CHARTER TOWNSHIP OF VAN BUREN
ENVIRONMENTAL COMMISSION AGENDA

Wednesday, November 16, 2016 – 7:00 PM
Denton Room

CALL TO ORDER

ROLL CALL

ENVIRONMENTAL COMMISSION

Chairman Brownlee	_____	Commissioner Merritt	_____
Vacant	_____	Vacant	_____
Commissioner Debuck	_____	Board Representative	_____
Commissioner Gibson	_____	Director Akers	_____
Deputy Director Best	_____	Recording Secretary Halstead	_____

APPROVAL OF AGENDA

ACCEPTANCE OF THE MINUTES OF THE PREVIOUS MEETING

1. October 19, 2016 Minutes

COMMUNICATIONS

UNFINISHED BUSINESS

1. Coal Tar Discussion
2. Lakeshore Management Workgroup Update

NEW BUSINESS

ADJOURNMENT

***** If you are unable to attend, please contact Developmental Services at 699-8913 before noon on November 16, 2016*****

CHARTER TOWNSHIP OF VAN BUREN
Environmental Commission
Wednesday-October 19, 2016
MINUTES - DRAFT

The meeting was called to order at 7:01 pm in the Denton Room by Chairperson Brownlee.

ROLL CALL:
Present: Brownlee, Debuck, Gibson, Merritt, Jahr
Absent Excused: Akers
Staff: Best, Halstead
Audience: 2

APPROVAL OF AGENDA:
Motion Gibson, Seconded by Debuck to approve the agenda with the revision to add 2 items; presentation on Milfoil and Election of Officers. Motion Carried.

APPROVAL OF MINUTES:
Motion Gibson, Seconded by Merritt to approve the Minutes from July 20, 2016.
Motion Carried.

COMMUNICATIONS:
Chairman Brownlee mentioned there or now two vacancies on the Environmental Commission. Best commented that the supervisor has received some applications, but told the members to continue to encourage more applicants.

UNFINISHED BUSINESS:

1. Township Map: The Township map that was requested has now been put up in the Denton room for future meetings.

2. Coal Tar Discussion: The question was asked if members would want to add language to the ordinance that would address fines or penalties for not complying with the ordinance. Best had gathered other cities' and Township's Coal Tar Ordinance to look over and discuss. Deputy Director Best said he would work on putting together a draft for the Ordinance that would address registering commercial contractors, civil infractions and possibly changing the allowable PAH level to >0.1.

3. Lakeshore Management Workgroup Update: The Workgroup has completed their assignment in making changes to the draft Lakeshore Ordinance. The tentative date that the document will be taken to the Planning Commission is November 9, 2016. The commission requested to see a copy of the draft ordinance.

4. Pollinators and Habitat: The Planning Department has been looking at different ways to incorporate pollinator habitats into their planning process. Some of the main reasons for having these Pollinator pockets is to promote pollination, and increase diversity in the Township.

NEW BUSINESS:

1. Presentation of Eurasian Milfoil: Milfoil is an easily spread aquatic plant. Deputy Director Best gave a Presentation of Eurasian Milfoil which highlighted different ways to manage and control Milfoil. The cost is extremely high for all options. Educating the public of management options is a start to getting Milfoil under control.

2. Election of Officers: Motion Jahr, Seconded by Merritt to Re-elect Brownlee for Chairman. Motion Carried.
Motion Merritt, Seconded by Gibson to re-elect Debuck for Vice-Chairman. Motion Carried.

COMMENTS: This will be Board Representative Jahr's last Environmental Commission meeting he will be attending.

Motion Gibson, seconded by Debuck to adjourn at 8:41 pm.
MOTION CARRIED

Respectfully submitted,

Anna Halstead, Recording Secretary

Memo

TO: Environmental Commission

FROM: Matthew R. Best
Deputy Director of Planning and Economic Development

RE: Proposed Additions to the Coal Tar Ordinance

DATE: November 10, 2016

Per the direction of the Commission at the last meeting, the following attached document is proposed as an amendment of the existing Ordinance.

- # ARTICLE V. - COAL TAR PRODUCTS
- ## Sec. 42-251. - Purpose.

The Charter Township of Van Buren understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have suggested a relationship between stormwater runoff and certain health and environmental concerns. The purpose of the ordinance from which this chapter derives is to prohibit the use and sale of pavement sealant products containing ≥0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including *coal tar*-based sealer in the Township of Van Buren in order to protect, restore, and preserve the quality of its waters and protect the health of its residents. It is the further purpose and intent of this chapter to regulate the use and application of sealant products, to require the registration of commercial and institutional applicators of sealant products within the Township, and to require the distribution of informational literature to consumers about the use and effect of sealant products.

(Ord. No. 12-1-15, eff. 12-24-15)

- ## Sec. 42-252. - Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicator. Any person who applies pavement sealant product in the city including, but not limited to, homeowners, occupants of rental property, and property managers.

Asphalt based sealer. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces and may contain PAHs but at a much lower concentration than found in coal tar based sealers.

Coal tar. A byproduct of the process used to refine coal.

Coal tar sealant product. A surface applied sealing product for application on asphalt, concrete or other pavement including a driveway or parking area containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

High PAH content sealant product. Any pavement sealant product that contains greater than ~~one percent~~0.1% PAHs by weight.

PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

Pavement Sealant. Any surface-applied pavement sealing product used to maintain asphalt surfaces. This may include but is not limited to asphalt-based sealant products and *coal tar* sealant products

Person. An individual, corporation, partnership, sole proprietorship, LLC or other entity.

Sealant Program Administrator. The Director of Planning and Economic Development, or other person designated to administer this chapter by the City Administrator.

Township. The Charter Township of Van Buren.

(Ord. No. 12-1-15, eff. 12-24-15)

Sec. 42-253. - Prohibitions on use of coal tar products

(a) No person shall use or apply a coal tar, coal tar sealant product or other high PAH content sealant product on asphalt paved surfaces with the township.

(b) No person shall sell or offer to sell a coal tar, coal tar sealant product or other high PAH content sealant product that is formulated or marketed for application on asphalt-paved surfaces within the township.

(c) No person shall allow a coal tar, coal tar sealant product or other high PAH content sealant product to be used or applied upon property that is under that person's ownership or control.

(d) No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar, coal tar sealant product or other high PAH content sealant product to any driveway, parking lot, or other surface within the township.

(e) No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar, coal tar sealant product or other high PAH content sealant product to any driveway, parking lot, or other surface with the township.

(Ord. No. 12-1-15, eff. 12-24-15)

6:504. - Registration and reporting requirements and procedures for commercial applicators.

(1) All commercial applicators shall register with the city prior to applying pavement sealant in the Township in any calendar year.

(2) Registration under this chapter shall be valid until expiration. Registration shall begin on January 1 and shall expire on December 31 of each calendar year.

(3) Commercial applicators shall submit a complete registration application to the Pavement Sealant Program Administrator on forms furnished by the Township Clerk, along with the registration fee according to the schedule established by resolution of

Board of Trustees. The fee shall be calculated to include the cost of registration application review and periodic field inspection.

(4) The following information shall be included in a complete application for registration:

(a) The legal name of the commercial applicator, any other names used, the address, telephone number and contact person for the applicant.

(b) The product name, type of use, and PAH content including CAS numbers.

(c) A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will comply with the requirements of the Pavement Sealant Ordinance of the Township throughout the registration period.

(d) All other information requested on the application.

(5) The Pavement Sealant Program Administrator shall approve a registration if the application is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this chapter.

(6) The application for registration shall be approved or denied within 21 days by the Pavement Sealant Program Administrator.

(7) The Pavement Sealant Program Administrator shall maintain a current list of all registered commercial applicators.

(8) A registered applicator shall notify the Pavement Sealant Program Administrator in writing of any change in the information in the application for registration within 7 days of any such change.

(Ord. No. 16-12, § 1, 6-20-16)

- **Sec. 42-254. - Asphalt based sealcoat products.**

The provisions of this article shall only apply to coal tar, coal tar sealant products or other high PAH content sealant products in the township and shall not affect the use of asphalt based sealer products within the township as long as those products contain less than 0.1% PAHs, by weight.

