

Chapter 432
VESSELS, NONMOTORIZED

(HISTORY: Adopted by the Town Board of the Town of La Pointe 6-13-1006 by Ord. No. 2006-06-13; amended in its entirety 11-28-2006 and 11-27-2018. Subsequent amendments noted where applicable.)

432-1. Title.

The title of this chapter is “An Ordinance Amending the Town of La Pointe Nonmotorized Vessel Ordinance No. 2006-11-28.

432-2. Purpose.

The purpose of this chapter is to regulate:

- A. Unattended nonmotorized vessels situated on property belonging to the Town;
- B. Persons renting nonmotorized vessels which are situated on Town property; and
- C. Commercial use of nonmotorized vessels on Town property.

432.3. Village Powers.

As per 60.10(2)(c), Wis. Stats., a Town Meeting of the Town of La Pointe adopted a general and continuing resolution authorizing the Town Board of the Town to exercise powers of a village board under 60.22(3), Wis. Stats. This chapter is adopted under the general authority of the Town’s village powers.

432.4 Definitions.

When used herein, the following words have the following definitions:

ACCESSORIES – The accessories associated with a nonmotorized vessel, including but not limited to such items as paddles, oars, life preservers, sails and anchors.

CLERK – The Town Clerk of the Town of La Pointe.

COMMERCIAL USE – Any use, including but not limited to rental or operation, of a nonmotorized vessel for which money is received.

IDENTIFICATION STICKER – A gummed label or decal provided by the Town to a paid registrant which is to be affixed to the exterior bow of the NMV above the ordinary waterline of such vessel to identify who owns the vessel. The sticker number also coordinates with one of 56 specific locations on the noncommercial NMV rack, indicating where the NMV is to be kept when not in use. The commercial vessels will be stored in racks with the posted business names.

NONMOTORIZED VESSEL (NMV) – A canoe, kayak, rubber raft, boat or other watercraft or vessel used or capable of being used as a means of transportation on water which does not contain a motor. A referent to NMV also refers to related accessories of such NMV.

PERSON – A natural individual person or a corporation, limited liability company, partnership, association or other legal entity.

TOWN – The Town of La Pointe in Ashland County, Wisconsin.

TOWN BOARD – The Board of Supervisors of the Town of La Pointe.

TOWN FEE SCHEDULE – A written schedule listing current fees in the Town of La Pointe adopted by the Town Board.

TOWN PROPERTY – Real property situated in the Town of La Pointe, Ashland County, Wisconsin, which is owned by the Town of La Pointe.

WIS. STATS. – Wisconsin Statutes, including successor provisions to statutes cited in this chapter.

YEAR STICKER – A gummed label or decal provided by the Town each year when the yearly NMV fee is paid by the NMV noncommercial or commercial owner.

432-5. Nonmotorized vessels on town property.

- A. No NMV shall be left unattended on Town property unless a current Town year sticker is properly affixed to such NMV. No person shall leave an NMV unattended on Town property without a current Town year sticker properly affixed to such NMV.
- B. No NMV shall be left overnight on town property unless such NMV:
 - (1) Has a current Town year sticker properly affixed to such NMV; and
 - (2) Such NMV is left or placed in the area designated in this chapter or, if no area is designated by this chapter, by a sign erected at the site by the Town designating the NMV storage area.
- C. No NMV shall be left overnight at Big Bay Town Park unless such NMV:
 - (1) Has a current Town year sticker properly affixed to such NMV.
- D. Assumption of Risks. The Town of La Pointe hereby notifies persons who decide to leave their NMVs unattended on Town property that such vessels are very exposed to harm and are at substantial risk of being stolen, damaged or destroyed by persons, animals, or other perils or forces of nature, some of which are foreseeable and some of which are not foreseeable.

Unattended NMVs, although situated on Town property, are not within the possession, custody or control of the Town of La Pointe nor are they under the Town's supervision, so the Town of La Pointe does not accept or assume any responsibility, obligation or liability in respect to the protection of such NMVs.

