

EVANGELINE TOWNSHIP
Ordinance No. 3 of 2002

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO REGULATE ACTIVITIES ON ROAD ENDINGS THAT TERMINATE ON THE SHORELINE OF LAKES AND RIVERS, LAKE ACCESS SITES, AND PUBLIC PARKS WITHIN THE TOWNSHIP AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

THE TOWNSHIP OF EVANGELINE ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Evangeline Township Lake Access and Parks Ordinance.

Section 2. Purpose.

Based on the findings which have been made by the Evangeline Township Board, the purposes of this Ordinance are to protect and promote the public health, safety, and welfare of Township residents and to conserve and protect the inland lakes and rivers within the Township from pollution, destruction or impairment by regulating the use of road endings, public access sites, and township parks.

Section 3. Definitions. As used in this Ordinance,

- (a) "Anchor" means the act of dropping a weighted object that is attached to a boat by means of a chain, cable, rope, or other device to the bottomland of a lake or river or the act of placing a weighted object on upland property for the purpose of preventing or restricting the motion of the boat to which it is attached.
- (b) "Beach" means the act of pulling a boat on upland property or grounding a boat on the bottomlands for the purpose of preventing or restricting the motion of the boat.
- (c) "Boat" means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft and nonmotorized boats such as a canoes, rowboats, and rafts. Boat, however, does not include an air mattress, paddleboard, paddleboat, boogie board, or similar device used by one (1) or two (2) persons for floating or paddling.
- (d) "Bottomlands" means the land beneath the water of a lake or river that attaches to upland and riparian property by operation of law.

- (e) "Decibel (dB)" means a unit of measuring the volume of sound, equal to twenty (20) times the logarithm of the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).
- (f) "Dock" means a pier, platform, or other structure extending from the shore or a lake or river over the water to which a boat is moored.
- (g) "Hoist" means a mechanical device attached permanently or temporarily to the bottomland of a lake or river and used to raise or lift a boat out of the water for the purpose of preventing or restricting the motion of the boat.
- (h) "Lake" means an inland lake or portion of an inland lake located within Evangeline Township.
- (i) "Moor" or "Mooring" means the act of securing a boat to a buoy attached or anchored to the bottomlands of a lake or river by means of a chain, cable, rope, or other device or to a dock by means of a chain, cable, rope, or other device for the purpose of preventing or restricting the motion of the boat.
- (j) "Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
- (k) "Public Access Site" means the non-road ending, riparian property owned by Evangeline Township, including its associated bottomlands, intended by the township to serve as a means for the public to gain access to the lake or river to which it abuts.
- (l) "River" means a navigable and natural stream of water flowing in a definite course or channel within Evangeline Township.
- (m) "Road ending" means a public road or way within Evangeline Township which terminates at the water's edge of a lake or river, including its associated bottomlands.
- (n) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighing networks used to measure sound pressure levels and that meets the standards of ANSI S-14 1983, or its successor.
- (o) "Township park" means property owned or controlled by the township that is open to the general public for recreational activities such as picnics and sunbathing.

- (p) "Weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Section 4. Regulations. No person shall

- (a) Construct, place, or maintain a dock, hoist, or mooring device on a road ending or public access site or within a township park, except as provided in this subsection. Evangeline Township may construct, place and maintain a nonexclusive dock on a road ending or public access site or within a township park to aid the general public in gaining access to the lake or river.
- (b) Anchor, beach, or moor an unattended boat on a road ending or public access site or within a township park for more than five (5) consecutive hours, except in the case of an emergency, the mechanical breakdown of the boat, or as otherwise provided in this subsection.
- (c) Use a road ending, public access site, or township park in any manner that:
- (1) Unreasonably interferes with ingress and egress to the road ending, public access site, or township park or to the adjacent water.
 - (2) Causes or creates any loud noise or sound that endangers or injures the safety or health of humans or animals or that annoys or disturbs a reasonable person of normal sensitivities, including but not limited to:
 - (A) Playing or using a radio, phonograph, compact disc player, tape player, television, musical instrument, sound amplifier, or other electronic or mechanical sound-producing device in such a manner or with such volume so as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivities.
 - (B) Yelling, shouting, hooting, singing, or making other noise that because of its volume, frequency, or shrillness unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.
 - (C) Sounding or using any horn, siren, whistle, bell or other warning device on a boat so as to unreasonably disturb the quiet, comfort or repose of another person, unless the sounding or use of such horn, siren, whistle, bell or other warning device is authorized by state or Federal law and necessary to the safe operation of the boat.
 - (D) Making any noise exceeding 60 db(A), weighted sound level, as measured by a sound level meter from the nearest shoreline between the hours of 11:00 p.m. and 5:00 a.m. Evidence of such noise shall

serve as prima facie evidence that such noise disturbs the comfort, quiet and repose of reasonable persons of normal sensitivities in the area. However, excluding personal watercraft, this subsection shall not be applied to the noise created by the motor of a boat during the operation of that boat.