(Ord. No. 12-1-15, eff. 12-24-15)

- **Sec. 42-255. - Penalties and enforcement.**

(a) Violation of any provision of this chapter shall be a civil infraction punishable by a civil fine of not more than $10,000.00.

~~*(a) Penalty.* Violation of this article is a municipal civil infraction, for which the fines shall be not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00) for the first offense, in the discretion of the court, and in addition to all of the costs, damages and expenses provided by law.~~

~~(b) *Injunction.* Any violation of this article is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this article by proceeding under section 42-255(a) above, the township may institute an action in a court of general jurisdiction seeking injunctive or equitable relief and shall be entitled to recover all attorney fees, court costs, litigation expenses, costs and expenses to abate the nuisance, and all other costs allowed by law.~~

~~(c) *Enforcement and administration.* This article shall be enforced and administered by the township director of planning and economic development or such other township official as may be designated from time to time by resolution by the township board.~~

(Ord. No. 12-1-15, eff. 12-24-15)

Sec. 42-256. - Severability.

In the event that any one or more sections, provisions, phrases or words of this article shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this article.

(Ord. No. 12-1-15, eff. 12-24-15)

Sec. 42-257. - Conflicts.

new

If any provision of this article conflicts with any provision of any other township general ordinance or zoning ordinance, the most restrictive provision shall apply.

(Ord. No. 12-1-15, eff. 12-24-15)

Sec. 42-258. - Effective date.

new

The provisions of this article shall take effect upon publication in a newspaper of general circulation within the township.

(Ord. No. 12-1-15, eff. 12-24-15)

Memo

TO: **Environmental Commission**

FROM: **Matthew R. Best**
Deputy Director of Planning and Economic Development

RE: **Shoreline Management Ordinance**

DATE: **November 10, 2016**

After months of work the Lakeshore Management Workgroup, a group of residents under Township Staff facilitation, produced a new draft of the Shoreline Zoning Ordinance addition and Shoreline General Ordinance. The updated document responds to the concerns residents brought to the Planning Commission and Staff at multiple meetings earlier this year. Some of the changes addressed are...

- Residents responsibility to maintain the Township Property abutting their property.
- Increasing the number of watercraft on a single family residential parcel from 6 to 10.
- Stairs only being permitted if reasonably necessary to access the permitted uses.
- Facilities permitted on Township property shall not be rented or leased by any other persons.
- The 'vested structures' statement was removed.
- The Township's ability to enforce the FERC license was affirmed.
- Docks setback from lot lines is now 10 feet.
- The MDEQ's ability to enforce their permit requirements was affirmed.
- The restriction of boardwalks, catwalks, or other walkways widths at one foot over the water and no more than 6 feet in width was removed.
- Lot frontage coverage was increased from 50% to 60%
- The section defining multiple docks, boat lifts, or similar water based structures separated by 10 feet or less being considered as one unit was removed.
- The section requiring address signs on docks was removed (This is already a requirement of an existing Township ordinance.)
- It was stated that no part of any boat storage device structure may be used as a deck or outdoor living space.

- The height and roof pitch restrictions on boat storage device structures was removed.
- The 'grandfathering' issue was addressed by adding the following two statements...
    1. "The presence of structures on Township Lake property does not convey any legal or equitable right, title or interest whatsoever in the Township Lake property other than as expressly set forth herein. It is understood that any facilities installed hereunder are subject to the terms of the FERC license."
    2. "Any structures, other than secondary living spaces on Township Lake Property or blight, existing prior to the adoption date of this ordinance are considered grandfathered and shall not be subject to Township action under this ordinance."

The Lakeshore Management Workgroup presents the Shoreline Ordinance Amendment and General Ordinance for Environmental Commission Review.

CHARTER TOWNSHIP OF VAN BUREN

COUNTY OF WAYNE
STATE OF MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE 6-2-92 AS AMENDED OF THE CHARTER TOWNSHIP OF VAN BUREN TO ADD A NEW ARTICLE XVIC, BELLEVILLE LAKE SHORELINE DISTRICTS.

THE CHARTER TOWNSHIP OF VAN BUREN ORDAINS:

SECTION 1. Add a new ARTICLE XVIC, BELLEVILLE LAKE SHORELINE DISTRICTS to read as follows:

SECTION 16.01C. PURPOSE.

The Charter Township of Van Buren recognizes and concludes that the proper and safe use of Belleville Lake is desirable to retain and maintain the physical, ecological, cultural and aesthetic characteristics of the Lake in the Township, to preserve and protect the quality and safety of the Lake and shorelines and the rights of adjacent owners and users as well as the Township as a whole, to promote the public health, safety and welfare of all persons making use of the Lake within the Township and properties adjacent to the Lake in the Township, and to ensure compliance with federal and state laws in light of the Township's ownership of the land in and adjacent to Belleville Lake, as well as with the terms of the Federal Energy Regulatory Commission ("FERC") license to operate the French Landing Dam. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for the number and placement of docks, installation of seawalls, earth excavation or grading, and other matters with respect to Belleville Lake in the Township. It is further the intent of the Township Board to restrict the private use of Township-owned Lake property to those water-based uses and structures customarily accessory to a waterfront lot, and to affirm that abutting property owners are responsible for maintaining both their property at the periphery of the Lake and the Township-owned Lake property ~~adjacent~~ abutting to their property clear of fallen trees that impede lake access, reasonably protected from erosion, and otherwise maintained as required under the terms of the FERC license.

SECTION 16.02C. DEFINITIONS.

For the purposes of this section:

a. "Boardwalk" means a walkway made of planking.

b. "Boat" means every description of watercraft used or capable of being used as a means of transportation on water as defined under Part 801 of the Natural Resources and Environmental Protection Act, 1994 P.A. 451, MCL 324.80101.

c. "Boat cradle", "shore station", "boat hoist" and "boat lift" means a device for the purpose of mooring, anchoring or holding a watercraft in, on or above the water in the Lake.

d. "Bottomland" means the land area that lies below the normal high water mark.

e. "Catwalk" means a narrow footway along the edge of a seawall or similar feature raised above the shoreline.

f. "Common use lot" means any private site, platted lot or other parcel held in common by a subdivision, association, or similar agency or group of individuals, or held in common by virtue of the terms of a plat of record; which provides common use Lake access to non-Lakefront lots or land owners.

g. "Director" means the Director of Planning and Economic Development of the Charter Township of Van Buren, or successor charged with enforcing this Ordinance.

h. "Dock" means a structure, platform or fixture extending from the shore or bottomlands into a Lake.

i. "Dock Stem" means that portion of a dock or mooring structure that extends perpendicular to the shore.

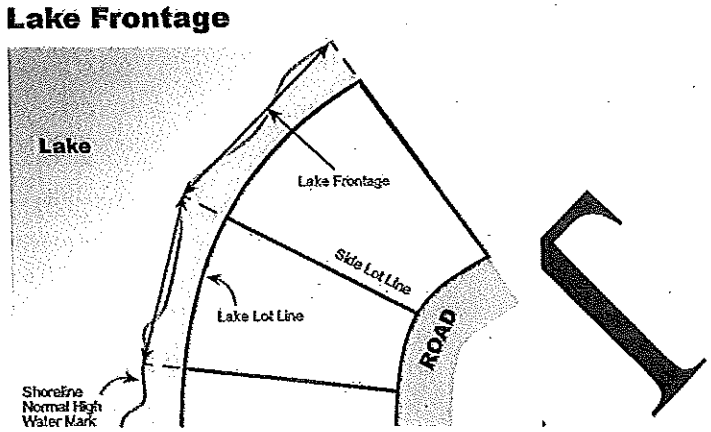
j. "Docked" or "docking" means the anchoring, tethering, or mooring of a watercraft directly to a dock, structure, platform, pole, anchor or dock; and also means the placement of a watercraft in an off-shore boat cradle or shore station, or anchoring or tethering to the bottomlands in a Lake.

k. "Lake" or "Belleville Lake" means that portion of Belleville Lake within Wayne County.

l. "Lake Frontage" or "Frontage" means the distance between the side lot lines of a lot or parcel as extended to the Belleville Lake shoreline, measured between their points of intersection with the shoreline at the normal high water mark.

