

ORDINANCE NO. 2009-03

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND CHAPTER 40, THE ZONING CHAPTER IN THE CODE OF ORDINANCES FOR SAUGATUCK TOWNSHIP, ALLEGAN COUNTY, MICHIGAN, SPECIFICALLY PERTAINING TO WATER ACCESS AND RELATED MATTERS, AND ESTABLISHING AN EFFECTIVE DATE.

THE TOWNSHIP OF SAUGATUCK, COUNTY OF ALLEGAN, STATE OF MICHIGAN ORDAINS:

Section 1. Permitted Uses in Residential and Agricultural Zoned Districts. The "Permitted Uses" sections of certain Agricultural and Residential Zoned Districts of Saugatuck Township, being specifically Sections 40-182(17), 40-272(13), 40-317(13), 40-329(n) and of the Code of Ordinances, Township of Saugatuck, Michigan, shall include the following reference to Article XII, Water Access and Dock Density Regulations, as a permitted use:

Waterfront Access Property, Docks and piers in accordance with the provisions of Article XII.

Section 2. Permitted Uses in the R-4 Lakeshore Open Space Zoned District. The "Permitted Uses" section of the R-4 Lakeshore Open Space Zoned District of Saugatuck Township, being specifically Section 40-342 of the Code of Ordinances, Township of Saugatuck, Michigan, shall include the following reference to Article XII, Water Access and Dock Density Regulations, as a permitted use:

Waterfront Access Property in accordance with the provisions of Article XII.

Section 3. Docks and Riparian Access in the Natural River Overlay District. Section 40-591(c)(4) of the Code of Ordinances, Township of Saugatuck, Michigan, concerning docks and riparian access in the Natural River Overlay District, is amended to read as follows:

- (4) *Docks and Riparian Access.* Riparian owners have the right of reasonable access to the river. Riparian access and construction of docks are therefore permitted Uses regulated under the provisions of Article XII, Water Access and Dock Density Regulations, and the requirements of the underlying zoning district. Docks must be constructed in accordance with the rules of Part 301 of Public Act No. 451 of 1994 (MCL 324.30101 et seq.), as amended or subsequently replaced by other applicable regulations. The use of natural material is encouraged.

Section 4. Revised Definitions pertaining to the Regulation of Water Access and Dock Density. Section 40-907 of the Code of Ordinances, Township of Saugatuck, Michigan, concerning the definitions of "Inland Waterways," "Shared Waterfront Ownership" and "Water

Frontage,” is amended to read as follows (other definitions in Section 40-907 remain unchanged):

Inland Waterways means Goshorn Lake, Silver Lake and the Kalamazoo River.

Shared Waterfront Property Ownership means the multiple or divided interest in property having frontage on Inland Waterways or Lake Michigan, through deed, land contract, non-exclusive easement or other form of dedication or conveyance, which ownership is shared by two or more persons.

Water Frontage means that portion of a Lot or Parcel, existing on documentation recorded with the county register of deeds, which abuts or intersects with Inland Waterways or Lake Michigan, whether such Lot or Parcel is owned by one or more persons. The length of Water Frontage shall be the linear measure along the Water's Edge.

Section 5. New Definitions pertaining to the Regulation of Water Access and Dock Density. Section 40-907 of the Code of Ordinances, Township of Saugatuck, Michigan, is amended by adding the following definitions to read as follows:

Access Envelope means an area extending over the water surface. The sides are formed by lines extending from the Side Lot Lines of a Lot or Parcel (or condominium unit treated as a Lot or Parcel) that is immediately adjacent to an Inland Waterway, to a point at the center of the Inland Waterway. This denotes the area limits of certain activities regulated in this article.

Boat, Vessel, or Watercraft are interchangeable terms and mean every description of a contrivance used or capable of being used as a means of transportation on water.

Boat Slip or Slip means a Watercraft docking space partially above and partially in the water, or a vertical Boat lift mechanism, offering sufficient draft and design to be capable of securing and providing boarding access to one or more Boats. A Boat Slip may be a partially submerged natural or man made ramp or may be part of a pier or Dock. Boat Slips with a draft capable of accommodating the following types of Vessels are subject to the limitations contained in this section:

- (1) Boat Slips for Vessels required by the State of Michigan to be registered; or
- (2) Boat Slips for Vessels of equal or greater size to a Vessel required to be registered by the state but which is, for reasons of foreign origin or public ownership, exempted from registration by the state.

