

ORDINANCE NO. 1-2003

REGULATION OF FISHING RAFTS ON THE WOLF RIVER**SECTION 1.0 - STATUTORY AUTHORIZATION. FINDING OF FACT. PURPOSE. AND TITLE****SECTION 1.1 - REPEAL OF PRIOR ORDINANCE**

Town of Hortonia ordinance # _____, is hereby repealed in its entirety. The passing of this ordinance declares that the previous ordinance regulating Fishing Rafts in the Town of Hortonia is null, void, and stricken in its entirety.

SECTION 1.2 - STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to authorization in ss. 30.126 and 30.77 Wisconsin Statutes.

SECTION 1.3 - FINDINGS OF FACT

Historically, fishing rafts have been on the Wolf River and its tributaries from the Shawano dam downstream to Lake Poygan. Typically, most rafts are used during spring fish spawning runs. The number and conditions of rafts has caused conflicts with the other river users and has resulted in other problems on the Wolf River. The need to regulate fishing rafts is hereby recognized by the Town of Hortonia, Outagamie County, Wisconsin.

SECTION 1.4 - PURPOSE

The purpose of this ordinance is to:

1. Establish certain restrictions on the placement, use and storage of fishing rafts.
2. Provide for annual registration and inspection of fishing rafts.
3. Establish certain construction and maintenance standards for fishing rafts.

SECTION 2.0 - DEFINITIONS**SECTION 2.1 - FISHING RAFT**

A "Fishing raft" means any raft, float, or structure, including a raft or float with a superstructure and including a structure located or extending below the ordinary high water mark of the waterway, which is designed to be used or is normally used for fishing, which is not normally used as a means of transportation on water, and which is normally retained in place by means of a permanent or semi permanent attachment to the shore or to the bed of the waterway. Fishing rafts do not include boathouses, fixed houseboats, wharfs and piers.

SECTION 2.2 - FLOTATION DEVICE

"Flotation Device" means any device used to provide flotation for a fishing raft, including each individual barrel or Styrofoam coffin.

SECTION 2.3 - RIPARIAN

"Riparian" means the owner of the shorelands adjacent to the Wolf River or its tributaries.

SECTION 2.4 - MUNICIPALITY

"Municipality" means any city, village, or town, which adjoins or includes any part of the Wolf River or its stream tributaries from the Shawano dam downstream to Lake Poygan.

SECTION 2.5 - ORDINARY HIGH WATER MARK

"Ordinary High Water Mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

SECTION 3.0 - RESTRICTIONS ON FISHING RAFTS ON THE WOLF RIVER AND ITS TRIBUTARIES

SECTION 3.1 - FISHING RAFTS MAY NOT:

1. Obstruct navigation or interfere with public rights.
2. Be located in the channel of the waterway.
3. Block more than 25% of the width of the waterway, singularly, or in combination with other fishing rafts.
4. Be located within ten (10) feet of another fishing raft.
5. Be placed in the waterway except by a riparian property owner next to their own land or except by written permission of the riparian property owner.
6. Be placed into the river or below (waterward) of the ordinary high water mark prior to March 1st of any year and must be removed from the river and placed above (landward) of the ordinary high water mark by October 31st of each year.
7. Be stored above (landward) of the ordinary high water mark of the river, for an entire calendar year without the proper variance granted by the town board of supervisors for the Town of Hortonia.
8. Be equipped with toilets unless those toilets comply with rules of the Wisconsin Department of Commerce. (COMM ch. 86, WAC or the most current revision)
9. Be abandoned.
10. Be placed into the water with improper flotation devices.
11. Be improperly maintained. (s. 30.126(5)(j) Stats.)
12. Be used as a fishing raft unless registered as such.
13. Exceed 512 sq. feet with no maximum dimension being longer than 32 feet. Rafts registered prior to Jan. 1,2001 shall be deemed to be in compliance with this provision.
14. Have a maximum height from the deck to the peak of the roofline greater than 11 feet. Rafts registered prior to Jan. 1,2001 shall be deemed to be in compliance with this provision.

SECTION 3.2 - FISHING RAFTS MUST:

1. Be stored completely above (landward) the ordinary high water mark, during a period from on or before October 31st to March 1st
2. Be placed into the waterway, located or extending beyond or below (waterward) the ordinary high water mark, for a period of not less than 14 continuous days and nights. Any raft that is not placed into the waterway for this period, during a calendar year, shall be deemed in violation of this ordinance and shall be deemed an illegal structure and is then subject to all applicable zoning regulations. The town board of supervisors of the Town of Hortonia may grant, upon request, a variance for extenuating circumstances, such as low water, allowing a fishing raft to remain out of the waterway, above (landward) the ordinary high water mark, for the entire calendar year. This variance is at the sole discretion of the board and may only be approved by a majority vote. Persons seeking this type of variance should apply, in writing, to the town board of supervisors for the Town of Hortonia.

SECTION 4.0 - FISHING RAFT REGISTRATION

SECTION 4.1- REGISTRATION AND TRANSFER

1. Any person mooring, placing, or maintaining a fishing raft on the Wolf River and its tributaries within the Town of Hortonia shall register each fishing raft annually with the municipality in which the fishing raft will be most frequently moored.
2. All registrations shall expire on December 31 st of each year.
3. Any person who acquires an interest in an existing raft shall submit an application within 15 days to transfer the registration number.

SECTION 4.2 - APPLICATION FOR REGISTRATION

An application for new, renewal, or transfer of fishing raft registration shall contain:

1. The owner's name(s).
2. The owner's address (es) and telephone number(s).
3. Name of municipality in which the raft is or will be most frequently used.
4. The registration number and expiration date, if the raft was previously registered.
5. Type of application: new, transfer, or renewal.
6. Proof that the applicant is the riparian owner of property adjacent to the rafts mooring location or has written permission of the riparian owner.

