

Chapter 65

LAKES AND PONDS

GENERAL REFERENCES

Landing of aircraft on lakes — See Ch. 27.

Storage tanks near lakes or ponds — See Ch. 87.

Flood damage prevention — See Ch. 55.

Water — Ch. 97.

§ 65-1. Legislative findings.

- A. The bodies of water within the Village of Tuxedo Park known as "Tuxedo Lake," "Pond No. 3" and "Wee Wah Lake" (herein the "lakes") are owned by the Village of Tuxedo Park. Tuxedo Lake is the primary source of domestic water supply for the residents of said Village, as well as the residents of the area within the Town of Tuxedo commonly referred to as "the hamlet." In the event of a water shortage, Pond No. 3 and Wee Wah Lake may, with proper treatment, be used to supplement the water supply from Tuxedo Lake. Adequate and suitable water for water supply, for domestic and other uses, is essential to the health, safety and welfare of the residents of the Village of Tuxedo Park and those residents of the Town of Tuxedo who receive their water supply from said Village. The unreasonable, uncontrolled and unnecessary interference with and disturbance of these bodies of water could create hazards to the health, safety and welfare of the persons who are dependent upon these bodies of water for domestic water-supply purposes.
- B. The Village of Tuxedo Park has granted certain privileges to the following three organizations: the Wee Wah Fishing Club, with privileges relating to the use of Wee Wah Lake for fishing purposes in exchange for certain responsibilities to be performed by said club, including the stocking of said lake with fish; the Wee Wah Beach Club in respect to swimming in Wee Wah Lake in exchange for certain responsibilities to be performed by said club, including the supervision of swimming in Wee Wah Lake; and the Village Boat Club, with privileges relating to boating on Tuxedo Lake in exchange for certain responsibilities relating to the maintenance of docking facilities. Eligibility requirements for membership in the organizations are specified by the Village in its respective grants of privilege to each organization, as amended from time to time.
- C. The Board of Trustees of the Village of Tuxedo Park, therefore, determines that provision be made for the regulation and supervision of activities that would damage or otherwise adversely affect the waters of Tuxedo Lake, Pond No. 3 and Wee Wah Lake.

§ 65-2. Rules and regulations applicable to Tuxedo Lake.

The following rules and regulations shall apply to the use of the body of water within the Village known as "Tuxedo Lake":

- A. No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Tuxedo Lake.
- B. No person shall place, install or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Tuxedo Lake unless such structure was in existence in the same location prior to February 20, 1987. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory, the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.
- C. No person shall place, install, rebuild or otherwise erect a nonpermanent structure on Tuxedo Lake unless such structure was legally deployable on Tuxedo Lake on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Tuxedo Lake may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure on each property owned by such person.
- D. No rebuilding as authorized by Subsection B, above, or installation of a nonpermanent structure as authorized by Subsection C above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-2; the applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment; and the applicant has obtained approvals of any other board that may be required under the Village Law. For all

purposes, including the issuance of permits under this subsection, the provisions of § 65-2B and C shall not apply to the Tuxedo Club or the Village Boat Club, which shall instead be subject to § 65-2E.

