

STATE OF MICHIGAN

**COUNTY OF OAKLAND
CITY OF SYLVAN LAKE**

ORDINANCE NO. 329

AN ORDINANCE TO AMEND THE CITY OF SYLVAN LAKE CODE OF ORDINANCES CHAPTER 42, PARKS AND RECREATION, IN ORDER TO REVISE AND EXPLAIN THE RULES AND REGULATIONS REGARDING THE USE OF CITY-PROVIDED BOAT DOCK SPACES.

THE CITY OF SYLVAN LAKE ORDAINS:

PART I. That Chapter 42, "Parks and Recreation," of the City of Sylvan Lake Code of Ordinances is amended to read as follows in its entirety:

Sec. 42-1. - Regulation of recreational use by council resolution.

Except as otherwise provided in this Chapter, regulations and use fees for the use of the public recreation facilities of Sylvan Lake shall be established by city council resolution. Any violation of such regulations or use of the city's recreational facilities without paying the appropriate and established fees shall be unlawful and a violation of this Code.

Sec. 42-2. - Dock space license requirement.

- (a) No person shall construct, maintain, or use any dock or dock space extending into the waters of Sylvan Lake from the riparian lands between Sylvan Lake and the adjacent public roads within the City of Sylvan Lake or from any city park or public area without first applying for and obtaining a dock space license under the provisions of this chapter.
- (b) The licensing period for boat dock spaces shall be the calendar year. Applications for licenses shall be received by the City Manager on and after January 1 of each year. Returning applicants must return their completed application, supporting documentation and applicable fee at one time by March 1. All applications for licenses shall be on a form supplied by the City.
- (c) The City Manager shall review all applications and shall issue licenses only if the proposed use, location, and construction specifications are consistent with the public safety and in accordance with regulations pertaining to dock usage provided herein.
- (d) All licenses shall be revocable by the City Manager at any time and shall be expressly conditioned upon compliance with the rules and regulations provided herein. The City shall have full and sole discretion with regard to the issuance of any license and/or the assignment of any specific dock to any applicant.

- (e) The City shall charge a non-refundable dock application fee pursuant to the schedule adopted by City Council resolution from time to time, and will include a park tag, ramp key, and park registration fee, as well as one watercraft sticker or small watercraft sticker, depending on the watercraft registered for the dock space. All fees received from applicants by the City shall be used to defray the payment of property taxes, policing, and administrative costs, and to maintain the recreational facility, water, and waterfront.
- (f) The license granted is for the sole use of the Licensee. Licensee may construct or install a dock or mooring for a water craft belonging to the Licensee. At least one watercraft docked or moored must be solely owned by the Licensee of that space. The Licensee shall provide proof of ownership to the City by presentation of a current original water craft registration as issued to the Licensee by the State of Michigan and proof of insurance for the watercraft. The watercraft must be owned and registered in Licensee's name only.
- (g) Upon successful application and payment of the non-refundable dock application fee, one boat dock license per household will be granted to a returning qualified applicant.
- (h) Dock spaces that remain unfilled after March 1 (or the additional 14-day period if applicable) will be offered to the applicants on move list and the wait list following those procedures.

Sec. 42-3. – Dock space application requirements; form

- (a) The applicant shall be the resident taxpayer or permanent renter for the residence identified on the application. The applicant may only be one person, or co-applicants if related by marriage. Co-applicants shall not include children, parents, siblings, or other relatives or non-relatives, whether living in the same household or not. The City may use any means to determine the permanent residency of applicants. If it is determined an applicant is not a resident, no license may be issued to the applicant, and any license previously issued shall be immediately revoked. The City retains the right to deny or revoke an applicant's dock license for violations outlined in this ordinance.
- (b) The City shall develop a dock space license application form to expedite the application process. Items to be provided or completed on the application shall include:
 1. Applicant's name and address of permanent residence, telephone numbers, and current email address. It is the applicant's responsibility to update these forms of contact if they change.
 2. Current driver's license or other photo identification as provided by the State of Michigan.
 3. A statement indicating the applicant shall be responsible for any dock, mooring, and/or water craft placed in the licensed space.
 4. The licensee shall provide and maintain proof of appropriate PL/PD insurance for licensee's dock, mooring and water craft, and the applicant shall include a statement that licensee shall hold the City forever harmless during any proceeding against the licensee as a result of being granted a license.

