



City of Bloomington
Common Council

Legislative Packet

Regular Session

03 May 2006

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402

812.349.3409

council@bloomington.in.gov



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Final Action:

None

Legislation and Background Material for First Reading:

App Ord 06-01 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund for Animal Care & Control and Housing & Neighborhood Development)

- Memo from Susan Clark, Controller

Contact: Susan Clark at 349-3416 or clarks@bloomington.in.gov

Ord 06-09 To Amend the Title 11 of the Bloomington Municipal Code Entitled "Lakes and Reservoirs" - Re: Extensive Revisions to Chapter 11.04 Entitled "Lake Lemon"

- Memo from Vickie Renfrow, Assistant City Attorney; Memo from Angela Parker, Attorney for the Lake Lemon Conservancy District; Summary of Changes; Chapter 11.04 (Lake Lemon) Annotated with Changes

Contact: Vickie Renfrow at 349-3557 or renfrowv@bloomington.in.gov

Minutes from Regular Session:

None

Memo

No Items Ready for Final Action, But Two Items Ready for Introduction at the Regular Session on May 3rd

While there are no items ready for final action at the Regular Session on May 3rd, the Council will have two items ready for introduction, which can be found in this packet along with the summaries and background materials.

First Readings

App Ord 06-01 Appropriating Money from the General Fund for the Animal Control and Housing and Neighborhood Development Departments

App Ord 06-01 appropriates General Fund moneys for the Animal Control and Housing and Neighborhood Development departments. According to the memo from Susan Clark, Controller, the ordinance would authorize use of an \$11,525 grant from Petsmart Charities by the Animal Control department for the purpose of purchasing two high-pressure cleaning/disinfecting systems, a microscope, video equipment for training staff and the public, and a digital camera and tripod for photographing animals and training staff. The ordinance would also appropriate \$411 returned to the General Fund by a recipient of a Jack Hopkins Social Services grant awarded last year so that it can be applied toward grants awarded this year.

Ord 06-09 Extensive Revisions to Chapter 11.04 of the BMC Entitled “Lake Lemon”

Ord 06-09 proposes extensive revisions to Chapter 11.04 of the BMC, which is entitled “Lake Lemon” and regulates activities on the lake and certain improvements on the land surrounding it. The revisions and the reasons for them are explained in memos provided by Vickie Renfrow, Assistant City Attorney, and Angela Parker, Attorney for the Lake Lemon Conservancy District.

According to these memos, the City owns Lake Lemon, but entered into a 50-year lease with the Lake Lemon Conservancy District (District) in 1995 to manage it. I.C. 14-33 et seq. authorized the establishment of the District through an order of the local court (a copy of which is available in the Council Office) and has enabled it to act as a political subdivision with the power to tax owners of property within its boundaries and regulate conduct relating to the lake. These powers are carried out by a duly elected board of directors who must conduct their business in accordance with the Open Door Law. Their mission under the statute and lease is to maintain the Lake as a potential water supply for the City and to manage it as a recreational area.

As part of a comprehensive review of its governance and authority, the District board convened a Study Group over a year ago to review Chapter 11.04, which has not been significantly amended in about 50 years. After numerous public meetings and consultation with City Utilities and City Legal departments, the board recommended in March that the changes be forwarded to the Council for your consideration. Please note that the changes are scheduled for action by the Utilities Services Board on

May 1st.

These changes largely recognize the role of the District in operating the lake and incorporate regulations it has enacted over the last ten years. *When reading the highlights of changes in the four articles mentioned below, please note that, except for some parts Article 4 concerning docks and piers, the duties imposed upon owners of lake property and users of the lake merely reflect current regulations adopted by the District and do not change what is now required there.*

Article 1 – Generally

This article: sets forth the definitions; regulates activities like swimming, fishing, and use of fire arms; prohibits trespass onto the lake; authorizes the employment of lake patrol officers; defines public nuisance; and establishes civil liability for violations of the code. Along with defining the District, acknowledging the lease with the City, and sharing power to enforce these provisions with them, the ordinance also:

- Specifies areas where one can swim and declares that persons do so at their own risk (11.04.060);
- Prohibits fishing, hunting and trapping in areas near the spillway marked by regulatory buoys (11.04.050); and
- allows the collection of reasonable attorneys' fees by the District or City as an expense caused by those who violate the provisions of this chapter (11.04.020).

Article 2 – Sanitary Regulations, Geothermal Systems

This article regulates the construction and operation of sewage or wastewater facilities installed on the land surrounding the lake so that it does not pollute the lake. The ordinance:

- acknowledges the role of the local and state boards of health in regulating these facilities (found throughout the article); and
- prohibits geothermal systems installed after March 31, 1996 (11.04.130).

Article 3 - Boating

This article regulates the licensing, equipping, operating, and disposal of abandoned boats on the lake. Along with sharing authority over these matters with the District, the ordinance also:

- no longer requires licenses for canoes, paddleboats, and kayaks (11.04. 180);

- allows boats to be as long as 30 feet, except for boats licensed prior to 1996 (previously it took special permission to operate a boat over 18 feet, except for floating rafts, which could be 25 feet) (11.04.260);
- limits regulatory and informational buoys to those authorized by the City or District, and prohibits the tampering of them (11.04.290);
- sets a reasonable and prudent person standard for the speed of boats on the lake, but limits the speed to 5 mph when boats are operated within 200 (rather than 400) feet of the shoreline (11.04.320);
- ties the requirements for lighting boats at night to the regulations of the Department of Natural Resources (11.04.350); and
- continues to forbid working toilet facilities on boats, but allows people to sleep on boats out on the lake for as much as two consecutive nights (up from a stay of only a few hours) (11.04.360).

Article 4 – Docks and Piers

This article regulates the construction and maintenance of permanent structures – docks, piers, and boathouses – within the flowage easement of the lake. Along with sharing authority for regulation with the District, the ordinance also:

- requires persons who work with dirt on the lake bed (by adding, taking or moving it) to obtain written permission of the District or City and all necessary state and federal permits (11.04.400);
- allows docks and piers to extend 60 feet into the lake (rather than 50 feet) and authorizes the approval of longer ones when needed to reach a depth of 4 feet of water as long as they do not obstruct access to adjacent docks (11.04.410);
- allows landowners with riparian rights to construct one dock within the riparian zone and additional docks for each 50 feet of shoreline up to 3 docks and allows landowners without riparian rights to enter into an access lease with the City and the District for the construction of piers on marginal land (11.04.410); and
- gives the City and District more powers to order repairs (11.04.420) and revoke leases and concession contracts (11.04.430) in the event of violations.

**NOTICE AND AGENDA FOR
COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, MAY 3, 2006
COUNCIL CHAMBERS
SHOWERS BUILDING 401 NORTH MORTON**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: None

IV. REPORTS FROM:

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

None

VII. LEGISLATION FOR FIRST READING

1. Appropriation Ordinance 06-01 To Specially Appropriate From the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds From the General Fund for Animal Care & Control and Housing & Neighborhood Development)

2. Ordinance 06-09 To Amend the Title 11 of the Bloomington Municipal Code Entitled "Lakes and Reservoirs"- Re: Extensive Revisions to Chapter 11.04 Entitled "Lake Lemon"

VIII. PRIVILEGE OF THE FLOOR (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

IX. ADJOURNMENT

City of
Bloomington
Indiana

City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402



Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
e-mail: council@bloomington.in.gov

To: Council Members
From: Council Office
Re: Calendar for the Week of May 1-6, 2006
Date: April 27, 2006

Monday, May 1, 2006

5:00 pm Utilities Services Board, IU Research Park – North Showers, 501 N. Morton 100B
5:30 pm Bicycle and Pedestrian Safety Commission, Work Session, Hooker Room

Tuesday, May 2, 2006

Primary Election Day- City Offices Closed

Wednesday, May 3, 2006

12:00 pm Bloomington Urban Enterprise Association, McCloskey
3:30 pm Housing Trust Fund Board, McCloskey
5:30 pm Board of Public Works, Council Chambers
7:30 pm Common Council Regular Session, Council Chambers

Thursday, May 4, 2006

5:30 pm Commission on the Status of Women, McCloskey

Friday, May 5, 2006

There are no scheduled meetings for this date.

