

ORDINANCE NO. 05- 10

AN ORDINANCE RELATING TO THE SUPERVISION AND CONTROL OF PROPERTY SURROUNDING WILGREEN LAKE.

BE IT ORDAINED BY THE FISCAL COURT OF MADISON COUNTY, COMMONWEALTH OF KENTUCKY:

WHEREAS, Madison County is the owner of certain property surrounding Wilgreen Lake, located in Madison County; and

WHEREAS, several private landowners own property directly adjacent to said property owned by Madison County; and

WHEREAS, Madison County desires to ensure that the general public shall always have access to Wilgreen Lake, by and through the property owned by Madison County; and

WHEREAS, in order for Madison County to ensure such access, it is necessary to control and supervise encroachments by private landowners by regulating private boat docks and by regulating other activities which occur on the property owned by Madison County:

NOW THEREFORE, be it ordained by the Madison County Fiscal Court as follows:

Section 1. Definitions.

- (1) "Adjacent property owner" means the owner of real property that shares a common boundary with the property owned by the county.
- (2) "Boat dock" means a privately owned floating or fixed structure in a lake owned, leased or otherwise controlled by the county.
- (3) "County property" means lands or waters owned, leased or otherwise controlled by the county.
- (4) "Enclosed Superstructure" means a roofed structure with solid, glass, screen or similar walls, but does not include dock boxes and similar storage containers less than four (4) feet high.
- (5) "Normal pool" means a water level equal to the elevation of the lake's principal spillway.

Section 2. Boat Dock Permits.

- (1) An adjacent property owner may construct a boat dock on county property if his property:
 - (a) Would be lake-front property if not for the intervening county property; and
 - (b) Shares at least a fifty (50) foot boundary with county property.
- (2) A boat dock permit:
 - (a) Shall entitle the holder to construct one (1) boat dock meeting the specifications described in Section 4 of this ordinance.
 - (b) May be renewed by:
 1. paying a renewal fee, with the amount being determined and set by Madison County Codes and Development; and
 2. submitting an affidavit that an unauthorized addition or modification has not been made to the dock or walkway.
- (3) A person who owns multiple contiguous properties adjacent to county property shall:
 - (a) Not be issued more boat dock permits than the number of dwellings on those properties.
 - (b) Be entitled to one (1) boat dock permit if there is no dwelling on his contiguous properties.
- (4) A person who constructed a boat dock before the date of this ordinance shall be required to apply for a boat dock permit and shall comply with all sections of this ordinance.

Section 3. Constructing Boat Docks.

- (1) A person wishing to construct a boat dock shall:
 - (a) Submit a boat dock application on forms provided by Codes and Development, accompanied by:
 1. the permit fee, and
 2. proof that the applicant's property is adjacent to department lands.
 - (b) Not begin construction until he has been issued a construction permit from Codes and Development. This permit shall be in addition to other required buildings permits.
 - (c) Inform Codes and Development when:
 1. construction of the new dock is complete, or
 2. the existing dock has been brought into compliance.
 - (d) Allow inspection of the dock by Codes and Development employees.
- (2) Codes and Development shall issue a boat dock permit and tag to a boat dock owner whose dock passes a final inspection for compliance with the provisions of this ordinance.
- (3) The dock owner shall affix the tag issued with the permit to the edge of the dock facing the lake.

Section 4. Boat Dock and Walkway Specifications.

- (1) A person shall not construct a boat dock that:
 - (a) Measures more than 16 feet in any dimension;
 - (b) Has a surface area of more than 128 square feet;
 - (c) Has enclosed superstructures;
 - (d) Has unenclosed superstructures or other features not specified in the boat dock permit; or
 - (e) Uses metal drums or other flotation devices that will sink when punctured.
- (2) A walkway connecting the bank and the dock shall:
 - (a) Be perpendicular to the shoreline.
 - (b) Be anchored to county property at the shoreline using either:
 1. A concrete pad no larger than ten (10) square feet, or
 2. Two (2) metal posts at each side of the walkway.
 - (c) Not be wider than four (4) feet.
 - (d) Be the shorter of:
 1. a length sufficient to reach a water depth of two (2) feet when the lake is at normal pool, or
 2. twenty (20) feet in length.
 - (e) Not be used for boat mooring.

