

ORDINANCE NO. 10, 1953

An Ordinance authorizing and establishing regulations for the improvement, care, sanitary control, protection from contamination and other injury of the impounding Reservoir, known as Bean Blossom Reservoir constructed for water supply purposes by the CITY OF BLOOMINGTON, INDIANA, and providing for the licensing of boats, the building and licensing requirements of docks, and setting forth rules and regulations governing the use of said Reservoir, as it pertains to all forms of recreation; and providing further the penalties for the violation of this Ordinance and for the enforcement thereof.

WHEREAS, The Common Council of the CITY OF BLOOMINGTON, INDIANA, and the BOARD OF PUBLIC WORKS AND SAFETY of said City in the year 1951 authorized the commencement of a water works program as an extension and addition to the existing water works system now owned and operated by the CITY OF BLOOMINGTON, and

WHEREAS, The primary purpose of said program was to provide a pure, adequate water supply for the CITY OF BLOOMINGTON, and

WHEREAS, The necessary funds with which to finance this program were raised by a bond issue approved by the Public Service Commission of the State of Indiana, and

WHEREAS, The CITY OF BLOOMINGTON owes its primary obligation to the users of water and to the purchasers of said bonds and therefore, must make reasonable charges and regulations for the use of said RESERVOIR, and

WHEREAS, The entire RESERVOIR area located within Benton Township of Monroe County, Indiana, and Jackson Township of Brown County, Indiana, is the property of the CITY OF BLOOMINGTON, and

WHEREAS, It is a duty of the Common Council of the City of Bloomington, Indiana, to protect this property so purchased in order that the primary purposes of the RESERVOIR may be served

NOW, THEREFORE, BE IT OBTAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON:

SECTION I. DEFINITION OF TERMS

When used in this Ordinance:

- (a) "City" means the City of Bloomington, Indiana
- (b) "Reservoir" means the artificial lake and water known as Bean Blossom Reservoir, impounded therein by means of the dam and spillway constructed across the valley of Bean Blossom Creek in Benton Township of Monroe County, Indiana.
- (c) "Watercourse" means any stream, natural or artificial channel, spring, or depression of any kind in which water flows continuously or intermittently over any part of the drainage area, directly or indirectly into any part of the Reservoir.
- (d) "Intake" means the place where the water supply for the City is taken from the Reservoir.

- (e) "High Water Line" means the contour known as 635 referred to in United States Government elevations as being a contour line 635 feet above sea level.
- (f) "Shoreline" means the extended point where the plane of the surface of the waters of the Reservoir borders the land.
- (g) "Marginal Land" means the land owned or controlled by the CITY adjacent to the shoreline and not flooded by the waters of the Reservoir.
- (h) "Person" means the feminine as well as the masculine when applicable, and the plural as well as the singular when applicable; it also includes a firm, corporation, association, club, organization, or other entity.
- (i) "Subdivision" is defined as a tract of land jointly owned by one or more persons whereon five (5) or more dwellings or business establishments of any kind or character are proposed to be located.

SECTION II. SANITARY REGULATIONS.

1. It shall be unlawful for any PERSON to place, deposit, or permit to be deposited in any insanitary manner upon public or private property below the HIGH WATER LINE any sewage, garbage, waste or waste water.

2. It shall be unlawful to construct or maintain any privy, privy vault, septic tank or septic system seepage pit, or other facility intended or used for the disposal of sewage or waste in any area which will contaminate the WATERCOURSE which continuously or intermittently flows directly or indirectly into the RESERVOIR.

3. The owner of all houses, buildings, or property used for human occupancy, employment, business, recreation, or other purposes situated above the HIGH WATER LINE shall be required at their own expense to install suitable toilet facilities and facilities for the disposition of waste water thereon which will not contaminate the RESERVOIR or any WATERCOURSE.

4. Before the beginning or construction of private sewage disposal systems or privies on any lands bordering the RESERVOIR, the owner or the agent of the owner shall first obtain a written permit signed by the City Engineer. The application for such permit shall be made on a form furnished by the CITY OF BLOOMINGTON which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the City Engineer. A permit and inspection fee of Twenty-five (\$25.00) Dollars shall be paid to the City Clerk Treasurer at the time that the application is filed.

