

Lake Malone Advisory Committee

Summary of Recommendations

May 2009

The Kentucky Department of Fish and Wildlife Resources is attempting to resolve land and water issues associated with Department-owned lakes. On February 8, 2008 the Fisheries Committee of the Fish and Wildlife Commission considered a proposal to modify several regulations on Department-owned lakes. Several landowner representatives from Lake Malone expressed dissatisfaction with the proposed changes discussed at this meeting. The Fisheries Committee decided to establish a 14 member advisory committee including 9 members from a 3-county area surrounding Lake Malone. The Advisory Committee met on three occasions in 2008 and drafted the enclosed packet of recommendations. This Committee's ultimate goal is to maintain Lake Malone as a beautiful place to live and play, and to find fair and workable solutions to all the issues and concerns.

The enclosed recommendations are summarized in this document. The actual regulation will require additional detail, but the basic concepts will still apply.

Please review the material and provide comments, either positive or negative, to:

**Amy Glass, KDFWR, Fisheries Division, #1 Sportsman's Lane,
Frankfort, KY 40601 or email: amy.glass@ky.gov**

Amy will assemble the comments for staff review. Recommendations will be refined prior to submittal to the Fish and Wildlife Commission for their consideration. In addition, the public will have the following opportunities to comment:

1. An upcoming Fisheries Committee meeting when the proposed changes are placed on the agenda. The next meeting is July 10, 2009, but the agenda has not yet been established.
2. The Commission Meeting on August 14 when the full Commission will consider whether to approve the draft changes.
3. A public hearing that will be scheduled for a day several weeks after the Commission meeting at Department Headquarters. A person may provide comments at the hearing or submit written comments during the written comment period.
4. The Administrative Regulations Review Subcommittee (ARRS) meeting at the State Capitol Annex building. This legislative subcommittee meets monthly and they will hear this regulation usually two or three months after the Commission meeting.
5. The Agriculture and Natural Resources Subcommittee that will meet about a month after the ARRS.

Boat Docks

Private Boat docks

Existing restrictions, including dimensions, size, flotation requirements, and 10-year permit system remain the same.

Proposed Change: Personal Watercraft (PWC) mooring can be attached to a private dock in lakes that allow PWCs.

Permitted PWC dock

- Must be a commercially manufactured system
- 6 X 15 ft for single PWC
- 12 X 15 ft for dual PWC

Moor 2 boats per private dock, or 1 boat and up to 2 PWC's with the above docking system.

Community Boat Dock

Proposed change at Lake Malone: A community boat dock may be constructed by three or more adjacent property owners in a subdivision.

- It shall require a boat dock permit per boat slip.
- It shall not contain more than 12 permitted boat slips per dock.
- It shall not block a cove.
- It shall be accessible across Department property from one of the lots using a permissible access method.
- It shall not be within 1000-ft of another community dock.
- Condominiums or other multi-family dwellings shall not be eligible for a boat slip in a community boat dock.
- Individual boat slips shall meet specific dimension requirements.

Shoreline Use and Access Structures

Previously, the regulations did not allow any permanent access structures on Department-owned land. There has not been complete adherence to Department regulations by adjacent landowners or strict enforcement by the Department. The Committee agreed to the following:

New Access Structures Allowed on Department-Owned Property

- Will require a Shoreline Use Permit (see page 6)
- Will require an on-site visit by a Department representative prior to any construction.
- Structures/Pathways shall follow the natural contour of the land if possible.

- Improved Pathways shall be no wider than 5 feet.
- Shall use pre-treated lumber or railroad ties if edging is used.
- Shall use only crushed stone, wood chips, or other removable material as fill.
- May use natural stone as steps.
- Raised ground-level pathways (alligator steps) are permissible, but shall not exceed 40 steps or landings.
 - Landings are not to exceed 5 ft wide by 8 ft long.
 - Only pre-treated lumber allowed. No paint will be allowed, but a clear wood sealer may be used.

Staircases

- 20 steps maximum if no landing used.
- 30 steps maximum with one 4 X 4 ft landing (see attached draft drawing).
- Pre-treated lumber only.
- Shall comply with Kentucky Building Code Standards.
- Steps not to exceed 4 ft wide.

Existing Structures on Department – Owned Land

“Existing structures” means a grandfathered access **or** non-access structure built on Department property prior to January 1, 2009.

Existing access structures that meet new access structure requirements will only need a valid Shoreline Use Permit (see page 6).

Existing access structures that **do not** meet access structure requirements shall be grandfathered for the life of the current landowner(s) listed on the deed.

- The landowner must obtain a Shoreline Use Permit and follow the permit renewal process for 15- year intervals.

Any existing non-access structures, such as a gazebo or storage shed, shall be removed by year 15 at the owner’s expense.