5. A statement indicating the applicant agrees to accept the dock space provided in "as is" condition, and that the City shall not be held liable, or responsible, for the removal of obstructions or hazards within the licensed dock space, including but not limited to: damaged or broken dock parts, stumps, branches, glass, litter, rocks, concrete, etc.
6. A statement indicating that the licensee agrees to use the space granted at licensee's risk.
7. A statement indicating by licensee's signature that licensee has read and understands the applicable City ordinances.

Sec. 42-4 – Dock Space Application; Wait List and Returning Applicants

The City shall maintain a Boat Dock List of current licenses, as well as a Move List and Wait List of applicants that have successfully applied.

(a) Returning licensees; Boat Dock List.

Qualified returning licensees, who have satisfactorily used a dock space during the immediate prior year shall be on the Boat Dock List and be given priority for the same location. Prior year dock space holders must return their completed boat dock space application by March 1 each year, in order to maintain priority status. Failure to apply by March 1 shall result in forfeiture of priority status and removal from the Boat Dock List; provided, however, that if the licensee satisfactorily submits the required information, together with a \$300 reinstatement fee and license fee within 14 days of the original due date such status as a returning licensee shall be reinstated. Failure to apply after the additional 14-day period will result in a permanent loss of dock space.

(b) Wait List.

1. The City will establish and maintain a permanent waiting list (List) of residents desiring a dock space. Upon receipt of a satisfactorily completed wait list application and one-time non-refundable administration fee of \$100, the applicant will be placed at the bottom of the Wait List. Applicant must be a resident at the time of application. Applicants on the Wait List who move from one home within the City immediately to another home within the City shall retain their position on the Wait List.
2. An applicant will be removed from the Wait List if it is found at any time the applicant is no longer a resident of the City. If the applicant moves back into the City, the procedure to be placed on the Wait List may be utilized.
3. After the process has been completed for those on the "Move List," (separate policy), available dock spaces will be offered to the resident at the top of the Wait List. The new applicant must follow the instructions as supplied by City Hall in choosing, making application and submitting payment for their new dock space. If a Wait List applicant declines the available dock space, they will be removed from the Wait List. However, if they immediately choose to return to the bottom of the Wait List, they may do so by paying an administration fee of \$50. The available dock space will then be offered to the next resident on the Wait List. This procedure will be followed until all available dock spaces are filled.

- (c) Pursuant to a 1977 Consent Agreement, the homeowners or renters at the below street addresses shall be given priority on an annual basis to apply for dock spaces indicated with the associated address. However, should such individuals fail to apply by June 1 of the calendar year, the dock space may be made available to the next applicant on the Wait List for use of the dock space for the current calendar year only.

Lakeview Boat Space	Street Address
1	1625 Lakeview
3	1619 Lakeview
4	1615 Lakeview
6	1609 Lakeview
7	1605 Lakeview
8	1599 Lakeview
9	1589 Lakeview
10	1581 Lakeview
12	1575 Lakeview
13	1569 Lakeview
15	1565 Lakeview
16	1559 Lakeview
18	1555 Lakeview
19	1549 Lakeview
20	1545 Lakeview
22	1539 Lakeview
23	1535 Lakeview
24	1529 Lakeview
25	1523 Lakeview
27	1517 Lakeview

Pursuant to the Consent Agreement, licensees of the dock spaces listed above are subject to the same rules and regulations outlined in this ordinance with the following exceptions:

1. The deadline for submitting the completed application and payment is June 1.
2. The application fee is \$200 annually.
3. The application and fee is for the licensing of the dock space only, and does not include any additional keys, tags or stickers.
4. The dock holders are not required to have a watercraft in their dock space.

Sec. 42-5 Sharing a Dock Space

The City may permit the mooring or docking of a water craft registered to one (1) other permanent resident of the City at a dock space currently licensed. Such additional permanent resident shall be identified, for purposes of the City's Boat Dock List, as a "sharer." The Licensee must provide a letter to the City requesting permission to share their space. The sharer must then submit the same completed application and fee as the licensee, proving residency, sole ownership of watercraft and valid insurance for the watercraft and will receive a park tag, boat ramp key and one watercraft sticker for the registered watercraft. To encourage licensees to share their licensed dock space with another resident, the fee for a licensee will be one-half the regular annual fee. In order to receive the reduced rate, the licensee and sharer must make successful application at the same time. There shall be no refunds after the initial application is made.