5. All sewage disposal systems and privies shall be constructed and maintained at no expense to the CITY in an approved manner as described and illustrated in Bulletin S.E. 8 and S.E. 11 of the Indiana State Board of Health, copies of which are hereby incorporated by reference as a part of this section, and two (2) copies of which shall be kept on file in the office of the City Engineer, Bloomington, Indiana.

6. All persons, firms, or corporations platting SUBDIVISIONS in the vicinity of the RESERVOIR area wherein any part of the land in said SUBDIVISION borders upon or drains across land owned by the CITY OF BLOOMINGTON shall submit to the Indiana State Board of Health the plan by which they propose to dispose of sewage and

waste, and shall secure approval of said plan from the Indiana State Board of Health before any system for the disposal of sewage or waste water is installed or constructed.

7. The City Engineer, or some person designated for and on behalf of the CITY OF BLOOMINGTON by the City Engineer, shall be allowed to inspect the work upon any such sanitary or sewage facility or structure at any stage of construction, and in any event, the applicant for the permit shall notify the City Engineer when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made by the City Engineer within a reasonable time after the receipt of the notice. The City Engineer of the City of Bloomington and other duly authorized employees of the City shall be permitted to enter upon all properties for the purpose of inspecting, observing, and testing any sanitation facilities installed upon any lands bordering the RESERVOIR.

8. Any person found to be violating any provision of this Ordinance shall be notified by the CITY in writing stating the nature of the violation and providing a time limit not to exceed two (2) weeks for the satisfactory correction thereof. The offender shall, within the period of two (2) weeks stated in such notice, permanently cease all violation or correct the same at his own expense in a manner approved by the City Engineer.

9. Any persons violating any of the provisions of this Ordinance shall become liable to the CITY for the expense, loss, or damage occasioned by reason of such violation, and such violation shall be deemed a nuisance subject to injunction.

SECTION III. TRESPASS

10. The CITY owns the land upon which the RESERVOIR is constructed, and it is hereby declared to be the policy of the CITY that any entrance upon the RESERVOIR or lands owned by the CITY, without the permission and consent of the CITY as hereinafter defined, is hereby declared to be a trespass upon CITY lands, and as such, a violation of the law of the State of Indiana.

SECTION IV. BOATING

11. No boat, craft, or floating raft of any kind may be propelled, kept, or used in the RESERVOIR, or stored or kept on the MARGINAL LAND surrounding the RESERVOIR until the owner thereof shall register such boat or craft and secure a written license and registration number from the CITY based upon a written application setting forth the type of such boat, craft, or floating raft, its means of locomotion, the name and address of the owner thereof, the number of passengers which said boat or craft accommodates, and such further information as the CITY may from time to time require.

12. Such license, when granted, shall be in writing and shall be further evidenced by official registration number plates or markers to be furnished by the CITY to the Licensee, and such plates or markers shall be uniformly placed in a conspicuous position on the bow of the boat or craft as may be designated by the CITY. Such registration numbers shall be issued annually and shall expire on the next ensuing December 31st of the year issued. A new license may be obtained by filing a like application and the payment of the annual fee before said boat or craft may be lawfully used on the RESERVOIR in the following year.

13. The registration plates shall be obtained at the City Water Office, Bloomington, Indiana, during business hours and shall give the following information:

- (a) The year of issue.
- (b) The type of boat.
- (c) The number assigned to each particular boat.
- (d) The name of the Licensor, The City of Bloomington.

14. In order to provide a fund used to defray the expenses of inspection and supervision of boats or craft on the RESERVOIR; to enforce the provisions of this Ordinance; and for the improvement of navigation and the safety and pleasure of boating, said application or renewal must be accompanied by the payment of annual license fees at the City Water Office in Bloomington, Indiana, as follows:

A. For each row boat or canoe, not for hire or rental, not equipped with motor or sails, there shall be an annual license fee of Five (\$5.00) Dollars, and this type of craft shall be known and designated as Type A, and the letter "A" shall precede the number assigned to the boat or canoe.

B. For each boat, not for hire or rental, including boats equipped or used with outboard or inboard motor or sails, there shall be an annual license fee of Fifteen (\$15.00) Dollars, and this type of craft shall be known and designated as Type B, and the letter "B" shall precede the number assigned to the boat.

