen Mathieu  
Clerk of Onekama Township.