



HOW CAN I USE MY LAKEFRONT COTTAGE OR HOUSE?

By: Clifford H. Bloom, Esq.

Bloom Sluggett Morgan, PC | Grand Rapids, Michigan | www.bsmlawpc.com

Have you ever wondered how you can legally use your lakefront or waterfront cottage? That is, can you legally have an apartment above the pole barn, install an elderly relative's apartment as an entirely separate part of the house, or allow your brother-in-law to dock his boat for the whole summer at your dock? The simple answer is, "it depends".

Most waterfront properties in Michigan are located in a township, city, village or county with zoning regulations in effect. Where a local zoning ordinance exists, most waterfront properties are zoned for single family residential use or the equivalent. The uses or activities that can lawfully occur in a single-family zoning district are typically spelled out in the zoning ordinance involved. If the municipality in which your lakefront property is located does not have any zoning regulations, as the owner of a lakefront property, you would generally be free to engage in many uses and activities not typically allowed in a single-family residential zone where zoning is present, including developing multi-family housing. Where there is no zoning in place, a property owner is typically constrained only by state environmental laws and building codes, although, on rare occasion, deed restrictions (or the equivalent) might also apply.

For most zoning ordinances in Michigan, a single-family zoning district generally only allows that which is implied by its name – single-family uses only. The following uses and activities are generally not allowed in a single-family zoning district:

- Multi-family housing.
- Duplexes.
- Commercial, business or industrial uses.
- Apartments for relatives, elderly adults, etc.
- Dockage for boats or watercraft not owned by the owner or occupant of the property involved.

Almost all zoning ordinances in Michigan prohibit the creation of apartments within waterfront dwellings that are rented or leased out to non-family members. However, an increasing number of zoning ordinances do allow limited apartments, independent living areas and similar facilities within a single family residence or cottage for members of the family who are handicapped, elderly or in need of substantial care. Where allowed by the local zoning ordinance, such uses are sometimes allowed "as a right", and in other situations, they require a special zoning approval.

Most zoning ordinances prohibit pole barns or other detached accessory buildings from having bunk house setups, apartments or similar facilities. However, some zoning ordinances do allow those uses under limited circumstances.

Where a waterfront property has dockage, most zoning ordinances do not allow a dock or waterfront property in a single-family zoning district to be used for multi-family uses. That is, typically, only boats and watercraft belonging to the owners of the waterfront lot or parcel involved can moor, anchor or keep a boat or watercraft overnight or seasonally at the dock or waterfront. Generally, that means that friends and relatives who do not reside in the cottage or dwelling on the waterfront property cannot keep a boat or watercraft overnight or seasonally at the waterfront property or the dock thereon. That would constitute a prohibited multi-family use or activity. Other municipalities would typically consider such use to be a prohibited marina.

Some multi-family uses and activities may be "grandparented" from zoning regulations under certain circumstances. That is, if the use or activity lawfully commenced before the applicable zoning regulations went into effect and has continued to exist ever since, such use or activity has a vested right to continue as being a lawful non-conforming use. However, should such uses or activities cease, they cannot be recommenced thereafter. Furthermore, lawful nonconforming uses cannot be expanded, substantially altered or increased in intensity, size or area.

Some municipalities also have non-zoning ordinances that regulate docks, boat hoists, the number of boats and similar waterfront activities and uses.

On occasion, a property or neighborhood may be subject to recorded private contracts often referred to as "deed restrictions" or "restricted covenants". However, such restrictions are relatively rare and probably apply to less than 5% of the waterfront properties in Michigan. Such property restrictions apply regardless of the local zoning regulations. Where such restrictions exist, the waterfront property owner must comply with both the applicable zoning regulations and the deed restrictions/restrictive covenants.

In Michigan, a waterfront property owner's common law riparian rights are typically broad. However, such rights are subject to restriction and reasonable regulation by municipal zoning and non-zoning ordinances and regulations, as well as deed restrictions/restrictive covenants. ●●●