Saturday, May 6, 2006

7:00 am Farmers' Market, Showers Plaza

APPROPRIATION ORDINANCE 06-01

**TO SPECIALLY APPROPRIATE FROM THE GENERAL FUND EXPENDITURES NOT OTHERWISE APPROPRIATED
(Appropriating Funds from the General Fund for Animal Care & Control and Housing & Neighborhood Development)**

WHEREAS, the Animal Care and Control Division has received and wishes to expend a \$11,525 grant in order to purchase supplies and provide training to staff members; and

WHEREAS, the Jack Hopkins Social Services Funding Committee has requested authorization to spend \$411 which was included in the Housing and Neighborhood Development Department's 2005 budget, but remained unspent at the end of 2005;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. For the expenses of said municipal corporation, the following additional sums of money are hereby appropriated and ordered set apart from the funds herein named and for the purposes herein specified, subject to the laws governing the same:

| | AMOUNT REQUESTED |
|---------------------------------------------------|------------------|
| General Fund – Animal Care & Control | |
| Line 52420 – Other Supplies | \$ 7,525 |
| Line 53170 – Consultants & Workshops | <u>4,000</u> |
| Total General Fund – Animal Care & Control | <u>11,525</u> |
| | |
| General Fund – Housing & Neighborhood Development | |
| Line 53960 – Grants | <u>411</u> |
| Total General Fund – HAND | <u>411</u> |
| | |
| Grand Total General Fund | \$ <u>11,936</u> |

SECTION II. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2006.

CHRIS STURBAUM, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2006.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2006.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance appropriates \$11,525 from the General Fund – Animal Care & Control Division for a grant, and \$411 from the General Fund – Housing and Neighborhood Development for the Jack Hopkins Social Services Funding Program.



MARK KRUZAN
MAYOR

CITY OF BLOOMINGTON

401 N Morton St
Post Office Box 100
Bloomington IN 47402

SUSAN CLARK
CONTROLLER

CONTROLLER'S OFFICE

p 812.349.3412
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controller@bloomington.in.gov

Memorandum

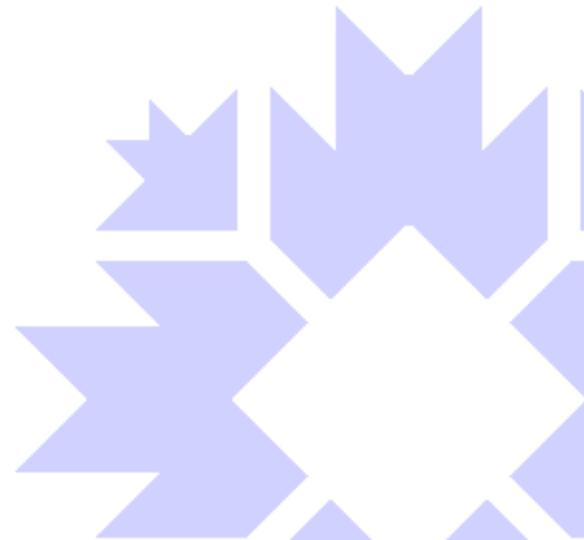
To: Council Members
From: Susan Clark, Controller
Date: April 26, 2006
Re: Appropriation Ordinance 06-01

Appropriation Ordinance 06-01

1. **General Fund – Animal Care & Control.** The Animal Care & Control Division has received an \$11,525 grant from Petsmart Charities. Director Laurie Ringquist has requested authorization to use the grant funds for two high-pressure cleaning/disinfecting systems, a microscope, video equipment for staff and public training, a digital camera and tripod for animal photos, and for staff training.
2. **General Fund – Housing and Neighborhood Development.** The Jack Hopkins Social Services Funding Committee has requested authorization to spend \$411 in 2006 that remained unspent at the end of 2005.

The grand total of the appropriation is \$11,936.

Feel free to contact me by email at clarks@bloomington.in.gov or by phone at 349-3412 at any time.



ORDINANCE 06-09

**TO AMEND THE TITLE 11 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “LAKES AND RESERVOIRS”**

Re: Extensive Revisions to Chapter 11.04 Entitled “Lake Lemon”

WHEREAS, the City of Bloomington Utilities Department owns the property known as Lake Lemon and various parcels in its vicinity (the “Premises”); and,

WHEREAS, on November 27, 1995, the City of Bloomington Utilities Service Board entered into a Lease Agreement with the Lake Lemon Conservancy District (hereinafter “LLCD”), which gave the LLCD the responsibility to operate and maintain the Premises consistent with the terms of the Lease Agreement, State law, and local ordinances and rules; and,

WHEREAS, Chapter 11.04 of the Bloomington Municipal Code, entitled “Lake Lemon,” contains provisions which are relevant to the maintenance and operation of the Premises which have not been modified or updated since well before the Lease Agreement was entered into; and,

WHEREAS, said provisions of the Bloomington Municipal Code are in need of updating to reflect the current situation regarding the management and operation of the Premises by LLCD and policies and procedures which are necessary and appropriate to allow for effective maintenance and operation of the Premises;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. This ordinance makes extensive revisions to Chapter 11.04 of the Bloomington Municipal Code entitled “Lake Lemon.” When codifying these provisions, the codifier shall reflect the new section titles in the index to this Chapter and shall preserve the citations to the prior code as well as to the ordinances affecting this chapter as they appear at the end of certain sections and paragraphs.

SECTION 2. Article I of Chapter 11.04 entitled “Generally” shall be deleted and replaced with the following:

Article I. Generally

11.04.010 Definitions.

When used in this chapter:

- (1) “City” means the city of Bloomington, Indiana;
- (2) “High water line” means the contour known as six hundred thirty-five referred to in United States Government elevations as being a contour line six hundred thirty-five feet above Mean Sea Level (M.S.L.);
- (3) “Intake” means the place where the water supply for the city is taken from the lake involving the sluice gate and control at the dam, which controls the flow of water into Bean Blossom Creek below the dam;
- (4) “Lake” means the artificial lake and water known as Lake Lemon impounded therein by means of the dam and spillway constructed across the valley of Bean Blossom Creek in Benton Township of Monroe County, Indiana;
- (5) “Lake Lemon Conservancy District or LLCD” means the area encompassing Lake Lemon and its surrounding boundaries as defined by order of the Monroe Circuit Court under Cause No. 53 C05 9410 CP01187 and managed by the Lake Lemon Conservancy District Board of Directors consistent with Indiana Code 14-33 et. seq. and this Chapter.

(6) “Marginal land” means the land owned or controlled by the city adjacent to the shoreline and not flooded by the waters of the lake, which land is leased to the LLCDC by virtue of a certain Lease Agreement and also which contains Surplus Parcels available for sublease to LLCDC landowners;

(7) “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 legal entity;

(8) “Shoreline” means the extended point where the plane of the surface of the waters of the lake borders the land;

(9) “Subdivision” means a tract of land owned by one person, or jointly owned by two or more persons, whereon five or more dwellings or business establishments of any kind or character are proposed to be located;

(10) “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 lake. (Prior code § 29-7).

11.04.020 Violation of provisions-- Liability--Nuisance.

Any person violating any of the provisions of this chapter shall become liable to the city or the LLCDC for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney fees, and such violation is a nuisance subject to injunction. (Prior code § 29-8).