DRAFT

Figure 16.02C.1



m. "Lake Lot Line" means the boundary line of a lot or parcel of land, lawfully existing on documentation recorded with the Wayne County Register of Deeds, which abuts the Township Lake property.

n. "Lake Structures" means improvements constructed upon Township Lake property, as may be permitted by this Article XVIC.

o. "Marina" means a facility that is owned or operated by an entity, extends into or over an inland Lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.

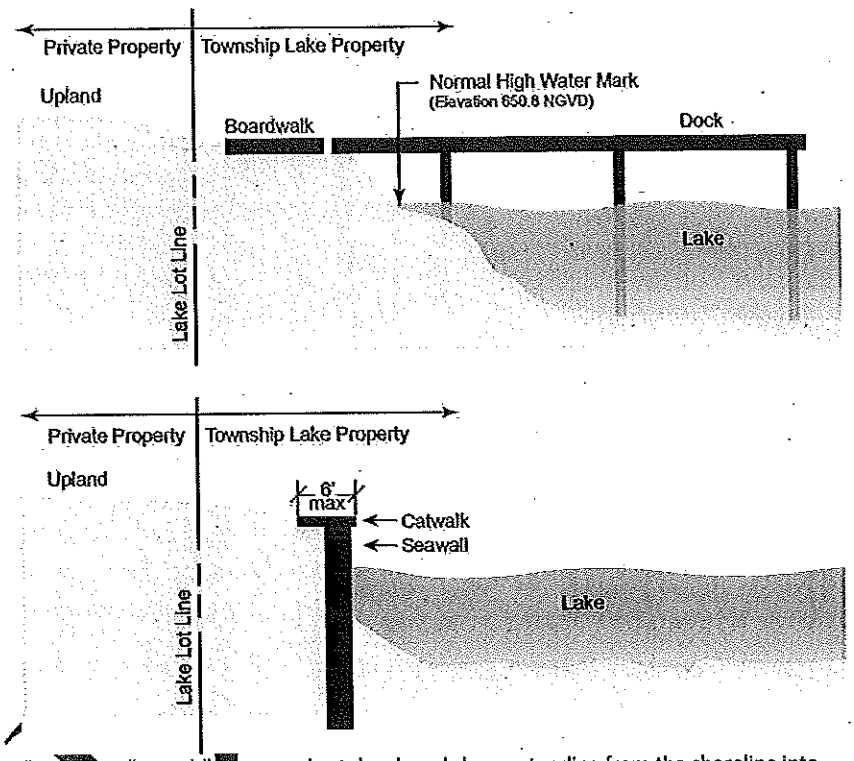
p. "Moor" or "Mooring" means the anchoring, tethering or docking of a boat directly to a pier, structure, platform, pole, anchor or dock, and also means the placement of a boat in a boat cradle or shore station, the regular or overnight beaching of a boat, or overnight anchoring or tethering to the bottomlands of the Lake.

q. "Non-Commercial Multi-Docking Facility" means a facility used for docking or mooring from one or more Lake Frontage properties to serve more than one single family dwelling and limited to use by the residents of the property, such as at outlots (common use lots), mobile home parks, condominium and apartment developments, and other commonly owned or controlled points of access.

r. "Normal high water mark" means the normal high water mark of the Lake as determined by the Federal Energy Regulatory Commission from time to time. Presently on Belleville Lake, "normal high water mark" means six hundred and fifty and eight-tenths (650.8) feet National Geodetic Vertical Datum (NGVD), 1929.

Figure 16.02C.2

Lake Structures Example



s. "Ramp" or "Launch" means a short, hardened slope extending from the shoreline into the Lake for the purpose of launching or retrieving boats.

t. "Seawall" or "Bulkhead" means a linear, rigid structure built along the shoreline to resist the erosion of the land caused by the Lake and which can also be used to moor boats and as a structure to receive and discharge a boat's passengers and cargo.

u. "Separate frontage" means that portion of a lot or parcel of land lawfully existing on documentation recorded with the Wayne County Register of Deeds, which abuts or intersects with the normal high water mark of the Lake, whether such lot or parcel is owned by one or more persons, is commonly owned by several persons or combinations of persons, or occupied by a multiple-unit residential development.

v. "Township Lake property" means land owned by the Township at Belleville Lake, whether or not it is above the normal high water mark and is the property that exists below the Lake Lot Line and extends into Belleville Lake and is generally recognized as the property below the 655 ft. contour line (1929 NGVD) or brow of the hill.

w. "Upland" means that the land area that lies adjacent to and above the Township Lake property.

x. "Watercraft" means any boat, pontoon boat, hydrofoil, hovercraft, sailboat, Jet Ski, personal watercraft, jet boat, or similar vessel.

SECTION 16.03C. BELLEVILLE LAKE SHORELINE DISTRICTS

Two Belleville Lake Shoreline Districts are established in this section: the Belleville Lake Shoreline District A - Single Family Residential (BLA), and the Belleville Lake Shoreline District B- Non-Single Family Residential (BLB). These zoning districts regulate the use of the Township-owned Belleville Lake property.

The BLA District shall generally abut Lake Frontage upland zoned R-1A, R-2A, R-1B, R-1CSingle Family Residential districts, and AG or AG-A Agricultural and Estate Districts. The BLB District shall generally abut Lake Frontage upland zoned or used for more intensive uses that are not accessory to a single dwelling on a single family lot including but not limited to common use lots, multiple family, commercial, office, public institutional and similar uses.

Accordingly, no improvements, modifications, alterations, removal, repairs or structures of any kind shall be constructed, installed or made on Township Lake property within the BLA and BLB districts unless those actions comply with the regulations of the respective district, obtain the approval of the Township as provided herein, and the approval of all other agencies with jurisdiction.

a. **Belleville Lake Shoreline District A - Single Family Residential (BLA).** The BLA District is intended to provide for the use of the Township-owned Belleville Lake property for water-related uses that are customarily accessory to an abutting single family dwelling on a separate lot with Lake Frontage.

1. Uses Subject to Administrative Approval. In the BLA District, the following water-based uses and structures customarily accessory to one single family dwelling on a single family lakefront lot shall be permitted. All such uses shall be subject to Township administrative approval as described in Section 16.06C., herein.
   a) Docks, piers, landings, boardwalks and catwalks that can accommodate no more than ~~6 watercraft~~10 watercraft in total at one time on a single parcel.
   b) Boat hoists, cradles and lifts.
   c) Stairs and walkways located on Township Lake property.

i. Shall only be permitted if ~~determined~~ reasonably necessary ~~by the Township~~ to access the permitted uses.

ii. Shall be subject to the maximum Lake Frontage coverage and other standards applicable to the use.

d) Embankments, bulkheads, gabion baskets, retaining walls and similar structures for erosion control to protect the existing shoreline.

e) Minor excavation, grading or earth modifications, defined as those that do not exceed 5 cubic yards or disturb an area of 800 square feet or less within 100 feet of the normal high water mark of the Lake.

f) Navigational markers or buoys.

g) Any other use of the same nature or class of water-based uses listed in this district which, in the determination of the Township is consistent with the purpose of this district and which will not impair the present or potential use of the Lake and adjacent properties. Any such use shall be limited to the use of the lakefront by a single family residential dwelling on an individual lot.

At the discretion of the Director, any BLA use may be referred to the Planning Commission for public hearing, recommendation to and special approval by the Township Board, and/or site plan review and approval in accordance with the provisions of this Ordinance.

2. General Restrictions on all BLA Uses. All uses permitted in the BLA District shall be subject to the following restrictions:

a) All uses and structures shall comply with the standards and requirements of Section 1[illegible]4C. Development Standards, herein.

b) No use or structure shall be permitted if there is not a single family dwelling on the abutting frontage lot.

c) Private docks, launches or docks intended to provide access to the Lake for multiple non-abutting or back lots of a subdivision, site condominium or other development are prohibited.

~~d) No signs shall be permitted other than those approved by the Township and necessary for public safety.~~

~~e)~~d) No use or structure or combination thereof shall be permitted that can accommodate more than ~~6 watercraft~~10 watercraft at one time on a single parcel.

