



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

Gregory S. Nybeck, EXECUTIVE DIRECTOR

October 3, 2013

TO: Board of Directors

FROM: Emily Herman, Administrative Assistant/Code Enforcement 

SUBJECT: 2013 LMCD Proactive Code Enforcement Program Report

Background

In 2006, the Lake Minnetonka Conservation District (LMCD) developed and implemented a Proactive Code Enforcement Program to assure watercraft storage compliance at residential sites on Lake Minnetonka (Code Section 2.02). To complete this program, staff surveys the Lake's shoreline to identify and re-inspect sites storing:

- 1) five or more restricted watercraft that do not have an approved multiple dock license
- or 2) three or four larger, restricted watercraft that do not comply with the 1:50' General Rule.

Documentation Process

A site, and their respective storage, is identified by a GIS waypoint (known as the site number in all correspondence), as well as documentation of the watercraft storage (make, model, registration number, if visible, pictures, etc.) Once documented, staff assesses compliance by the site's estimated shoreline and working with the Minnesota Department of Natural Resources on the registration and/or ownership of the watercraft.

Communication Process

Sites identified for the communication process are provided an initial letter that is educational in nature; providing for their ability to assess their watercraft storage options and, if need be, voluntarily come into compliance by the next boating season and beyond. If a site is documented a second time, the follow-up letter is more stern in nature; requesting continued voluntary compliance to avoid possible legal consequences. From this point forward, all other inspections of non-compliance are scheduled to be defined (Code Section 2.02, Subd. 8, "Definition of Moored or Docked"), whereby staff documents the watercraft storage three days within a 14 day period prior to turning the matter over to the LMCD's prosecuting attorney.

2013 Enforcement Priorities

At the April 10, 2013 Board meeting, the following enforcement priorities for the 2013 boating season were approved: 1) resolve violations that require specific communication (more complicated storage matters with historical background), 2) document only new flagrant violations, 3) continue with the two-part communication process, 3) re-inspect and define sites where necessary; working with prosecuting attorney when warranted, and 4) keep the Board apprised of any prosecuting matters within their represented municipality.



2013 Code Enforcement Findings

The following findings for the 2013 boating season are outlined below (not including 82 other sites that were documented and found, after assessment, to be in compliance):

Category	5-Boat Violation	3-4 Boat Violation
New Violations	7	41
Repeat Violations	7	6
Shared Dock Violations	1	0
Formal Complaints	0	0
Prosecuting Complaints	7	4

Prosecuting Matters

The LMCD Board of Directors has appointed Steve Tallen of Tallen and Baertschi since the 1980's. Therefore, Mr. Tallen has been consistently settling the Complaints filed (since 2009) relative to this program. Settlements typically consist of: 1) a Court hearing and sentencing (rare), 2) agreeing to suspend prosecution, or 3) pleading guilty (the latter two agreeing to not having any new or same violations for one year and paying prosecution costs or court fines). The LMCD receives 100% of prosecution costs and 80% of Court fines (typically \$800 and \$300, respectively), paid by the defendant. The following highlights Complaints filed in 2012 and 2013:

2012 Boating Season

Twelve Complaints were filed for the 2012 boating season; two of which were dismissed. The following outlines the status of the remaining ten:

- Sites storing five or more restricted watercraft (6):
 - Two pled guilty with one reduced to a petty misdemeanor based on no new or same violations for one year; and
 - Four signed an Agreement to Suspend Prosecution; based on no new or same violations for one year.
- Sites storing four or less watercraft (4):
 - One pled guilty;
 - Two signed an Agreement to Suspend Prosecution; based on no new or same violations for one year; and
 - One is pending settlement; providing for a Court date scheduled in November.

2013 Boating Season

Staff has submitted 11 Complaints to Mr. Tallen (seven of which maintained five or more restricted watercraft). Those Complaints are currently being processed and/or settled.

Concluding Comments

Staff offers the following informational comments:

1. Staff will present goals and objectives for both the 2014 Proactive Code Enforcement and Shoreline Boat Storage Count programs to the Board this spring.
2. 2013 provided for the Board's approval of the following two ordinance amendments relative to watercraft storage density:
 - Ordinance #215 relates to sites with two or more segments of non-continuous shoreline; providing for their ability to apply for a variance under Section 1.07, "Variance," to combine non-continuous shoreline within that PID for density purposes without demonstrating a hardship.
 - Ordinance #213 further defined the word "site" by delineating it as "parcels combined into a single county parcel identification number."

Additional ordinance amendments will be presented to the Ordinance Review Committee (and ultimately to the Board for approval) in the near future. All proposed ordinance amendments are taken into consideration in consultation with both the LMCD's legal counsel and prosecuting attorney.

3. Staff has finalized the 2013 boating season's second notifications and the filing of Complaints. Initial and customized correspondence is currently being addressed.