- E. The Tuxedo Club and the Village Boat Club are restricted from expanding the square footage or number of permanent and seasonal docks, or the number of moorings, beyond the facilities approved by the Board of Trustees prior to June 30, 2008, or such later date as the Board of Trustees designates as the date for the Board to make a final approval of the facilities available to each of the Tuxedo Club and the Village Boat Club under this § 65-2, except that the number of moorings may be increased as provided in this § 65-2E. Moorings may only be used for sailboats. A record of approvals applicable to such facilities in effect at that date shall be maintained in the Village Office by the Village Building Inspector. This record shall include the permit, the approved plan of dock configuration (which shall describe the approved arrangement and square footage of the docks), the exact placement of moorings, and photographs of the existing condition at the time of the approval. No alteration of the configuration of the approved docks or relocation of the approved moorings shall be made unless approved by resolution of the Board of Trustees. In addition, upon application to the Board of Trustees by the Tuxedo Club or the Village Boat Club, the number of moorings available to either such organization may be increased above the number specified by the Board of Trustees pursuant to this subsection. Approval of any such increase will be effective for a period of up to one year upon the terms approved by resolution of the Board of Trustees, which may upon application renew the approval in subsequent years.
- F. No person shall place more than one pontoon boat on Tuxedo Lake. The provisions of this § 65-2F shall not apply to the Tuxedo Club or to the Village Boat Club.
- G. Only the following persons are permitted to place boats in and on Tuxedo Lake:
 - (1) The owners of record of property adjoining the shoreline of Tuxedo Lake.
 - (2) The Tuxedo Club and the Village Boat Club and their respective members.
 - (3) Officers, employees and duly designated agents of the Village, but only for the purpose of carrying out their official duties as such officers, employees and agents.
- H. In situations where the Superintendent of Public Works or the Chief of Police determines that corrective measures must be taken to eliminate extreme algae growth in Tuxedo Lake, or for environmental, safety or health reasons, the Superintendent or Chief of Police may authorize the use of a boat powered by means other than electricity, sails or oars on

the waters of Tuxedo Lake for the purpose of undertaking such corrective measures.

- I. No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Tuxedo Lake.
- J. Ice skating on Tuxedo Lake is prohibited.

§ 65-3. Permit required for boats on lakes.

- A. No person authorized within this chapter to place a boat in or on the waters of any of the three lakes shall place a boat in or on the waters of any of the three lakes unless a permit therefor shall have been issued by the Village Clerk. Applications for a permit shall be made by the owner of a boat upon a form to be prescribed and furnished by the Village Clerk. Such form shall require a certification from the owner that the owner will comply with procedures approved by the Village for the cleaning of all boats placed in any of the lakes. A fee in an amount set by resolution of the Board of Trustees shall be paid to the Village by the applicant for a permit at the time the application is submitted. Such fee shall be refunded to the applicant in the event that a permit is not issued. The Village Clerk shall maintain a register of all such permits, which will include the name, address and telephone number of each permit holder and a description of the holder's boat, including length, color, make, purchase date and the date on which the boat was first put into or on any of the lakes.
- B. No permit shall be issued hereunder unless the boat conforms to the requirements and regulations contained in this chapter.
- C. Any permit issued hereunder shall be issued in duplicate, and the person to whom such permit is issued shall affix the same on both sides of the boat, near the bow, in a location where the permit will be visible at all times. Such permit shall be displayed whenever a boat is in or on the waters of the lakes.
- D. All permits issued hereunder must be renewed annually. The Board of Trustees, in its discretion, may revoke or deny renewal of the permit of a holder who it determines has repeatedly violated Village laws or the provisions of this Code in connection with the use of the boat to which the permit relates.
- E. Any boat owned or operated by the Village or by any department thereof shall be required to obtain a permit but shall not be subject to any licensing or other fee.

§ 65-4. Rules and regulations applicable to Wee Wah Lake.

The following rules and regulations shall apply to the use of the body of water within the Village known as "Wee Wah Lake."