Boat Slip areas for very shallow draft Vessels such as rowboats and sailboats less than 16 feet in length, rafts, paddleboats, swim floats, canoes and kayaks are exempt from the regulations contained in this section.

Designated Waterfront Activity Area means the area defined and located on Waterfront Access Property within which on-shore activities such as Boat landing and active and passive recreational activities are permitted.

Waterfront Access Property means a Lot or Parcel or two or more contiguous Lots or Parcels (or condominium units treated as Lots or Parcels), abutting an Inland Waterway or other inland lake or Lake Michigan, used or intended to be used in whole or in part by persons having Shared Waterfront Property Ownership at that location, for gaining pedestrian or vehicle access to the Water Frontage of an Inland Waterway or other inland lake or Lake Michigan from land without Water Frontage. Waterfront access over the Waterfront Access Property may be gained by easement, common fee ownership, lease, or other form of dedication or conveyance. The dedication or conveyance may or may not entitle physical interaction with the water body itself and may or may not otherwise entitle or limit the use and purposes of the Waterfront Access Property.

Section 6. Dock and Boat Slip Density regulations. Section 40-908 of the Code of Ordinances, Township of Saugatuck, Michigan, concerning vessel regulations is amended to read as follows:

Sec. 40-908 Dock and Boat Slip density regulations. These regulations are intended to limit the density of Docks and the number of Boat Slips in those zoned districts where Docks are permitted except that Boat Slip areas for very shallow draft Vessels such as rowboats and sailboats less than 16 feet in length, rafts, paddleboats, swim floats, canoes and kayaks are exempt from the regulations contained in this section. Docks and Boat Slips in all zoned districts are subject to the applicable rules of Parts 301 and 303 of Public Act No. 451 of 1994.

On any Lot with Water Frontage, the density of Docks and the number of Boat Slips subject to these regulations shall be as follows:

Body of Water	Length of Water Frontage	Permitted Dock Density And Number Of Boat Slips
Lake Michigan and Inland Waterways not governed by the natural river overlay district	Existing Lots of record prior to September 15, 1999 with less than 50 feet of Water Frontage:	One Dock and two Boat Slips for a total docking capacity of not more than two Boats
	Existing Lots of record prior to September 15, 1999 with at least 50 but less than 101 feet of water frontage:	Two Docks and four Boat Slips for a total docking capacity of not more than four Boats.
	Lots with at least 101 feet of Water Frontage:	One Dock and two Boat Slips for a total docking capacity of not more than two Boats for each 50 feet of Water Frontage.

Body of Water	Length of Water Frontage	Permitted Dock Density And Number Of Boat Slips
Inland Waterways governed by the natural river overlay district	Each Dock must be constructed in accordance with the rules of Part 301 of Public Act No. 451 of 1994 (MCL 324.30101 et seq.); reasonable access for the Lot owner shall be granted but the number of permitted Docks <u>per Lot</u> may be limited to no more than one. Lots regulated by the natural river overlay district must comply with Section 40-591(c)(1), (4), (9) and (10) and Section 40-591(d).	

Section 7. Dock Regulations. Section 40-909(a) of the Code of Ordinances, Township of Saugatuck, Michigan, concerning dock regulations, is added to read as follows:

- (a) Prior to the construction or installation of any permanent or seasonal Dock or Boat Slip subsequent to September 15, 1999, the owner of the Water Frontage from which the proposed Dock would extend must submit the plans for the proposed Dock to the township and receive township authorization from the Zoning Administrator to construct or install the proposed Dock. For the purpose of this section any permanent or seasonal Dock or Boat Slip that is installed or intended to be installed for more than 30 days is subject to these regulations.

Section 8. Dock Regulations. Section 40-909(d) of the Code of Ordinances, Township of Saugatuck, Michigan, concerning dock regulations, is added to read as follows:

- (d) On Lots of record created subsequent to the effective date of this subsection (_____, 200___), each Dock shall be set back a minimum of 20 feet from the Side Lot Lines as they intersect with the Water's Edge and shall otherwise be located entirely within the Access Envelope. Docks shall be designed, located and operated to avoid or minimize conflict with any other Docks.