For existing structures that **do not** meet access structure requirements when property ownership changes, the following will apply:

- Existing owner must obtain Shoreline Use Permit that is valid for one 15-yr permit period.
- A new property owner may utilize the remainder of the 15-yr permit period previously held by the former owner.
- If ownership changes in year 15, the new owner will be granted an additional 12 months for compliance.
- Ineligible access and non-access structures shall be removed by year 15 at the owners’ expense.
- Property owners may petition for a waiver (see waiver section).

Other restrictions on Department-owned land remains the same:

- No cutting of trees or shrubs greater than 2 inches in diameter (measured at ground level).
- No bank stabilization without Department approval.
- No mechanical equipment.
- No objects or other non-access structures.
- Water withdrawal for residential use by adjacent property owner only.

Waiver

Waiver may be obtained from the Department for any deviations to the specifications for new or existing boat docks or access structures.

Waivers must be requested in writing with a detailed plan of the deviation prior to any new construction.

Waiver issuance will be based on the following:

- Whether the dock or access structure is in substantial compliance.
- Poses a safety hazard.
- Geological or other physical features that necessitates a deviation.
- Impacts to other neighboring landowners.
- Applicant's history of compliance related to structures.
- Whether there are other reasonable alternatives.
- Conformity to Kentucky Building Code Standards.

An adjacent landowner whose waiver has been denied may request an administrative hearing pursuant to Kentucky Revised Statute Chapter 13B.

Permit Revocation

The Department shall cancel a boat dock or Shoreline Use permit if the permit holder:

- Makes a non-compliant addition/modification to an existing approved structure.
- Fails to maintain structures in a structurally-sound condition.
- Fails to renew a permit within 90 days of expiration.

Miscellaneous Topics

Horsepower Restriction

Presently, there is a “split season” for the horsepower restriction on Lake Malone. Boaters have a 200-HP maximum limit from the weekend following Labor Day to the weekend prior to Memorial Day and a 150-HP maximum during the remainder of the year.

The Committee was given an overview of the law enforcement problem. Many existing boaters, both personal watercraft and inboard motor craft, are presently **exceeding** the 150-HP limitation. All boaters need to be treated the same. There is not a direct correlation between speed and horsepower after you exceed 100 HP. The large number of boaters on Lake Malone coupled with the lake’s narrow, serpentine nature creates an inherently dangerous situation. Everyone agreed that safety is paramount. The Committee recommended:

- Eliminate the horsepower limitation and maintain the maximum boat length (22ft) restriction.
- Consider modifying the ski zone that presently has a dangerous curve.
- The Department will consider adding some idle zones in major tributary arms.

Location of the Department-owned land at Lake Malone

The Department’s Engineering Division will strategically locate 15 elevation bench mark sites around the lake. These bench marks can be utilized (by local surveyors) to mark the 50-ft buffer zone at individual tracts.

Shoreline Use Permit

The Shoreline Use Permit is in addition to Private Boat Dock Permit

This permit is necessary for any structures constructed on Department-owned land excluding a private boat dock and dock walkway connected to the land.

Valid for a 15 year cycle (not a 15-yr period beginning at date of issuance); then requires renewal when applicable.

Tier I - \$100

- New & renovated pathway or staircase less than 30 steps.
- Existing access structures that do not meet new pathway or staircase requirements and have less than 15 steps.

Tier II - \$200

- Existing access structures that do not meet new pathway or staircase requirements and have between 15-30 steps.
- Existing access structure with concrete steps that has less than 30 steps.

Tier III - \$300

- Existing access structures (including concrete access structures) that do not meet pathway or stairway requirements and have 30 or more steps.
- Existing access structure (stairs) that has 1 or more landings that exceed 4 X 4 ft in dimension.
- Existing non-access related structure (for example, a storage shed or gazebo).

