

ORDINANCE NO. 116

**AN ORDINANCE OF THE BOROUGH OF INDIAN LAKE,
SOMERSET COUNTY, PENNSYLVANIA, REGULATING
THE USE AND ENJOYMENT OF INDIAN LAKE FOR RECREATIONAL
AND OTHER PURPOSES; CONSOLIDATING
AND RESTATING ALL PRIOR BOATING ORDINANCES
AND AMENDMENTS THERETO.**

WHEREAS, a body of water known as "Indian Lake" consisting of 732 acres, more or less, is situated entirely within the municipal and corporate boundaries of Indian Lake Borough, Somerset County, Pennsylvania; and

WHEREAS, by deed of Indian Lake Development Company, Inc., dated December 12, 1974, and recorded in Somerset County Deed Book Volume 775, at Page 303, the said Indian Lake was conveyed to the Borough of Indian Lake; and

WHEREAS, the above-referenced deed to the Borough of Indian Lake excepts and reserves "all the rights, easements and privileges in the use and enjoyment of the lake known as Indian Lake and in the above-described premises as the same have been granted and conveyed of record"; and,

WHEREAS, the above-referenced deed to the Borough of Indian Lake excepts and reserves "all the rights, easements and privileges in the use and enjoyment of the lake

known as Indian Lake and in the above-described premises as the same have been granted and conveyed of record”; and,

WHEREAS, there are deeds of record made by or through a common Grantor for tracts, parcels or lots of ground situate in the Borough of Indian Lake which contain as one of the terms, covenants, conditions and restrictions, a clause, which reads in pertinent part:

“The above-described lot and the use thereof is UNDER AND SUBJECT to certain further restrictions, conditions and covenants regulating boating on INDIAN LAKE established and imposed and/or to be hereafter established, promulgated, created and/or imposed by Grantor, its successors and assigns, consisting of but not limited to the following to which the said lot is hereby UNDER AND SUBJECT: [one] (1) License for a boat on said lake for the said lot; no operation or placing of a boat on said lake in any manner whatsoever without a license first being issued by Grantor, its successors and assigns; all boats on said lake shall abide by the rules of Grantor, its successors and assigns, the Coast Guard rules and regulations, as well as those of the Commonwealth of Pennsylvania and any local governmental regulations thereto appertaining . . .”; and,

WHEREAS, the Borough Council of the Borough of Indian Lake has determined that because of and as a result of the various provisions contained in the deeds and because of the large number of potential users of the aforesaid Indian Lake, it is in the best interest of the Borough and necessary and proper for the safety and welfare of the residents and property owners of Indian Lake Borough, along with all other users of the said lake and necessary for the proper management, care and control of Borough property that certain regulations, rules, fees and penalties be established, promulgated and enforced concerning the use, enjoyment and management of said lake.

NOW, THEREFORE, the Borough Council of the Borough of Indian Lake hereby ORDAINS AND ENACTS as follows:

ARTICLE I.

LICENSING AND REGULATION OF BOATING IN GENERAL

Section 101. A. Type. No boat, vessel or similar device, power or non-power, exceeding twenty-two (22' 00") feet in length, except pontoon boats which shall not exceed thirty (30'00") feet in length, shall be used or operated upon the waters of Indian Lake. The length of a boat shall be measured from the tip of the bow to the farthest aft edge of the boat. Molded, permanently attached, non-removable platforms shall be included in the measurement. Bolted on, removable platforms shall not be included in the measurement . For purposes of this Section, a "pontoon boat" shall be a boat floating

on two tubular pontoons. A sail boat shall not exceed twenty-two (22' 00") feet in length whether or not it has a single-hull or pontoon configuration. No boat or vessel, regardless of length, shall be used or operated upon the waters of Indian Lake, unless the mode of power of said boat is manual, sail, or by outboard, inboard-outboard stern drive motor or inboard motor. All boats must be equipped and operated within the limits indicated on the BIA capacity plate, issued with or affixed to the motor or boat.

B. Mufflers Required. Every powered vessel operated upon the waters of Indian Lake must have a functioning exhaust muffling system and must also have an exhaust system which vents the exhaust below the waterline of the vessel while at rest.

