

May, 1986

GERRISH TOWNSHIP ZONING ORDINANCE #15

"Public Lateral Road End Zoning Ordinance"

Purpose and Authority

In order to insure continued and safe public access to the waters of Higgins Lake by all members of the general public for swimming and boating, the Gerrish Township Board enacts this Zoning Ordinance to regulate the land at the ends of public lateral roads that terminate at the water's edge of Higgins Lake and the riparian rights (the lakebed area) attached to such roads as extended into and under the waters of Higgins Lake.

Pursuant to Public Act 1967, No. 288, as amended (M.C.L.A. 41.4), and Michigan case law, Gerrish Township has the legal authority to regulate by zoning the lakebed area (riparian rights) extending into and under the waters of Higgins Lake from public lateral road ends that terminate at the water's edge of Higgins Lake (Also see Roscommon County Circuit Court File No. 85-4047-CZ). This Zoning Ordinance is not regulating boat navigation upon the waters of Higgins Lake.

Pursuant to Public Act 1945, No. 246, as amended (M.C.L.A. 41.181-41.183), by the State of Michigan for the purpose of promoting the health, safety, and general welfare of the public, by regulating private obstructions and congestion which create an extreme public safety hazard for swimming, boat launching and use at the ends of public lateral roads that terminate at the water's edge of Higgins Lake and the riparian rights (the lakebed area) attached to such public roads for the use of the public; and for

the regulating and/or prevention of private appropriation and encroachments upon and obstructing the safe use of the ends of public lateral roads that terminate at the water's edge of Higgins Lake and the riparian rights (the lakebed area) attached to such lateral roads; to provide for and insure safe and orderly public ingress and egress into the waters of Higgins Lake; to provide penalties for violation of any provisions of this Ordinance, Gerrish Township enacts the following Zoning Ordinance:

Section 1. Docks.

a. No more than one public dock shall be allowed at the end of any public lateral road end leading into Higgins Lake. It must be placed perpendicular to the shore line of Higgins Lake and be so aligned as to remain within the right-of-way of the street as extended into the waters of Higgins Lake.

b. Said public 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. Any public dock shall be of uniform safe construction for use of the general public.

c. Said public dock must bear the name and address of the owner thereof or the party responsible for its erection and must be removed from the lakebed and right-of-way of any public lateral road before December 1st of each year.

d. All such docks shall be maintained free of any restriction or prohibition against use by the general public. Such signs as "Keep Off" or "Private Dock" are prohibited

thereon.

e. Overnight mooring of any watercraft to such public docks or within the area of any lateral road end as extended into Higgins Lake is prohibited, except as permitted by Section 2 of this Ordinance to insure the safe and complete and full use of the these areas by the general public.

f. Any such dock shall be so aligned as to remain within the area of the street right-of-way as extended into the waters of Higgins Lake. If any streets are improved by launching ramps, such docks may be located only on one side or the other of the launching ramp so as not to interfere with the use of the launching ramp.

g. Any individual or group of individuals erecting a dock according to this Ordinance, for the use of the general public, hereby assumes any liability for its erections and public use, and agrees by the erection of this public dock to hold Gerrish Township and the Roscommon County Road Commission harmless from any liability for its erection and public use.

Section 2. Permanent Anchoring Devices - Boat Hoists

a. Augering or driving of any boat mooring post, placing of any permanent or seasonal boat anchoring device or swimming rafts within the area of any public lateral road end as extended into Higgins Lake is prohibited.

b. Boat hoists for the placement of boats may be seasonally moored or placed perpendicular to a public dock at a public lateral road end, in such a manner as to remain within the right-of-way of the public street as extended into the waters of

Higgins Lake and not in violation of the riparian rights of the contiguous front lot owners. At each public lateral road end all boat hoists must be on the same side of the dock, in line with each other, and the first boat hoists from the shore must be a minimum of fifty (50') feet from the water's edge.

This section is intended to allow overnight or seasonal boat mooring only if said boat is placed within a boat hoist when not in use.

c. Encroachments or appropriations by any individuals for private purposes, other than one dock placed at the end of any public lateral road end as permitted by this Ordinance, are prohibited within the area of any lateral road end as extended into Higgins Lake to insure the safe and complete and full use of these areas by the general public.

Section 3. Lateral Road Ends--Parking and Encroachments

a. Parking of any motor vehicle and of any boat trailers within the area of any public lateral road end right-of-way is subject to the Gerrish Township Parking Ordinance, as amended.

b. Storage of any boats, boat hoists, docks, ice shanties or any other such encroachments within the public road right-of-way of any lateral road end is absolutely prohibited at any time to insure the safe and complete use by the general public.