- (3) Causes littering on the road ending, public access site, township park, or adjoining property.
 - (4) Results in trespassing on adjoining property.
 - (5) Unreasonably interferes with the use and enjoyment of adjacent and shoreline properties.
 - (6) Creates any other nuisance condition.
- (d) Drive or back a trailer into the water at a road ending, public access site, or township park for the purpose of launching a boat into the lake or river, unless the Township designates that road ending, public access site, or township park as an official boat launching site.
 - (e) Camp on a road ending, public access site, or township park at any time.
 - (f) Start, use, or maintain a campfire, bonfire, or other recreational fire on a road ending, public access site, or township park at any time, except within an approved device installed by the Township.
 - (g) Remain on a road ending or public access site or within a township park after being requested by a police officer to leave that road ending, public access site, or township park.
 - (h) Pump or otherwise remove water from a lake or river at a road ending, public access site, or township park, except for fire suppression or training purposes.
 - (i) Pets are permit and shall be leashed and under the owners direct control at all times.

Section 5. Removal of Boat; Report of Emergency or Mechanical Breakdown.

If an unattended boat is anchored, beached or moored greater than five (5) consecutive hours as prohibited in Section 4(b) above, that boat must be removed from the road ending, public access site, or township park in the shortest time necessary to end the

emergency or mechanical breakdown. If the boat is not removed within twenty-four (24) hours, the owner or operator of the boat shall report the emergency or mechanical breakdown to the Charlevoix County Sheriff's Department.

Section 6. Violations and Penalties.

- (a) Any person who violates any provision of this Ordinance, except Section 4(g), shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:
 - (1) For a first offense, the offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars.
 - (2) For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
 - (3) For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 (\$500.00) Dollars.
- (b) Any person who knowingly violates Section 4(g) of this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred and 00/100 Dollars (\$500) and/or by imprisonment in the county jail for not more than ninety (90) days.
- (c) Each day this Ordinance is violated shall be considered a separate violation.
- (d) Violations of this Ordinance may be reported to Township Supervisor and/or the Charlevoix County Sheriff's Department.

Section 7. Enforcement Officials.

The Township Supervisor, or designee, and police officers of the Charlevoix County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 9. Separate Court Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding or a criminal prosecution, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 10. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

Section 11. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

TOWNSHIP OF EVANGELINE

By: 

R. Douglas Shields, Supervisor

By: 

Josette A. Lory, Clerk

Date of Approval: 6/3/2002

Date of Publication: 7/10/2002

Effective Date: 8/9/2002

ORDINANCE CERTIFICATION

At a regular meeting of the Evangeline Township Board, Charlevoix County, held in the Evangeline Township Hall, located at 02746 Wildwood Harbor Road, Boyne City, Michigan, on June 3, 2002, at 7:30 P.M.

PRESENT: Adams, Conright, Howell, Lony, Shields

ABSENT: Ø

It was moved by Shields and supported by Howell that

the following Ordinance be adopted: **Parks/Lake Access Ordinance**

(See attached EVANGELINE TOWNSHIP ORDINANCE)

YES: Adams, Conright, Howell, Lony, Shields

NO: Ø

ORDINANCE DECLARED ADOPTED.

EVANGELINE TOWNSHIP

By. 

R. Douglas Shields, Township Supervisor

I, the undersigned, the Clerk of the Township of Evangeline, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Evangeline Township Board of said County at its regular meeting held on June 3, 2002, relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act; this ordinance was published in The Citizen's Paper, on July 10, 2002, and was filed with the County Clerk on August 8, 2002.


Josette Lory, Township Clerk

8/6/02
Dated

Note: The Ordinance and this Ordinance Certification should be filed with the County Clerk and the Township Attorney, and the Ordinance should be placed in the Township Ordinance Book.

Minutes of the regular meeting of the Evangeline Township Board held at the Evangeline Town Hall, Wildwood Harbor Road, on Monday, June 3, 2002.

JUNE 3, 2002
EVANGELINE
TOWNSHIP BOARD

Supervisor Shields called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance.