Sec. 42-6 The Installation of Docks or Moorings; Rules Regarding Use of Dock Space

- (a) The City Manager, or persons appointed by the City Manager, may periodically inspect the use of dock spaces for compliance with the following:
1. No dock, mooring, or water craft attached to a dock or mooring, shall extend beyond 60 (sixty) feet from the edge of the seawall or shoreline. If a longer dock is needed due to shallow depth or other circumstances, an appeal may be made to the City Manager for a variance.
 2. There shall be no more than two water craft per dock space, except as provided in paragraph 3 below
 3. Up to two (2) additional small watercraft specifically a kayak, canoe, paddle board or pedal boat—may be kept in the dock space. Such watercraft must be registered to the licensee or approved sharer.
 4. All watercraft docked, moored, or stored in a dock space, or using the boat ramp, must have a city-issued boat sticker permanently affixed to it.
 5. The City shall sell two (2) types of boat stickers depending on need. Both stickers will allow the registered watercraft to be kept at the appropriate dock space. One sticker will also allow the use of the boat ramp and a different sticker will be affixed to small watercraft described in paragraph 3 above.
 6. A dock, if installed, shall not be less than 2 feet in width.
 7. Under no circumstances shall any portion of the dock, licensee's personal property, or any mooring facility be attached to, or rest on, the seawall or any other City property; provided, however, that Permission may be granted by the City Manager to allow a dock to rest on the seawall for safety reasons only.
 8. Licensee shall not construct, install, or allow any dock, mooring, or watercraft to be installed outside the confines of the space provided as marked on the seawall by the City for them.
 9. No watercraft shall be moored or docked, and no dock or mooring shall be constructed, in a way that makes it a hazard to any other property, either public or private.
 10. Applicants receiving a license to use a dock space must construct or install a boat dock or mooring facility and utilize it for docking or mooring watercraft within the licensed space on or before June 1 of the license year.

11. Licensee shall not lease or sublease any portion of the dock space licensed to them or lease of rent any watercraft from any dock space of Public Property.
 12. At least one watercraft must be registered solely to the licensee.
 13. No resident in default to the City for more than \$100, at time of application, will be granted a dock space license.
- (b) For deficiencies related to paragraphs 1 through 9:
1. The City shall notify the licensee in writing, sent to the address provided on the application, of all deficiencies related to this ordinance.
 2. Licensee shall have seven (7) calendar days in which to correct the deficiency, and licensee shall notify the City of the correction in writing.
 3. The City Manager, or designee, shall determine if licensee has corrected the deficiency. If the City Manager or designee determines that the resident has failed to make appropriate corrections, the City Manager shall revoke the licensee's docking privileges. The resident may re-apply for a dock space and shall be placed at the end of the Wait List.
 4. If licensee has not removed all water craft, docking and mooring equipment within 48 hours of revocation notice stated above, the equipment will be removed following the provisions for violations related to paragraph M.
- (c) For deficiencies related to paragraph 10, failure to comply with this requirement will result in immediate forfeiture of license and all fees related to application and licensing. The City will notify licensee of dock space license forfeiture. The vacated space will then be made available to the next applicant on the Wait List. The new licensee shall have 10 business days, following the date of issue of license, to install a boat and dock or mooring facility.
- (d) For deficiencies related to paragraph 11, if it is determined that licensee has leased or sub-leased any portion of the dock space to a third party, circumventing the process described in this Chapter, or rented or leased water craft from any dock space, the licensee's dock space license shall be immediately revoked and the licensee's priority position on the List is forfeited. The licensee and any other resident residing at the same address as licensee, must wait two (2) years before applying to be placed on the Wait List. The City may, at its option, take other actions as it deems appropriate.
- (e) For deficiencies related to paragraph 12, the City shall notify licensee by telephone, at the telephone number(s) indicated on the application, that an unregistered water craft has been identified as moored or docked at licensee's dock space. Licensee shall have two (2) business days to remove the water craft from the dock space or notify the City that it is not licensee's property. If licensee indicates that the watercraft is not licensee's property, the City will treat the subject water craft as abandoned. If the licensee fails to remove the unregistered water craft, or indicates that the water craft is not licensee's property, then within the two (2) business days the City will notify the licensee by registered mail that licensee has five (5) business days to remove or register the water craft. Failure to comply shall result in forfeiture of the dock space license and removal from the Boat Dock List.