11.04.030 Trespass.

The city owns the land upon which the lake is constructed and the water thereon. It is the policy of the city that any entrance upon the lake or lands owned by the city, without the permission and consent of the city or the LLCDC is a trespass upon city lands, and as such, a violation of the law of the state and actionable thereon by the city or the LLCDC. (Prior code § 29-9).

11.04.040 Fishing.

No person shall take, catch or attempt to take or catch any species of fish from the lake without a state fishing license in full force and effect issued to such person and in his possession; and all officers of the state with proper credentials are permitted to enter upon the lake 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 placed on or from the shores of Lake Lemon. The practice of Jug Fishing as described by the Indiana Department of Natural Resources is prohibited on the lake. (Prior code § 29-10).

11.04.050 Use of firearms.

No person shall carry, fire or discharge any firearm of any description within the limits of the lake except law enforcement officers in the performance of their duties, except, however, that duly licensed hunters, licensed by the state and by the federal government may hunt waterfowl during the time of each year as designated for such hunting season. Recreational fishing, hunting and trapping is permitted except in those areas near the spillway where watercraft are prohibited as marked by regulatory buoys. No person shall enter upon the waters of the lake for such purpose, or shoot over the waters of the lake unless he is the holder of a valid boat license of the city or the LLCDC. (Prior code § 29-11).

11.04.060 Swimming.

It is the policy of the city that swimming shall be permitted in the lake, at the swimmer’s own risk, only at sites designated or authorized by the city or the LLCDC. Those sites specifically include the embayment, at the dam, identified by regulatory buoys marked “Swim Area” and the

Riddle Point Swim Beach during hours posted at the beach. Residential property owners and invited guests may swim at their property site, but no further than 60 feet into the lake from the shore. (Prior code § 29-12).

11.04.070 Lake patrol officers.

The city or the LLCDC may employ Lake Patrol Officers to ensure public safety, environmental protection, and to enforce the Indiana Statutes and local ordinances concerning boating, lake usage and other recreational activities. (Prior code § 29-13).

11.04.080 Public nuisance.

The violation of any provision of this chapter whereby any unsanitary condition is created is a public nuisance. (Prior code § 29-14).

11.04.090 Civil liability.

Any person violating any provision of this chapter shall become liable for all damage and expense, including reasonable attorneys fees, caused to the city and/or LLCDC by reason of such violation in addition to the penalties provided in this chapter. (Ord. 81-5 § 5, 1981; prior code § 29-15).

SECTION 3. Article II of Chapter 11.04 entitled "Sanitary Regulations" shall be deleted and replaced with the following:

Article II. Sanitary Regulations, Geothermal Systems.

11.04.100 Sewage, garbage, deposited below high water line.

It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property below the high water line any sewage, garbage, waste or waste water. (Prior code § 29-16).

11.04.110 Privies and septic systems in areas contaminating watercourse.

It is 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 lake. (Prior code § 29-17).

11.04.120 Installation of suitable toilet facilities.

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 his own expense to install suitable toilet facilities and facilities for the disposition of waste water thereon which will not contaminate the lake or any watercourse. All sewage disposal systems surrounding the lake shall be constructed and maintained in a manner approved by the State Board of Health and in accordance with the Health Codes of the County in which the system is located. (Prior code § 29-18).

11.04.130 Geothermal systems.

Geothermal systems involving a thermal transfer unit installed in the waters of the lake are not permitted. Systems installed prior to March 31, 1996 are grandfathered. . (Prior code § 29-19).

**11.04.140 Compliance with state regulations for sewage disposal and privies--
Incorporation by reference.**

All sewage disposal systems and privies shall be constructed and maintained at no expense to the city or the LLCDC and in an approved manner as described and illustrated in Bulletin S.E. 8 and S.E.11, as the same may be amended from time to time of the State Board of Health and any

subsequent publication of such bulletins or revisions thereof. (Prior code § 29-20).

11.04.150 Subdivisions in vicinity-- Approval of sanitary facilities by State Board of Health.

All persons platting subdivisions in the vicinity of the lake area wherein any part of the land in such subdivision borders upon or drains across land owned by the city shall submit to the State Board of Health and appropriate county Board of Health the plan by which they propose to dispose of sewage and waste, and shall secure approval of such plan from the State Board of Health before any system for the disposal of sewage or waste water is installed or constructed. (Prior code § 29-21).

11.04.160 Subdivisions in vicinity-- Inspection of sanitary facilities.

The city engineer, or some person designated for and on behalf of the city by the city engineer, and employees of the appropriate county Board of Health shall be allowed to inspect the work upon any such sanitary or sewage facility or structure at any stage of construction. The city engineer and other duly authorized employees of the city or county shall be permitted to enter upon all properties for the purpose of inspecting, observing and testing any sanitation facilities installed upon any land bordering the lake. (Prior code § 29-22).

11.04.170 Subdivisions in vicinity-- Correction of violations.

Any person violating any provision of Sections 11.04.100 through 11.04.160 shall be notified by the city, the LLCDC or appropriate regulatory agency in writing, stating the nature of the violation and providing a time limit not to exceed two weeks for the satisfactory correction thereof. The offender shall, within the period of two weeks stated in such notice, permanently cease all violation or correct it at his own expense in a manner approved by the governing regulatory agency. A person failing to correct such violation after such notice shall be subject to the general penalty provisions of this code. (Ord. 81-5 § 6, 1981: prior code § 29-23).

SECTION 4. Article III of Chapter 11.04 entitled "Boating" shall be deleted and replaced with the following:

Article III. Boating

11.04.180 Registration and license-- Required--Application.

No boat of any kind (except canoes, paddle boats and kayaks) may be propelled, kept or used in the lake or stored or kept on the marginal land surrounding the lake until the owner thereof registers such boat or craft and secures a written license and registration number from the city or the LLCDC based upon a written application setting forth the type of such boat, craft or floating raft, its means of locomotion, the name and address and phone number of the owner thereof, and such further information as the city or the LLCDC may from time to time require. (Prior code § 29-24).

11.04.190 License--Inspection.

- (1) All boats must be licensed by the LLCDC before launching;
- (2) All watercraft are subject to inspection by law enforcement personnel and the authorized agents of the LLCDC. Inspection may be conducted at the Riddle Point launch area or other locations as designated by the LLCDC. Inspections may include safety requirements and such other requirements as necessary for the protection of the lake and its users. The City or the LLCDC reserves the right to inspect any watercraft entering, operating or moored on the lake. (Prior code § 29-25).

11.04.200 License--Issuance--Display.

Such license when granted, shall be in writing, and shall be further evidenced by official registration number decals to be furnished by the city or the LLCDC to the licensee and must be uniformly and permanently displayed on the left front bow and visible outside the boat at all

times. Such registration numbers shall be issued annually and shall expire on the next ensuing March thirty-first of the year issued. A new license may be obtained by filing an application and upon payment of the annual fee. Daily use licenses shall also be granted by the LLCD and must be displayed on the boat so long as the boat is in the waters of the lake. (Prior code § 29-26).

11.04.210 License--Owned by officers of state.

Privately owned boats of all officers of state and political subdivisions of the state must be licensed. (Prior code § 29-27).

11.04.220 License—Decals--Plates--Place of obtaining--Information displayed.

Registration decals may be obtained at the LLCD office at Riddle Point Park during business hours and shall give the following information:

- (1) The year of issue;
- (2) The type of boat;
- (3) The number assigned to each particular boat;

(Prior code § 29-28).

11.04.230 License-- Fee.

In order to provide a fund used to defray the expenses of inspection and supervision of boats or craft on the lake, to enforce the provisions of this chapter, and for the improvement of navigation and the safety and pleasure of boating, such application or renewal must be accompanied by the payment of annual license fees to the LLCD in an amount to be determined annually by the LLCD. (Prior code § 29-29).