CALL TO ORDER

Board present: Treasurer Jodie Adams, Trustee Michelle Cortright, Trustee James Howell, Clerk Josette Lory, Supervisor Douglas Shields.

ROLL CALL

Public: There were four residents in attendance.

**MEETING
ATTENDANCE**

Cortright moved, Howell seconded approval of the May 13, 2002 Township Board minutes as amended.

**APPROVAL OF
MINUTES**

Residents in the Pine Hurst Shores area, represented by Mike and Ralph (Judy) Stowe, are requesting road improvements to Pine Hurst Shores/Pine Boulevard through the creation of a special assessment district.

**SPECIAL
ASSESSMENT
REQUEST FOR PINE
HURST SHORES
ROAD
IMPROVEMENTS**

The township will obtain a current estimate from the County Road Commission as well as contact the Township Attorney for direction on this process.

The May treasurer's report was submitted noting a total of \$282,618.51 in the general fund for May 2002. Lory moved, Cortright seconded approval of the May 2002 treasurer's report as presented. This general fund figure reflects the general checking and operating fund.

**TREASURER'S
REPORT**

Roll Call

Aye: Adams, Cortright, Howell, Lory, Shields.

Nay: None.

Abstain: None.

Absent: None.

Motion Carried.

Review of accounts payables. Shields moved, Lory seconded a motion to approve the June 3, 2002 payables, as amended, in the amount of \$3,370.71.

**ACCOUNTS
PAYABLE**

Roll Call

Aye: Cortright, Howell, Lory, Shields, Adams.

Nay: None.

Abstain: None.

Absent: None.

Motion Carried.

Verbal report received from Supervisor Shields regarding gravel work on Springwater Beach Road and progress on the location of a dry hydrant in the Pine Hurst Shores area (Nelson Road/Chris Park/Pine Boulevard).

**REPORTS OF
OFFICERS**

Written reports from Planner/Zoning Administration Chuck Stewart and the Township Planning Commission were received.

The board received conceptual park design presentations from Site Planning Development, Inc. for Kim Park and Glenwood Beach Park.

Suggestions: In the Glenwood Beach area include one handicap parking space.

Adams moved, Shields seconded, PASSED UNANIMOUSLY, to accept the conceptual design plans as presented for Kim Park and Glenwood Beach Park, and direct Site Planning Development, Inc. to prepare design plans so the Township may pursue bids for park improvements.

Howell moved, Cortright seconded, PASSED UNANIMOUSLY, to adopt the Fire Clean-up Resolution and Procedures for Evangeline Township as presented. (Insert resolution here.)

Howell moved, Cortright seconded, PASSED UNANIMOUSLY, to accept the Charlevoix County Road Commission contract for Springwater Beach and Terrace Roads at an estimated cost of \$7,402.50.

Howell moved, Lory seconded, PASSED UNANIMOUSLY, to adopt the Evangeline Township Nuisance Ordinance as presented. (Insert ordinance here.)

Shields moved, Howell seconded, PASSED UNANIMOUSLY, to adopt the Evangeline Township Lake Access and Parks Ordinance as presented. (Insert ordinance here.)

Shields moved, Howell seconded, PASSED UNANIMOUSLY, to adopt the Evangeline Township Dangerous Structures Ordinance as presented. (Insert ordinance here.)

Adams moved, Shields seconded, PASSED UNANIMOUSLY, to approve the proposed Kim Park temporary entrance and barrier structure as presented, with the addition of reflectors.

The next regular meeting of the Evangeline Township Board is scheduled for Monday, July 1, 2002, at 7:30 p.m.

Shields moved, Adam seconded a motion to adjourn the Monday, June 3, 2002, Evangeline Township Board meeting at 9:30 p.m.

**CONCEPTUAL
PARK DESIGNS
GLENWOOD BEACH
KIM PARK**

**FIRE CLEAN-UP
RESOLUTION**

**SPRINGWATER
BEACH/TERRACE
ROAD
IMPROVEMENTS**

**NUISANCE
ORDINANCE**

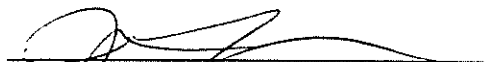
**LAKE
ACCESS/PARKS
ORDINANCE**

**DANGEROUS
STURCTURES
ORDINANCE**

**TEMPORARY
ENTRANCE/BARRIER
AT KIM PARK**

NEXT MEETING

**MEETING
ADJOURNED**


Josette A. Lory, Evangeline Township Clerk