Section 9. Waterfront Regulations. Section 40- 910 of the Code of Ordinances, Township of Saugatuck, Michigan, concerning waterfront regulations, is restated to read as follows:

Sec. 40-910 Waterfront Access Property: limitations and regulations. In any zoning district where there is an intent to create or use a Lot or Parcel (or condominium unit treated as a Lot or Parcel), easement, private park or common area for the purpose of providing shared Water Frontage access, by deed or otherwise, the following standards shall apply.

- (a) *Area Requirements:*
 - (1) The Waterfront Access Property shall be a separately described easement or Lot or Parcel (or condominium unit treated as a Lot or Parcel) or two or more contiguous Lots or Parcels.
 - (2) The Waterfront Access Property shall encompass not less than the minimum Lot Area and Lot Width required for platted single

family Lots located in the same zoning district as the Waterfront Access Property. In zoning district provisions where a Lot Width is not specified the minimum length of Water Frontage and Lot Width shall be 100 feet (as measured from at least one point at the Water's Edge).

- (3) The Waterfront Access Property shall have at least 33 feet of frontage on a Street or Private Road unless it is adjacent to or connected by easement or other conveyance to land without Water Frontage in a manner which complies with subsections (b) and (e) below.
- (4) Waterfront Access Property may be bisected by a Street or Private Road provided that each portion of the Waterfront Access Property is opposite and contiguous to the other and that each portion has measurable Lot Area outside of the Street or Private Road. On at least one side of the Street or Private Road there shall be a Lot Depth of at least 30 feet to either the Water's Edge or to the Rear Lot Line.

(b) *Easements:*

- (1) There shall be only one designated area on a Waterfront Access Property used to provide waterfront access. The width of the designated access area at the Water's Edge shall be equal to the width of the Waterfront Access Property at that location. Within the designated access area shall be a Designated Waterfront Activity Area within which all permitted waterfront activities shall be contained. The setbacks for the Designated Waterfront Activity Area from adjacent Lot Lines shall be as indicated in Table 40-910-1.
- (2) Any easement or other instrument used to convey access over or within the Waterfront Access Property or to provide connecting access to the Waterfront Access Property shall be not less than 15 feet in width and shall meet the contiguity requirements of subsection (e). The width of any connecting easement or Street Frontage shall be at least 33 feet where the access is to accommodate Motor Vehicles required by law to be licensed and registered by the state. All access easements and connecting easements shall be set back from adjacent property that is not benefitted by the easement. The setbacks shall be equal to or greater than the minimums established in Table 40-910-1.

(c) *Number of permitted accesses and required setbacks.* For purposes of this article, "accesses" shall mean the Parcels or Lots, condominium units treated as Lots or Parcels, or Dwelling Units permitted to share the waterfront access portion of the Waterfront Access Property. The number

of such accesses and the required setbacks for the easements and designated areas facilitating the accesses shall be as follows:

**Table 40-910-1
Number of Permitted Accesses
and Required Setbacks**

Body of Water	Length of Water Frontage Providing Waterfront Access	Maximum Number of Accesses Permitted (see subsection [d] for the number of accesses that may be allowed on Substandard Lots or Parcels and Easements of record)	<i>Minimum Setback Of Access Easements To And Over Waterfront Access Property And Of Designated Waterfront Activity Areas From Adjacent Non-Benefiting Property</i>
Inland Waterways governed by the natural river overlay district	150 feet	One access for each 150 feet.	10 feet
Lake Michigan and Inland Waterways not governed by the natural river overlay district	100 feet	Four accesses.	
	More than 100 feet to 200 feet	One access for each 25 feet for a total of not more than eight.	
	More than 200 feet to 300 feet	One access for each 20 feet for a total of not more than 15.	20 feet
	More than 300 feet to 400 feet	One access for each 15 feet for a total of not more than 26.	
	More than 400 feet	One access for each 10 feet.	