Sec. 42-6 Removal of Watercraft, Docks, and/or Moorings after November 15 of Each Calendar Year.

- (a) Licensee shall remove all watercraft, docks, and moorings prior to November 15 of the license year.
- (b) If licensee fails to remove all watercraft, docks, and moorings prior to November 15 of the license year, licensee shall forfeit licensee's dock space and priority position on the List, and the City shall remove any moorings, docks, posts, watercraft, and other personal property of the licensee in the dock spaces. The licensee shall be responsible to reimburse the City for the City's removal of materials from licensee's dock space after November 15, the City shall have the following options related to materials removed from dock spaces:
 - 1. Charge a minimum fee of \$50.00 per post or smaller item removed from the water.
 - 2. Charge a minimum fee of \$75.00 per dock section removed from the water.
 - 3. Charge a minimum fee of \$200.00 per hoist removed from the water.
 - 4. Charge those fees required to retain appropriate professional services for removal of watercraft.
 - 5. Charge a fee of \$50.00 per man hour for labor and supervision, in addition to those fees described above, to remove licensee property from the water and store items removed from the dock space at a safe location.
- (c) The City shall not be liable for the condition of licensee's property removed from the water by the City, or for any resulting damage due to storage or transportation. The City shall document its removal of the licensee's property from the dock space and notify the licensee, in writing, of the action taken by the City and all removal fees and related costs. Upon payment of removal fees and costs, licensee may retrieve licensee's property from the storage location at licensee's cost. If the licensee does not respond by payment of the indicated fees and costs, the material removed from the water shall be considered abandoned and disposed of as seen fit by the City Manager. All unpaid fees as described above shall become a lien against the licensee's property within the Corporate Limits of the City and shall be added to the tax roll for the next tax period.

Section 42-7. – Canoe and Kayak Storage

Storage spaces may, at the City's discretion, be made available at the community center for non-motorized canoes and kayaks. A fee of \$25 will be charged to rent space to store one item on the storage rack. The City will establish and maintain a permanent waiting list (Storage List) of applicants desiring rack storage spaces. Upon initial application, the applicant shall be placed at the end of the Storage List. The Storage List will be available during normal business hours for inspection by applicants. As rack storage spaces become available, they will be offered to the resident at the top of the Storage List. The resident must then complete and return a rack storage application that will be supplied by City Hall. The completed application and fee must be submitted to City Hall following the same guidelines as a dock space license. When the application and fee are submitted to the City, a boat launch sticker will be provided for the watercraft to be stored. The sticker must be placed on the stored watercraft. The watercraft may only be stored on the rack from April 1 to November 15 of each year.

Section 42-8. Waiver

With the exception of the \$300 reinstatement fee for late application, the City Manager may waive or modify penalties of this policy due to extenuating circumstances

Sec. 42-9. - Penalty.

Any person who violates any provision of this chapter or any of the rules or regulations adopted pursuant to this chapter shall be punished by a fine not to exceed \$500.00 and shall pay costs of prosecution including reasonable attorney fees, or by imprisonment in the county jail for a period not exceeding 90 days, or by such fine, costs, and/or imprisonment.

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Sylvan Lake Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Sylvan Lake Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Enactment; Effective Date. This Ordinance is declared to have been enacted by the City Council of the City of Sylvan Lake at its meeting duly called and held on the 10th day of May, 2017, and shall be given publication in accordance with applicable law.

Ayes: Dzenko, Endres, Lorenz, Meskin, Zubrzycki

Nays: None

Abstentions: None

Absent: None

Adopted: 05/10/17

Published: 05/17/17

Effective: 05/17/17

Posted: 05/11/17

Locations: City Hall, Community Center, Police Dept.

I, Dennise Dryden, City Clerk for the City of Sylvan Lake, Michigan, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Sylvan Lake at a Regular City Council Meeting, held on _____, 2017, the original of which is on file in my office.

I have hereunto affixed my official signature this _____ day of _____, 2017.

Dennise Dryden, City Clerk
City of Sylvan Lake