15. Commercial. No boat, canoe, or other vessel, shall be placed upon or operated upon any water a part of the Bean Blossom Reservoir for fee or profit, for hire or rental to a second party or parties, either as a direct charge to such second party or parties, or as an incident to other services provided to such party or parties, except as specifically authorized by lease, license, or concession contract with the CITY. The general regulations for such craft for hire or rental shall be those which apply to non-commercial craft except that the classes A and B inclusive, designated and defined above, shall when for hire or rental, be known as classes RA, and RB, respectively, and shall be so identified on registration plates.

16. For the purposes set forth above with reference to regulations of craft upon the Reservoir, and in order to insure the necessary and proper inspection of boats and motors used for rental or hire on the Reservoir, so that the provisions guaranteeing public safety may be continuously enforced and at all times observed on the waters and within the boundaries of the Reservoir, the fees for licensing and registering such boats and craft for hire or rental shall be in accordance with the following schedule: Class RA, ten dollars (\$10.00); Class RB, twenty-five dollars (\$25.00).

17. For the fractional part of any calendar year the license fee shall be the same as hereinabove specified.

18. No boat or craft shall be permitted on the RESERVOIR that is more than Eighteen (18) feet long from bow to stern and no floating or stationary raft shall be permitted on the RESERVOIR.

19. Unsafe boats shall not be used upon the water of the Bean Blossom Reservoir. All boats operated upon the Reservoir must be equipped for safe operation, and shall be equipped with oars and paddles and with a sufficient number of an approved type of life preservers, which shall at all times be in place and available to each passenger in the boat when such boat is being used or operated upon the waters of the Reservoir.

20. All boats being used or operated upon the waters of the Reservoir shall be subject at any time to inspection and certifications in respect to condition, seaworthiness, and any factors relating to safety.

21. The CITY may, in the discretion of the Common Council and upon written application, issue a special permit for boats or craft for any properly sponsored special event.

22. No person shall operate any type of boat within Four Hundred (400) feet of the SHORELINE at a speed in excess of five (5) miles per hour, and no person shall at any time operate any boat or craft within five hundred (500) feet of the intake structure.

23. No boat or craft shall be operated on the surface of the RESERVOIR at a speed or in a manner in conflict with Indiana State Laws concerning operation of water craft, provided, however, that the maximum speed that any boat or craft shall be operated on the surface of Bean Blossom Reservoir shall be fifteen (15) miles per hour.

24. The attention of all boat licensees is directed to Chapter 243 of the Acts of the General Assembly of the State of Indiana duly enacted in 1951.

25. No boat or craft commonly known as a houseboat on which the occupants have sleeping accommodations, or remain for more than a few hours, shall be permitted on the RESERVOIR, and no boat operated on the RESERVOIR shall have toilet facilities.

26. Persons using or operating any boat or craft on the waters of the RESERVOIR shall do so in such manner as not to create any insanitary condition in or about said waters, and shall not pollute said waters by their discharge, in any material amount, of oil or other polluting liquid or solid tending to make said waters unwholesome or unfit for water supply purposes or injurious to the aquatic life thereof.

27. No boat or craft shall be used, or operated, nor any horn, or sound device sounded so as to create a nuisance or disturb the peace or quiet of any neighborhood.

28. The CITY shall at all times have power and authority to prohibit, restrict, or otherwise limit or regulate the keeping, maintenance, or operation of any or all boats and craft on the waters of the RESERVOIR should it become necessary to do so in the interest of the public health or safety, or for the protection or improvement of the RESERVOIR or other cause.

29. Any boat or craft found abandoned or adrift in the RESERVOIR or any unlicensed boat or craft thereon shall be taken up by the CITY and the CITY shall have a lien thereon for all license fees therefor and the expenses of taking, towing, keeping, advertising, and selling of the same and for all damages caused by such craft to property of the CITY, and may enforce such lien by advertisement and sale of such craft in like manner as chattel mortgages may be foreclosed under the laws of this State. Nothing herein shall be construed as exonerating the owner or operator of any boat or craft from personal liability to the CITY, or any other person, for any damage or injury caused by such boat or craft.

