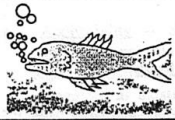


Shore District Zoning and Master Port Plan Public Hearing - April 25, 1992



The Perchie Press

Special Edition
ON US

Volume II, Number 5

Covering the World from Kelley's Island, Ohio ©

April 17, 1992

There will be a public hearing on both the Port Master Plan and the new Shore District zoning on April 25 at 10:00 AM at the old Village Hall.

Because of the long range impact this ordinance could have on island development, the complete text of the proposed shore district ordinance is contained below. As an aid in understanding the changes made to the ordinance since the previous hearing, additions and deletions from the previously published version are included. Additions to the text, published in the August edition of the Perchie Press, are indicated by a double underline (sample). Deletions from the text are indicated by strikethrough (~~example~~).

AMENDMENT TO ORDINANCE 303

ARTICLE XVI

SHORE DISTRICT

Sec. 1601 Definitions

"Natural Shoreline" of Lake Erie shall be delineated as the ordinary high water elevation of 572.8 feet International Great Lakes Datum (1955) which defines the southerly shore of Lake Erie and the boundary of navigable waters of the United States as regulated by the U.S. Department of the Army, Corps of Engineers.

"Shore District" is that area of the Lake between the natural shoreline or high water mark to a distance 900 feet lakeward. This applies to the entire shoreline of the Island and is Pursuant to the establishment of a harbor line by Village Ordinance No. 514.

Upland Property" is that land, whether publicly or privately owned, directly abutting the natural shoreline of Lake Erie. Owners of upland property have littoral rights to the waters fronting their property.

"Development or Improvement" means, ~~but shall not be limited to~~, wharfs, breakwaters, piers, docks, bulkheads, marinas, groins, jetties, revetments, and fill for the purpose of creating new lands or any structure of any kind.

"Dock" is used synonymously with "wharf" and pier to mean a structure built or constructed in aid of navigation and extending some distance out into the water, to which watercraft have access for the convenience of loading persons and goods.

"Marina" for purposes of Ohio regulation, is a boat basin with docks or moorings for seven or more watercraft but excluding docks or moorings appurtenant to a private residence and used only by the occupant of that residence for his nonpaying guests and also excluding boat basins located on waters where craft used are normally unsuited for installation of permanent sanitary systems. Marinas may or may not be a commercial use.

"Shore Protection Structure" is a structure specifically constructed to reduce or prevent erosion of the shore. Examples include such structures as groins, jetties, seawalls, revetments, bulkheads and breakwaters.

"Breakwaters" are structures built or constructed offshore to dissipate the energy of incoming waves for the purpose of protecting the shore from erosion. Breakwaters vary in size and type of construction.

"Bulkhead" is used synonymously with "seawall" to mean a structure built or constructed to protect banks and bluffs by completely separating land from water for the purpose of protecting the shore from erosion. Bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. Seawalls are primarily used to resist wave action.

"Groins" are used synonymously with "jetties" to mean structures built or constructed perpendicularly from the shore for the primary purpose of trapping and retaining sand. They are suitable erosion control devices where a beach is desired.

"Revetments" are structures placed on banks and bluffs in such a way as to absorb energy of incoming waves. They are usually built to preserve the existing uses of the shoreline and to protect the slope. Like seawalls, revetments armor and protect the land behind them.

"Littoral Rights" means the legal right of an upland property owner to the reasonable use of the waters fronting the property and the right to wharf out to navigable waters within the projected boundaries of the upland property, subject to the rights of the State of Ohio and the United States.

"Structures" means any facility which requires fill being placed upon the submerged land of Lake Erie, ~~including, but not limited to~~, rubble mound docks, rubble mound walks, rock filled timber crib docks, rock filled timber crib docks, steel sheet pile walls, revetments, riprap shore protection, unattached breakwalls; precast concrete modular structures.

"Fill" means any material used for the primary purpose of replacing Lake Erie aquatic areas with dry land or changing the bottom elevation of Lake Erie.

"Heavy Equipment" including, but not limited to dump trucks, cranes, dredges, backhoes, bulldozers, and other such equipment used in the construction of a structure.

"Private Facilities" means docks or structures placed within the waters of Lake Erie for the sole use of the upland owner and for their personal benefit.

"Semi-Private" means any facility built within the waters of Lake Erie where the upland shoreline property is held in common ownership by a residential association or the shoreline property is commonly used by residents of a trailer park, campground, or apartment complex.

"Commercial Port Facilities" shall mean any facility built within the waters of Lake Erie for the purpose of docking ferry boats that transport persons and freight to and from the Island.

