

**BEAR CREEK TOWNSHIP
EMMET COUNTY, MICHIGAN**

ORDINANCE # 33-15

PUBLIC PARK AND ACCESS ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE USE, PROTECTION, REGULATION AND CONTROL OF TOWNSHIP OWNED PARKS AND ROAD ENDINGS AND ACCESS SITES UNDER THE JURISDICTION OF THE TOWNSHIP THAT ARE LOCATED AT THE SHORELINE OF LAKES AND RIVERS; TO PROVIDE PENALTIES FOR VIOLATION OF THE ORDINANCE.

Section 1. Title. This ordinance shall be known and may be cited as the Bear Creek Township Public Park and Access Ordinance.

Section 2. Purpose. Based upon the findings that have been made by the Bear Creek Township Board of Trustees, the purposes of this Ordinance are to protect and promote the public health, safety and welfare of Township residents; to preserve public parks, road endings, and access sites within the township for their intended purposes; and to prevent and protect against the misuse of such public parks, road endings, and access sites.

Section 3. Definitions.

- A. “Anchor” means the act of dropping a weighted object that is attached to a boat by means of a chain, cable, rope or other device to the bottomland of a lake or river or the act of placing a weighted object on the upland property for the purpose of preventing or restricting the motion of the boat to which it is attached.
- B. “Beach”, when referring to a boat, means the act of pulling a boat on upland property or grounding a boat on the bottomlands for the purpose of preventing or restricting the motion of the boat
- C. “Boat” means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft and non-motorized boats such as canoes, rowboats and rafts. Boat, however, does not include an air mattress, paddleboard, paddleboat, boogie board or similar device used by one (1) or two (2) persons for floating or paddling.
- D. “Bottomlands” means the land beneath the water of a lake or river that attaches to upland and riparian property by operation of law.
- E. “Dock” means a pier, platform or other structure extending from shore or

a lake or river over the water to which a boat is moored.

- F. “Hoist” means a mechanical device attached permanently or temporarily to the bottomland of a lake or river and used to raise or lift a boat out of the water for the purpose of preventing or restricting the motion of the boat.
- G. “Lake” means an inland lake or portion of an inland lake located within Bear Creek Township.
- H. “Moor” or “Mooring” means the act of securing a boat to a buoy or other device attached or anchored to the bottomlands of a lake or river by means of a chain, cable, rope, or other device or to a dock by means of a chain, cable, rope, or other device for the purpose of preventing or restricting the motion of the boat.
- I. “Person” means an individual, firm, corporation, association, partnership, limited liability company, or other entity.
- J. “Public access site” means the non-road ending, riparian property owned by Bear Creek Township to serve as a means for the public to gain access to the lake or river to which it abuts.
- K. “River” means a navigable and natural stream of water flowing in a definite course or channel within Bear Creek Township.
- L. “Road ending” means a current or former public road or way under the jurisdiction of Bear Creek Township that terminates at the water’s edge of a lake or river, including associated adjacent bottomlands.
- M. “Township board” means the Bear Creek Township Board
- N. “Township park property” means any property designated as a park by the Township Board, including but not necessarily limited to Spring Lake Park and Jones Landing Park. Also includes any beach that is a part of such property and adjacent bottomlands.
- O. “Township” means Bear Creek Township

Section 4. Hours of Township Park Property. Any township park property may be subject to seasonal closings, which closings may be determined from time-to-time and season-to-season by the township board or its designee. On any dates that a township park property is open for the season, each township park property is closed from 11:00 p.m. to 6:00 a.m. Anyone on Township park property during any seasonal closing or during the closed hours of any open season without express permission from the township board shall be trespassing. The township board reserves the right to establish

by resolution or other action any different hours, seasons, and periods of operation and closure for township park property, public access site, or any part thereof.

