

TOWNSHIP OF ONTWA
CASS COUNTY, MICHIGAN

ORDINANCE NO. 2021-10-11.2
ICE RETARDANT SYSTEMS ORDINANCE

AN ORDINANCE TO REGULATE THE USE OF ICE-RETARDANT SYSTEMS ON WATERFRONT PROPERTIES IN ONTWA TOWNSHIP, CASS COUNTY, MICHIGAN; TO ADMINISTER THE ORDINANCE AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

THE TOWNSHIP OF ONTWA, CASS COUNTY, MICHIGAN, ORDAINS:

Section 1. Purpose.

The Township Board for Ontwa Township, Cass County, Michigan, finds and determines it necessary to adopt this Ordinance in order to protect the public health, safety, and welfare of Township residents, landowners, and visitors; to prevent or avoid impairment of important irreparable natural resources (public lakes and their waters); to avoid or prevent impairment of property values of lands adjoining public lakes; to provide regulations which are designed to protect the public health, safety, and welfare of the users of public lakes and winter navigability of the lakes; and to minimize or reduce the dangers from the use of ice-retardant systems in a public lake to persons using such lake and to riparian property owners.

The Township Board also finds the following:

1. Absent proper regulations, ice-retardant systems may be dangerous to people who are present on the ice of public lakes in the winter, including the following persons:
 - a. Snowmobilers and operators of ATVs
 - b. Ice fisherpersons
 - c. Children playing
 - d. Pedestrians
 - e. Cross-country skiers
 - f. Other users of the otherwise frozen surface of public lakes in Ontwa Township
2. Left unregulated, ice-retardant systems may interfere with the safe, convenient, and reasonable navigability of public lakes in the winter. Navigability in the winter includes such activities as cross-country skiing, ice skating, snowmobiling, ATV use, ice fishing, and walking.
3. Ice-retardant systems interfere may have negative impacts upon the ecology and environment of public lakes, as ice is necessary for lake habitats to regenerate during the winter.
4. The unregulated use of ice-retardant systems during the winter on public lakes in Ontwa Township may constitute a dangerous use and activity due to the following factors:
 - a. Visibility is often lower during winter conditions due to blowing snow, whiteouts, winter storms, etc.

- b. Open water or weakened ice is often difficult to detect at night.
- c. Children are especially susceptible to the dangers of weak ice and open water.

Section 2. Definitions. The following words, terms, and language shall mean the following for purposes of this Ordinance:

1. **ICE RETARDANT SYSTEM:** any machinery, motor, engine, item, equipment, pump, compressor or compression system, or any structural, mechanical, or other system whether automatically or manually operated and which is designed, intended, or functions to interrupt, stop, or slow down the natural freezing of waterways or to break up any ice surrounding or adjacent to any boat, vessel, pier, dock, or seawall as a means of a wet storage system for such boat or vessel, or protection for any dock, structure, pier, shore station, or seawall during the winter months. This definition also includes any system or apparatus that uses aerators, forced air (bubblers), props, pumps, agitation, or other motion to weaken or prevent ice or the formation of ice within a lake.
2. **PROTECTED STRUCTURE:** any lakefront or in-lake structure that a proposed ice-retardant system is designed to protect. By way of example, docks, piers, catwalks, shore stations, boat hoists, seawalls, and boathouses are considered protected structures for the purposes of this ordinance.
3. **PUBLIC LAKE:** any lake or portion thereof contained within the boundaries of Ontwa Township with two or more property owners adjacent to it, as well as its waters, channels, ice, shore, and bottomlands, including, but not limited to Eagle Lake, Christiana Lake, Juno Lake, Garver Lake, Cobert Lake, Spring Lake, and Pleasant Lake.

Section 3. Permit Required. No ice retardant system shall be operated on a public lake in Ontwa Township unless a permit has been issued by the Township in accordance with this Ordinance. Permits shall be issued by the township on a biennial basis. No permit fee shall be charged.