"Industrial Port Facilities" shall mean any industrial facility including, but not limited to, These are defined as freight loading and off loading facilities for and industrial operation and shall include such facilities as docks, industrial water intakes and outfalls, and fill to expand upland facilities or support facilities for such use.

"Commercial Marinas": are Establishments providing water-oriented services such as yachting and rowing clubs, boat rentals, storage and launching facilities, sport fishing activities, excursion boat and sightseeing facilities, and other marina-related activities, ~~including, but not~~

limited to, such as fuel sales and boat and engine repair.

"Boathouse" means a permanent structure used for the storage of watercraft and associated materials which are enclosed, having a roof and walls.

"Boat ports and wells" are structures used for the storage of watercraft and associated materials such as hoists which contain roofs but are without walls and are therefore unenclosed.

"Utilities" shall mean any utility company licensed to do business in the State of Ohio by the P.U.C.O. Public Utilities Commission of Ohio and village-operated utilities, for the such purposes asof, but not limited to, submerged cables, water intake pipes, and water outfall pipes.

"Ohio Coastal Management Program" means the comprehensive action of the State and its political subdivisions to preserve, protect, develop, restore or enhance coastal area resources in accordance with established objectives, policies, standards and criteria concerning protection of the natural resources in the coastal area; management of coastal development and redevelopment; preservation and restoration of historic, cultural and aesthetic coastal features; public access to the coastal area for recreational purposes; and as otherwise described in Section 1506.01(B) and (C) of the Ohio Revised Code and the Ohio Coastal Management Program.

"Beach Recreation": Recreational use of a beach, supported by sanitation facilities, parking, picnic sites, and docks, boat ramps, floating docks and platforms and mooring buoys.

"Commercial Boating": Commercial use of pleasure craft or other vessel on a body of water.

"Recreational Boating": Noncommercial use of pleasure craft on a body of water, including regattas and speedboat races.

"Safety and Navigation Facilities": Structures in the shore zone or lake zone whose purpose is the protection of the public health, safety, and general welfare, such as navigational buoys, lighthouses, scientific monitoring devices, and radio communication devices.

"Water Borne Transit": Commercial use of a vessel rater by the U.S. Coast Guard for more than 30 passengers, where such passengers board and unboard at a single site.

"Shore Protection Structure": A structure specifically constructed to reduce or prevent erosion of the shore. Examples include, but are not limited to groins, jetties, seawalls, revetments, bulkheads and breakwaters.

Sec 1601-1 Purpose

The purpose of creating this ordinance is to:

- a. Exercise local regulation of the shoreline in regard to the placing of unlawful encroachments therein. ~~In no way shall these regulations interfere with the opportunity for water-related commerce, navigation, fishing, and public access to Lake Erie.~~
- b. Set forth the project review criteria for development projects. Sufficient evidence that all project review criteria set forth in the Shore District Section of this Zoning Code will be satisfied is prerequisite to the approval of the project by the Planning Commission.
- c. Set forth the allowable uses and structures in the shore district. The concept of use includes any activity within the shore district whether related to land, water, air or other resources of the lake.
- d. Define when modifications to existing structures require the review of the Planning Commission.
- e. Regulate the building of structures lakeward of the shoreline in order to avoid interference with scenic vistas of Lake Erie, and also to protect the littoral rights of upland property owners, and to protect the health, safety and general welfare of the community.

Sec. 1601-2 Establishment of District

- a. Harbor Line Established - A harbor line was established on July 13, 1989 by the Village with Ordinance No. 514 pursuant to Ohio Revised Code Section 721.04. This line extends around the entire shoreline of the Village of Kelleys Island and extends into Lake Erie for a distance of ~~300 yards~~ 900 feet from lakeward of the natural shoreline. For all purposes of government and exercise of such powers the limits shall be held to extend out, in, over and under such water and land in this territory (ORC Section 721.04).

- b. Limitations -- All regulations set forth in this section and following sections are subject to the rights of the State of Ohio as specifically outlined in the Ohio Revised Code Chapter 1506 (Coastal Management). All regulations are further subject to the rights of the United States as regulated by the Army Corps of Engineers and as set forth in Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