~~f)~~e) All watercraft, docks, boats, watercraft storage facilities including boat cradles, shore stations and boat lifts and other structures and facilities permitted in this BLA District are limited solely for the use and quiet enjoyment of the abutting frontage lot owners and their invited guests. No such facilities as listed above shall be rented or, leased ~~or allowed to be used by~~ any other persons. For purposes of this section, persons shall mean an individual, partnership, corporation, association and any other entity to which the law provides or imposes rights and responsibilities.

Formatted: Highlight

Formatted: Highlight

DRAFT

b. **Belleville Lake Shoreline District B – Non-Single Family Residential (BLB).** The BLB District is intended to provide for the use of the Township-owned Belleville Lake property for water-related uses customarily accessory to land zoned or used for more intensive uses than a single family dwelling on a separate lot with Lake Frontage. Such more intensive uses include, but are not limited to common use lots, multiple family, commercial, office, public, institutional and similar uses.

1. Uses Subject to Administrative Approval. In the BLB District, the following water-based uses and structures shall be permitted subject to Township administrative approval as described in Section 16.06C. herein.
   a) Embankments, bulkheads, retaining walls and similar structures for erosion control, to protect the existing shoreline.
   b) Minor excavation, grading or earth modifications defined as those that do not exceed 5 cubic yards or disturb an area of 800 square feet or less within 100 feet of the normal high water mark of the lake.
   c) Navigational markers or buoys.

   At the discretion of the Director, any BLB site may be referred to the Planning Commission for public hearing, recommendation to and special approval by the Township Board, and/or site plan review and approval in accordance with the provisions of this Ordinance.

2. Uses Subject to Planning Commission Approval. In the BLB district, the following water-based uses and structures may be permitted, subject to Planning Commission site plan approval.
   a) Docks, piers, landings, boardwalks, catwalks or similar features that can accommodate no more than 6 watercraft in total at one time on a single parcel. Such features shall serve an abutting upland parcel used for permitted commercial, office, public or institutional purposes, including but not limited to restaurants, public parks, private clubs, transient docks under public ownership and control, and other uses determined similar in the discretion of the Planning Commission and not otherwise specifically provided for in this Article.
   b) Non-commercial multi-docking facilities that can accommodate no more than 6 watercraft in total at one time on a single parcel.
   c) Decks, stairs, and walkways located on Township Lake property.
      i. Shall only be permitted if determined necessary by the Township to access the permitted uses.
      ii. Shall be subject to the maximum lot frontage coverage and the other standards of Section 16.04C Development Standards.

3. Uses Subject to Special Approval. The following water-based uses and structures shall be permitted subject to special approval in accordance with the requirements of Sections 4.46 and 18.08 of this Ordinance. These uses shall require public hearing by the Planning Commission, recommendation to and

DRAFT

special approval by the Township Board, and Planning Commission site plan review and approval.

a) Non-commercial multi-docking facilities with docks, piers, landings, boardwalks, catwalks or similar features that can accommodate more than 6 watercraft in total, at one time on a single parcel.

b) Boat hoists, cradles and lifts as part of a non-commercial multi-docking facility permitted under this Section 16.03C.b.3. a) that are under common ownership and are all of the same style.

c) Docks, piers, landings, boardwalks, catwalks or similar features that can accommodate more than 6 watercraft in total at one time on a single parcel. Such features shall serve an abutting upland parcel used for permitted commercial, office, public or institutional purposes, including but not limited to restaurants, public parks, private clubs, transient dockage under public ownership and control, and other uses determined similar in the discretion of the Planning Commission and not otherwise specifically provided for in this Article.

d) Marinas.

e) Watercraft minor service uses, including sale of gasoline, only permitted as part of a marina.

f) Boat launches and ramps, for public access only.

g) Any other use of the nature or class of water-based uses listed in this district as either a principal use permitted or a use subject to special approval which, in the determination of the Township is consistent with the purpose of this district and which will not impair the present or potential use of the Lake and adjacent properties.

h) Major excavation, grading or earth modifications, defined as those greater than 50 cubic yards or that disturb an area of more than 800 square feet within 100 feet of the normal high water mark of the Lake.

4. General Restrictions for BLB Uses. All uses permitted by right or by special approval in the BLB District shall be subject to the following restrictions:

a) No boat lifts, cradles or hoists shall be permitted at marinas.

b) No buildings or covered structures shall be permitted on the water or on Township Lake property.

c) All uses and structures shall comply with the standards and requirements of Section 16.04C. Development Standards, herein.

d) Private ramps or launches intended to provide access to the Lake for multiple non-abutting or back lots of a subdivision, site condominium, multiple family development or other non-frontage uses shall be prohibited.

e) No signs shall be permitted other than those approved by the Township and necessary for public safety.

All watercraft, docks, boats, watercraft storage facilities including boat cradles, shore stations and boat lifts and other structures and facilities permitted in this BLB District are limited solely for the non-commercial

DRAFT

use and quiet enjoyment of the abutting frontage lot owners, lessees, renters, and their invited guests. No such facilities as listed above shall be rented, leased or allowed to be used by any other persons unless approved by the Township in conjunction with a marina. For purposes of this section, persons shall mean an individual, partnership, corporation, association and any other entity to which the law provides or imposes rights and responsibilities. For purposes of this section, commercial use shall mean the rental, lease or allowed use of docks, boat cradles, shore stations and boat lifts by persons who are not abutting frontage owners, lessees, or renters, excluding those facilities that are open to the public and operated by the Township, City or State of Michigan.

SECTION 16.04C. DEVELOPMENT REGULATIONS

a. **General.** ~~No buildings are permitted on Township Lake property, and no buildings or other structures are considered vested. Provided however that the~~ The presence of structures on Township Lake property does not convey any legal or equitable right, title or interest whatsoever in the Township Lake property other than as expressly set forth herein. It is understood that any facilities installed thereunder are subject to the terms of the FERC license~~, and the Township's approval, and the Township may force their removal at any time with or without cause. If the owner of a structure does not remove that structure when ordered by the Township, and thus the Township must remove it, the owner of the structure shall either pay the costs of removal or if the structure's owner owns the abutting upland parcel those costs shall become a lien upon that parcel, or the Township may take any enforcement action authorized by law. Further, no structure within the BLA or BLB districts shall be considered an accessory structure as regulated under Section 4.14 of this Ordinance.~~

Formatted: Highlight

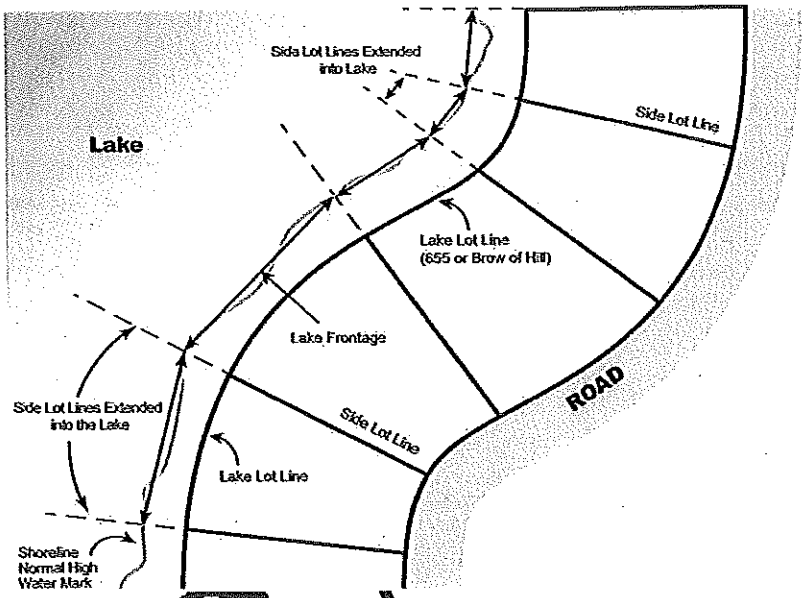
b. **Dock Location.** No dock shall be placed or maintained in a location where it can present a hazard to navigation, or create a risk that boats will run aground while attempting to moor at the dock. No person shall install or maintain a dock except on shoreline or bottomlands abutting frontage in which they have an ownership interest. All docks shall be positioned perpendicular to the shore, and in a manner that does not unreasonably encroach on the use and enjoyment of the Lake by neighboring lots.

c. **Measurement of Lake Frontage.** Each side lot line of the abutting upland lot shall be extended as a straight line from its point of intersection with the boundary of the Township Lake property (Lake Lot Line) to its intersection with the Lake Frontage line at the normal high water mark. A lot's total Lake Frontage shall be measured as a straight line connecting the points of intersection of the extended side lot lines with the normal high water mark.