Section 102. Boat Licenses. No person shall operate or use any boat, vessel, or similar device, power or nonpower, on the waters of Indian Lake without first obtaining a boat license therefor from the Indian Lake Borough Office. All licenses issued shall be in accordance with the following procedures:

A. Primary Licenses. One (1) Primary license may be issued to the owner of each parcel, tract or lot in the Borough of Indian Lake upon proper application to the Borough. For purposes of this Ordinance, the term "property owner" shall mean any person, group of persons, or other legal entity, who individually or collectively own any parcel, tract, lot or lots situate in the Borough of Indian Lake whose deed contains the clause identified and set forth in full in the preface of this

ordinance relating to boat licenses or an individual who leases property from a property owner for a period of time exceeding four (4) consecutive months during the current boating season. For the purposes of this section, only one (1) primary boat license will be issued for each parcel, tract or lot in the Borough, regardless of the number of owners or nature of ownership for said parcel, tract or lot. Each said parcel, tract or lot situate in said Borough shall be entitled to one (1) license under this sub-section, subject to the other provisions of this Ordinance.

B. Secondary Licenses. The Borough of Indian Lake shall issue Secondary licenses to property owners who make appropriate application to the Borough of Indian Lake for one additional license per lot for a vessel powered by engine or sail. In addition to the above licenses, a property owner may make application for boat licenses for manually powered vessels such as rowboats and canoes. A property owner may make application for more than one license for manually powered vessels. The number of Secondary licenses shall be set each year by the Borough Council. The Borough Secretary shall post said number at the Borough Office, and said licenses shall be issued on a first-come, first-served basis.

C. General Licenses. A property owner or non-property owner of the Borough of Indian Lake may make application to the Borough of Indian Lake for a General boating license. General Licenses shall be issued to property owners

who have previously been issued at least two (2) licenses for vessels powered by engine or sail, either Primary or Secondary during the current boating season or to non-property owners. The number of General licenses shall be set each year by the Borough Council and shall be posted at the Borough Office. General licenses, as Secondary licenses aforesaid, shall be issued on a first-come, first-served basis.

D. Special Purpose Licenses. A property owner or non-property owner of the Borough of Indian Lake may make application to the Borough for a Special Purpose License. Special Purpose Licensees shall be limited in number, set each year by resolution of the Borough and posted at the Borough office. Only upon proper application to the Borough shall the aforesaid licenses be issued and only for the following purposes:

1. The demonstration of a boat for sale by an owner other than Indian Lake Marina. Said License shall be issued to the property owner who is testing the boat, if appropriate.

2. Special events, including but not limited to, water ski shows, water ski competitions and water ski clinics. Said License shall be issued to the boat owner, if appropriate.

3. Lake maintenance, survey of the waters and testing of the waters. Said License shall be issued to the boat owner or resident organization or corporation, if appropriate.

E. Commercial Rental Licenses. A specific class of license is hereby established for those individuals, organizations or other entities which embark upon a program or schedule of activity which provides for the placement or operation of watercraft on Indian Lake for a fee. Said licenses may be limited in number and may be issued only upon proper application to the Borough therefor. This class includes, but is not limited to, the following organizations:

1. The Lodge originally named

“Indian Lake Lodge”: Ten (10) licenses

a. Powered Watercraft: Five (5) licenses

Limited to pontoon, ski, or runabout crafts

b. Nonpowered Watercraft: Five (5) licenses

Limited to row, canoe or paddle boats

The licenses issued shall be used only to overnight guests of the Lodge. Under no circumstances shall the license be used by an individual not an overnight guest. Permission for the use of said licenses given by the Lodge to those other than overnight guests shall result in the suspension by the Borough of the licenses so used for the duration of the license period.

2. Indian Lake Marina: Eight (8) licenses

a. Powered Watercraft: Three (3) licenses –

Limited to pontoon, ski or runabout crafts

b. Nonpowered Watercraft: Five (5) licenses

The licenses issued shall be used only by Marina personnel to pilot boat rides or to allow boats to be piloted by individuals presently possessing a valid Indian Lake license of another class. Permission for the use of said licenses given by the Marina in a manner other than as aforesaid shall allow the suspension by the Borough of the licenses used for the duration of the license period.