Sec. 1601-3 Project Review Criteria

- a. Criteria -- A project in the shore district shall only be approved when the Planning Commission finds that:
 - 1. The project will not adversely impact or bring significant harm to the stability of the erosion hazard area as delineated by the Ohio Department of Natural Resources.
 - 2. There are sufficient accessory facilities, such as restrooms, pump-out stations and parking, to accommodate the project.
 - 3. The project is compatible with existing shore uses and zoning in the immediate vicinity.
 - 4. The project is compatible with existing zoning in the upland property.
 - 5. The proposed use in the shore district is water dependent.
 - 6. Measures will be taken to prevent spills or discharges of hazardous materials.
 - 7. Construction and access techniques used will minimize disturbance to the ground and vegetation.
 - 8. The project will not adversely impact navigation or create a threat to public safety.
 - 9. The proposed use will not interfere with the attainment of scenic vistas of Lake Erie.
 - 10. The project will comply with the location and development standards outlined in Section 1601-6.
 - 11. The project will not interfere with the littoral rights of adjacent property owners.
 - 12. The project will not adversely impact or bring significant harm to the integrity of an historic site or structure in the immediate vicinity.

Sec. 1601-4 Permissible Uses and Structures

- a. Permissible Uses -- This section identifies the permissible uses in the shore district. Any uses that are incompatible with the following are prohibited.
 - 1. Beach Recreation (where designated)
 - 2. Commercial Boating
 - 3. Water-borne transit (to include ferry boat, tour boat, barge and shipping activity)
 - 4. Fishing
 - 5. Recreational Boating
 - 6. Industrial Port Facility Barge-Operations
- b. Permissible Structures -- The following structures shall be permitted in the shore district. ~~Structures not listed in this section incompatible with the following are prohibited. Shore protection structures and utilities may be permitted independent of the primary upland property use.~~
 - 1. Boat Ramps
 - 2. Piers and Docks (including Floating Docks and Platforms)
 - 3. Mooring Buoys
 - 4. Utility Lines
 - 5. Safety and Navigational Facilities
 - 6. Shore Protection Structures including Bulkheads
 - 7. Flush mount and swivel hoists or overhead hoists in boat ports
 - 6. Boathouses
 - 8. Unenclosed boat port/wells with flush mounts and swivel hoists
 - 9. Gazebos and Decks constructed on docks.
- c. Structures with Designated Locations -- The following facilities shall only be permitted where designated in Section 1601-6 of this ordinance.
 - 1. Commercial Marinas
 - 2. Commercial Port Facilities
 - 3. Industrial Port Facilities
- d. Non-Conforming Structures -- If a structure in the shore district existed prior to the effective date of this ordinance, its use maybe continued

although it does not conform to the provisions of this ordinance. If an existing non-conforming structure it is voluntarily discontinued for a period of two or more years, any subsequent use shall comply with the regulations set forth in Section 1601-3 of this ordinance.

Sec. 1601-5 Existing Structures

- a. Applicability -- Structures ~~legally existing~~ in the shore district ~~constructed~~ prior to the effective date of this ordinance or structures legally constructed after the effective date of this ordinance are recognized as existing structures provided the structure has not been unserviceable for more than three five years. Expansion and alteration to existing structures shall be subject to the provisions of Article XVI of this ordinance and to the project-review procedure outlined in Section 1601-7(b) of this ordinance.
- b. Definition of Expansion or Alteration -- An expansion is defined as an increase in the size or extent, including an increase in the dimensions of a structure, change in configuration of a structure and the addition of any structure or edifice to an existing structure including floating docks. An alteration is the replacement or reconstruction of, or modification to, the members of a structure that affect the weight bearing or strength capacity of the structure.
- c. Exempt Activities -- Ordinary maintenance and repair which is the replacement of, or modification to parts of a structure that do not affect the dimensions, weight bearing or strength capacity of the structure shall not be subject to review and approval by the Planning Commission.
- d. Abandoned Structures -- Any structure in obvious need of repair or maintenance that has been neglected for more than a five-three year period will be considered to be abandoned and could be subject to removal by the Village of Kelleys Island provided proper notification is given to the owner. Any costs incurred by the Village in removing a structure will be charged to the owner's tax duplicate.