For purposes of measuring setbacks for docks, boat lifts and similar structures, the side lot lines shall be extended to the Lake Frontage line and then extended on the same line, straight into the Lake from the shoreline.

Figure 16.04C.1

Lake Frontage Measurement



d. **Setback Requirements.** Side setbacks shall be measured from the side lot lines of the abutting upland lot as extended into the water, as defined in Section 16.04C.c.

1. No boat dock shall be constructed, installed or placed within ~~15~~ 10 feet of the side lot lines of the abutting upland lot as extended into the water.

2. Boat Lifts and Boat Cradles. No boat lift or boat cradle shall be located within five feet of a side lot line of an abutting upland lot as extended into the water.

3. Launching, Storing, Mooring or Docking. No boat or portion thereof shall be launched, stored, moored or docked within five feet of the side lot lines of an abutting upland lot as extended into the water.

4. Boardwalks and Catwalks. Boardwalks, catwalks and other walkways located on Township Lake property shall be permitted to extend to the side lot line as extended. ~~No boardwalk, catwalk, or other walkway shall extend more than one foot over the water, nor shall any such structure be more than 6 feet in width. These structures shall be generally parallel the shoreline and shall be exempt from the computation of Lake Frontage coverage.~~

Formatted: Highlight

DRAFT

e. **Dock Length and Width.** No dock or any other structure or appurtenance shall extend more than 40 feet into the Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet, and then no further than necessary to reach such depth. ~~Maximum dock widths shall be four feetin the BLA and six feet in the BLB districts.~~

Formatted: Highlight

f. **Size and Extent Restrictions.** (See Figure 16.04C.2)

1. In the BLA District, docks, other mooring structures, boat cradles, boat hoists, similar structures and watercraft shall extend across no more than 60~~50~~% of the Lake Frontage of the single family lot to which they abut.

2. In the BLB District, docks, other mooring structures, boat cradles, boat hoists, similar structures and watercraft for non-commercial multi-boat docking facilities shall extend across no more than 60% of the Lake Frontage of the lot which they abut. Such watercraft and structures shall be clustered along the parcel frontage into no more than four groupings. For marinas, public uses, or abutting commercial sites, the Township may authorize docks, other permitted structures and watercraft to extend across up to 100% of the Lake Frontage, as deemed appropriate and subject to special approval.

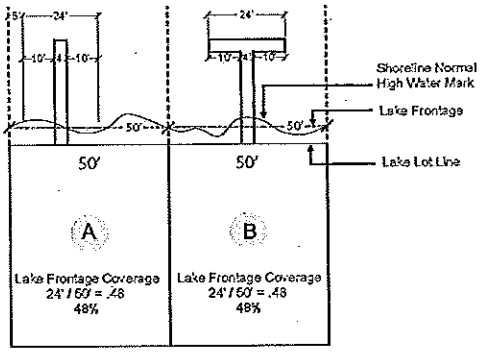
3. The extent of frontage coverage shall include the coverage by docks, other mooring structures, projections including boat hoists, boat cradles, lifts and similar, and watercraft. Permitted boardwalks, catwalks upon retaining walls, and shoreline protection structures that parallel the shore shall be excluded from the computation of frontage coverage.

4. Distance across a lot's Lake Frontage shall be measured along the Lake Frontage line as determined in accordance with Section 16.04C.c. The extent of structures across the Lake Frontage shall be the width of those structures measured parallel to the abutting lot's Lake Frontage line plus 10 feet of additional width for boat dockage on any side of the structure that can accommodate dockage, divided by the total length of the lot's Lake Frontage. The width of a "T" or "L" dock shall be measured at its widest point generally parallel to the Lake Frontage, and shall include a minimum of 10 feet of additional width parallel and adjacent to the "stem" for boat dockage.

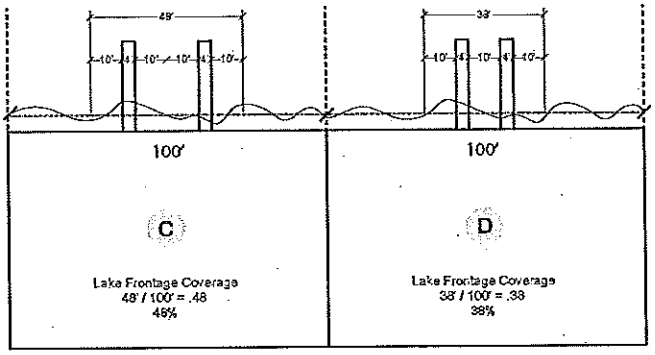
DRAFT

Figure 16.04C.2

Extent Coverage Examples



NOTES: 10' minimum side setback. Boat must be 6' from side lot line.



~~5. On any parcel with multiple docks, boat lifts, or similar water based structures, including but not limited to marinas and non-commercial multi-docking facilities, any such structures that are separated by 10 feet or less shall be considered one unit for purposes of calculating extent across the Lake Frontage. Structures that are separated by more than 10 feet shall be considered as individual units, and the space between those units shall not be included as Lake Frontage coverage.~~

Formatted: Highlight

~~6.~~5. No docks, other mooring structures or combination thereof on a single site that accommodate more than 10~~6~~ watercraft shall be permitted, except as provided in the BLB District under Section 16.03C.b., above. Further, no such docks, other mooring structures or combination thereof that accommodate more than 10 watercraft shall be permitted unless it is approved by FERC, all other agencies

with jurisdiction, and receives special approval of the Township as provided herein.

~~7. Boardwalks, catwalks and other walkways on Township Lake property shall be a maximum of four feet wide, except at publicly owned docks, public or private marinas or other commercial uses in the BLB district, where they may be up to six feet wide. The Township may approve additional width as it deems appropriate, subject to special approval.~~

g. **Dock and Raft Ownership ~~Identification~~ and Repair.** ~~The owner(s) of a dock, boat lift, boat storage device, raft, swimming platform or other similar structures shall place a numerical address sign on such item or on a sign located no more than 25 feet from the normal water's edge that conspicuously identifies the abutting property address of the owner(s). The sign shall include both the address number and street name in reflective, non-illuminated Arabic block-style characters and shall be legible from the water. The address shall be displayed in a manner that structural elements and other features do not block or obscure the display. The minimum character size shall be 3 inches high by 2 inches wide, and the sign shall not exceed 6 square feet in area.~~

Formatted: Highlight

All docks, boat lifts, boat cradles and rafts shall be kept in good repair. Good repair means free from defects which might pose a hazard to persons or boats and free from defects which may result in interference with navigation of boats in the Lake.

h. **Boat Storage Devices.** Each boat cradle, hoist or boat lift used in conjunction with the Lake shall meet all of the following requirements, in addition to the other requirements of this Ordinance.

1. ~~It shall not have walls, nor shall any~~No part of the structure may be used as ~~a deck or outdoor living~~ space.

~~2. It shall be designed for not more than two boats.~~

~~3.~~2. It shall be designed with not more than three attached docks. Boat lifts with seating on three or more sides shall be prohibited.

~~4. Any roof or other cover over a boat lift shall have a minimum pitch of 4:12.~~

~~5. No boat cradle, hoist or lift shall exceed the minimum height necessary to raise the boat out of the water.~~

i. **Excavations, Grade Changes, and Earth Modifications.** All earth modifications, excavations and grade changes, shall meet the following criteria:

1. Minimize changes to the contour of the shoreline.

DRAFT

2. Maintain lateral earth support to prevent slope failures and to avoid potential negative impacts to adjacent lots.

3. Rip-rap and gabion baskets are the preferred methods of erosion control and bank stabilization, where practicable.

4. A Soil Erosion permit must be obtained from Wayne County, if required by the Soil Erosion and Sedimentation Control Act, P.A. 451 of 1994. Any earth disturbance greater than one acre or within 500 feet of the Lake requires a Soil Erosion and Sedimentation Control permit from Wayne County. The County may grant a waiver from permitting for gardening and very limited earth disturbances, but the abutting upland owner remains responsible for making the application.