Section 5. Regulations. No person shall:

- A. Construct, place, or maintain a dock, hoist, or mooring device on a road ending, public access site, or township park property, except as provided in this subsection. Bear Creek Township may construct, place and maintain a nonexclusive dock or docks on a road ending or public access site to aid the general public in gaining access to a lake or river.
- B. Anchor, beach or moor a boat at any time in any designated boat launching or swimming area or for more than three (3) consecutive hours in any other area of a road ending, public access site, or township park property.
- C. Use a road ending, public access site, or township park property in any manner that:
 - 1. Unreasonably interferes with ingress or egress to the water.
 - 2. Causes or creates any loud noise or sound that endangers or injures the safety or health of humans or animals, or that annoys or disturbs a reasonable person of normal sensitivities, including but not limited to:
 - a. Playing, using, or operating any radio, “boom box”, phonograph, compact disc player, tape player, television, computer, phone, musical instrument, sound amplifier, speakers, or other electronic or mechanical sound-producing device in such a manner or with such volume so as to disturb the peace of neighboring property owners or their guests or to annoy other persons of reasonable and normal sensitivities using a road ending, public access site, or township park property. The use of a loudspeaker, public address system, or amplifier within or upon a road ending, public access site, or township park property is prohibited without express written permission from the township board.
 - b. Yelling, shouting, hooting, singing, or making other noise that because of its volume, frequency or shrillness unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.
 - c. Sounding or using any horn, siren, whistle, bell or other warning device on a boat so as to unreasonably disturb the

quiet, comfort or repose of a reasonable person of normal sensitivities, unless the sounding or use of such horn, siren, whistle, bell or other warning device is authorized by State law and is necessary to the safe operation of the boat.

3. Causes littering on the road ending, public access site, township park property, or adjoining property.
 4. Results in trespassing on any adjoining property.
 5. Creates any other nuisance condition.
- D. Possess or use any rockets, explosives, cannons, firecrackers, or fireworks upon a road ending, public access site, or township park property.
- E. Drive or back a trailer into the water at a township park property, road ending, or public access site for the purpose of launching a boat into the lake or river, unless the township designates that township park property, road ending or public access site as an official boat launching site.
- F. Conduct, permit, or engage in any commercial repair of a boat or boats on a township park property, road end, or public access site.
- G. Camp on a road ending, public access site, or township park property at any time.
- H. Start, use or maintain a campfire, bonfire or other recreational fire on a road ending, public access site, or township park property. This provision shall not prohibit the lighting and use of grills in designated picnic areas.
- I. Remain on a road ending, public access site, or township park property after being requested by a township official or law enforcement officer to leave the road ending, public access site, or township park property.
- J. Operate a motor driven vehicle other than on roads and in designated parking areas of a road ending, public access site, or township park property.
- K. Stop, stand, or park a vehicle on a road ending, public access site, or township park property for any purpose other than the use of the road ending, public access site, or township park property in accordance with the provisions of this ordinance. No person shall stop, stand, or park a vehicle outside of any designated parking area on a road ending, public access site, or township park property, or in any manner that obstructs traffic. No person shall park or store any item on a road ending, public access site, or township park property overnight without express

permission from the township board. This includes but is not limited to vehicles, boats, trailers, and bicycles. Any vehicle or other item left overnight on a road ending, public access site, or township park property without permission shall be subject to towing and removal at the owner's expense.

- L. Operate any snowmobile, RTV, ATV, or other motorized device other than a passenger vehicle except in places that are designated and posted for such uses. This shall not preclude the operation of a snowmobile, RTV, or ATV from a road ending onto or off of the ice of an adjacent lake.
- M. Bring any dog onto a road ending, public access site, or township park property that is not under the immediate control of a competent person at all times and restrained by attachment to a leash not more than six (6) feet in length. A person bringing a dog upon a road ending, public access site, or township park property shall immediately remove and appropriately dispose of any feces from such animal. No animals other than dogs are permitted to be brought onto a road ending, public access site, or township park property. No dogs shall be permitted to enter a park, building, structure or swimming area of a road ending, public access site, or township park, except for a service dog otherwise permitted by law.
- N. Consume or have any open container of any alcoholic beverage on a road ending, public access site, or township park property. Also, no glass bottles shall be brought onto a road ending, public access site, or township park property.
- O. Litter or dispose of any trash or refuse that is not generated on site. It is prohibited to bring any refuse onto a road ending, public access site, or township park property and to dispose of any such refuse in township trash containers.
- P. Destroy, deface, alter, mark upon, change, remove, or otherwise alter any aspect of a road ending, public access site, or township park property, including but not limited to buildings, monuments, signs, notices, equipment, fountains, plumbing, fences, railings, decks, gates, doors, walls, or structures.
- Q. Cut, remove, destroy, deface, or pick any tree, bush, shrub, foliage, flower, plant or grass on a road ending, public access site, or township park property, or remove any earth, gravel, rocks, or sand from a road ending, public access site, or township park property without express permission for the township board.