11.04.240 Commercial--Lease.

No boat, canoe, other vessel or dock, shall be placed upon or operated upon the waters of the lake for fee or profit, for hire or rental to a second party either as a direct charge to such second party or as an incident to other services provided to such party, except as specifically authorized by lease, license or concession contract with the city or the LLCD. (Prior code § 29-30).

11.04.250 Commercial--License fees generally.

For the purposes set forth in Sections 11.04.180 through 11.04.390 with reference to regulations of craft upon the lake, and in order to ensure the necessary and proper inspection of boats and motors used for rental or hire on the lake, 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 lake, the fees for licensing and registering such boats, canoes, other vessels, or docks for hire or rental shall be in an amount to be determined annually by the city or the LLCD. (Prior code § 29-31).

11.04.260 Watercraft Size.

The overall length of any watercraft permitted on Lake Lemon shall not exceed 30 feet, per the boat's certificate of registration or title. Any watercraft over 30 feet but licensed for use on the lake prior to January 1, 1996, is grandfathered. (Prior code § 29-32).

11.04.270 No proration of license fee.

For the fractional part of any calendar year the license fee shall be the same as specified for annual licensing. (Prior code § 29-33).

11.04.280 Safety equipment.

Unsafe boats shall not be used upon the water of the lake. All boats operated upon the lake must be equipped for safe operation, and shall be equipped with oars or paddles, fire extinguishers 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 and operated upon the waters of the lake, all in compliance with the applicable regulations published by the Department of Natural Resources of the State of Indiana. (Prior code § 29-34).

11.04.290 Regulatory buoys.

Only those regulatory or informational buoys authorized and installed by the city or the LLCDC shall be permitted on Lake Lemon. No person shall tamper with any buoy on the lake. Requests for buoys or markers for special events, hazards or personal use will be reviewed by the LLCDC for consideration. (Prior code § 29-35).

11.04.300 Permits for special events.

The LLCDC may, upon written application, issue a special permit for boats or craft for any properly sponsored special event. (Prior code § 29-36).

11.04.310 Applicability of state law generally.

The attention of all boat licensees is directed to applicable state statutes and regulatory provisions. All state laws governing water sports and safety will apply to Lake Lemon. (Prior code § 29-37).

11.04.320 Applicability of state speed laws.

No boat or watercraft shall be operated on the surface of the lake at a speed or in a manner in conflict with state laws concerning operation of watercraft. No boat or watercraft may be operated at a speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic; or that will permit a person, in the exercise of reasonable care, to bring the watercraft to a stop within the assured clear distance ahead. (Prior code § 29-38).

11.04.330 Regulation generally-- Revocation of license.

The city or the LLCDC 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 watercraft on the waters of the lake should it become necessary to do so in the interest of the public health or safety, or for the protection or improvement of the lake or other cause. The City or the LLCDC shall at all times have the authority to revoke any license and/or registration for the infraction of any posted or printed regulation or rule; or infraction of any law or ordinance. (Prior code § 29-39).

11.04.340 Operation near shoreline.

No person shall operate any type of boat within two hundred feet of the shoreline at a speed in excess of five miles per hour. (Prior code § 29-40).

11.04.350 Lights.

All watercraft in operation between sunset and sunrise, whether moving or stationary, must display navigation and anchoring lights as required by regulations promulgated by the Department of Natural Resources of the State of Indiana. (Prior code § 29-41).

11.04.360 Houseboats--Toilet facilities—Overnight stays.

No boat or watercraft commonly known as a houseboat on which the occupants have sleeping accommodations, shall be permitted on the lake, unless the onboard toilet facilities have been sealed in such a way as to make them incapable of use in compliance with the applicable

regulations of the Department of Natural Resources of the State of Indiana. The maximum length of stay for such a boat for any one-time visit is two consecutive nights, unless the boat is moored at a private or commercial dock. (Prior code § 29-42).

11.04.370 Creating nuisance.

No boat or watercraft 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. (Prior code § 29-43).

11.04.380 Creating unsanitary conditions.

Persons using or operating any boat or watercraft on the waters of the lake shall do so in such a manner as not to create any unsanitary condition in or about such waters, and shall not pollute such waters by their discharge, in any material amount of oil or other polluting liquid or solid tending to make such waters unwholesome or unfit for water supply purposes or injurious to the aquatic life thereof. (Prior code § 29-44).

11.04.390 Abandoned boats.

Any boat or watercraft found abandoned or adrift in the lake or any unlicensed boat or watercraft thereon shall be taken up by the city or the LLCDC and the city or the LLCDC shall have a lien for all license fees and the expenses of taking, towing, keeping, advertising and selling it, and for all damages caused by such watercraft to property of the city, and may enforce such lien by advertisement and sale of such watercraft in a like manner as chattel mortgages may be foreclosed under the laws of this state. Nothing in this section shall be construed as exonerating the owner or operator of any boat or watercraft from personal liability to the city, the LLCDC, or any other person, for any damage or injury caused by such boat or watercraft. (Prior code § 29-45).

SECTION 5. Article IV of Chapter 11.04 entitled “Docks and Piers” shall be deleted and replaced with the following:

Article IV. Docks and Piers

11.04.400 General policy--Permit for construction.

The city reiterates its policy of not limiting the use of privately owned property, but since usable docks and piers can only be constructed in the lake area owned or controlled by the city or the LLCDC, the following regulations pertaining to such structures are enacted:

No person shall construct a boathouse or permanent structure of any type upon land adjoining the lake within the flowage easement (635 M.S.L. to 630 M.S.L.) without written permission of the city or the LLCDC.

No person shall alter the shoreline of the lake within the flowage easement (635 M.S.L. to 630 M.S.L.), nor shall any person fill, dredge or excavate any soil into or from the lake bed without first obtaining written permission from the city or the LLCDC, together with all necessary Federal and State permits. (Prior code § 29-46).

11.04.410 Maximum size—Placement—Commercial use.

Docks placed in the lake are limited in length to sixty (60) feet from the established shoreline. In the event that 60 feet of length is insufficient to reach a water depth of 4 feet at the lakeward end of the dock, an exception may be made by the city or the LLCDC for the construction of a longer dock. In deciding on exceptions, consideration will be given to whether the longer dock unreasonably obstructs navigation or access to docks of adjacent landowners. Finger docks (“T”s or “L”s) may be used to provide mooring slips or to stabilize a dock. Finger docks may not exceed 20 feet in length.

A landowner with riparian rights may place a dock within the landowner’s riparian zone. A landowner of property lacking riparian rights may enter into a lake access lease, covering

marginal land, with the city and the LLCDC, upon which a dock may be placed consistent with conditions of a sublease agreement approved by the City and the LLCDC. Riparian landowners are limited to one dock for the first 50 feet (or part thereof) of shoreline owned and one additional dock for each additional 50 feet of shoreline owned, with a maximum of three docks and a total of four boats moored per dock. Dock configurations and number of moored boats per dock not in compliance with this requirement as of the date of adoption of this provision are grandfathered.

No dock, pier or boat ramp shall be placed upon or operated upon the waters of the lake for fee or profit, for hire or rental to any other party either for a direct payment in cash or payment in kind from such other party or as an incident to other services provided to such party, except as specifically authorized by license, lease or concession with the city or the LLCDC. The rental of a dock, pier or boat ramp, incidental to and included in the rental of a residence located within the LLCDC, is specifically exempted from the provisions of this paragraph, so long as the renter of the residence is the only party using the dock, pier or boat ramp. (Prior code § 29-47).

11.04.420 Maintenance.

All persons constructing docks, piers or boathouses in the lake area, shall maintain such docks, piers or boathouses in such a manner that they shall be safe and sanitary. Any dock, pier or boat house deemed unsafe or unsanitary by the city or the LLCDC shall be repaired satisfaction of the city or the LLCDC, or shall be removed by the owner at the owner's expense. (Prior code § 29-49).