Section 5. Revocation of Permits.

- (1) Codes and Development shall cancel a boat dock permit if the permit holder:
 - (a) Makes an addition or modification to the dock or walkway without written permission from the department, or
 - (b) fails to:
 1. Renew the boat dock permit within sixty (60) days of expiration, or
 2. Maintain the dock or walkway in a structurally sound condition.
- (2) After notification in writing by Codes and Development that a permit has been canceled, a person shall remove from county property within sixty (60) days:
 - (a) the dock,
 - (b) the walkway, and
 - (c) the structures used to anchor the walkway.

Section 6. Use of Water.

- (1) A person shall not take water from the lake without the written consent of Codes and Development.
- (2) Codes and Development shall not grant permission to take water from lakes other than:
 - (a) for the residential use of adjacent property owners, or
 - (b) for temporary emergency use in times of drought.

Section 7. Cutting weeds or grass. An adjacent property owner may cut weeds or grass, or clear underbrush less than two (2) inches in diameter, from county lakefront property which joins his property.

Section 8. Structures or equipment on county property.

(1) A person shall not place a road, ramp, building, steps, fence, garden, or structure on county property.

(2) Without written permission from Codes and Development a person shall not:

(a) Place an object or structure at the water's edge to stabilize the bank,
or

(b) place or use mechanical equipment on county property.

(3) Codes and Development shall not issue a permit for mechanical equipment or bank stabilization unless in the best interest of the lake, the public, and other adjacent property owners.

Section 9. Waivers and Appeals.

(1) A person with a dock, walkway, structure or mechanical equipment that was in place before the effective date of, but do not meet the standards contained in, this administrative regulation may apply to Codes and Development for a waiver.

(2) In deciding whether to grant or deny a waiver, Codes and Development shall consider:

(a) Whether the dock, structure or mechanical equipment:

1. is in substantial compliance with this ordinance;
2. poses a potential safety hazard;
3. is in sound structural or mechanical condition.

(b) the geological or other physical features of the lake and the specific location, and

(c) the applicant's history of compliance with previous ordinances governing boat docks and structures on county property.

(3) A person whose waiver request is denied may request a hearing.

(a) Codes and Development shall appoint a hearing officer and conduct the hearing in accordance with the provisions of KRS Chapter 13B.

(b) The hearing officer shall make his recommendations to the

Department of Fish and Wildlife Commission.

(c) The commission shall make its decision by majority vote.

(d) An appeal of the commission's decision shall be in accordance with the provisions of KRS Chapter 13B.

(4) A person who has not been granted a permit as specified in this ordinance shall remove non-permitted or non-waivered docks, structures or mechanical equipment from county property before (date).

THIS ORDINANCE NO. 05-_____ SHALL BECOME EFFECTIVE ON THE DATE OF THE SECOND READING AND ADOPTION.

INTRODUCED, SECONDED AND GIVEN FIRST READING APPROVAL at a duly convened meeting of the Fiscal Court of Madison County, Kentucky held on the 6 day of April, 2005.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Madison County, Kentucky, held on the 24th day of May, 2005, and of record in Fiscal Court Order Book , Page .

DATE ADOPTED: 5-25-05
MOTION BY: Billy Ray Hughes
SECONDED BY: Larry Combs
VOTE: YES NO
Magistrate Billy Ray Hughes ✓ _____
Magistrate Roger Barger ✓ _____
Magistrate William Tudor ✓ _____
Magistrate Larry Combs ✓ _____
Judge Kent Clark ✓ _____

Kent Clark
MADISON COUNTY JUDGE/ EXECUTIVE

Attest:
C. William E. Hubbard
County Clerk

PREPARED BY:
Marc Robbins
Marc Robbins
Madison County Attorney
116 West Main Street, Suite D
Richmond, Kentucky 40475
(859) 623-4595