



LAKE MINNETONKA CONSERVATION DISTRICT

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Gregory S. Nybeck, EXECUTIVE DIRECTOR

December 3, 2010

TO: LMCD Board of Directors

FROM: Emily Herman, Administrative Assistant/Code Enforcement

SUBJECT: 2010 LMCD Proactive Code Enforcement Program Report

Background

Since 2006, the Lake Minnetonka Conservation District (LMCD) has developed and implemented a process for enforcement of watercraft storage ordinances for residential sites on Lake Minnetonka (Code Section 2.02). The primary enforcement effort established for this process is to identify and/or re-inspect sites storing five or more restricted watercraft that do not have a multiple dock license or sites storing three or four larger, restricted watercraft which do not comply with the 1:50' General Rule.

Every boating season, staff spends an estimated two days a week from May to August surveying the shoreline of Lake Minnetonka for the purposes noted above. Once staff assess whether a site is in compliance or not (via data research), a database is updated and a communication process is initiated with the property owners. The LMCD utilizes the following three-part communication process:

- Initial communication is made to the property owner via a letter. The letter is educational in nature and provides for various attachments to help the property owner understand the LMCD storage regulations. Additionally, within the letter, staff requests voluntary compliance of their watercraft storage for the next boating season and beyond.
- If the watercraft storage remains out of compliance for a second boating season, a second letter is submitted. This letter provides for a more stern tone and requests a response and/or compliance by the next boating season or the matter will be turned over to the LMCD prosecuting attorney.
- After confirming continued non-compliance of watercraft storage for a third boating season, staff defines the watercraft storage. Defining the site requires staff to document the storage of the watercraft three or more calendar days in a 14-day period (Code Sec. 2.02, subd. 8). After which, staff submits the respective information to the prosecuting attorney.

2009 Prosecuting Matters

As this program was initiated in 2006, this was the first year the LMCD was to prosecute property owners for repetitive violations of their watercraft storage (third boating season). In November of 2009, 24 Complaints were filed. Nine were charged with being in violation of LMCD Code 2.03, subd. 1 (maintaining a multiple dock site without a license). Fifteen were charged with being in violation of LMCD Code Sec. 2.02, subd. 2, (maintaining more than two restricted watercraft, but less than five, without having sufficient shoreline to support such storage or ownership of all the watercraft). Of those, 20 property owners signed a Continuance for Dismissal with the condition that they not have any new or same violations by a specific date set. The remaining four property owners pleaded guilty; however, sentence was stayed on the same condition noted above.

2010 Code Enforcement

At the April 14, 2010 Board meeting, the following enforcement priorities for the upcoming boating season were set: 1) staff to take the necessary steps to resolve problematic sites established from 2006 forward, 2) document only new flagrant violations, 3) re-inspect and define sites where necessary; working with LMCD prosecuting attorney when warranted, and 4) keep Board members apprised of any prosecuting matters within their represented municipality. On November 18th, staff provided an update to the Board outlining the respective cases, with individual updates thereafter. The following findings for the 2010 season are outlined below:

In Compliance	45
In Compliance but Annually Reviewed	20 (1)
New (Flagrant) 5-Boat Violations	14
Second 5-Boat Violations	5
Customized Letter for 5-Boat Violations	3 (2)
Customized Letter for 5-Boat Shared Dock Violations	4 (3)
New (Flagrant) 3 or 4-Boat Violations	27
Second 3 or 4-Boat Violations	8
3 or 4-Boat Violations Pending Further Research	3
Customized Letter for 3 or 4-Boat Violations	1
2009 Prosecuting Sites In Compliance for 2010	20
2009 Prosecuting Sites Pending Staff Discussion w/Tallen	4
2010 Defined Sites Pending Prosecution	11
2010 Defined Sites Pending Possible Compliance	1
2010 Sites Unable to Define for Prosecution	1
Formal Complaints	0
TOTAL	167 (4)

- (1) Typically has multiple empty lifts or in and out of compliance.
- (2) Require special communication, i.e., working with local municipality/resident.
- (3) Shared docks that are candidates for a multiple dock license via Ordinance #207.
- (4) Numbers within individual categories are subject to change.

2010-2011 Prosecuting Matters

In taking into consideration the 12 Complaints due to be filed with the prosecuting attorney from the 2010 boating season, and the additional 18 that are subject to be defined if out of compliance for their third boating season in 2011, there is a possibility of having an estimated 30 sites submitted for prosecution in 2011. Due to the time of year, staff will be producing all communication with a submittal date of January 3rd. Additionally, staff is currently working with the LMCD prosecuting attorney and initiating correspondence with municipalities to resolve various matters noted within the above findings.