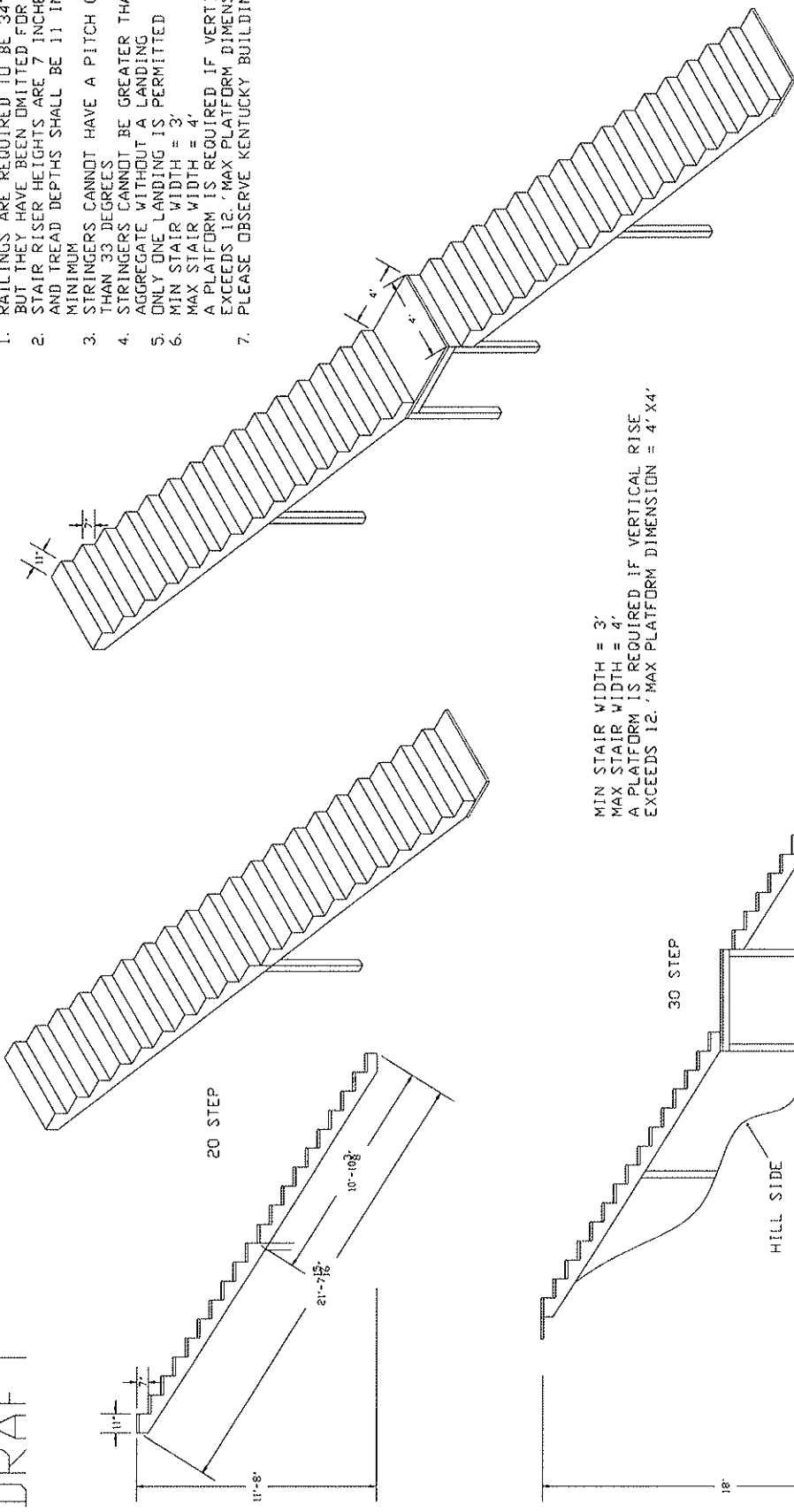
Note: Unless grandfathered, existing access structures that do not meet structure requirements shall be removed by year 15 at the owner's expense. All existing **non-access** structures shall be removed by year 15 at the owner's expense.

If an adjacent landowner applies for a Shoreline Use Permit for multiple structures covering more than one tier level, a single permit will be issued, if approved, at the highest Tier necessary to cover all structures.

If an adjacent landowner constructs a new access structure that has not been approved by the Department, the structure shall be removed at the expense of the owner.

DRAFT

- NOTES:
1. RAILINGS ARE REQUIRED TO BE 34" TO 38" BUT THEY HAVE BEEN OMITTED FOR CLARITY
 2. STAIR RISER HEIGHTS ARE 7 INCHES MAXIMUM AND TREAD DEPTHS SHALL BE 11 INCHES MINIMUM
 3. STRINGERS CANNOT HAVE A PITCH GREATER THAN 33 DEGREES
 4. STRINGERS CANNOT BE GREATER THAN 22' IN AGGREGATE WITHOUT A LANDING
 5. ONLY ONE LANDING IS PERMITTED
 6. MIN STAIR WIDTH = 3'
MAX STAIR WIDTH = 4'
 7. A PLATFORM IS REQUIRED IF VERTICAL RISE EXCEEDS 12'. MAX PLATFORM DIMENSION = 4' X 4'. PLEASE OBSERVE KENTUCKY BUILDING CODES



DRAWN BY A. J. M.		DRAWING NO. 1 OF 1	
DATE		SCALE	
DESIGNED BY		PROJECT NO.	
DIV. OF		FILE NAME	
OFFICE		DATE	
TYPICAL STAIR SECTION			
COMMONWEALTH OF KENTUCKY			
COMMERCE CABINET			
DEPARTMENT OF FISH AND WILDLIFE			
DIVISION OF ENGINEERING			
FRANKFORT, KENTUCKY			
APPROVED AGENT REGISTERED PROFESSIONAL ENGINEERING		APPROVE FOR PROGRAM CONCEPT ONLY	
DATE		DATE	