

ORDINANCE NO. 28-02

ORDINANCE CREATING CHAPTER 52 OF THE
JEFFERSON TOWNSHIP MUNICIPAL CODE ENTITLED
"ICE RETARDANT SYSTEMS" AND ESTABLISHING
REGULATIONS FOR ICE RETARDANT SYSTEMS WITHIN
THE TOWNSHIP OF JEFFERSON

SECTION I

BE IT ORDAINED by the Township Council of the Township of Jefferson, Morris County, New Jersey that there is hereby created within the Jefferson Township Code Chapter 52 entitled "ICE RETARDANT SYSTEMS" as follows:

52-1 Purpose.

It is the intent of this ordinance to regulate the installation and use of ice retardant systems on waterfront properties within the Township of Jefferson for the protection of persons and property and to provide for the public health, safety and welfare of the Township of Jefferson and its inhabitants.

52-2 Definitions.

As used in this ordinance, the following terms shall have the meanings indicated:

AFFECTED AREA OF ICE - The area of the water body or ice surface disturbed by the operation of an ice retardant system. Said disturbed or affected area includes open water, weakened ice (excessively cracked), thin ice (less than four (4) inches in depth) and areas where adjacent ice is covered by a film of water.

BULKHEAD LINE - The high water mark of ten and thirty-hundredths (10.30) feet above the dam as recorded at

Lake Hopatcong State Park or the line established by the Bureau of Navigation, State Department of Environmental Protection, defining the lake's permanent shoreline.

ICE-RETARDANT SYSTEM - A mechanical device(s) or a series of mechanical devices designed to retard or prevent the formation of ice in or around lakefront structures. Said devices utilize as their mode of operation one (1) or more of the following mechanisms: pumped air, artificial water turbulence or the addition of heat to the water body.

NORMAL OPERATING CONDITIONS - The average winter conditions to be utilized in the design or operation of an ice retardant system and to be utilized in gauging compliance with the terms of this ordinance. Said "normal operating conditions" is defined as an average of four (4) or more inches of ice on the applicable water body. Such term excludes any time period characterized by unseasonably warm temperature (average daily temperature above forty degrees Fahrenheit (40°F.) for three (3) or more consecutive days) or rainfall (greater than one-half ($\frac{1}{2}$) inch of rainfall per day) and the three (3) days immediately thereafter. In any enforcement action under the terms of this ordinance, the burden is on the operator of the ice retardant system to establish that "normal operating conditions" were not existent on the date of the alleged violation.

OWNER or OPERATOR - The owner of record of a tract of land according to the tax rolls of the Township of Jefferson or any person occupying said premises or utilizing the property.

PERSON - Any individual, association of individuals, corporation or partnership.

PROTECTED STRUCTURE - Any lakefront or within lake structure which the ice retardant system is designed to protect. Such "protected structures" include but are not limited to docks, piers, bulkheads, catwalks, seawalls and boathouses.

52-3 Authorization for Use; Compliance Required.

- A. No person shall operate an ice retardant system within the municipal limits of the Township of Jefferson unless said operation is in conformance with this ordinance.
- B. The provisions of this ordinance shall only be effective for the operation of an ice retardant system from December 1 of each year through April 1 of the following year. Nothing herein shall prevent the operation of an ice retardant system at other times during the year.

52.4 (Reserved)

52-5 Operation Requirements.

- A. All ice retardant systems shall be marked with an appropriate sign placed along the shore or on the protected structure specifying "Danger, Thin Ice." Such sign shall be a minimum of two by three (2x3) feet in size and shall feature letters of a minimum height of three (3) inches and colors in such a way as to be clearly visible on the ice from a distance of one hundred (100) feet. Where the ice retardant system will disturb a distance measured horizontally along the shoreline of more than twenty-five (25) feet, an additional sign shall be required for each twenty-five (25) feet of shoreline or fraction thereof.
- B. Under normal operating conditions, the affected area of ice created by the ice retardant system shall not extend more than twenty-five (25) feet beyond the protected structure.
- C. Under normal operating conditions, the affected area of ice should not extend more than twenty-five (25) feet, measured along the shoreline, from the protected structure.
- D. Irrespective of the standard appearing in Subsections B and C above, the affected area of ice, under normal operating conditions, should not extend beyond the side property lines of the property for which the ice retardant system is being used, as if said property lines were extended into the lake. Said

requirement may be waived if the owner and/or operator of the ice retardant system obtains written permission from the adjacent property owner.

- E. Unless the ice retardant system has been designed and approved in accordance with § 52-6 of this ordinance, no system shall be designed or operated in such a way as to prevent ingress or egress to any portion of the water body or to foreclose the formation of ice across a channel.

52-6 Waiver of Requirements.

The Township Council may, by resolution, waive the requirements of this ordinance in situations of hardship or exceptional public necessity. "Exceptional public necessity" shall include but is not limited to a necessity to maintain an open channel of water for ferry service or access to island lakefront homes. In considering such an application, the Township Council may refer the application to the Lake Hopatcong Commission for comment. In adopting the resolution, Council shall specify requirements as to markings and lighting. Such requirements can include but are not limited to requiring buoys to be placed in the frozen water body to clearly mark the approach, requiring nighttime illumination or flashing lights to indicate that open water is present, limiting the size of the affected ice area to the minimal necessary for the use and/or publishing public notice of the condition to specify minimal levels of insurance requirements.

52-7 Enforcement; Violations and Penalties.

- A. The Construction Official is hereby designated as the enforcement officer under the terms of this ordinance. All complaints received by any municipal agency concerning the operation of ice retardant systems shall be referred to the Construction Official. Upon receipt of a complaint, the Construction Official shall investigate within five (5) days and, if the complaint is found justified, notify the owner and operator of the terms of this ordinance and require compliance within an additional ten (10) days. The Construction Official may reduce the time period for compliance when the interest of public safety so requires. If the owner or operator of the system fails to undertake the corrections within the specified time frame, the Construction Official may cause a summons to be issued in the Municipal Court of the Township of Jefferson to enforce the requirements of this ordinance.
- B. A violation of the terms of this ordinance, including the operational requirements, shall be punishable by a fine not to exceed fifty (\$50) dollars for the first offense, one hundred (\$100) dollars for the second offense and two hundred fifty (\$250) dollars for the third and subsequent offenses. Each day that a violation of this ordinance continues may be deemed to be a separate offense.

52-8 Liability.

Compliance and/or noncompliance with the requirements of this ordinance shall not preclude any civil action for damages arising from injuries incurred through the operation of an ice retardant system.

52-9 Severability.

In the event that any part of the within ordinance shall be deemed illegal or invalid for any reason, the remainder shall be

in full force and effect. The terms of this ordinance are declared severable.

52-10 Construal of Provisions.

Nothing in this ordinance shall be construed as repealing any provision of any other municipal ordinance. In the event that any regulation provided above shall vary from the same or a similar regulation of any other municipal ordinance, the more restrictive provision of such ordinance shall be deemed to control.

SECTION II

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

LYDIA MAGNOTTI, CLERK

**COUNCIL OF THE TOWNSHIP
OF JEFFERSON**

RICHARD YOCUM, PRESIDENT

DATED: October 2, 2002
ADOPTED: November 6, 2002