

FISH LAKE WATER SURFACE USE ORDINANCE

STATE OF MINNESOTA
 COUNTY OF KANABEC
 TOWN OF ARTHUR
 ORDINANCE NO. 5

KANABEC COUNTY RECORDER

Filed 9-5-08 at 10:45AM
 Rhonda A. Olson, County Recorder

By L. Holcomb Deputy

AN ORDINANCE REGULATING THE SURFACE USE OF FISH LAKE

Be it ordained and enacted by the Town of Arthur Board of Supervisors, Kanabec County, State of Minnesota, by this act, hereby enact Town of Arthur Ordinance No. 5.

Section 1: PURPOSE, INTENT AND APPLICATION: As authorized by Minnesota Statutes 86B.201, 86B.205, and 459.20, AND Minnesota Rules 6110.3000 - 6110.3800 as now in effect and as hereafter amended, (see attached) this Ordinance is enacted for the purpose and with the intent to control and regulate the use of the waters of Fish Lake in the Town of Arthur, Kanabec County, State of Minnesota, said body of water being located entirely within the boundaries of the Town of Arthur, to promote its fullest use and enjoyment by the public in general and the citizens of the Town of Arthur in particular, to insure safety for persons and property in connection with the use of said water; to harmonize and integrate the varying uses of said water, and to promote the general health, safety and welfare of the citizens of the Town of Arthur, Kanabec County, Minnesota.

Section 2: DEFINITIONS: Terms used in this ordinance related to boating are defined in M.S. Statutes 86B.005. See attached for definitions.

Section 3: SURFACE ZONING OF FISH LAKE BY RESTRICTING SPEEDS DURING THE FOLLOWING HOURS: There shall be and hereby established a No Wake Zone over the entire surface of Fish Lake, Kanabec County, State of Minnesota during times when the water level is at and above 950 feet mean sea level, as measured at the MN DNR measuring device on the southeast corner of MN Highway 65 bridge at the easterly end of Fish Lake, and until a time when the water level has remained below 950 feet mean sea level for a period of three days. Such restrictions shall become effective by the posting of signs stating a "No Wake Zone" is in effect. Signs will be placed at the two public access points - one by the MN Hwy 65

bridge public access at the easterly end of Fish Lake and one at the public access on the south side of the lake. Notice of said restrictions shall also be posted at the Tosher Creek entrance on the west end of the lake.

In addition, restrictions may be posted on the Arthur Town Hall bulletin board, announced on local radio and/or by the use of flags on a small number of docks on Fish Lake.

When high water levels have remained below 950 feet mean sea level for a period of three consecutive days, said postings and restrictions shall be promptly removed.

Section 4: ENFORCEMENT: The primary responsibility for enforcement of this ordinance shall rest with the Kanabec County Sheriff's office and the area MN DNR enforcement officer. This, however, shall not preclude enforcement by other licensed peace officers.

Section 5: EXEMPTIONS: All authorized Resource Management, Emergency and Enforcement personnel, while acting in the performance of their assigned duties are exempt from the foregoing restrictions.

Section 6: NOTIFICATION: It shall be the responsibility of the Fish Lake Improvement Association to provide adequate notification of the public. Fish Lake Improvement Association shall notify Arthur Township Chair at the Town Hall, 320-679-1347, when the lake level has reached 950 feet mean sea level and once each day until the restriction period has passed. Adequate notification of the public is described in Section 3 of this Ordinance.

Section 7: PENALTIES: Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be fined not more than seven hundred dollars (\$700) and/or imprisoned for not more than ninety (90) days for each offense. The defendant may be assessed the costs of prosecution if convicted. Each day that the violation is permitted to exist constitutes a separate offense.

Section 8: EFFECTIVE DATE: This Ordinance shall be in effect from and after the date of its passage and publication.

COPY

TO THE ARTHUR TOWNSHIP PLANNING COMMISSION

RE: FISH LAKE NO WAKE ORDINANCE CLARIFICATION

After the flood of October 6, 2005 that had a reading of 8.00 on the DNR gage at 10:00 a.m. the Fish Lake Improvement Board had many questions from the lakeshore owners concerning why we did not declare a no wake zone. We contacted the DNR and with the advise and sanction of Lonnie Thomas of this agency, we decided that we needed to clarify that the 9.5 (mean sea level) on the DNR gage on the NE pillar of the Highway 65 bridge is equal to the 5.510 enforceable high-water reading.

Per Lonnie Thomas, DNR we needed to contact the Sheriff and verify this enforceable number. A phone call was made to Bob Jensen, Chief Deputy Sheriff and he in turn called Lonnie Thomas with questions. He then called us back and was in agreement with this clarification. We also contacted Brett Gruenmeier, DNR Conservation Officer. He was also in complete agreement.

The future procedure will be: After the bridge gage reaches 5.510 and is verified by a FLIA Board member, we will notify the sheriff and the Conservation Officer of the high water and the fact that we are going to request enforcement of the No Wake Ordinance.

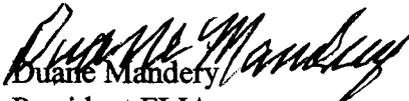
The No Wake signs will be posted at the three public accesses. Highway 65 access: on the road north of the Pavilion at the access; and one Gessinger Road at the Tossier Creek access. We will also post a notice that the No Wake Ordinance is in effect on the outside board at the Town Hall. When the water reaches normal levels the signs will be removed.

During the drafting of the original Ordinance we were not clear that the 9.5 (mean sea level) was equal to the 5.510 enforceable level on the DNR bridge gage.

So, our purpose is not to change the Ordinance, but to clarify it. And to advise the Planning Committee and the Board of Supervisors of our intent in this matter.

We respectfully request that you add the clarification of the 9.5 equals 5.510 to the original Ordinance.

Thank you for your consideration in this matter.


Duane Mandery
President FLIA


Clint Heckenliable
Board of Directors

Town of Arthur
Fish Lake "No Wake" Ordinance

Notice of hearing dated 8th day of June, 2005.
Planning Commission recommendation is to adopt the Fish Lake "No Wake"
Ordinance with the Minnesota DNR recommended changes.

_____, Planning Commission Chairman
Thomas Jones

Passed by the Arthur Town Board on this _____ day of
_____, 2005.

_____, Chairman
Charles McGovern

_____, Supervisor
Lawrence Sande

_____, Supervisor
Richard Roesler

ATTEST: By the town clerk, dated this _____ of
_____, 2005

_____, Town clerk
Lucille Schultz

*See next page for signatures.
Pierson, Clerk*

Town of Arthur

Addition to Fish Lake "No Wake" Ordinance No. 5 of 2005.

In May of 2008, no signed copy of this ordinance was found at the Arthur Town Hall.

And finding the document had never been recorded at the Kanabec County Recorder's Office, it was decided therefore, to again approve and resign this document.

Signed this 14 day of July, 2008

 Chairman
Fred Sawatzky

 supervisor
Roxanne Ferngren

 Supervisor
Charles McGovern

Attest: By Arthur Township Clerk

 Clerk
Kay Pierson

This 14 day of July, 2008.