A person who makes the voluntary decision to leave their NMV unattended on Town property shall be deemed:

- (1) To have assumed and accepted all risks associated therewith including, but not limited to those involving theft, damage, destruction and loss of such NMV; and
- (2) To have covenanted not to sue or assert any claim or cause of action, of any nature or kind, against the Town of La Pointe or any of its supervisors, officers, employees, agents or representatives associated with, related to or arising from any such loss, damage or destruction.

432-6. Stickers.

A person desiring a NMV site at the Town Park from the Town shall fully and accurately complete a written application therefor, file such application with the Town and pay the required fee. The fee for a NMV identification sticker and a year sticker shall be as provided by the Town Fee Schedule. No sticker shall be issued unless the required fee for that sticker has been paid to the Town of La Pointe.

- A. The application for a NMV site at the Town Park shall state:
 - (1) The name, address and telephone number of the NMV owner.
 - (2) The Island address and telephone number of the NMV owner if different from the address and phone number above.
 - (3) The date of such application.
 - (4) A description of the NMV in terms of size, color, type of vessel, manufacture, model number and any identifying serial number or registration number, if there is one.
 - (5) The primary Town property where such NMV will be left unattended.
- B. An identification sticker issued for a NMV is properly affixed when it is affixed on the exterior bow of the NMV for which it is issued, above the normal waterline where it is readily visible.
- C. A year sticker issued for a noncommercial vessel should be affixed for the current year and is in effect from July 1 to June 30.

432-7. Persons liable.

- A. If an NMV is discovered unattended on Town property in violation of this chapter, a citation for such violation may be issued to:
 - (1) A person who had been using or possessing such NMV;
 - (2) A person who is using or possessing the NMV at the time the citation is issued; or
 - (3) An owner of such NMV at the time of the violation.
- B. Each of the above persons is liable and responsible for such violation.

432-8. Commercial use of nonmotorized vessels on Town property

- A. Any person utilizing a NMV for commercial use on Town property, including at Big Bay Town Park, Memorial Park (Joni's Beach) and Main Street/Middle Road Approach, shall each year obtain a commercial use permit and a year sticker for each vessel.
- B. Commercial users shall obtain a permit from the Town and abide by all terms indicated in the permit. The permit shall include indemnification of the Town and require an insurance certificate.
- C. No commercial use of a NMV on town property is allowed without obtaining the permit.
- D. Commercial users obtaining the permit accept responsibility related to all term and conditions of its use.
- E. Applicable fees are required as provided by the Town Fee Schedule.
- F. The Town is held harmless against theft, loss, or damage to properties of the commercial user.
- G. Activities within the parks and grounds are subject to all rules, regulations and ordinances.

432-9 Commercial use permit process.

- A. Permit. A commercial use permit shall be obtained from the Town Administrator or designee to utilize nonmotorized vessels for commercial use on Town property, including at Big Bay Town Park, Memorial Park (Joni's Beach), or Main Street/Middle Road Approach. A commercial use permit is valid from May 15 through October 15 of each year issued.
 - (1) Application. A person seeking issuance of a permit hereunder shall file an application with the Town Administrator. The application shall include:
 - (a) The name and address of the applicant.
 - (b) Federal and state tax identification number, if applicable.
 - (c) The applicant's general liability insurance information; and
 - (d) Any other information required to aid in the permit process.
 - (2) Fees. Each application shall be submitted with the required fees prior to consideration of the permit process.
 - (3) Standards for issuance. The Town Administrator or designee shall issue a permit in consideration of the following:
 - (a) The commercial use will not interfere with or unreasonably detract from the general public enjoyment of the park or promotion of public health, welfare, safety and recreation;
 - (b) The commercial use is not reasonably anticipated to incite disorderly conduct; and;