- A. No person may fish in or on the waters of Wee Wah Lake unless he or she is a member or an accompanied guest of a member of the Wee Wah Fishing Club or is a resident or nonresident property owner or an accompanied guest of a resident or nonresident property owner of the Village.
- B. No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Wee Wah Lake, unless he or she is a member or guest of a member of the Wee Wah Beach Club or the owner of property that adjoins the waterline of Wee Wah Lake or the guest of such property owner.
- C. Residents of the Village (and nonresident property owners) may launch and retrieve boats for use on Wee Wah Lake in accordance with regulations posted by the Village.
- D. No person shall operate, allow or otherwise permit a boat owned by him or her or under his or her control to enter in the areas of Wee Wah Lake which have been designated by the Wee Wah Beach Club as swimming areas. The prohibition contained in this subsection shall not apply to boats operated by or under the direct control or supervision of the Department of Public Works or the Police Department.
- E. No person shall place, install, rebuild or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Wee Wah Lake unless such structure was in existence in the same location prior to February 20, 1987. Notwithstanding the preceding sentence, the concrete permanent structure used by the Wee Wah Beach Club shall be permitted to remain. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory, the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.
- F. No person shall place, install or otherwise erect a nonpermanent structure on Wee Wah Lake unless such structure was legally in existence on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Wee Wah Lake may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of

not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure.

- G. No rebuilding as authorized by Subsection E above, or installation of a nonpermanent structure as authorized by Subsection F above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-4, the applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment, and the applicant has obtained approvals of any other board that may be required under the Village Law.
- H. No person shall skate on the frozen surface of Wee Wah Lake, except in areas designated by the Board of Trustees and at such times as the Village Police Department has posted appropriate notice that such activity is permitted.
- I. No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Wee Wah Lake.
- J. The Village hereby reserves to itself the authority to promulgate rules and regulations to carry forth the intent of Subsections A and C of this § 65-4, including the authority to limit the age of those who may engage in such activities on an unsupervised basis and the times of the year and times of the day when such activities may be carried out.

§ 65-5. Rules and regulations applicable to Pond No. 3.

The following rules and regulations shall apply to the use of the body of water in the Village known as "Pond No. 3":

- A. No person shall place, install, rebuild or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Pond No. 3 unless such structure was in existence in the same location prior to February 20, 1987. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory, the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.

- B. No person shall place, install or otherwise erect a nonpermanent structure on Pond No. 3 unless such structure was legally in existence on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Pond No. 3 may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure.
- C. No rebuilding as authorized by Subsection A, above, or installation of a nonpermanent structure as authorized by Subsection B, above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-5, the applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment, and the applicant has obtained approvals of any other board that may be required under the Village Law.
- D. No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Pond No. 3 unless he or she is the owner of property that adjoins the waterline of Pond No. 3 or the guest of such property owner.
- E. No person shall skate on the frozen surface of Pond No. 3 except in areas designated by the Board of Trustees and at such time as the Police Department has posted appropriate notices that such activity is permitted.
- F. No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Pond No. 3.

§ 65-6. Rules and regulations for all lakes and ponds.

The following rules and regulations shall apply to the use of the three bodies of water in the Village referred to as the lakes in this chapter:

- A. No motor vehicles, as that term is defined in the Vehicle and Traffic Law of the State of New York, shall be parked or left standing on any of the streets of the Village surrounding any of said lakes, except with the written permission of the Board of Trustees or the Chief of Police. Notwithstanding the definition of the term "motor vehicle" contained in

the Vehicle and Traffic Law of the State of New York, the term "motor vehicle," as used in this chapter, shall also include a snowmobile, a boat trailer and other recreational vehicle not specifically defined under the Vehicle and Traffic Law of the State of New York, but shall not include fire and police vehicles and vehicles of the Department of Public Works.

