

ORDINANCE #_____**Ordinance to Regulate Aeration/Circulating Pumps on
Lake Minocqua within the Town of Minocqua****1. Intent and Purpose.**

The frozen surface of Lake Minocqua is regularly utilized by snowmobilers, UTV/ATV operators, cross-country skiers, snowshoers and nature enthusiasts. This use is not only important for recreational pursuits, but is also a necessary asset to several businesses in the community as well. The existence of aeration equipment which dissipates or impedes ice formation on Lake Minocqua presents a threat to public safety, health and welfare for all persons using ice-covered lake surfaces on Lake Minocqua. Accordingly, it is the intent and purpose of the Town Board to adopt reasonable regulations concerning removal of ice by use of aerators/circulation pumps on Lake Minocqua in the Town of Minocqua, Oneida County, Wisconsin.

2. Authority.

This Ordinance is adopted by the Town Board of the Town of Minocqua in the exercise of its village powers and in the interest of the health, safety and welfare of citizens and visitors to the Town of Minocqua. The terms and provisions of this Ordinance shall be interpreted and applied as minimum standards and requirements for the promotion and protection of the public health, safety and welfare and for the public peace and preservation of natural resources and public and private property within the Town of Minocqua, Wisconsin.

3. Definitions.

“Aerator” means any device or equipment used on Lake Minocqua which affects the water’s surface by supplying or inducing air into water so as to prevent or inhibit the natural formation of ice on the water’s surface.

“Circulating Pump” means a pump or other mechanized apparatus designed to pump and circulate water or functions by circulating water, the effect of which is to prevent or impede the normal formation of ice on the water’s surface.

“Person” means a natural person, partnership, corporation, association, municipality or governmental unit.

4. **Regulations.**

The following regulations shall be adopted concerning operation of aeration/circulating pump devices on Lake Minocqua in the Town of Minocqua:

- A. Any person operating an aeration system must have the aeration/circulating pump device attached to a permitted legal structure on the lake.
- B. Any person operating an aeration/circulating pump device must perform one of the following:
 - i) Erect and maintain a barricade around the area of open water created by the aeration/circulating pump consisting of uprights that are spaced at adequate intervals to maintain the barricade and that are connected by continuous rope, cord, or similar material at least 2-1/2 feet and not more than 4-1/2 feet off the surface. The connecting rope, cord, or similar material shall have reflectorized, fluorescent, or lighted ribbon or tape or other reflectorized devices attached to it, so as to be highly visible, and shall be of sufficient strength to permit retrieval of the barricade following melting of the ice. Any person erecting a barricade shall remove the barricade and all parts of the barricade or mechanism immediately after the ice has melted. Any instance of a barricade or parts of the barricade being allowed to float free or sink shall constitute a violation of this ordinance; or
 - ii) Erect and maintain on the structure a visual warning sign that contains the words "OPEN WATER" with letters at least 6 inches in height which are reflectorized.
- C. No person may by use of an aeration/circulating pump device interfere or alter ice in the riparian zone of other property owners' properties.
- D. No person shall operate an aerator/circulating pump which results in the creation of open water more than 30 feet lakeward from the structure which the aerator/circulating pump is attached to. This prohibition terminated during the time period beginning April 1st each year until lake ice has melted that spring.

5. **Town Board Discretionary Order.**

If, at the discretion of the Town Board, operation of an aeration/circulating pump device has created an unreasonable risk of exposure to injury for persons recreating on the ice of Lake Minocqua, then the Town Board shall have the authority to order cessation of operation of said equipment even if operated in accordance with the foregoing regulations until such unreasonable risk of injury has ceased.

6. **Penalties and Enforcement.**

- A. **Penalty.** Except as otherwise provided, any person who shall violate any portion of this Ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$250, together with all applicable statutory costs and expenses as adopted by the Oneida County Circuit Court.
- B. **Continuing Violations.** Each violation and each day a violation continues shall constitute a separate offense and shall be punishable as such.

Violation of this ordinance shall be deemed a Nuisance, irrespective of how that term is defined elsewhere in the Code. Nothing in this Ordinance shall preclude the Town from maintaining an appropriate action seeking injunctive relief from a court of competent jurisdiction to prevent or remove a violation of any provision of this Ordinance.

- C. **Severability.** The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town of Minocqua would have passed all other provisions of this Ordinance irrespective of whether or not one or more provisions may declared invalid. If any provision of this Ordinance or the application to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected.

7. **Coordination with Department of Natural Resources.**

The Town of Minocqua shall send a complete copy of this Ordinance to the local Department of Natural Resource office and/or recreational safety warden per Wisconsin State Statute 30.77(4) and NR 5.15 Wisconsin Administrative Code.

8. **Effective Date.**

This Ordinance shall become effective upon passage and the day after publication.

Adopted this ____ day of March, 2019.

Mark Hartzheim, Town Chairman

Attest: Town Clerk, Roben Haggart