- (c) The application is complete with all required information, including insurance information on file.
- (4) Issuance. The Town Administrator or designee shall issue or deny the permit within five business days of receiving the application. Denials shall be clarified in writing and state the reasons for such.
- (5) Appeal. The applicant may appeal the denial of a permit through the Town Board. An appeal must be submitted to the Town Board within fifteen (15) days of the date of denial.
- (6) Financial Qualifications. To apply to the Town of Pointe for the issuance of a commercial use permit, the applicant shall not at the time of such application, owe the Town of La Pointe:
 - (a) Any delinquent real estate taxes, delinquent personal property taxes or any interest or penalty due thereon; or
 - (b) Any unpaid forfeiture or fee which has been unpaid for 60 days or more; or
 - (c) Money on a judgment in favor of the Town of La Pointe and against the applicant or a corporation, limited liability company, partnership, joint venture, trust estate or any other entity in which that person is a shareholder, director, officer, owner, member, agent, trustee, representative, manager, employee, consultant, advisor or the holder of any other right, title or interest, which has been unpaid for 60 days or more.

No commercial use permit shall be issued to any person who does not meet the financial qualifications in this Section 432-9.A(6).

The Town of La Pointe may revoke a commercial use permit issued by the Town of La Pointe to the holder of a commercial use permit who, after 60 days' notice, fails to pay any of the aforesaid amounts which are due to the Town of La Pointe.

432-10 Limitations.

- A. Commercial Use Permit Holders. No person holding a current commercial use permit issued by the Town of La Pointe shall leave unattended more than eight (8) nonmotorized vessels at Big Bay Town Park at the same time.
- B. Non-Commercial Users. No person who does not hold a current commercial use permit issued by the Town of La Pointe shall leave unattended more than four (4) nonmotorized vessels at Big Bay Town Park at the same time.
- C. When calculating the total number of nonmotorized vessels a person has at a given location at once under this ordinance, there shall be added together:
 - (1) Each NMV at that location such person owns, possesses, uses, controls, rents, leases, has custody of or holds an interest in, plus:

- (2) Each NMV at that location which is owned, possessed, used, controlled, rented, leased or within the custody of a corporation, limited liability company, partnership, joint venture, trust, estate or any other entity in which that person is a shareholder, director, officer, owner, member, agent, trustee, representative, manager, employee, consultant or advisor or the holder of any other right, title or interest.

- D. Commercial Use Permit Which Allow Rentals at Big Bay Town Park. The Town of La Pointe shall not issue more than four (4) commercial use permits which are outstanding at once which allow the permit holder to rent or lease nonmotorized vessels at Big Bay Town Park.

342-11. Prohibited Conduct by Commercial Use Permit Holders.

A person does not become an employee, agent or representative of the Town of La Pointe by being issued a commercial use permit by the Town of La Pointe but by virtue of their status as a commercial use permit holder, such person's conduct unavoidably reflects on the Town of La Pointe.

The holder of a commercial use permit issued by the Town of La Pointe shall not, in a public or noncommercial place, engage in rude, abusive, indecent, profane, violent, unreasonably loud or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

342-12. Prohibited Conduct.

Whoever does any of the following has violated this chapter:

- A. Lends to another an identification or year sticker for display upon an NMV for which the sticker has not been issued.
- B. Attaches an identification or year sticker for an NMV for which the sticker has not been issued.
- C. Uses an NMV which displays an identification or year sticker which was not issued for that NMV.
- D. Willfully paints, alters or adds to or cuts any portion of an identification or year sticker or who places or deposits or causes to be placed or deposited on a sticker any substance to hinder the normal reading of such sticker.
- E. Defaces, disfigures, covers, obstructs, changes or attempt to change any letter or number on an identification or year sticker or who causes a sticker to appear to be a different color.
- F. Reproduces, creates or manufactures by any means whatsoever an identification or year sticker.
- G. Uses or possesses an NMV having attached thereto an identification or year sticker fashioned in imitation or facsimile or altered so as to resemble a sticker issued by the Town.
- H. Intentionally takes or uses a NMV which is on Town property and is for rent without paying the required rental fee for use of such NMV.
- I. Intentionally damages, hides, conceals, interferes with or, without the owner's consent, uses a NMV which is legally situated on Town property.