5. All major excavations and grade changes (greater than 5 cubic yards or 800 sq. ft. area disturbed) under this Ordinance are subject to the approval of the Township Engineer.

j. **Channels and Canals.** No new channels or canals shall be created or expanded along the Belleville Lake shoreline for the purpose of creating additional Lake Frontage or for the mooring of boats.

k. **Seawalls and Bulkheads.** Gabion baskets and rip-rap are generally preferred means for shoreline stabilization. All existing seawalls, bulkheads and other erosion protection devices shall be kept in good repair to prevent soil erosion and sedimentation into the Lake. As new erosion protection devices are required, seawalls and bulkheads shall only be permitted when gabion baskets and rip-rap are not feasible. New or replacement seawalls or bulkheads shall have at least one egress ladder or steps per 70 linear feet. Further variation in seawall height may be required to accommodate emergency exit from the water.

l. **Markers or Buoys.** No marker or buoy shall be placed or maintained in a location where it may present a hazard to navigation, or create a risk that boats will become entangled while navigating the Lake. Township approval is required to place any markers or buoys, except that temporary markers or buoys placed for a special event for a period of less than 12 hours shall be permitted without Township approval.

m. **Floating Rafts.** Floating rafts, swimming platforms, trampolines, slalom buoys, ski jumps or floats shall be located in the Lake so as to not impede navigation or present a safety hazard to boats; and shall be located on bottomlands immediately adjacent to a Lake Frontage in which the owner of the raft, platform, trampoline, buoy, jump or float has an ownership interest, unless otherwise approved by the Township.

n. **Stairs.** Stairs, walkways, and landings for access from the abutting upland lot to the shoreline may be permitted on Township Lake property only if the Township determines

DRAFT

that it is necessary ~~and is the minimum practical~~ for reasonable access.

1. To minimize visual and physical impacts on the frontage, such structures shall be limited to no more than one per Lake Frontage lot, or the number of dock clusters, or the number reasonably necessary to access the lake frontage, whichever is greater. Stairs, walkways and landings shall be included in the calculation of, and subject to the limitations on maximum lot frontage coverage, and the other standards of Section 16.04C Development Standards.

Formatted: Highlight

2. Stairs, walkways and landings must be placed entirely above the normal high water mark, except in cases where such structures are required to access the water due to a seawall or bulkhead.

o. **Marinas and Non-Commercial Multi-Docking Facilities.** Marinas and non-commercial multi-docking facilities must meet all the requirements that apply to their component docks, seawalls, and other facilities, as well as the following:

1. Dry docks and dry land storage of watercraft are not permitted on Township Lake property.

2. Suitable fire extinguishers, grounding cables, and other safety devices are required at any fueling stations. Fueling stations are not permitted at a non-commercial multi-docking facility.

3. Such uses shall comply with all applicable construction standards and permit requirements of the MDEQ.

4. All docks, hoists and similar structures installed shall be under common ownership and of common design so as to create a unified appearance at the [illegible]. Hoists and similar structures shall not be permitted at a marina.

5. All such uses shall be located so as to protect the neighboring property owners from potential off-site impacts of the use and so as to protect navigation on the lake.

6. When reviewing a proposed new or changes to an existing marina or non-commercial multi-docking facility, the Township shall consider factors including, but not limited to the location of the facility on the Lake, its visibility and potential impacts on the aesthetic and recreational quality of the Lake, the separation from other marinas, and other considerations for the public health, safety and general welfare.

p. **Overnight Anchorage.** There shall be no overnight watercraft anchorage in open water permitted.

q. **Rental Prohibited.** There shall be no rental of watercraft dockage or storage space

DRAFT

except at a marina.

r. **Fences Prohibited.** There shall be no fences permitted on Township Lake property.

SECTION 16.05C. EXEMPTIONS

A Lake Frontage property owner who does or causes the following activities to be conducted on Belleville Lake, his or her frontage, or on abutting Township Lake property is not required to obtain Township approval under this Article 16C. Exemptions under this Section does not alleviate the responsibility of a property owner to obtain all other permits and approvals required by the Township and other entities with jurisdiction.

a. Routine maintenance and repair of docks, seawalls, bulkheads, boat cradles, boat lifts, hoists, ramps or launches due to normal wear and tear.

b. A minor earth change, 5 cubic yards or less, that impacts less than 800 square feet and that is stabilized within 24 hours of the initial disturbance.

c. Earth changes necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities.

d. Gardening, if the natural elevation of the area is not changed.

e. Planting of trees, shrubs, and other vegetation.

f. Removal of trees, shrubs, and other vegetation, in a manner that does not cause erosion.

g. Normal and customary residential landscaping. Native and natural plantings are preferred.

h. Temporary stockpiling of soil, sand, or gravel not greater than 5 cubic yards, as part of a construction project on the Lake, provided that the loose material is protected to prevent wash or erosion.

SECTION 16.06C. BELLEVILLE LAKE SHORELINE DISTRICT APPROVAL PROCESS

a. **Approval Required.** Except as otherwise provided in this Section, no person shall do or cause any one of the following on Belleville Lake, on his or her frontage, or on abutting Township Lake property without first having obtained Township approval in accordance with the provisions of this Ordinance:

1. Install, construct or expand a dock, boat cradle, boat lift, boat hoist, ramp, or launch.

DRAFT

2. Install, construct or expand a seawall, bulkhead, dike, levee or other erosion control device.

3. Install, place or maintain a ski jump or other rigid platform.

4. Install, place or maintain a navigational marker or buoy.

5. Excavate, grade, or make earth modifications other than those exempted under this Ordinance.

b. **Application Requirements.** Only the property owner or authorized designee may apply for approval under this Section. Each applicant shall submit the following documents and drawings. If determined necessary and required by the Township, the drawings and documents shall be signed by licensed professional(s).

1. A completed application form, including a description of the proposed improvements and modifications and description of any other required permits.

2. A plan that shows the boundaries of the abutting upland lot, the location of the proposed installation and the location of the shoreline, and location of any existing structures within 50 feet of the proposed installation.

3. A copy of any existing survey from the abutting upland lot and photographs of the existing conditions.

4. Plans, elevations and sections, with dimensions, showing the height, length, width, distance to the lot lines and configuration of the proposed installation.

5. Specification of the materials to be used in construction or installation.

6. Water depth at the farthest point of projection, when additional dock length is requested.

7. Distance from the farthest point of projection to the opposite shore (if less than 250 feet).

8. A description of the existing shoreline features and uses.

9. A description of any shoreline erosion control or shoreline stabilization (seawalls, bulkheads and similar) proposed as part of the project.

10. Other information as determined necessary by the Township to protect the public health, safety and welfare of the Township's residents, those who use Belleville Lake and the shoreline habitat.

DRAFT

11. The application fee established by the Township Board.

12. Completed application for review by Michigan Department of Environmental Quality, and if required, by FERC.

13. Any other applicable elements of Site Plan and/or Special Approval applications, as required by this Ordinance.

c. **Review Process.** All plans and applications for approval under these Belleville Lake Shoreline Districts shall be submitted to the Director of Planning and Economic Development or other designated Township official for Township review. The plans and applications shall be reviewed to ensure compliance with the submittal requirements of this Ordinance, and consistency with Belleville Lake Shoreline District zoning and development regulations. Review shall be by one of the following processes: Administrative, Site Plan, and/or Special Approval, as further specified below.

1. Administrative Approval. Uses listed under the Belleville Lake Shoreline District A – Single Family Residential (BLA), Section 16.03C.a., and those uses in the Belleville Lake Shoreline District B – Non-Single Family Residential (BLB), Section 16.03C.b.1., above, are subject to administrative approval by the Director of Planning and Economic Development. The Director shall review the plan for compliance with the requirements of this Ordinance.

   a. The Director of Planning and Economic Development may forward any application for a use under this Section to the Planning Commission for its site plan review and/or public hearing, recommendation and special approval by the Township Board upon finding that unique characteristics of the site or the application warrant such consideration.

   b. Every application submitted for review shall be in accordance with the requirements of this Ordinance. Administrative review procedures are not intended to modify any ordinance, regulation or development standard. Approval by all other agencies with jurisdiction, including FERC is also required.