SECTION 6. Article V of Chapter 11.04 entitled "Penalties" shall be deleted and replaced with the following:

Article V. Penalties

11.04.430 Penalties.

Each day that a condition or act in violation of this chapter remains or continues shall be deemed on the part of the person guilty of such violation to be a separate and distinct offense. Each offense shall be punished by a fine of not less than five dollars and not more than two hundred dollars to which may be added a revocation of any license, lease or concession contract issued pursuant to this chapter. (Ord. 81-5 § 7, 1981: prior code § 29-50).

SECTION 7. **Severability.** If any sections, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 8. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2006.

CHRIS STURBAUM, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2006.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2006.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance updates Title 11 Lakes and Reservoirs, Chapter 11.04 Lake Lemon, of the Bloomington Municipal Code to reflect the current situation regarding the management and operation of Lake Lemon by the Lake Lemon Conservancy District, and articulates policies and procedures which are necessary and appropriate to allow for effective maintenance and operation of the Lake.



**CITY OF BLOOMINGTON
LEGAL DEPARTMENT
MEMORANDUM**

TO: Members of the City of Bloomington Common Council

FROM: Vickie Renfrow, Assistant City Attorney

RE: Ordinance 06-09 Amending Provisions of the Bloomington Municipal Code Regarding Lake Lemon

DATE: April 27, 2006

Ordinance 06-09 has been introduced to update provisions in Title 11 “Lakes and Reservoirs”, Chapter 11.04 “Lake Lemon”, of the Bloomington Municipal Code regulating activities at Lake Lemon. The Lake and various parcels around it are owned by the City of Bloomington Utilities Department. In 1995 the Utilities Department entered in to a 50-year lease with the Lake Lemon Conservancy District (LLCD) pursuant to which it transferred responsibility for day-to-day operation of the Lake and for maintenance and other duties to the LLCD. The LLCD was created under the authority of Indiana Code 14-33 *et. seq.* and by order of the Monroe Circuit Court dated June 28, 1995. It is a political subdivision with the authority to tax property owners within the District to pay the costs of such operation and maintenance activities. It has also been very successful in obtaining various grants to accomplish important maintenance and conservation projects.

The provisions in BMC 11.04 by and large have not be revised since the previous edition of the Code was replaced in the 1950’s. They are very much in need of updating, and the existence and role of the LLCD also needs to be incorporated into these provisions. The fact of the matter is that for over ten years the LLCD has very competently taken care of business at the Lake and has learned what makes sense as far as rules, policies, etc., are concerned. Recently the LLCD asked its attorney, Angela Parker, to take on the task of drafting updated language to these provisions of the Code to reflect current conditions and practices, and those changes were reviewed and approved by the LLCD Board of Directors. The changes they have proposed have been reviewed by City Legal and City Utilities and have been found to be reasonable and long overdue.

The changes proposed generally fall into two categories, namely (1) those that involve inserting the LLCD into the text so that its authority to take certain acts is clear; and (2) adding to or changing the text in order to clarify the meaning and bring it in line with current reality, practices and procedures. Representatives of the LLCD will attend the Council meetings when this Ordinance is discussed and will be happy to explain the reasons for the changes they have proposed. Any Council Member who would like additional information regarding this Ordinance prior to the May 10, 2006, Committee as a Whole discussion should feel free to contact me at 349-3557 or e-mail me at: renfrowv@bloomington.in.gov.

April 28, 2006

Members of the Common Council
of the City of Bloomington
401 N. Morton Street, Suite 110
Bloomington, IN 47402

RE: Ordinance 06-09
Title 11 Chapter 11.04: Lake Lemon
Our Client: Lake Lemon Conservancy District
Our File No.: 11820-25

Honorable Members of the Common Council:

In conjunction with Ordinance 06-09 and consideration of the same by the Council, I am forwarding to you an outline summary of changes proposed by the Lake Lemon Conservancy District Board of Directors ("LLCD" or "LLCD Board"). The summary outline highlights the areas of major or significant revision in the current ordinance. But, first, a bit of history might put this request into focus.

The LLCD was formed by decree of the Monroe Circuit Court on June 28, 1995 pursuant to enabling legislation known as the Indiana Conservancy Act (I.C. 14-33 *et seq*). The Court's Order defines the boundaries of the Conservancy District to include the lake and tracts of land adjacent thereto, located both in Monroe and Brown Counties. Subsequent to the formation of the Conservancy District, the City of Bloomington and the LLCD entered into a fifty (50) year lease arrangement whereby the leased Premises, as defined by the geographic boundaries of the District, were placed under the operation and control of the LLCD.¹

Since 1995, the LLCD has, through its duly elected board, operated and maintained the lake waters, the Surplus Parcels and the Administrative Parcels, all as defined by the Lease. The LLCD purposes are to both maintain Lake Lemon as a potential source of water supply for the City of Bloomington and to also manage it as a recreational area. In the course of management, the LLCD Board sets agendas, holds public meetings and adopts resolutions.

¹ Under the Lease Agreement, the City retains control of tracts of land not including Surplus Parcels and the Administrative Parcels.

April 28, 2006

Page 2

As a part of a comprehensive review of its governance and authority, the LLC Board reviewed the current City of Bloomington Ordinance specifically discussing Lake Lemon. It is our understanding that the ordinance was passed in the 1950's and has not been revisited in any substantive manner since its adoption. Of course, much has changed over the years, including the formation of the LLC and its promulgation of resolutions and policies for lake management and operation.

The LLC Board appointed a Study Group to review and make recommendations to the LLC Board for revision to the ordinance. I also worked with this Study Group as the LLC legal counsel to discuss and evaluate changes proposed. In addition, I met with City Legal Attorney Vickie Renfrow and I understand she has reviewed the proposed changes with the appropriate CBU officials, seeking necessary approvals. City Council Attorney Dan Sherman and I have reviewed and discussed the proposed changes, as well. It is fitting for me to state here that our work with the various City officials, including the Mayor's office, CBU officials, Council, and legal department has been smooth, cooperative and very helpful with this effort, as it has consistently been over the years as we have worked with the City under this lease arrangement.

The changes proposed to the Ordinance have been discussed at LLC board meetings for a number of months, which meetings are advertised and open to the public. On March 22, 2006, the LLC Board gave its final review to the proposed changes in a public meeting with a unanimous "do pass." As such, the proposed changes are now being respectfully submitted to the Bloomington City Council for its consideration.

The changes, in great part, recognize the formation of the LLC and set forth resolutions which have been adopted by the LLC over a course of the past 11 years. I should note for you that with each resolution adopted by the LLC, the same is included on its published meeting agenda and is discussed and decided in accordance with the Open Door Law. I have attached a brief summary, outlining the proposed changes for your convenience. The LLC Board representatives are pleased to attend meetings to answer questions and discuss the proposals as this effort proceeds.

Thank you for your kind attention to this matter and we look forward to working it through the Council process.

Very truly yours,

s/Angela F. Parker

Angela F. Parker
Counsel to LLC Board of Directors
Attachment:

Summary of Proposal Changes to Title 11, Chapter 11.04

SUMMARY OF PROPOSED CHANGES

Bloomington Municipal Code, Chapter 11

Section 11.04: LAKE LEMON

11.04.010 Definitions

(5) Definition of LLCD added which did not exist at time ordinance passed

(6) Includes reference to the Lease Agreement between CBU and LLCD

11.04.060 Swimming

Swimming designated in specific areas and with distance restrictions on swimming into lake area for safety reasons.

11.04.070 Patrol Officers

Struck paragraph and replaced with current practice on Lake for patrol and enforcement.

11.04.120 Toilet Facilities

Added section to reference construction as approved by applicable laws and regulations.