Sec. 1601-6 Location and Development Standards

- a. Applicability -- All developments and improvements lakeward of the shoreline shall comply with the standards and provisions set forth in this Section. All expansions and alterations to existing structures shall also comply with these standards and provisions.
- b. Authority -- The Village of Kelleys Island Planning Commission shall be responsible for reviewing applications for development and improvements as well as applications for expansion and alteration to assure their compliance with this section as well as the project review criteria set forth in 1601-3.
- c. Private Facilities -- These are defined as docks and structures placed within the waters of Lake Erie for the sole use of the upland owner and for their personal benefit.
 1. Private facilities shall be located where the upland property is designated R-1 Residential- or R-1A Residential in the Future Land Use Plan.
 2. Docks shall have no more than three five slips or spaces for three five boats per residential lot, with a maximum of two of those spaces to be used for rental purposes.
 3. No more than one boat ramp per residential lot shall be constructed. Plans submitted with the application for a zoning certificate must demonstrate that traffic will not be impeded and that adequate parking will be provided.
 4. Mooring buoys shall be restricted to two per residential lot.
 5. The location of fueling facilities at private docks or boat ramps shall be prohibited.
 6. 4. For each dock or boat ramp constructed there shall be a minimum of two off street parking spaces provided. Parking shall be provided off-shore for all new docks and boat ramps.
 7. 5. Boat port/wells shall have a roof only and shall not exceed a height of one story or 22 feet above ordinary high water, provided that the height also meets the provisions of Section 401-4(h) of this Zoning Code.
 8. 6. A maximum of two covered unenclosed boat port/wells and a maximum of two out of the water lifting devices are permitted and shall be designed and constructed as a unit.
 9. 7. All of the above (1-7-6), shall be installed so that the boat lifted, stored, docked or moored is a minimum of ten feet from the projected

boundaries of the upland property.

- 8. The height and setback of any private facility must also meet the provisions of Section 401.4(h) and 401.4(i) of this Zoning Code.
- 9. No barges, cranes or heavy equipment shall be permitted at private facilities except during construction. Heavy equipment not in use for three weeks or longer must be moved to an area with compatible zoning until required for further construction.
- 10. The location of fueling facilities at private docks or boat ramps shall be prohibited.
- d. Semi-private Facilities -- These are defined as any facility built within the waters of Lake Erie where the upland shoreline property is held in common ownership by a residential association or the shoreline property is commonly used by residents of a trailer park, campground, or apartment complex.
 1. Semi-private facilities shall be located where the upland property is designated R-3 Residential, or Parks/Campgrounds in the Future Land Use Plan.
 2. In the case of lots where the shoreline area is commonly owned or commonly used, docks shall have no more than one slip per residential unit. When the shoreline area of the lot is for the use of visitors, e.g. campgrounds and motels, docks may be constructed with no more than one skip for every four visitor units. If seven or more slips are contained on in one dock facility, the facility shall it may be subject to state regulations regarding marina operations.
 3. No more than one boat ramp per lot shall be constructed. Plans submitted with the application for a zoning certificate must demonstrate that traffic will not be impeded and that adequate parking will be provided.
 4. Mooring buoys shall be restricted to two per lot.
 5. The location of fueling facilities at semi-private docks or boat ramps shall be prohibited.
 6. 4. For each dock or boat ramp constructed there shall be a minimum of two off-street parking spaces provided. Parking shall be provided off-shore for all new docks and boat ramps.
 7. 5. Boat port/wells shall have a roof only and shall not exceed a height of one story or 22 feet above ordinary high water, provided that the height also meets the provisions of Section 401-4(h) of this Zoning Code.
 8. 6. A maximum of two unenclosed boat port/wells and a maximum of two out of the water lifting devices per lot are permitted and shall be designed and constructed as a unit.
 9. 7. All of the above (1-7-6) shall be installed so that the boat lifted, stored, docked or moored is a minimum of ten feet from the projected side lot lines.
 8. The height of any semi-private facility must also meet the provisions of the zoning district it is located in.
 9. No barges, cranes or heavy equipment shall be permitted at semi-private facilities except during construction. Heavy equipment not in use for three weeks or longer must be moved to an area with compatible zoning until required for further construction.
 10. The location of fueling facilities at semi-private docks or boat ramps shall be prohibited.
- e. Commercial Port Facilities, Industrial Port Facilities and Commercial Marinas -- ~~Commercial Port Facilities shall mean~~ These are defined as any facility built within the waters of Lake Erie for the purpose of docking ferry boats that transport persons and freight to and from the Island. ~~Industrial Port Facilities shall mean any industrial facility including, but not limited to loading and off-loading facilities, industrial water intakes and outfalls, and fill to expand upland facilities of support facilities for such use. Commercial Marinas shall mean establishments providing water-oriented services such as yachting and rowing clubs, boat rentals, storage and launching facilities, sport fishing activities, excursion boat and sightseeing facilities, and other marina-related activities, including, but not limited to, fuel sales and boat and engine repair.~~
 1. Commercial and industrial port facilities and commercial marinas shall be located in areas designated Port District in the Future Land Use Plan, only where the upland property is so zoned.
 2. Marinas shall be subject to the limitations of state regulations regarding marinas. Only structures necessary for safe docking,