2. Site Plan Approval by the Planning Commission. The uses permitted under the Belleville Lake Shoreline District B – Non-Single Family Residential (BLB), Section 16.03C.b.2. above, are subject to site plan approval by the Planning Commission. For purposes of the Belleville Lake Shoreline Districts, the information required for a site plan shall contain all information required by this Zoning Ordinance Section 4.33 Information Required for site plan approval, and also that information specified under Section 16.06C.b. above. The Planning Commission shall review the plan for compliance with along with compliance with all applicable requirements of this Zoning Ordinance. Approval by FERC may be required for such uses, along with the approval of other agencies with

DRAFT

jurisdiction.

3. Special Approval by the Township Board. The uses permitted in the Belleville Lake Shoreline District B – Non-Single Family Residential (BLB), Section 16.03C.b.3. above, are subject to special approval by the Township Board. All such uses shall be subject to the standards, criteria, procedures and requirements of Sections 4.46 Review and Authorization of Special Approval Uses, and 18.08 Powers of the Township Board Concerning Special Approvals, of this Zoning Ordinance, including public hearing and recommendation by the Planning Commission and approval of the Township Board. All special approval uses also require submission and approval of a site plan, along with compliance with all other applicable requirements of this Zoning Ordinance. Approval by FERC and other agencies with jurisdiction is also required for all special approval uses.

d. **Approval Criteria**. The Township shall find that the following criteria are met prior to granting approval for any use of Township Lake Property in the Belleville Lake Shoreline District. In addition, for those uses that required special approval of the Township Board, the criteria of Section 18.08.f. must also be met.

1. The application shall demonstrate compliance with all of the requirements of Section 16.04.C. above, and all other applicable requirements of this Zoning Ordinance.

2. The structure(s) shall not unreasonably interfere with the adjacent property owners' and public's use and enjoyment of the waters of Belleville Lake. The facilities are to be designed as to protect the neighboring property owners from negative off site impacts.

3. The structure(s) will not create a risk to the health, safety and welfare of persons who use Belleville Lake for recreational purposes, and will not interfere with safe navigation on the Lake.

4. The structure(s) will be constructed of materials which will not impair the water quality, water flow or water levels of Belleville Lake.

5. To the extent feasible, the structures(s) shall protect and enhance the scenic, recreational and environmental quality of Belleville Lake. The location of the facilities shall be such that they will not create a negative visual impact for the general public.

6. Marinas and non-commercial multi-docking facilities shall be separated from one another to avoid overcrowding and excessive boat traffic on the Lake.

7. Consideration shall be given to maintaining consistency with the upland zoning

DRAFT

and land use.

8. Uses approved shall be consistent with the primary goal of permitting reasonable use by Lake residents and land owners.

e. **Approval Issuance.** The Director of Planning and Economic Development shall authorize the issuance of a Township approval letter if, following review in accordance with the procedures of this Ordinance, all conditions and standards of the Ordinance and the approving body are met. Approvals from FERC, MDEQ and any other agency with jurisdiction that cannot be obtained until the Township's approval is issued, shall be required before any construction, earthwork or site changes begin, and a copy of all such other approvals must be submitted to the Township Director of Planning and Economic Development. If an application is denied by the Township, a written record shall be provided to the applicant listing the reason for the denial. In addition:

1. No structure within the BLA or BLB districts shall be considered an accessory structure for purposes of this Ordinance.

2. Any other activities conducted on the land or water shall comply with all applicable federal, state and local laws.

f. **Existing Boat Docks, Structures and Uses.**

1. General. ~~No buildings are permitted on Township Lake property, and no buildings or other structures are considered vested. Provided however that the presence of structures on Township Lake property does not convey any legal or equitable right, title or interest whatsoever in the Township Lake property other than as expressly set forth herein. It is understood that any facilities installed hereunder are subject to the terms of the FERC license and the Township's approval, and the Township may force their removal at any time with or without cause. If the landowner does not remove structures as ordered by the Township and the Township removes such structures, the land owner shall either pay the costs of removal or those costs shall become a lien upon the property. Further, no structure within the BLA or BLB districts shall be considered an accessory structure as regulated under Section 4.14 of this Ordinance.~~ The presence of structures on Township Lake property does not convey any legal or equitable right, title or interest whatsoever in the Township Lake property other than as expressly set forth herein. It is understood that any facilities installed hereunder are subject to the terms of the FERC license.

Formatted: Highlight

2. Easements. The ~~lawful~~ mooring, docking, or launching of boats or installation and usage of docks, boat lifts, boat cradles, or platforms on or from a Lake access easement recorded prior to the date of adoption of this Section shall be permitted to continue. However, any easement recorded after the date of adoption of this Section shall not permit the mooring, docking, or launching of boats or installation and usage of docks, boat lifts, boat cradles, platforms or

DRAFT

rafts on the Lake.

3. Continuation of ~~Lawful~~ Existing Uses.

a. Any structures, other than secondary living spaces on Township Lake Property or blight, existing prior to the adoption date of this ordinance are considered grandfathered and shall not be subject to Township action under this ordinance.

Formatted: Highlight

~~a.~~b. The ~~lawful~~ mooring, docking, or launching of boats or usage of docks, boat lifts, boat cradles, piers, platforms or rafts on or from a particular lot, parcel, or frontage occurring prior to the date of adoption of this Section shall be permitted to continue without change, unless such activities are in violation of the prohibition against renting or leasing of facilities contained in Section 16.03(a)(2)(e). ~~However, if any existing dock, boat lift, boat cradle, pier, platform, raft or similar structure shall be removed, it shall thereafter fully comply with the provisions of this Section. Further, any change, alteration, or expansion of such prior usage which occurs after the date this Section becomes effective shall fully comply with the provisions of this Section.~~

Formatted: Highlight

Formatted: Highlight

~~b.~~c. ~~Normal~~ Mmaintenance and repair of docks, seawalls and bulkheads due to normal wear and tear shall not be deemed a change, alteration, or expansion of prior usage.

~~c.~~d. Whether a Lake use or structure is approved by the Township or not, it is the obligation of all property owners to maintain both their property at the periphery of the Lake and the Township Lake property ~~adjacent~~ abutting to their property free of fallen trees that impede lake access, reasonably protected from erosion, and otherwise maintained as required under the terms of the FEMA license. The abutting property owner from which the tree originated shall be responsible for its removal.

~~d.~~e. The burden of proof in asserting and establishing a defense under this Section is on the property owner who asserts a lawful existing use. The Board of Zoning Appeals may hear and decide appeals regarding the existence or expansion of any lawful existing uses under this Section. The Board of Zoning Appeals shall not decide any such appeal until after it has held a public hearing pursuant to Article 19 of this Ordinance.

g. **Exceptions, Modifications and Appeals.**

1. Board of Zoning Appeals. For the purposes of this Article 16C., the Board of Zoning Appeals ("BZA") as established and regulated in Article 19 of this

DRAFT

Ordinance shall be the reviewing body. All provisions of said Article 19 shall apply except as specifically modified in this Section 16.06C.g.

2. Powers. The BZA may interpret the provisions of this Article 16C. if questions arise and may approve modifications to particular provisions of this Section, and grant special exceptions for a given case. In exercising its powers, the BZA shall have the primary goal of reaching an equitable conclusion and allocation of use of the Township Lake property for the purposes stated in Section 16.01CPurpose of this Ordinance.

3. Standards for Special Exceptions. The BZA shall not grant a special exception to any provision of this Article 16C. unless it first makes all of the following findings:
   i. Enforcement of the provision(s) requested for special exception would unnecessarily prevent the reasonable use of the land or boats involved without resulting benefit to the public health, safety and welfare of persons or property;
   ii. The special exception would not unduly prevent the realization of the purposes of this Ordinance;
   iii. The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance;
   iv. Unusual circumstances or conditions are involved; and
   v. The special exception is consistent with the goal of providing reasonable, equitable access to all abutting lake owners.