F. Compliance with Regulations. All license holders shall comply with all ordinances, statutes, rules and regulations of the Borough of Indian Lake, the Commonwealth of Pennsylvania and the Federal government and there shall be no transfers of any licenses hereunder between property owners and/or non-property owners.

G. Application for Licenses. Application forms for all licenses shall be available at the Borough Office. To obtain a license, each property owner, or non-property owner, must complete an application, containing all the information requested therein and execute said application, under penalties of perjury, and deliver the application to the designated Borough officials. Upon receipt of a properly executed application and delivery of the required documents, an appropriate license may be issued.

H. Term of License. All licenses issued by the Borough shall be valid for the current boating season and all licenses shall expire on the same date, to coincide with the term of registration for boats as provided by the Commonwealth of Pennsylvania, which at present is April 1 of the year of issuance through March 31 of the next year.

I. Proof of Compliance with Section 101. Prior to the initial or first registration of a boat for use on the waters of Indian Lake, the boat shall be measured and inspected by the Indian Lake Borough Police Department for compliance with the length limitations and exhaust requirements set forth in Section 101 above. The Borough Police Department shall make such measurements within thirty (30) days of the Borough's receipt of the application for a license for the boat, by appointment only.

J. Establishment of Fees. All Indian Lake boat license fees shall be established by Resolution of the Indian Lake Borough Council and posted in the Borough office. All required fees shall be paid by an applicant for a boat license before a license is issued.

K. Proof of Liability. Every applicant must provide proof of liability insurance at the time of application for a license for any boat powered by motor or sail and shall agree to hold the Borough harmless from any and all liability arising

out of the operation of the licensed boat or other vessel on the waters of Indian Lake.

L. Display of License The license must be displayed at all times on the left (port) side of the boat licensed, immediately adjacent to and following the valid, current Pennsylvania or other state boating license or at such other location on the boat as the Borough may designate.

N. Misuse of Indian Lake Boat License. No person shall knowingly, willingly or intentionally affix an Indian Lake Boat license to a watercraft not authorized for use by that particular license with intent to conceal or misrepresent the identity of the watercraft or the owner thereof. The owner of the watercraft and the person to whom the license was issued shall be liable for prosecution for violations of this subsection N.

Section 103. MISCELLANEOUS LICENSES. If determined to be in the best interests of the Borough, miscellaneous licenses may be issued by the Borough Council for the placement of any floating docks, ski jumps or other items placed in the water, but not customarily or necessarily considered a boat or vessel. Fees for such licenses shall be established by the Borough Council and the licenses may be issued only upon proper application to the Borough, which shall include but not be limited to, proof of adequate liability insurance on the item to be licensed.

ARTICLE II

OPERATION OF BOATS

Section 201. OPERATING BOATS. All State and Federal Boating Regulations, including the requirements for the issuance of Pennsylvania boating licenses, shall be observed and complied with by license holders. Without in any way limiting the foregoing, the following rules shall also apply:

A. Warnings and Directions. All warnings, directions and orders of duly appointed law enforcement officers, Borough or otherwise, having jurisdiction, shall be obeyed, and operation of boats shall be in compliance with established “rules of the road”.

B. Traffic Pattern. A left-hand or counterclockwise traffic pattern shall be maintained at all times, with the exception of the slalom water ski course area.

C. Speed Limits. No person shall operate a boat at a speed in excess of the following maximum limits: (a) 40 miles per hour from 30 minutes before sunrise to 30 minutes after sunset, and (b) a slow no-wake speed from 30 minutes after sunset to 30 minutes before sunrise.

D. Reckless Operation of Watercraft. No person shall operate a watercraft in, upon or through the waters of Indian Lake in a reckless manner. For purposes of this subsection, the term “reckless operation” shall mean operating a watercraft so as to create a substantial risk of bodily injury to any person or damage to the property of any person.

E. Permitting Violations. No person shall authorize or knowingly permit a powered or unpowered watercraft owned by him or under his control to be operated in violation of any of the provisions of this Ordinance or any applicable state or federal statute, rule or regulation. Any owner of a watercraft or person who has control of such watercraft who permits such a violation shall be liable for prosecution under this Ordinance for the same offense as the operator and shall be subject to the same fine or penalty as the offending operator.