- B. Access to any of said lakes for the purposes permitted in this chapter shall be from such locations as have been designated in this chapter. The Board of Trustees may, from time to time, designate additional locations from which persons may have access to any of said lakes for the purposes permitted in this chapter. Notwithstanding the foregoing, the owners and lessees of property adjoining the shoreline of said lakes and their guests, members and invitees shall have access to any of said lakes from such property for purposes permitted in this chapter.
- C. Any person operating or riding as a passenger in any boat on the waters of any of said lakes must, at all times, conform to the safety regulations promulgated by the United States Coast Guard.
- D. This chapter shall not relieve any person from complying with any rule, regulation or law of the State of New York requiring a person to obtain a license before fishing on any of said lakes.
- E. No person shall deposit garbage, refuse, putrescible matter or any other matter that pollutes water in any of said lakes.
- F. No boats that have been treated or otherwise surfaced with antifouling or toxic bottom paints shall be placed in the waters of any of said lakes. The term "antifouling or toxic bottom paints" shall mean paints containing cuprous oxide, tributyltin fluoride or similar compounds.
- G. No person shall place a boat, trailer or dock in any of the lakes unless such boat, trailer or dock has been steam-cleaned or cleaned by other measures approved by the Village in accordance with procedures approved by the Village prior to the time it is initially placed in one of the lakes and at such times thereafter as may be required by rules adopted by the Board of Trustees. Cleaning shall take place at a site that does not drain into one of the lakes. A certificate of compliance with this procedure for each boat must be recorded by the Department of Public Works and filed with the Village Clerk.
- H. No person shall place any boat that is greater than 20 feet in length overall in or on the waters of any of said lakes unless the boat is an antique electric boat built prior to 1936 and under 30 feet in length. This subsection shall not apply, however, to any boat that is greater than 20 feet in length overall which was in service on any of said lakes prior to February 20, 1987. No person shall replace any such boat with another boat greater than 20 feet in length.
- I. No person hereinafter authorized shall place a boat in or on the waters of the lakes, other than a boat powered by electricity, sails or oars. Any

such boat shall be subject to the permit provisions contained in § 65-3 hereof.

- J. No person shall place any pontoon boat on Wee Wah Lake or Pond No. 3. No home-owner or other person shall place more than one pontoon boat on Tuxedo Lake. No homeowner or other person shall place more than a total of three boats of any kind on the lakes, or at any dock, offshore float, floating platform or other similar structure owned by such a person, or permit any other person to moor or maintain a boat at such a structure. The provisions of this § 65-6J shall not apply to the Tuxedo Club or to the Village Boat Club.
- K. No club, organization or other person shall stock any of the lakes with fish without prior written consent from the Board of Trustees.
- L. No ice fishing is permitted on any of the lakes without prior written consent of the Village and prior written consent of the New York State Department of Environmental Conservation.
- M. The Board of Trustees shall annually appoint one or two individuals to act as Lake Wardens for one-year terms. Such persons shall have such qualifications and duties as are prescribed by the Board of Trustees.

§ 65-7. Prohibited uses and activities.

- A. All uses and activities in or upon the waters of the lakes, except as permitted in this chapter, are prohibited.
- B. Except as otherwise permitted by law or by the Board of Trustees, no person shall fill any portion of a shoreline or construct or erect a bulkhead or retaining wall or encroach in any way upon the waters or land beneath the waters of the lakes and ponds.

§ 65-8. Use of approved fertilizers; ban on use of designated chemicals.

- A. In order to protect the lakes from damage, the Board of Trustees may, by resolution, publish a list of approved fertilizer products that may be used in the Village. The Board of Trustees may also, by resolution, publish a list of chemicals that may not be used in the Village in light of their potential adverse effects on the lakes.
- B. The Board of Trustees shall update the lists described in Subsection A not less frequently than annually and shall publish an annual report on the quality of the water in the lakes for drinking purposes.

§ 65-9. State regulations not affected.

The rules and regulations herein contained shall be in addition to and shall not be deemed to supersede the watershed regulations heretofore promulgated by the Commissioner of Health of the State of New York

applicable to the lakes, as set forth in § 133.13 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR 133.13).

§ 65-10. Penalties for offenses.

- A. Any person who violates any of the provisions of this chapter shall be deemed to have committed a violation pursuant to the Penal Law of the State of New York punishable as provided in § 1-12 of Chapter 1, General Provisions.
- B. In addition to the above penalty, the Board of Trustees may revoke the permit or any privilege issued or granted to any person pursuant to this chapter who violates any of the provisions of this chapter or any of the terms or conditions of any such permit.