11.04.130 Geothermal Systems

Added section to prohibit installation of geothermal system in the lake to reflect current practices of LLCD.

11.04.180 Registration and Licensing

Clarified that canoes, paddle boats and kayaks do not need to be licensed.

11.04.260 Watercraft Size

Overall length increased from 18 feet to 30 feet to accommodate current boat sizes.

11.04.290 Regulatory buoys

Added section for safety purposes to mark hazardous areas and prevent placement of buoys without first obtaining permission.

11.04.320 State Speed laws

State Speed laws are currently based on “a reasonable and prudent person” standard, acting under the circumstances, which allows for discretion depending on traffic, weather conditions and the like. A set speed limit is not workable uniformly due to changing lake conditions and daily population.

11.04.360 Overnight stays

Extended provision to allow for houseboats for 2 nights with properly sealed toilet facilities on board.

11.04.400 General Policy

Prohibits construction in shoreline area and/or dredging along shoreline without proper approvals.

11.04.410 Docks

Provides definition to dock size to now allow 60 feet in length of dock (from 50 feet) due to shallow water areas on the lake to allow freeholders access. Also incorporates current policies of the LLCD Board with regard to dock number, construction, placement and size.

Note: Other changes proposed and not specifically enumerated above essentially involve inclusion of the LLCD in the language of the ordinance under its authority as the Lessee and “cleans up” some language of the ordinance to reflect current practices and resolutions.

CHANGES TO CHAPTER 11.04 (LAKE LEMON) PROPOSED BY ORDINANCE 06-09

Article I. Generally

11.04.010 Definitions.

When used in this chapter:

- (1) “City” means the city of Bloomington, Indiana;
- (2) “High water line” means the contour known as six hundred thirty-five referred to in United States Government elevations as being a contour line six hundred thirty-five feet above mean sea level (M.S.L.);
- (3) “Intake” means the place where the water supply for the city is taken from the lake involving the sluice gate and control at the dam, which controls the flow of water into Bean Blossom Creek below the dam;
- (4) “Lake” means the artificial lake and water known as Lake Lemon impounded therein by means of the dam and spillway constructed across the valley of Bean Blossom Creek in Benton Township of Monroe County, Indiana;
- (5) “Lake Lemon Conservancy District or LLCD” means the area encompassing Lake Lemon and its surrounding boundaries as defined by order of the Monroe Circuit Court under Cause No. 53 C05 9410 CP01187 and managed by the Lake Lemon Conservancy District Board of Directors consistent with Indiana Code 14-33 et. seq. and this Chapter.
- (6) “Marginal land” means the land owned or controlled by the city adjacent to the shoreline and not flooded by the waters of the lake, which land is leased to the LLCD by virtue of a certain Lease Agreement and also which contains Surplus Parcels available for sublease to LLCD landowners;
- (7) “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 legal entity;
- (8) “Shoreline” means the extended point where the plane of the surface of the waters of the lake borders the land;
- (9) “Subdivision” means a tract of land owned by one person, or jointly owned by two or more persons, whereon five or more dwellings or business establishments of any kind or character are proposed to be located;
- (10) “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 lake. (Prior code § 29-7).

11.04.020 Violation of provisions-- Liability--Nuisance.

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Any person violating any of the provisions of this chapter shall become liable to the city or the LLC for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney fees, and such violation is a nuisance subject to injunction. (Prior code § 29-8).

11.04.030 Trespass.

The city owns the land upon which the lake is constructed and the water thereon. It is the policy of the city that any entrance upon the lake or lands owned by the city, without the permission and consent of the city or the LLC is a trespass upon city lands, and as such, a violation of the law of the state and actionable thereon by the city or the LLC. (Prior code § 29-9).

11.04.040 Fishing.

No person shall take, catch or attempt to take or catch any species of fish from the lake without a state fishing license in full force and effect issued to such person and in his possession; and all officers of the state with proper credentials are permitted to enter upon the lake 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 placed on or from the shores of Lake Lemon. The practice of Jug Fishing as described by the Indiana Department of Natural Resources is prohibited on the lake. (Prior code § 29-10).

11.04.050 Use of firearms.

No person shall carry, fire or discharge any firearm of any description within the limits of the lake except law enforcement officers in the performance of their duties, except, however, that duly licensed hunters, licensed by the state and by the federal government may hunt waterfowl during the time of each year as designated for such hunting season. Recreational fishing, hunting and trapping is permitted except in those areas near the spillway where watercraft are prohibited as marked by regulatory buoys. No person shall enter upon the waters of the lake for such purpose, or shoot over the waters of the lake unless he is the holder of a valid boat license of the city or the LLC. (Prior code § 29-11).

11.04.060 Swimming.

It is the policy of the city that swimming shall be permitted in the lake, at the swimmer's own risk, only at sites designated or authorized by the city or the LLC. Those sites specifically include that embayment, at the dam, identified by regulatory buoys marked "Swim Area" and the Riddle Point Swim Beach during hours posted at the beach. Residential property owners and invited guests may swim at their property site, but no further than 60 feet into the lake from the shore. (Prior code § 29-12).

11.04.070 Lake patrol officers.

The city or the LLC may employ Lake Patrol Officers to ensure public safety, environmental protection, and to enforce the Indiana Statutes and local ordinances concerning boating, lake usage and other recreational activities. (Prior code § 29-13).

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11.04.080 Public nuisance.

The violation of any provision of this chapter whereby any unsanitary condition is created is a public nuisance. (Prior code § 29-14).

11.04.090 Civil liability.

Any person violating any provision of this chapter shall become liable for all damage and expense, including reasonable attorneys fees, caused to the city and/or LLC by reason of such violation in addition to the penalties provided in this chapter. (Ord. 81-5 § 5, 1981: prior code § 29-15).

Article II. Sanitary Regulations, Geothermal Systems.

11.04.100 Sewage, garbage, deposited below high water line.

It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property below the high water line any sewage, garbage, waste or waste water. (Prior code § 29-16).

11.04.110 Privies and septic systems in areas contaminating watercourse.

It is 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 lake. (Prior code § 29-17).

11.04.120 Installation of suitable toilet facilities.

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 his own expense to install suitable toilet facilities and facilities for the disposition of waste water thereon which will not contaminate the lake or any watercourse. All sewage disposal systems surrounding the lake shall be constructed and maintained in a manner approved by the State Board of Health and in accordance with the Health Codes of the County in which the system is located. (Prior code § 29-18).

11.04.130 Geothermal systems.

Geothermal systems involving a thermal transfer unit installed in the waters of the lake are not permitted. Systems installed prior to March 31, 1996 are grandfathered. (Prior code § 29-19).

**11.04.140 Compliance with state regulations for sewage disposal and privies--
Incorporation by reference.**

All sewage disposal systems and privies shall be constructed and maintained at no expense to the city or the LLC and in an approved manner as described and illustrated in Bulletin S.E. 8 and

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S.E.11, as the same may be amended from time to time of the State Board of Health and any subsequent publication of such bulletins or revisions thereof. (Prior code § 29-20).

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11.04.150 Subdivisions in vicinity-- Approval of sanitary facilities by State Board of Health.

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All persons platting subdivisions in the vicinity of the lake area wherein any part of the land in such subdivision borders upon or drains across land owned by the city shall submit to the State Board of Health and appropriate county Board of Health the plan by which they propose to dispose of sewage and waste, and shall secure approval of such plan from the State Board of Health before any system for the disposal of sewage or waste water is installed or constructed. (Prior code § 29-21).

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11.04.160 Subdivisions in vicinity-- Inspection of sanitary facilities.

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The city engineer, or some person designated for and on behalf of the city by the city engineer, and employees of the appropriate county Board of Health shall be allowed to inspect the work upon any such sanitary or sewage facility or structure at any stage of construction. The city engineer and other duly authorized employees of the city or county shall be permitted to enter upon all properties for the purpose of inspecting, observing and testing any sanitation facilities installed upon any land bordering the lake. (Prior code § 29-22).