(d) *Substandard Waterfront Access Property of record:*

- (1) In any zoning district where there is an existing Lot or Parcel or easement of record with Water Frontage and width (as measured from at least one point at the Water's Edge) that is less than but at least 90 percent of the minimum Lot Width required for Lots in that zoning district, the Lot or Parcel may be used as Waterfront Access Property. The Waterfront Access Property will be allowed the same number of accesses allowed for Parcels which meet the minimum Water Frontage required in the zoning district, in accordance with the table in the subsection above. If Shared Waterfront Property Ownership and use had been conveyed to more than the number permitted herein prior to the effective date

of this Section, such use may continue as provided by Section 40-1011.

- (2) In any zoning district where there is an existing Lot or Parcel or easement of record with Water Frontage and width (as measured from at least one point at the Water's Edge) that is less than 90 percent of the minimum Lot Width required for Lots in that zoning district, and such Lot, Parcel or easement was, prior to the effective date of this section, not used for shared waterfront access, the Lot, Parcel or easement may not be used or conveyed as Waterfront Access Property. If Shared Waterfront Property Ownership and use had been conveyed prior to the effective date of this section, it may continue as provided by Section 40-1011 and the number of conveyed accesses may not be expanded.
- (e) *Contiguity and proximity of ownership:* Every Waterfront Access Property created must be contiguous to each Lot or Parcel, condominium unit treated as a Lot or Parcel, or Dwelling Unit deeded or otherwise granted a share in its ownership for waterfront access. For the purpose of this Article, "contiguous" shall mean any one of the following.
- (1) The Waterfront Access Property is within the same platted subdivision, condominium project, or other legally created and described land development which subdivision, condominium project or other development is contiguous with itself (i.e., is not disconnected or located in two or more distinct areas of the Township)-
 - (2) The Waterfront Access Property is directly adjacent to the platted subdivision, condominium project, or other legally created and described land development containing each of the Lots or Parcels, or condominium units treated as Lots or Parcels, or Dwelling Units granted shared ownership for waterfront access, by virtue of a shared and common property line not less than 15 feet in length.
 - (3) The Waterfront Access Property is directly adjacent to an aggregate of continuously adjacent Lots or Parcels, or condominium units treated as Lots or Parcels, granted shared ownership for waterfront access, by virtue of at least one of the continuously adjacent Lots or Parcels, or condominium units, having a shared and common property line of not less than 15 feet in length with the Waterfront Access Property.
 - (4) The Waterfront Access Property faces, but is separated by a Street or Private Road from, a platted subdivision, condominium project, other legally created and described land development, or an aggregate of continuously adjacent Lots or Parcels or

condominium units treated as Lots or Parcels granted shared ownership for waterfront access.

- (f) *Improvements:* In all zoning districts, and unless otherwise more strictly regulated under the provisions of Section 40-590, floodplain overlay district and requirements, and Section 40-591, natural river overlay district requirements, site improvements made to Waterfront Access Properties shall be subject to the following standards.
- (1) Stairways, footpaths, walkways, driveways and non-Building Structures. Stairways, paved walkways, boardwalks, footpaths, driveways for vehicles and other Structures which are not Buildings but which are allowed and constructed on Waterfront Access Properties shall be contained within easements and/or Designated Waterfront Activity Area in compliance with the setbacks required in Table 40-910-1. Docks shall be located as regulated under Section 40-909.
 - (2) Parking Areas and Accessory Buildings. Parking Areas and Accessory Buildings such as gazebos and pavilions may be permitted on Waterfront Access Property by the Planning Commission as Special Approval Uses under the provisions of Article VI. For Parking Areas, the provisions of Section 40-647 shall also apply. For Accessory Buildings, the standards of Section 40-631 shall also apply, except that the Planning Commission shall waive the requirement for a Principle Building and Accessory Buildings may not be used for the storage of Motor Vehicles.
 - (3) Parcels or Lots supporting a Dwelling. A Waterfront Access Property on which a Dwelling is constructed may not include a Parking Area or Accessory Building that is to serve more than four Lots or Parcels or condominium units treated as Lots or Parcels. When considering a Special Approval Use application which would exceed the limit of four, the Planning Commission shall require the creation of two distinct Lots or Parcels or condominium units treated as Lots or Parcels. One of the Lots or Parcels or units shall be created solely as an access property meeting the minimum standards contained in this section. The second Lot or Parcel or unit shall be a residential Lot or Parcel or unit encumbered by waterfront access easements which benefit not more than three other Lots or Parcels or condominium units treated as Lots or Parcels. The burdened residential Lot or Parcel or unit shall meet the minimum Lot Width, Lot Area and Setback standards applicable to Single Family Dwelling Lots.
- (g) No Waterfront Access Property may be used for any purpose except in accordance with this section and in accordance with the Uses allowed by the underlying zoning district.

