

ARTICLE R 61
SECTION R 61.01

MCMILLAN ROAD END

AN ORDINANCE TO REGULATE USES AND ACTIVITIES WHICH OCCUR AT THE MCMILLAN ROAD END TERMINATING AT LAKE MICHIGAN WITHIN THE TOWNSHIP AND TO PROVIDE PENALTIES FOR THE VIOLATION OF SUCH REGULATIONS.

THE TOWNSHIP OF FRUITLAND ORDAINS:

SECTION R 61.02 INTENT, PURPOSE AND SHORT TITLE

The Fruitland Township Board recognizes and concludes that the proper and safe use of land and water resources at and near public roads which end at Lake Michigan in Fruitland Township (“Township”) is desirable in order to retain and maintain the physical, ecological cultural and aesthetic characteristics of the lake and its shorelines and beaches and the rights of adjoining riparian owners and users in the vicinity of such road ends at lakes, to promote the safe and the orderly use of such road ends, and to promote the public health, safety and welfare of all persons making use of the lake and lands within the Township at or near the road ends involved. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for the use of certain road end (McMillan Road End) at Lake Michigan within the Township.

This Ordinance shall be known and may be cited and referred to as the “Fruitland Township McMillan Road End Ordinance,” and shall hereinafter be referred to as the “Ordinance.”

SECTION R 61.03 COVERAGE/DEFINITION

For purposes of this Ordinance the phrase “public road end” shall mean McMillan Road from the water’s edge of Lake Michigan to the Westerly line of Scenic Drive, including any bottomlands under the lake, the beach, and the shoreline associated with that road.

SECTION R 61.04 HOURS OF OPERATION

The McMillan public road end shall be used only during the hours from 8:00 a.m. until dusk.

SECTION R 61.05 PROHIBITIONS

The following uses and activities shall not occur at, on or from the public road end:

- A. Littering.
- B. Engaging in loud or boisterous conduct.
- C. Playing audio, music, or sound devices of any kind at a volume which is audible beyond the boundaries of the public road end.
- D. Disturbing the peace or engaging in any vulgar, obscene or dangerous conduct.
- E. Urinating, defecating or utilizing the public road end as a bathroom facility.

- F. Trespassing on any adjoining or nearby private land, which includes beaches, dunes, and fore-dunes.
- G. Camping or picnicking.
- H. Walking, running, or possessing unleashed pets (pets must be kept leashed at all times).
- I. Leaving pet feces.
- J. Walking or riding horses.
- K. Hunting, shooting, engaging in archery, playing volleyball, golfing, or engaging in any other sporting activity.
- L. Keeping or using a fire, grill, fireworks, sparkler, or any other incendiary device.
- M. Lounging or sunbathing on private land beyond the north and south boundaries of the public road end.
- N. Lounging or sunbathing on the public road end except within 30 feet of the waters of Lake Michigan.
- O. Leaving any personal item, lounge chair, towel, or beach toy on the public road end when the owner thereof is not physically present on the public road end.
- P. Driving, operating, or using any motorized vehicle, dune buggy, jeep, ATV, snowmobile, motorcycle, motorbike, go-cart, or similar vehicle on or over any portion of the public road end except that part of the public road end located within twelve (12) feet of the westerly edge of Scenic Drive (but this prohibition shall not apply to a power driven device designed for use by a handicapped or disable person when operated by such a person).
- Q. Parking, storing or keeping automobile, truck, recreational vehicle trailer, motorcycle, motorbike or other motorized vehicle or item listed in subsection Q hereof at or on any portion of the public road end except that part of the public road end located within twelve (12) feet of the westerly edge of Scenic Drive.
- R. Launching, docking, storing, or mooring of any boat or watercraft on or at the public road end.
- S. Disembarking from or embarking onto any boat or watercraft.
- T. Engaging in any conduct which shall impair, impede or diminish the free use of or travel on or across the public road end in conformance with the law and this Ordinance.
- U. Removing, destroying, or defacing any sign, monument, or marker installed or placed on the public road end by any governmental unit or agency.
- V. Failing to obey or comply with any requirement stated on a sign installed or placed on the public road end by any governmental unit or agency.
- W. Parking anywhere on the public road end except where expressly authorized to do so by a sign or signage installed by a government unit.

SECTION R 61.06

PENALTIES AND ENFORCEMENT

PENALTY: The violation of this Ordinance constitutes a municipal civil infraction offense, for which the fines shall be not less than One Hundred Dollars (\$100) or more than Five Hundred Dollars (\$500) for the first offense and not less than Two Hundred Dollars (\$200) nor more than Two Thousand Five Hundred Dollars (\$2,500) for subsequent offences, in the discretion of the Court, and in addition to all of the costs, damages and expenses provided by law. For purposes of

this Ordinance, “subsequent offense” means a violation of this Ordinance committed by the same person within twelve (12) months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one (1) week following issuance of a citation for a first offense shall be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

INJUNCTION: Any violation of this Ordinance is hereby declared to be a nuisance *per se*. In addition to, or in lieu of, seeking to enforce this Ordinance by a municipal civil infraction proceeding, the Township or any Township resident may institute an appropriate action in a court of general jurisdiction seeking injunctive or equitable relief.

ENFORCEMENT AND ADMINISTRATION: This Ordinance shall be enforced and administered by the Township Ordinance Enforcer, or such other Township official as may be designated from time to time by resolution by the Township Board. Furthermore, this Ordinance may also be enforced or administered by any member or official of the Muskegon County Sheriff Department or other police agency, the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality, or the United States Army Corps of Engineers should the Township and any other such governmental unit or agency enter into an agreement or arrangement whereby any such official can also enforce the Ordinance.

SECTION R 61.07 EXEMPTIONS

This Ordinance shall not apply to any structure or improvement installed by a governmental unit or to any uses, activities regarding any employee, agent or contractor of a governmental unit (including, but not limited to, Fruitland Township, the Muskegon County Road Commission and the State of Michigan) when engaging in a governmental function regarding maintenance or repair to the public road end or any item thereon, or any emergency fire or rescue uses or activities engaged in by any firefighting, police or ambulatory officials or services.

SECTION R 61.08 SEVERABILITY

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

SECTION R 61.09 EFFECTIVE DATE

The provisions of this Ordinance shall take effect thirty (30) days from the date of publication of the Ordinance or a summary of its provisions in accordance with law.

ADOPTED: September 19, 2011

PUBLISHED: October 2, 2011

EFFECTIVE: November 1, 2011

AMENDED: August 19, 2013

PUBLISHED: August 25, 2013

EFFECTIVE: September 24, 2013