SECTION V. DOCKS AND PIERS

The CITY hereby reiterates its policy of not limiting the use of privately owned property, but since usable docks and piers can only be constructed in the Reservoir Area owned or controlled by the CITY OF BLOOMINGTON, the following regulations pertaining to said structures are hereby enacted:

30. No person shall construct a dock, pier, boathouse, or structure of any type upon city owned property without permission of the City Engineer. Any person desiring to construct any type of structure that extends into the RESERVOIR shall submit to the City Engineer his plans and specifications for such structure and shall pay to the City Water Office of the CITY OF BLOOMINGTON a dock license fee in the amount of Fifty (\$50.00) Dollars. In order to cover inspection costs there shall be charged a fee for the annual renewal of such dock or pier license in the amount of ten dollars (\$10.00).

31. No person shall be permitted to construct a pier, dock, boathouse, or any structure that extends into the RESERVOIR for a distance of more than fifty (50) feet.

32. No person shall be permitted to construct a dock which shall be in excess of eight (8) feet in width.

33. All persons constructing docks in the Reservoir Area shall maintain said docks, and in the event that said dock is not properly maintained, shall remove the same at the request of the City Engineer and at their own expense.

SECTION VI. FISHING

34. No person shall take, catch, or attempt to take or catch any species of fish from the Reservoir Area without a State of Indiana Fishing License in full force and effect issued to said person and in his possession; and all officers of the State of Indiana with proper credentials are hereby permitted to enter upon the Reservoir Area for the purpose of enforcing the laws of the State. Goldfish and other of the carp group of fishes shall not be used as bait at any time or place on or from the shores of the Bean Blossom Reservoir.

SECTION VII. USE OF FIREARMS.

35. No person shall carry, fire, or discharge any firearm of any description within the limits of the Reservoir Area except the police officers of the CITY in the performance of their duties.

SECTION VIII. SWIMMING

36. It is hereby declared to be the policy of the CITY that swimming shall be permitted in the RESERVOIR only at sites designated or authorized by the CITY OF BLOOMINGTON, and in a manner to be provided for by appropriate ordinance at a later date. The CITY does not contemplate the permanent prohibition of swimming but does hereby assert that when swimming is permitted, this form of recreation can only be undertaken from the shores of lands owned by the CITY under proper municipal regulation.

SECTION IX. LAKE POLICE OFFICERS

37. The CITY may appoint and employ such number of lake police officers or detail policemen currently employed to enforce the provisions of this ordinance as the circumstances may from time to time require. In each instance when such officer is detailed to enforce the terms of this ordinance, such officer shall apply to the Sheriff of Monroe County and the Sheriff of Brown County for permission to act for and on their behalf as deputies as well as officers of the City of Bloomington in the enforcement of the provisions of this Ordinance.

SECTION X. PUBLIC NUISANCE

38. The violation of any provision of this Ordinance whereby any insanitary condition is created is hereby declared to be a public nuisance.

SECTION XI. CIVIL LIABILITY

39. Any person violating any provision of this Ordinance shall become liable for all damage and expense thereby caused to the CITY or any other person or persons by reason of such violation in addition to the criminal penalties herein provided.

SECTION XII. PENALTIES.

40. Any person violating any of the provisions of this Ordinance, unless otherwise indicated, shall be deemed guilty of a misdemeanor. Each day that the condition or act in violation of this Ordinance shall remain or continue shall be deemed on the part of the person or persons guilty of such violation to be a separate and distinct offense. Each offense shall be punished by a fine of not less than Five (\$5.00) Dollars and not more than Two Hundred (\$200.00) Dollars.

SECTION XIII. PARTIAL INVALIDITY

41. The invalidity of any portion, section, sub-section, sentence, clause or provision of this Ordinance, shall not affect the validity of any other portion of this Ordinance, which can be given effect without such invalid part or parts.

This Ordinance shall be in full force and effect from and after the date of its passage and legal publication in accordance with the law.

Passed and adopted by the Common Council of the City of Bloomington on the 19 day of May, 1953.

S/Emmett Kelly
Emmett Kelly, Presiding Officer

ATTEST:

S/ Esther F. Leavitt
Esther F. Leavitt, Clerk-Treasurer

Presented by me to the Mayor of the City of Bloomington on the 19 day of May, 1953, at the hour of 10:15 o'clock.

S/Esther F. Leavitt
Esther F. Leavitt, Clerk-Treasurer

This Ordinance approved and signed by me on the 19 day of May, 1953, at the hour of 10:15 o'clock P.M.

S/ Emmett Kelly
Emmett Kelly, Mayor