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11.04.170 Subdivisions in vicinity-- Correction of violations.

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Any person violating any provision of Sections 11.04.100 through 11.04.160 shall be notified by the city, the LLCDC or appropriate regulatory agency in writing, stating the nature of the violation and providing a time limit not to exceed two weeks for the satisfactory correction thereof. The offender shall, within the period of two weeks stated in such notice, permanently cease all violation or correct it at his own expense in a manner approved by the governing regulatory agency. A person failing to correct such violation after such notice shall be subject to the general penalty provisions of this code. (Ord. 81-5 § 6, 1981: prior code § 29-23).

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Article III. Boating

11.04.180 Registration and license-- Required--Application.

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No boat of any kind (except canoes, paddle boats and kayaks) may be propelled, kept or used in the lake or stored or kept on the marginal land surrounding the lake until the owner thereof registers such boat or craft and secures a written license and registration number from the city or the LLCDC based upon a written application setting forth the type of such boat, craft or floating raft, its means of locomotion, the name and address and phone number of the owner thereof, and such further information as the city or the LLCDC may from time to time require. (Prior code § 29-24).

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11.04.190 License--Inspection.

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(1) All boats must be licensed by the LLCDC before launching;

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(2) All watercraft are subject to inspection by law enforcement personnel and the authorized agents of the LLCDC. Inspection may be conducted at the Riddle Point launch area or other locations as designated by the LLCDC. Inspections may include safety requirements and such other requirements as necessary for the protection of the lake and its users. The City or the LLCDC reserves the right to inspect any watercraft entering, operating or moored on the lake. (Prior code § 29-25).

11.04.200 License--Issuance--Display.

Such license when granted, shall be in writing, and shall be further evidenced by official registration number decals to be furnished by the city or the LLCDC to the licensee and must be uniformly and permanently displayed on the left front bow and visible outside the boat at all times. Such registration numbers shall be issued annually and shall expire on the next ensuing March thirty-first of the year issued. A new license may be obtained by filing an application and upon payment of the annual fee. Daily use licenses shall also be granted by the LLCDC and must be displayed on the boat so long as the boat is in the waters of the lake. (Prior code § 29-26).

11.04.210 License--Owned by officers of state.

Privately owned boats of all officers of state and political subdivisions of the state must be licensed. (Prior code § 29-27).

11.04.220 License—Decals--Plates--Place of obtaining--Information displayed.

Registration decals may be obtained at the LLCDC office at Riddle Point Park during business hours and shall give the following information:

- (1) The year of issue;
- (2) The type of boat;
- (3) The number assigned to each particular boat;

(Prior code § 29-28).

11.04.230 License-- Fee.

In order to provide a fund used to defray the expenses of inspection and supervision of boats or craft on the lake, to enforce the provisions of this chapter, and for the improvement of navigation and the safety and pleasure of boating, such application or renewal must be accompanied by the payment of annual license fees to the LLCDC in an amount to be determined annually by the LLCDC. (Prior code § 29-29).

11.04.240 Commercial--Lease.

No boat, canoe, other vessel or dock, shall be placed upon or operated upon the waters of the lake for fee or profit, for hire or rental to a second party either as a direct charge to such second party or as an incident to other services provided to such party, except as specifically authorized

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by lease, license or concession contract with the city or the LLCDC. (Prior code § 29-30).

11.04.250 Commercial--License fees generally.

For the purposes set forth in Sections 11.04.180 through 11.04.390 with reference to regulations of craft upon the lake, and in order to ensure the necessary and proper inspection of boats and motors used for rental or hire on the lake, 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 lake, the fees for licensing and registering such boats, canoes, other vessels, or docks for hire or rental shall be in an amount to be determined annually by the city or the LLCDC. (Prior code § 29-31).

11.04.260 Watercraft Size.

The overall length of any watercraft permitted on Lake Lemon shall not exceed 30 feet, per the boat's certificate of registration or title. Any watercraft over 30 feet but licensed for use on the lake prior to January 1, 1996, is grandfathered. (Prior code § 29-32).

11.04.270 No proration of license fee.

For the fractional part of any calendar year the license fee shall be the same as specified for annual licensing. (Prior code § 29-33).

11.04.280 Safety equipment.

Unsafe boats shall not be used upon the water of the lake. All boats operated upon the lake must be equipped for safe operation, and shall be equipped with oars or paddles, fire extinguishers 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 and operated upon the waters of the lake, all in compliance with the applicable regulations published by the Department of Natural Resources of the State of Indiana. (Prior code § 29-34).

11.04.290 Regulatory buoys.

Only those regulatory or informational buoys authorized and installed by the city or the LLCDC shall be permitted on Lake Lemon. No person shall tamper with any buoy on the lake. Requests for buoys or markers for special events, hazards or personal use will be reviewed by the LLCDC for consideration. (Prior code § 29-35).

11.04.300 Permits for special events.

The LLCDC may, upon written application, issue a special permit for boats or craft for any properly sponsored special event. (Prior code § 29-36).

11.04.310 Applicability of state law generally.

The attention of all boat licensees is directed to applicable state statutes and regulatory provisions. All state laws governing water sports and safety will apply to Lake Lemon. (Prior code § 29-37).

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11.04.320 Applicability of state speed laws.

No boat or watercraft shall be operated on the surface of the lake at a speed or in a manner in conflict with state laws concerning operation of watercraft. No boat or watercraft may be operated at a speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic; or that will permit a person, in the exercise of reasonable care, to bring the watercraft to a stop within the assured clear distance ahead. (Prior code § 29-38).

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11.04.330 Regulation generally-- Revocation of license.

The city or the LLCDC 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 watercraft on the waters of the lake should it become necessary to do so in the interest of the public health or safety, or for the protection or improvement of the lake or other cause. The City or the LLCDC shall at all times have the authority to revoke any license and/or registration for the infraction of any posted or printed regulation or rule; or infraction of any law or ordinance. (Prior code § 29-39).

11.04.340 Operation near shoreline.

No person shall operate any type of boat within two hundred feet of the shoreline at a speed in excess of five miles per hour. (Prior code § 29-40).

11.04.350 Lights.

All watercraft in operation between sunset and sunrise, whether moving or stationary, must display navigation and anchoring lights as required by regulations promulgated by the Department of Natural Resources of the State of Indiana. (Prior code § 29-41).

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11.04.360 Houseboats--Toilet facilities—Overnight stays.

No boat or watercraft commonly known as a houseboat on which the occupants have sleeping accommodations, shall be permitted on the lake, unless the onboard toilet facilities have been sealed in such a way as to make them incapable of use in compliance with the applicable regulations of the Department of Natural Resources of the State of Indiana. The maximum length of stay for such a boat for any one-time visit is two consecutive nights, unless the boat is moored at a private or commercial dock. (Prior code § 29-42).

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11.04.370 Creating nuisance.

No boat or watercraft 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. (Prior code § 29-43).

11.04.380 Creating unsanitary conditions.

Persons using or operating any boat or watercraft on the waters of the lake shall do so in such a manner as not to create any unsanitary condition in or about such waters, and shall not pollute

such waters by their discharge, in any material amount of oil or other polluting liquid or solid tending to make such waters unwholesome or unfit for water supply purposes or injurious to the aquatic life thereof. (Prior code § 29-44).

11.04.390 Abandoned boats.

Any boat or watercraft found abandoned or adrift in the lake or any unlicensed boat or watercraft thereon shall be taken up by the city or the LLC and the city or the LLC shall have a lien for all license fees and the expenses of taking, towing, keeping, advertising and selling it, and for all damages caused by such watercraft to property of the city, and may enforce such lien by advertisement and sale of such watercraft in a like manner as chattel mortgages may be foreclosed under the laws of this state. Nothing in this section shall be construed as exonerating the owner or operator of any boat or watercraft from personal liability to the city, the LLC, or any other person, for any damage or injury caused by such boat or watercraft. (Prior code § 29-45).