ARTICLE III

SWIMMING

Section 301. LIMITATIONS. No swimming will be permitted beyond forty (40) feet from shore unless the swimmer is accompanied by a boat immediately adjacent to the swimmer.

Section 302. AREA DESIGNATIONS. In order to protect swimming areas, all lake front property owners are permitted to install a floating buoy not to exceed twelve (12) inches in diameter, painted yellow, at a point in line with the owner's lot line at a distance forty (40) feet from shore. No other markers, including pennants, shall be used.

ARTICLE IV.

FISHING

Section 401. LIMITATIONS. No fishing boat shall be permitted to fish more than fifty (50) feet from shore from eleven o'clock (11:00) a.m. until sunset on weekends and holidays.

ARTICLE V.

DUMPING AND DEBRIS

Section 501. DISPOSITION OF DEBRIS. No person shall dump, deposit, place, throw, spill or leave grass and grass clippings, refuse, trash, rubbish, debris, human waste, animal waste, filthy or odoriferous objects, substances, oil, or gasoline on the waters of the lake or its shorelines.

ARTICLE VI.

MISCELLANEOUS

Section 601. LOT NUMBERS; MAINTENANCE OF DOCKS. All dock and boat house owners on the perimeter of the lake and tributaries shall display their 911 addresses in lettering not less than three (3) inches nor more than six (6) inches in height, facing the lake, so as to be easily read from a distance of 50 feet and shall maintain their

docks and boat houses in safe repair, with all parts securely fastened so that nothing can float freely into the lake.

ARTICLE VII.

VIOLATIONS

Section 701. (A) PENALTIES; FINES. Each violation of any provision of this Ordinance shall be a summary offense under the laws of the Commonwealth of Pennsylvania and, following conviction before a District Justice on complaint filed by the Borough, shall be punishable by a fine of \$50.00, except the offenses listed below which shall be punishable by higher fines, as stated.

<u>Violations</u>	<u>Fine</u>
1. Section 102 and 103 – license provisions	\$300.00
2. Section 201.D – reckless operation of watercraft	\$300.00
3. Section 201.E – permitting violations	same as operator
4. Section 501 – rubbish	\$300.00

B. SEIZURE OF WATERCRAFT. In addition to the fines set forth in subsection (a) above, any boat, vessel or other device found on the lake in violation of the provisions of this Ordinance may be seized and impounded by appropriate law enforcement officials and retained by the Borough as security for unpaid license fees, fines or other penalties.

ARTICLE VIII.

REPEALER

Section 801. REPEALER. Ordinance No. 59, Ordinance No. 82, Ordinance No. 88, Ordinance No. 92, Ordinance No. 97 and Ordinance No. 101 of the Borough of Indian Lake, and all amendments to those ordinances, and all other Ordinances or portions of Ordinances of the Borough which are inconsistent herewith are hereby repealed.

ARTICLE IX.

GENDER

Section 901. GENDER. In the language set forth in this Ordinance, the singular shall include the plural, and the masculine the feminine and/or either gender where appropriate.

ARTICLE X.

SEVERABILITY

Section 1001. SEVERABILITY. The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, such declaration or decision shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared to be the

legislative intent of the Borough Council of the Borough of Indian Lake that this Ordinance would have been enacted had any such unconstitutional, illegal or invalid provision not been included therein.

ARTICLE XI.

EFFECTIVE DATE

Section 1101. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days from the date of enactment hereof.

ARTICLE XII.

FILING OF ORDINANCE

Section 1201. FILING OF ORDINANCE. This Ordinance shall, upon enactment, be properly filed with the Borough records in the official Borough Ordinance Book at the Borough Offices.

ORDAINED AND ENACTED this 12th day of January , 2000.

Attest:

Theresa L. Meyant
Secretary

BOROUGH OF INDIAN LAKE

By: Charles Horat
President of Council

Ch. M. Gray

Patricia Devar

Ray J. Law

Susan Malachuk

Richard O. Pyle

[Signature]

EXAMINED AND APPROVED by me this 12th day of January , 2000.

Barry L. Lutz

Mayor