Section 4. Lateral Road Ends--Improvement and/or Maintenance

a. No public lateral road end terminating at the water's edge of Higgins Lake shall be altered and/or improved upon in any manner by any individual or governmental body, including but not

limited to the Gerrish Township Board, the Roscommon County Road Commission, the Roscommon County Board of Commissioners, the Michigan Department of Natural Resources, without a properly noticed public hearing by the appropriate governmental body, to discuss and determine the effect of any pollution, erosion or destruction to the waters of Higgins Lake by such proposed changes ("Thomas J. Anderson", Gordon Rockwell Environmental Protection Act of 1970--M.C.L.A. 691.1201-- 691.1207 and Soil Erosion and Sedimentation Control Act of 1972--M.C.L.A. 282.101-117).

b. Any individual or governmental body responsible for changes in the use or characteristics of a public road end by erection of any structure, placement of litter barrels, marker buoys for swimming or the like shall also be held responsible for their proper upkeep and maintenance to assure health, safety and environmental protection.

Section 5. Private Property

a. Augering or driving of any mooring post, placing of any permanent or seasonal anchor or dock, or swimming raft, or anchoring of any boat hoists or encroachments of any nature within the lakebed area of privately owned riparian property, without the written consent of said private riparian property owner, is strictly prohibited by any individual except said private riparian owner.

Section 6. General Use

a. Except as otherwise prohibited by this Ordinance, the general public may utilize any lateral road end and/or

right-of-way as extended into Higgins Lake for lounging, picnicking, swimming, fishing and boating, provided such activities do not create a safety hazard, cause unreasonable congestion, interfere with the intended use or otherwise disturb the peace. The use of any alcoholic beverages, controlled substances or fireworks is prohibited within and/or into the extended area of any lateral road end.

b. Fires and Animals are prohibited at lateral road ends.

Section 8. Penalties

a. Any violation by any 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 by both such fines and imprisonment.

b. Any violation by any person of any provision of this Ordinance will result in the Gerrish Township Police Department or their authorized agent removing and towing away and placing in storage said boat and/or hoist and/or encroachment at the owner's expense.

Section 9. Severability

a. 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.

This Ordinance shall become effective thirty (30) days after the date of publication.

I hereby certify that the foregoing is a true and correct copy of an Ordinance made and unanimously adopted by the Township Board of Gerrish at a meeting held in the Township Office, on the 19 day of May, 1986.

Yes Murray, Stiefelmayer, Woodruff, Willett

Absent McCutcheon

Patricia M. Murray
Clerk

TOWNSHIP OF GERRISH

Adopted by the Board

May 19, 1986

Publication

May 28, 1986

Effective Date

June 29, 1986

FIRST AMENDMENT TO

Gerrish Township Zoning Ordinance #15

"Public Lateral Road End Zoning Ordinance"

Section One

All Sections of the Gerrish Township Zoning Ordinance #15 effective June 29, 1986 are only applicable to the following Roscommon County certified lateral road ends that terminate at the shoreline of Higgins Lake:

- | | | |
|----------------------|--------------------|-----------------------|
| 1. Birch Rd. West | 11. Hoffman Ave. | 21. McKenzie St. |
| 2. Chicago Ave. | 12. Hyslip Ave. | 22. Muskegon Ave. |
| 3. Earl Ave. | 13. Kelly Ave. | 23. Newman Ave. |
| 4. First St. | 14. Lake Ave. | 24. Oak Ave. |
| 5. Forrest Dr. | 15. Lincoln Ave. | 25. Second St. |
| 6. Fourth St. | 16. Lincoln Ave. | 26. Shiawassee Ave. |
| 7. Hayden Ave. | 17. Lone Pine St. | 27. St. Lawrence Ave. |
| 8. Henry Ave. | 18. Magnolia Ave. | 28. St. Louis Ave. |
| 9. Highland Park St. | 19. Maple St. | 29. Third St. |
| 10. Hitchcock Ave. | 20. Maplehurst Dr. | 30. Washington Ave. |
| | | 31. Welt St. |

Section Two

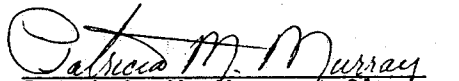
Any private encroachments attached to the lake bottomland of Higgins Lake; including but not limited to docks, boat hoists, swimming rafts, boat mooring augers or posts, boat anchors of any kind, boats, etc., are completely prohibited within the area of any lateral road end as extended into Higgins Lake except for those lateral road ends listed in Section One of this First Amendment to Gerrish Township Zoning Ordinance #15.

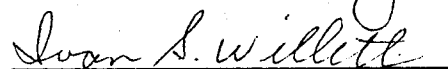
Section Three

This First Amendment to Gerrish Township Zoning Ordinance #15 shall become effective immediately upon its adoption by the Gerrish Township Board.

DATE ADOPTED: May 18, 1987

Yes - Stiefelmayer, Woodruff & Willett
Absent - Murray & Lippert


Patricia M. Murray, Clerk


Ivan S. Willett, Supervisor

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