Article IV. Docks and Piers

11.04.400 General policy--Permit for construction.

The city reiterates its policy of not limiting the use of privately owned property, but since usable docks and piers can only be constructed in the lake area owned or controlled by the city or the LLC, the following regulations pertaining to such structures are enacted:

No person shall construct a boathouse or permanent structure of any type upon land adjoining the lake within the flowage easement (635 M.S.L. to 630 M.S.L.) without written permission of the city or the LLC.

No person shall alter the shoreline of the lake within the flowage easement (635 M.S.L. to 630 M.S.L.), nor shall any person fill, dredge or excavate any soil into or from the lake bed without first obtaining written permission from the city or the LLC, together with all necessary Federal and State permits. (Prior code § 29-46).

11.04.410 Maximum size—Placement—Commercial use.

Docks placed in the lake are limited in length to sixty (60) feet from the established shoreline. In the event that 60 feet of length is insufficient to reach a water depth of 4 feet at the lakeward end of the dock, an exception may be made by the city or the LLC for the construction of a longer dock. In deciding on exceptions, consideration will be given to whether the longer dock unreasonably obstructs navigation or access to docks of adjacent landowners. Finger docks (“T”s or “L”s) may be used to provide mooring slips or to stabilize a dock. Finger docks may not exceed 20 feet in length.

A landowner with riparian rights may place a dock within the landowner’s riparian zone. A landowner of property lacking riparian rights may enter into a lake access lease, covering marginal land, with the city and the LLC, upon which a dock may be placed consistent with conditions of a sublease agreement approved by the City and the LLC. Riparian landowners

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11.04.420 Permit and inspection fees.¶
The fee for a permit for structures within the limits prescribed in Section 11.04.410, shall be fifty dollars, with an annual inspection fee of ten dollars. The permit for construction for any pier or dock, exceeding fifty feet in length, shall be fifty dollars, plus one dollar for each foot, exceeding fifty feet. The permit fee for construction for any boathouse, which exceeds the limits prescribed in Section 11.04.410, shall be fifty dollars, plus twenty-five dollars for each additional boat, housed in such structure. In ... [77]

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are limited to one dock for the first 50 feet (or part thereof) of shoreline owned and one additional dock for each additional 50 feet of shoreline owned, with a maximum of three docks and a total of four boats moored per dock. Dock configurations and number of moored boats per dock not in compliance with this requirement as of the date of adoption of this provision are grandfathered.

No dock, pier or boat ramp shall be placed upon or operated upon the waters of the lake for fee or profit, for hire or rental to any other party either for a direct payment in cash or payment in kind from such other party or as an incident to other services provided to such party, except as specifically authorized by license, lease or concession with the city or the LLCD. The rental of a dock, pier or boat ramp, incidental to and included in the rental of a residence located within the LLCD, is specifically exempted from the provisions of this paragraph, so long as the renter of the residence is the only party using the dock, pier or boat ramp. (Prior code § 29-47).

11.04.420 Maintenance.

All persons constructing docks, piers or boathouses in the lake area, shall maintain such docks, piers or boathouses in such a manner that they shall be safe and sanitary. Any dock, pier or boat house deemed unsafe or unsanitary by the city or the LLCD shall be repaired satisfaction of the city or the LLCD, or shall be removed by the owner at the owner's expense. (Prior code § 29-49).

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Article V. Penalties

11.04.430 Penalties.

Each day that a condition or act in violation of this chapter remains or continues shall be deemed on the part of the person guilty of such violation to be a separate and distinct offense. Each offense shall be punished by a fine of not less than five dollars and not more than two hundred dollars to which may be added a revocation of any license, lease or concession contract issued pursuant to this chapter, (Ord. 81-5 § 7, 1981: prior code § 29-50).

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"Daylight" is the period from sunup until one hour after sundown;

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"Night" is the period from one hour after sundown until sunup;

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prohibition of swimming but does 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.

The city through its water department and from water department funds may appoint and employ such number of lake police officers or detail policemen currently employed to enforce the provisions of this chapter as the circumstances may from time to time require. In each instance when such officer is detailed to enforce the terms of this chapter such officer shall apply to the sheriff of Monroe County and the sheriff of Brown County for

permission to act for and on behalf as deputies as well as officers of the city in the enforcement of the provisions of this chapter. In the event of any emergency as determined by the lake patrolman all persons must follow instructions for all control or evacuation of all crafts on lake.

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(Prior code § 29-18).

11.04.130 Permit for construction of

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or privies-- Application--Fee.

Before the beginning or construction of private sewage disposal systems or privies on any lands bordering

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| Page 3: [28] Deleted 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 dollars shall be paid to the city controller at the time that the application is filed | template | 4/27/2006 3:10:00 PM |
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or from the city controller at city hall

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| city controller's or patrolman's offices in the city as follows: | | |
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(1) For each rowboat or canoe, not for hire or rental, not equipped with motor or sails, there shall be an annual license fee of five 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;

(2) 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 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. (Prior code § 29-29).

11.04.240 Commercial--Lease--Designation of classes.

No boat, canoe or other vessel, shall be placed upon or operated upon any water a part of Lake Lemon for fee or profit, for hire or rental to a second party either as a direct charge to such second party or as an incident to other services provided to such party, 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 noncommercial craft except that the classes A and B, inclusive, designated and defined in Section 11.04.230, shall when for hire or rental be known as classes RA, and RB, respectively, and shall be so identified on registration plates. RA and RB licenses shall be transferable from one boat to another, without additional expense, but such boat to which transfer is made shall be inspected as provided in Sections 11.04.180 through 11.04.390.

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| There shall be no limit as to the length of a sailboat, but no other boat or crafts shall be permitted on Lake Lemon that are more than eighteen feet long from bow to stern and no floating or stationary raft shall be permitted on the lake except that boats up to twenty-five feet from bow to stern may be permitted with the payment of an additional ten | | |

dollars on license fee for any boat exceeding eighteen feet but not exceeding twenty-five feet in length.

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. (Prior code § 29-34).

11.04.290 Inspection.

All boats being used upon

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| the lake shall be subject at any time to inspection and certifications in respect to condition, seaworthiness, and any factors relating to safety. | | |
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| in the discretion of the board of public works and | | |
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| Burn's Indiana Statutes, 1933, sections 68-813 to 68-869. | | |

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All watercraft of less than eighteen feet in length in operation at night, whether moving or stationary, must display one white light which is visible at a three hundred and sixty degree angle, for a distance of one-fourth mile. All watercraft over eighteen feet in length in operation at night, whether moving or stationary, must display one white light as described above and in addition must display one red port marker light and one green starboard marker light.

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| or remain for more than a few hours, | | |
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| and no boat operated on the lake shall have | | |
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No person will be permitted to construct a pier, dock or boathouse that exceeds fifty feet in length, or eight feet in width, nor construct a boathouse sufficient in size to house more than two boats, without reference of such request to the city board of public works for approval. (Prior code § 29-47).

11.04.420 Permit and inspection fees.

The fee for a permit for structures within the limits prescribed in Section 11.04.410, shall be fifty dollars, with an annual inspection fee of ten dollars. The permit for construction for any pier or dock, exceeding fifty feet in length, shall be fifty dollars, plus one dollar for each foot, exceeding fifty feet. The permit fee for construction for any boathouse, which exceeds the limits prescribed in Section 11.04.410, shall be fifty dollars, plus twenty-five dollars for each additional boat, housed in such structure. In any case the annual inspection fee for the above shall be ten dollars. (Prior code § 29-48).

11.04.430