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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

SUBMITTED: June 18, 2021
RESUBMITTED: July 19, 2021
RESUBMITTED: August 16, 2021

MEMORANDUM TO THE DIRECTOR

Information: Natural Resources Commission

Subject: Restrict Beach Access Under Certain Conditions
Land Use Order of the Director Amendment No. 5 of 2021

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, authorizes the Director to issue orders to implement land use rules.

Discussion and Background:

Surrounded by Great Lakes, Michigan is host to many seeking to enjoy the water. However, with rip currents and breaking waves, the beauty of Michigan's Great Lakes can be deceiving and hazardous to swimmers.

The Department is responsible for the management and operation of a number of facilities that provide water access and beach opportunities across the state. As part of the management and operation of these facilities, staff work to implement safety measures, such as buoyed swimming areas, flag warning systems, throw rings and vast amounts of education on water safety. Even with those measures, accidents and drownings continue to occur each year.

Recently, safety rescues at Great Lake beaches have occurred at times when the "Red Flag" is flying indicating that wave height is 3-5 feet, or higher, lake conditions are high risk and dangerous. Meaning people are not adhering to the water safety measures and education provided by the Department and are still entering the water. Even more alarming is the observations of people entering the water during these dangerous conditions while a water rescue is occurring.

Prohibiting access would not be predicated upon the flying of a red flag alone - but would be done after reviewing criteria to determine whether access should be restricted and the area of the access restriction. Any prohibition to access would only be in effect for the specific beach identified upon Parks and Recreation Division managed lands and would not extend to any other municipal beach or water access point or other Department managed lands.

Since Commissioned Park and Recreation Officers' authority is land based, meaning enforcement is not possible once a person enters the water, this proposed land use order preventing individuals from exiting a state managed beach area when entry is prohibited would provide another tool to staff for ensuring the health, safety and welfare of visitors and guests.

This prohibition would prevent individuals from entering the water, when access is prohibited by signage and/or communication, during:

- times of dangerous water conditions;
- while a water rescue is occurring;
- when bacteria or contaminants are present; or
- when other issues are identified that would impact safety, such as vessel wreckage washing ashore to the beach.

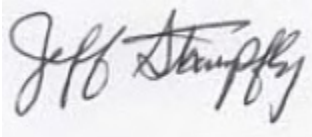
Relevant Divisions have contributed to the preparation of this order. This order was submitted for information on July 15, 2021, at the Natural Resources Commission meeting. This item appeared on the Department's June, July, and August calendars and was eligible for approval on or after September 16, 2021.



Jared Duquette, Chief
Wildlife Division



Gary Hagler, Chief
Law Enforcement Division



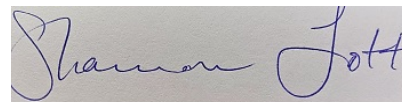
Jeff Stampfly, Chief
Forest Resources Division



Ronald A. Olson, Chief
Parks and Recreation Division



James Dexter, Chief
Fisheries Division



Shannon Lott
Natural Resources Deputy

I have analyzed and discussed these recommendations with staff and concur as to matters over which the Director has authority.

Daniel Eichinger, Director

Date

LAND USE ORDERS OF THE DIRECTOR

Amendment No. 5 of 2021

By authority conferred on the Director of the Department of Natural Resources by Section 504 of the Natural Resources Environmental Protection Act, 1994 PA 451, MCL 324.504, and in accordance with R 299.921 to R 299.933, the Director of the Department of Natural Resources orders the following:

5.1 State parks and recreation areas, certain conduct prohibited.

Order 5.1 A person shall not do any of the following in any SP or RA:

(1) Have more than 1 horse for each registered camper at any designated horsemen's campground without first obtaining proper written permission from the department.

(2) Enter, use or occupy a designated mountain bike trail when posted closed except with written permission from an authorized representative of the department.

(3) Operate an electric bike in conflict with MCL 324.72105.

(4) Use, in any way, a sky lantern.

(a) "Sky lantern" means an unmanned hot air balloon made of paper or other lightweight material that is launched into the atmosphere and has a flame inside the balloon.

(5) Operate an unmanned aircraft in conflict with the unmanned aircraft system act (PA 436 of 2016), and as follows:

(a) In a manner that knowingly and intentionally interferes with department employees and their designees performing official duties.

(b) In a manner that interferes with department staff when conducting search and rescues.

(c) Within 100 yards of a cultural or historical site or structure.

(d) Upon or over the viewing platform at Tahquamenon falls.

(e) Over an occupied beach area.

(f) Over an equestrian facility.

(g) Over a campground.

(h) Over a restroom or open-air changing court.

(i) Over an area subject to an aerial right-of-way.

(j) For a commercial purpose without first obtaining written permission from an authorized representative of the department.

(6) Use a state managed beach area, or knowingly allow, for the purpose of entry into the water, when entry is prohibited by signage and/or communication by a department employee due to a human health and safety risk, including, but not limited to, contamination, unsafe debris washing ashore, rescue/recovery efforts, severe weather event identified from the National Weather Service, or identified wave height in excess of 8 feet. This prohibition does not apply to board sport recreational individuals accessing the water for the purpose of surfing utilizing a self-propelled wave riding board, including longboard and shortboard; kiteboarding; body/"boogie" boarding with swim fins; and, skimboarding and the following applies:

(a) Entry into the water to conduct any of the above identified activities shall be at their own risk.

(b) Users will follow commonly accepted safety rules and procedures which includes the following: controlling boards at all times, always using a safety leash, and wearing appropriate cold weather gear as conditions dictate.

This order shall be posted on or after the 1st day of May 2022.

Issued on this 16th day of September 2021.

Daniel Eichinger
Director