SECTION 4.3 - REGISTRATION FEE

1. The annual registration fee is originally established at \$5.00 and shall accompany each application for new or renewal of ownership registration.
2. A fee is not required for transfer of ownership if a valid registration exists for the fishing raft.
3. The Town of Hortonia will use the fee to administer and enforce the fishing raft registration system and fishing raft restrictions.

4. In addition to the registration fee, the Town of Hortonia will assess a fee of \$ 10.00 for an annual inspection of each registered raft. This fee will be paid at the time of registration. The amount of this fee is at the sole discretion of the town board and may be adjusted by a formal action of the town board of supervisors. The raft official will perform this inspection(s) at any time during a period from March 1st through October 31st. The raft official must document any improper or unsafe conditions to both the raft owner and the town board.

SECTION 4.4 - REGISTRATION CERTIFICATE

The Town of Hortonia will issue a Certificate of Registration for each raft registered. Under no circumstances will a Certificate of Registration be issued to an applicant if their raft does not meet the State, County or Town's definition for a fishing raft. Nor will a certificate be issued to any applicant whose raft is found in any violation of any State, County or Town law, statute or ordinance until the municipality/ authority in question deems that the raft is now in compliance. The Certificate of Registration will contain:

1. Fishing raft number.
2. Expiration date.
3. Name of municipality.
4. Owner's name(s).
5. Owner's address (es).

SECTION 4.5 - NOTIFY DEPARTMENT OF NATURAL RESOURCES

The Town of Hortonia shall submit a complete list of all registered fishing rafts and their owner's names to the Department of Natural Resources on or before April 1st of each year. The list should be mailed to:

Water Management Coordinator
Wisconsin Department of Natural Resources
PO Box 10448
Green Bay WI 54307

SECTION 4.6 - DISPLAY OF FISHING RAFT REGISTRATION NUMBER

1. The assigned registration number shall be firmly affixed or painted to the river facing side of each fishing raft.
2. The assigned registration number shall be firmly affixed or painted to at least one location on each flotation device.
3. Each registration number shall read from left to right, contrast with the background and shall be in block letters and numbers not less than three (3) inches high. Each shall be clearly visible and legible.

SECTION 5.0 - CONSTRUCTION AND MAINTENANCE OF FISHING RAFTS AND FLOTATION DEVICES

SECTION 5.1 - FISHING RAFTS SHALL BE MAINTAINED BY THEIR OWNER(S) IN SOUND CONDITION ACCORDING TO THE FOLLOWING STANDARDS:

1. Rafts shall be aesthetically pleasing.
2. If the raft has railings, railings shall be firmly attached to the raft. Loose railings shall be repaired or removed.
3. Toilets, if installed, shall be maintained to comply with COMM Ch. 86, WAC, or the most current revision, as if the toilet were on a boat.
4. The fishing raft shall be firmly anchored or attached to the bed or bank of the waterway to ensure that the fishing raft will not break loose.
5. All cables, anchors, spud poles, or similar devices that anchor or attach the fishing raft to the bed or bank of the waterway shall be removed from the waterway when the raft is removed.
6. Each fishing raft shall be marked with lights, reflecting tape, or reflectors placed in a conspicuous location to make the fishing raft clearly visible at night.

SECTION 5.2 - FLOTATION DEVICES SHALL BE ATTACHED AND MAINTAINED IN THE FOLLOWING MANNER:

1. All flotation devices shall be airtight and sealed.
2. All flotation devices shall be clean and shall not contain any chemicals, oil, grease or other residue.
3. Containers that housed a toxic or hazardous material as defined in NR 605.04, WAC, shall not be used as a flotation device.
4. Metal flotation devices shall be free of rust and painted or coated to prevent rusting.
5. Leaking or deteriorated flotation devices shall be immediately removed from the fishing raft and replaced.
6. Any flotation device, which becomes detached from the fishing raft, shall be retrieved and removed from the waterway by the raft owner(s).

SECTION 6.0 - ENFORCEMENT

SECTION 6.1- ORDER FOR REMOVAL

The Town of Hortonia, Outagamie County may order the owner(s) of a fishing raft to remove this fishing raft from the waterway or property if any provisions of this ordinance or section 30.126(5) Stats. are not being complied with.

SECTION 6.2

If a person fails to comply with an order to remove issued under section 6.1, or if the Town of Hortonia is unable to determine the owner(s) of fishing raft, the Town of Hortonia may remove and dispose of the fishing raft.

SECTION 6.3

The owner(s) or person(s) responsible for the fishing raft shall reimburse the Town of Hortonia for any costs incurred by the town associated with the removal and disposal of the fishing raft under section 6.2.

SECTION 6.4 - PENALTY

A person who violates any provisions of this ordinance or any order issued under this ordinance shall forfeit not less than \$10.00 nor more than \$250.00 for each offense. Each day of violation constitutes a separate offense.

SECTION 7.0 - EFFECTIVE DATE

This ordinance shall become effective upon its passage and publication as required pursuant to law.

SECTION 8.0 - SEVERABILITY

If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

By Kevin Bolssen

Kevin Bolssen ,Chairman

Dennis L. Clegg

Dennis Clegg , Supervisor

Andrew Marks

Andrew Marks , Supervisor

I Faye Marks, Clerk of the Town of Hortonia do hereby certify that this is an exact and true copy of ordinance 1-2003 - passed by a majority vote, with a quorum present by the Town Board of Hortonia.

Given under my hand and seal this 14th day of April.

Faye Marks

Faye Marks, Clerk