- loading and unloading of passengers and freight shall be constructed.
3. At marinas, adequate parking shall be provided and is considered to be one parking space per permanent slip and one parking space for every six transient slips.
 - 4.3. Moorings located at commercial port facilities shall not be permitted if they interfere with safe navigation.
 4. Adequate accessory facilities such as parking and restrooms must be provided.
- f. Industrial Port Facilities** These are defined as freight loading and off-loading facilities for an industrial operation and shall include such facilities as docks, water intakes and outfalls, and fill to expand upland facilities or support facilities for such use.
1. Industrial port facilities shall be located only where the upland property is so zoned.
 2. Only structures necessary for safe docking, loading and unloading of freight shall be constructed.
 3. Moorings located at industrial port facilities shall not be permitted if they interfere with safe navigation.
- g. Commercial Marinas** These are defined as establishments providing water-oriented services such as yachting and rowing clubs, boat rentals, storage and launching facilities sport fishing activities, excursion boats and sightseeing facilities; other marina-related activities, including fuel sales and boat and engine repair.
1. Commercial marinas shall be located only where the upland property is so zoned.
 2. Commercial marinas shall be subject to the limitations of state regulations regarding marinas.
 3. At commercial marinas, adequate parking shall be provided and is considered to be one parking space per permanent slip and one parking space for every six transient slips. Parking shall be provided off-shore.
 4. Moorings located at commercial marinas shall not be permitted if they interfere with safe navigation.
 5. No barges, cranes or heavy equipment shall be permitted at commercial marinas except during construction. Heavy equipment not in use for three weeks or longer must be moved to an area with compatible zoning until required for further construction.
- fh. Shoreline Protection Structures**
1. Shoreline protection structures shall be located where necessary to reduce or prevent erosion.
 2. Shoreline protection structures include but are not limited to groins, jetties, seawalls, revetments, bulkheads and breakwaters as



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- defined in Section 1601 Definitions.
- g.j. Fences**
1. Fences shall only be permitted where necessary to protect the health and safety of the general public and to protect property adjacent to public access from trespass.
 2. Fences shall be so constructed as to. If fences are constructed within 125 feet of the Lake, they shall be constructed at least 70% open so as not to interfere with scenic vistas of Lake Erie presently enjoyed by adjacent property owners.
- h. Roofs**
1. Roofs shall only be permitted on boat port/wells, boathouses and necessary accessory structures.
 2. Roofs shall be made of non-glare materials and earhtone colors to ensure proper sightlines from Lake Erie to the shore and to ensure the health, safety and general welfare of persons on the lake and on the shore.

Sec. 1601-7 Administration

- a. Authority** -- The Village of Kelleys Island Planning Commission shall be responsible for reviewing applications for development of or improvements to permissible structures as well as expansion and alterations to existing structures in the shore district to determine if they are in accordance with the provisions of this ordinance.
- b. Project Review Procedure** -- Applications for development and improvements as well as expansion and alterations shall be made in accordance with the procedure outlined in Article IX of the Zoning Code with the following exceptions:
1. When the project under review is subject to the issuance of a Submerged Lands Lease from the Ohio Department of Natural Resources Submerged Lands Coordinator and/or a Section 10 and/or Section 404 permit from the Army Corps of Engineers, a copy of the appropriate permit applications(s) shall be filed with the local application. Upon receipt of the local application, the Zoning Inspector shall send a notification of the project application to all property owners within 500 feet of the project advising them of the application and their right to request a public hearing with the Planning Commission within
 2. Upon receipt of the local application, the Zoning Inspector shall send a notification of the project application to all property owners within 500 feet of the project advising them of the application and their right to request a public hearing with the Planning Commission within 30 calendar days of the date of application.
 - 2.3. When the project requires a Submerged Lands Lease, the Village Council must issue a resolution approving the proposed application provided the project complies with local permissible land uses. This is pursuant to Section 1506.11(B) of the Ohio Revised Code. This resolution must be sent to the Submerged Lands Coordinator and must describe the project area in metes and bounds, and state that the submerged land is not necessary or required by the Village for the construction, maintenance or operation of structures in aid of navigation or water commerce. The resolution must also state that the land uses specified in the application comply with the regulations of permissible land uses under the Village Master Plan and this Zoning Code. The resolution shall be issued within 60 calendar days from the date of the application.
 - 3.4. When a submerged Lands Lease is required, a zoning certificate shall be issued after a copy of the lease is received by the Planning Commission.
 - 4.5. When a Section 10 and Section 404 permit are also required for the project, the Zoning Inspector shall not issue the zoning certificate for the project until the required permits are secured by the applicant.

Sec. 1601-8 Appeals

When an application for a zoning certificate is denied by the Planning Commission, the applicant may appeal in accordance with the procedure outlined in Article X of the Zoning Ordinance