- (h) In no event shall a canal or channel be excavated for the purpose of increasing the Water Frontage required by this section. Canals or channels which interface with an Inland Waterway or Lake Michigan and were lawfully in existence as of the effective date of this section may be cleaned and maintained in accordance with applicable laws of the State of Michigan so long as they are not enlarged.
- (i) To the extent applicable, this article shall be considered when the Township receives a Planned Unit Development application. At the discretion of the Township, and as allowed by the standards in Section 40-779 and the objectives of Section 40-780, the requirements of this article may be modified.

Section 10. Table of Uses - Docks, Piers and Wharves. Section 40-1046 of the Code of Ordinances, Township of Saugatuck, Michigan, is amended to allow “Docks, Piers and Wharves” as Uses permitted in the A-2 district. The row in Section 40-1046 pertaining to “Docks, Piers and Wharves” is amended to read as follows:

<i>Where and How permitted</i>											
Uses	A-1	A-2	R-1	R-2	R-3	C-1	C-2	C-3	I-1	R-3B	R-4
Docks, Piers, Wharves (non-commercial and not defined herein as marinas)	No	Yes 6,9	No	Yes 6	Yes 6	No	No	No	No	SAU 6,7	No

Section 11. Table of Uses - Waterfront Access Property. Section 40-1046 of the Code of Ordinances, Township of Saugatuck, Michigan, is expanded to include rows for “Waterfront Access Property” as follows:

<i>Where and How permitted</i>											
Uses	A-1	A-2	R-1	R-2	R-3	C-1	C-2	C-3	I-1	R-3B	R-4
Waterfront Access Property and foot paths, walkways, and non-Building Structures such as stairways, serving shared waterfront property owners. ⁶	No	Yes 9	No	Yes	Yes	No	No	No	No	Yes	Yes 8
Parking Areas and Accessory Buildings on Waterfront Access Property ⁶	No	SAU 9	No	SAU	SAU	No	No	No	No	SAU 7	No

Section 12. Table of Uses - Footnotes. Section 40-1046 of the Code of Ordinances, Township of Saugatuck, Michigan, is amended to include the following footnotes, as follows:

- 6 Reference *Article XII, Water Access and Dock Density Regulations*.
- 7 All Docks, Piers and wharves in the R-3B zoned district are subject to SAU approval, including those serving individuals and fewer than four shared waterfront property owners.
- 8 Uses in the R-4 zoned district are subject to planned unit development approval.
- 9 Subject further to the provisions of the natural river overlay district, if applied to the underlying district.

Section 13. Effective Date. This Ordinance was approved and adopted by the Township Board Saugatuck Township, Allegan County, on May 6, 2009, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on May 29, 2009, which is the eighth day after publication as is required by Section 401 of Act 110, as amended, provided that the effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended

William Wester
Township Supervisor

Jane Wright
Township Clerk

CERTIFICATE

I, Jane Wright, the Clerk for the Township of Saugatuck, Allegan, County, Michigan, certify that the foregoing Saugatuck Township Zoning Text Amendment was adopted at a regular meeting of the Township Board held on May 6, 2009. The following members of the Township Board were present at that meeting: Wester, Wright, Knikelbine, Roerig. The following members of the Township Board were absent: None. The Ordinance was adopted by the Township Board with members of the Board Knikelbine, Wright, Roerig, Wester voting in favor and members of the Board none voting in opposition. Notice of Adoption of the Ordinance was published in the Commercial Record on May 21, 2009.

Jane A. Wright,
Saugatuck Township Clerk