4. No Precedent. Granting a specific special exception does not set a precedent for consideration of future special exception requests, as each request is to be decided on a case by case basis.

5. Special Exception. Upon making the findings above, the BZA may grant a special exception to provisions of this Article 16C. subject to complying with all other requirements of this Ordinance. The BZA may also attach reasonable conditions to the granting of an exception.

6. Public Hearing. Appeals and requests for special exceptions to this Article shall be considered only at a duly held public hearing and meeting of the BZA. Notice of the hearing shall be given in accordance with Article 19. In addition, the Township shall give at least fifteen (15) days prior written notice of such hearing to any Lake Property Owners Association if the association has provided its address to the Township beforehand.

h. Indemnification. By accepting any Township approval, the applicant agrees to execute an agreement to defend, indemnify and hold harmless the Township and its elected and appointed officials, agents, representatives, employees, boards and commissions against and with respect to any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses resulting from the erection or usage of a structure or facility pursuant to this Article 16C. By virtue of any approval under this Article, the applicant further

DRAFT

agrees to permit the Township to take access to the property at reasonable times for inspections and for purposes of public safety.

~~i.~~ **Obligations.** Abutting property owners shall be responsible for maintaining both their property at the periphery of the Lake and the Township Lake property ~~adjacent~~ abutting to their property clear of fallen trees that impede lake access, reasonably protected from erosion, and otherwise maintained as required under the terms of the FERC license. The abutting property owner from which the tree originated shall be responsible for its removal.

~~j.~~i. **Penalties and Enforcement.**

1. Penalty. Violation of this Article is a civil infraction, for which fines shall be not less than One Hundred Dollars ($100) or more than Five Hundred Dollars ($500) for the first offense and not less than Two Hundred Dollars ($200) nor more than Two Thousand Five Hundred Dollars ($2,500) for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages and expenses provided by law. For purposes of this Article, "subsequent offense" means a violation of this Article committed by the same person within twelve (12) months of a previous violation of the Article for which said person admitted responsibility or was adjudicated to be responsible, provided however, that offenses committed on subsequent days within a period of one (1) week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

2. Injunction. Any violation of this Article is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this Article by proceeding under Section 6.06C.j.1. above, the Township or any Township resident may institute an appropriate action in a court of ~~general~~ competent jurisdiction seeking injunctive or equitable relief.

3. Enforcement and Administration. This Article shall be enforced and administered by the Township Director of Planning and Economic Development, or such other Township official as may be designated from time to time by resolution by the Township Board.

SECTION 2. Conflicts. Any provision of the Zoning Ordinance conflicts with this amendment to the Zoning Ordinance, the most restrictive provision shall apply.

SECTION 3. Severability. This Ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. Should any part, sentence, paragraph, section, or clause be declared unconstitutional, null, or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining parts, sentences, paragraphs, sections, and clauses of this Ordinance.

SECTION 4. Effective Date: This Ordinance shall be effective upon publication in a newspaper of general circulation within the Township.

Formatted: Highlight

DRAFT

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Van Buren, County of Wayne, State of Michigan, at a Regular Meeting, calledand held on the___th day of_____, 2016.

YEAS:
NEAS:
ABSENT:

I hereby approve the foregoing Ordinance.

_____

Leon Wright, Township Clerk

_____

Linda Combs, Township Supervisor

Adopted:
Published:
Effective:

DRAFT

CHARTER TOWNSHIP OF VAN BUREN

COUNTY OF WAYNE

STATE OF MICHIGAN

ORDINANCE #_____

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF USERS OF BELLEVILLE LAKE AND TOWNSHIP OWNED PROPERTY

At a regular meeting of the Township Board of the Charter Township of Van Buren, Wayne County, Michigan, held in the Van Buren Township Hall within the Township, on the _____ day of _____, 2016 at 7:00 p.m.

PRESENT: Members: _____

ABSENT: Member: _____

It was moved by Member _____ and supported by Member_____that the following Ordinance be adopted to add a new Article V to Chapter 42 Environment to read as follows:

THE CHARTER TOWNSHIP OF VAN BUREN ("Township"), COUNTY OF WAYNE, MICHIGAN ORDAINS:

Section 42-219 Intent and Purpose.

The Van Buren Township Board recognizes and concludes that the proper and safe use of the Belleville Lake and Township-owned shoreline is desirable for the reasons stated in the Charter Township of Van Buren Zoning Ordinance, Article XVIC, Belleville Lake Shoreline Districts (the "Zoning Ordinance"). Accordingly, it is the intent of the Board of Trustees through this Ordinance to adopt reasonable regulations for the use of Township-owned Belleville Lake property (the "Township Lake property" or "Township-owned Lake property"), as it is defined in the Zoning Ordinance, and for the maintenance and use of all structures, improvements and alterations made on that property, for the promotion and protection of public health, safety and welfare, and for the public peace and preservation of natural resources and public and private property within the Township. The Township-owned Belleville Lake property is property that exists below the abutting

the expense of the owner of the abutting property if such removal is required by the Federal Energy Regulatory Commission.

Section 42-221 Compliance with Law.

In consideration of the exclusive use, control and enjoyment of the Township Lake property conferred by this Ordinance and referenced in Section 42-220 above, the owner of the abutting property shall use and maintain the Township Lake property in compliance with all existing applicable federal, state and local laws, regulations, rules and license requirements, as may be amended, including, but not limited to, any and all requirements of the Township license from the Federal Energy Regulatory Commission. Such compliance shall include providing and maintaining proper shoreline erosion protection and maintaining any structures, improvements and alterations on the Township Lake property in good repair and in a safe condition.

Section 42-222 Penalties and Enforcement.

a) Penalty. Violation of this Ordinance is a municipal civil infraction, for which the fines shall be not less than One Hundred Dollars ($100) or more than Five Hundred Dollars ($500) for the first and any subsequent offense, in the discretion of the Court, and in addition to all of the costs, damages and expenses provided by law.

b) Injunction. Any violation of this Ordinance is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Section 42-222(a), the Township may institute an action in a court of competent jurisdiction seeking injunctive or equitable relief and shall be entitled to recover all attorney fees, court costs, litigation expenses, expert witness fees, costs and expenses to abate the nuisance, and all other costs allowed by law.

c) Immediate Hazard. If the Township determines that there is an immediate hazard or otherwise dangerous condition that exists on the Township Lake property, it may take any action that it deems necessary to abate and/or otherwise make safe the hazardous or dangerous condition and shall be entitled to recover the costs to abate the immediate hazard or dangerous condition from the

Adopted: _____
Published: _____
Effective: _____

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Board of the Township of Van Buren at a regular meeting held on _____, 2016, pursuant to the required statutory procedures.

_____
Township Clerk

CHARTER TOWNSHIP OF VAN BUREN

HOLD HARMLESS ALLOWING USE OF TOWNSHIP PROPERTY

In consideration for the Charter Township of Van Buren ("Township") allowing the undersigned, his/her family members, agents, employees, contractors, licensees and/or invitees, to enter onto Township-owned Lake property adjacent to and including Belleville Lake, and to construct certain structures, facilities, modifications and alterations, such construction subject, however, to Township prior approval, to the fullest extent permitted by law the undersigned agrees to completely and fully defend, pay on behalf of, indemnify, and hold harmless the Township, its elected and appointed officials, employees, agents, representatives, boards, commissions and volunteers, and others working on behalf of the Township against any and all liabilities, obligations, penalties, litigation, fines, judgments, proceedings, damages, disbursements, claims, demands, suits, or loss, including all costs and expenses of any kind connected therewith (including all attorney fees, costs and expenses incurred in investigating, defending or prosecuting any litigation, claim, action or proceeding), and for any damages which may, at any time, be asserted, claimed, awarded or recovered against, imposed upon or from the Township, by reason of personal injury, including bodily injury or death, and/or property damage, including loss of use thereof, which arises out of, or is in any way connected or associated with, in whole or in part and whether directly or indirectly, the entry upon, construction of structures, facilities, modifications and alterations, and use of Township Lake property.

Dated: _____
Name: _____
Address: _____