- J. Intentionally commits an act which is reasonably calculated to hamper, obstruct or interfere with the operation of a NMV rental business or a NMV rental operation on Town property.
- K. Takes down, removes, damages, interferes with or tampers with any lock, chain or other device owned by or installed by the Town of La Pointe or its employee, agent or representative on Town property.

Any person who violates any term or provision of this chapter shall, upon conviction, pay a forfeiture of not less than \$60 nor more than \$500 plus the applicable costs, surcharges and assessments for each violation. Each day a violation exists or continues shall constitute a separate offense under this chapter. In addition, the Town may seek injunctive and other equitable relief to terminate or enjoin further violations.

342.13. Enforcement of Ordinance.

This ordinance may be enforced as follows:

- A. Issuance of Citation to Violator. Any law enforcement officer or any other officer or employee of the Town of La Pointe may, on behalf of the Town, issue a citation to any person who is believed to have violated a provision of this ordinance.
- B. Each day a violation occurs constitutes a separate offense for which a separate penalty may be imposed.
- C. Revocation of Commercial Use Permit. In addition to or in lieu of the issuance of a citation to a person who is believed to have violated a provision of this ordinance, the Town Administrator or Town Clerk may provide the holder of a commercial use permit issued by the Town with a written notice stating that the Town of La Pointe intends to revoke the commercial use permit issued to such person on a date certain, not less than 15 days in the future.

Such written notice of intent to revoke a commercial use permit shall be served on the commercial use permit holder by personal service or sent to them by certified mail, return receipt requested, at least 15 days before the intended date of revocation of the commercial use permit.

A certified mail letter properly addressed and sent to a commercial use permit holder, pursuant to this ordinance, shall be deemed to have been served on the addressee when mailed.

Such written notice shall:

- (1) Inform the commercial use permit holder of the Town's intention to revoke the commercial use permit issued to them, the date of such intended revocation and the specific grounds for such intended revocation; and
- (2) Inform the commercial use permit holder that they have a right, prior to the stated date of intended revocation, to file with the Town Clerk or Town Administrator a written request for a hearing before the Town Board on the issue of such revocation.

If the Town Administrator or Town Clerk receives a written request for a hearing prior to the intended date of revocation of a commercial use permit the commercial use permit issued to such person shall not be revoked until the hearing is conducted by the Town Board on such issue.

A hearing before the Town Board on the issue of whether to revoke a commercial use permit will be conducted, to the extent applicable, similar to a hearing before the Town Board of Review.

In the event the Town Board determines that a commercial use permit issued by the Town of La Pointe should be revoked, the Town Board can then also determine at such time whether to bar such person from being issued a commercial use permit in the future for a stated period of time.

An appeal from the determination by the Town Board under this section shall be by an action for certiorari commenced within 30 days after that party receives the written notice of the Town Board's decision.

342-14. Impound Lot.

The Town has established and maintains an impound lot. Nonmotorized vessels, trailers, and accessories and other personal property in violation of this chapter may be impounded in such impound lot. Such impound lot may also be used for other law enforcement purposes unrelated to this chapter.

- A. When an NMV, trailer, accessory or other personal property is placed in the impound lot, such items shall not be removed from the impound lot unless:
 - (1) The amounts due to the Town for any forfeiture, transportation, towing, storage or other unpaid expenses have been paid to the Town; and
 - (2) The Park Supervisor, Town Foreman or law enforcement officer involved has consented to or approved of such removal.
- B. A person who removes an NMV, trailer, accessory or other property from the impound lot in violation of this provision has violated this section of this chapter.

342-15. Removal, immobilization and impoundment.

- A. Any law enforcement officer or any officer or employee of the Town who discovers an NMV on the Town property in violation of this chapter may remove or cause such NMV to be removed to a suitable place of impoundment or may immobilize such NMV.
- B. Upon removal of an NMV to a place of impoundment, the law enforcement officer or officer or employee of the Town is to notify the Chief of Police of the Town of the pertinent details.
- C. The owner of an NMV is responsible for all costs of impounding and disposing of the NMV. Costs not recovered from the sale of the NMV may be recovered in a civil action by the town against the owner of the NMV.