1. Application. To obtain a permit, the owner shall provide and certify as true the following information on a form provided by the Township:
 - A. Name, address, and telephone number of the owner of the property on which the ice retardant system is to be operated.
 - B. The street address of the property.
 - C. A copy of a valid permit for a permanent dock or permanent boat hoist issued by EGLE pursuant to Part 301 of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended.
 - D. Any other information necessary to indicate compliance with all requirements of this Ordinance.
 - E. A scaled sketch of the property, showing the location of the protected structure, the shorelines, adjacent property lines and dwelling units, and the location of required signage.
 - F. Information related to the type of lighting to be used.

- G. Information regarding the type of ice retardant system to be used, such as the manufacture and model number, and other relevant information related to how the system will be installed and to which structures it will be attached.
- H. Any other information deemed necessary by the Township to determine compliance with this ordinance.

Section 4. Regulations for Ice-Retardant Systems. Any ice retardant system located on a public lake shall comply with the following requirements.

1. All protected structures utilizing ice retardant systems shall be permanent and shall have a valid permit issued by EGLE pursuant to Part 301 of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended.
2. No ice-retardant system operated on seasonal piers, hoists, docks, shore stations,
3. A permit for an ice retardant system shall not be issued by the Township if the protected structure does not have a valid permit issued by EGLE pursuant to Part 301 of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended.
4. Reserved.
5. Prior to the operation of an ice retardant system, the owner shall install an easily visible sign with an area of two (2) square feet clearly stating “WARNING: OPEN WATER” displayed at or near the outside edges of the extent of the open water.
6. In addition to signage, the applicant shall install low-intensity blue or similar lighting on or around the protected area to allow persons to see open water.
7. The ice retardant systems shall only be operated during those months when ice is typically present.
8. The ice retardant system shall be operated such that, under normal operating conditions, the presence of open water is limited only to those areas within five (5) feet of the protected structure.
9. All parts of the protected structure shall be located a minimum of ten (10) feet from the projection of the property line into the public lake.
10. The ice retardant system shall not prevent the formation of ice within five (5) feet of the projection of the property line into the public lake.
11. The ice retardant system shall not make any noise detectable by an adjacent dwelling.

Section 5. Enforcement and Penalties.

1. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereto, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not

less than one hundred dollars (\$100.00) for the first offense and not less than five hundred dollars (\$500.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses, and remedies provided by law. For the purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

2. Upon a determination by an official designated by the Township Board to enforce this Ordinance that an ice retardant system is in violation of this Ordinance, such official shall issue a notice to the owner informing them of the violation. The owner may request a hearing before the Township Board and if requested, the Township shall notify the owner in writing at least 14 days prior to the hearing of a time and place for that hearing. At the hearing, the owner may present evidence that the owner should not be held responsible for one or more of the violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as (1) the owner(s) attempted to prevent or halt the violation; (2) the violation resulted from unusual weather conditions; or (3) other circumstances that the owner could not reasonably anticipate, prevent, and control.
3. In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with this Ordinance in the Cass County Circuit Court. The remedies and penalties provided in this Ordinance are cumulative and not exclusive.
4. This Ordinance may be enforced by the Township Zoning Administrator, the Township Building Inspector, the Township Zoning Enforcement Officer, an Ontwa Township Edwardsburg Police Officer, a Deputy County Sheriff, or other Township officials or agents as designated by the Township Board.
5. A violation of this Ordinance is also hereby declared to be a nuisance *per se* (which should be abated) and is also declared to be offensive to the public health, safety, and welfare.

Section 5. Severability.

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason by any Court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

Section 6. Repealer.

Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

Section 7. Effective Date.

This Ordinance shall take effect 30 days following publication.

Tina VanBelle, Ontwa Township Clerk

Trustee Stutsman made a motion to approve ordinance as amended, seconded by Supervisor Marchetti,

Roll Call Vote:

Ayes: Trustee Stutsman, Trustee Bolock, Treasurer Leist, Clerk VanBelle, Supervisor Marchetti

Nays: Trustee Kozinski

Absent: Trustee Christensen

Ordinance adopted this 11th day of October 2021.