- R. Use a road ending, public access site, or township park property for swimming other than in designated swimming areas. All use of the water is at the user's own risk. The township does not provide any lifeguard for swimming in waters upon or adjacent to a road ending, public access site, or township park property. The use of soaps and shampoos for bathing is prohibited in waters of or adjacent to a road ending, public access site, or township park property.
- S. Sell or offer for sale any goods or services including but not limited to food and beverages from any vehicle, trailer, cycle, cart, container, or in any other manner on any road ending, public access site, or township park property without express written permission from the Township Board.
- T. Install, erect, or construct anything upon a road ending, public access site, or township park property without first obtaining written permission from the Township Board authorizing such installation work.
- U. Use roller skates, skateboards, scooters, or roller blades upon a road ending, public access site, or township park property, except in such places that may be designated for such purposes.

Section 6. Additional Rules. The township board may make and adopt such further rules, orders, regulations, guidelines, and policies that it deems necessary or advisable to assure the protection and preservation of a road ending, public access site, or township park property or the safety and well-being of the users thereof. Such additional rules, orders, regulations, guidelines, and policies shall be effective upon approval by the township board, or at any time otherwise provided by the township board.

Section 7. Violations and Penalties

- A. Any person who violates any provision of this ordinance shall be responsible for a municipal civil infraction and shall be subject to the following fines:
 1. For a first offense, the offender shall pay a fine of one hundred dollars (\$100).
 2. For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of two hundred and fifty dollars (\$250).
 3. For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of five hundred dollars (\$500).
- B. Each day this ordinance is violated shall be considered a separate

violation.

- C. The issuance of a citation for a municipal civil infraction shall not in any way limit the township from seeking enforcement of this ordinance in any other manner, including, but not limited to, an action to abate any nuisance created by a violation of this ordinance and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with such abatement and the enforcement of this ordinance.

Section 8. Enforcement Officials. The township supervisor and any other designee of the township board, including the Emmet County Sheriff's Department, are authorized to enforce this ordinance and are authorized to issue citations for violations.

Section 9. Nuisance Per Se. A violation of this ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 10. Separate Court Action. In addition to enforcing this ordinance through the use of a municipal civil infraction proceeding or criminal prosecution, the township may initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this ordinance.

Section 11. Nonexclusively. The regulations in this ordinance shall be in addition to, and not exclusive of, any other local police power ordinance or zoning ordinance or any other state law or regulation, including but not limited to Part 301 of the Natural Resources and Environmental Protection Act, as amended, (Inland Lakes and Streams), being MCLA 324.30101, and Part 801 of the Natural Resources and Environmental Protection Act, as amended, (Marine Safety), being MCLA 324.80101.

Section 12. Validity. If any section, provision or clause of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this ordinance, which can be given effect without the invalid portion or application.

Section 13. Effective Date and Repealer. This ordinance shall take effect thirty (30) days after publication of the ordinance or a summary thereof in the manner provided by law. The township's prior Park Ordinance, No. 9-98, as amended, is hereby repealed.

CLERK'S CERTIFICATION

I hereby certify that this ordinance was adopted by the Bear Creek Township Board of Trustees at a regular meeting held on May 6, 2015, and that the vote was as follows:

FOR: Nowland, Golding, Mays, Keiser, Hoffman

AGAINST: none

I further certify that this ordinance, or a summary thereof, was published in the *Petoskey News-Review*, on May 11, 2015.

Judy Mays, Clerk
Bear Creek Township