

LAKE MINNETONKA CONSERVATION DISTRICT CODE OF ORDINANCES

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CHAPTER I

GENERAL PROVISIONS AND UNIFORM PROCEDURES

Section 1.01. Statement of Purpose. It is the purpose of this Code of Ordinances to implement the Lake Minnetonka Conservation District's statutory responsibilities, as enumerated in Minnesota Laws 1967, Chapter 907, as amended.

Lake Minnetonka is a valuable recreational resource for a large number of persons residing in the Twin Cities metropolitan area, as well as for persons living throughout Minnesota. At same time, the Lake serves a valuable role in the area's ecology by providing drainage control and a habitat for a wide range of species of wildlife.

The District recognizes the inherent conflict between human usage of the Lake and the functions performed by the Lake in its natural state. In addition, the Lake is subject to increasing pressures from the development of adjacent shoreland areas and from increasing recreational uses. In order to balance these competing interests, it is necessary to regulate and control the degree and type of development and the use of the Lake.

Accordingly, the District declares the following to be its goals and policies:

- a) Preserve and promote Lake Minnetonka as a recreational and natural resource for all the citizens of the state;
- b) Prevent pollution of the Lake and preserve its ecological balance by carrying out a comprehensive program of environmental control and management;
- c) Assist in coordinating the planning and development activities of municipalities and special districts in the immediate vicinity of the Lake;
- d) Promote and regulate the orderly utilization of the Lake and its shorelands by all users of the Lake and those placing structures within it;
- e) Achieve a balance between the interests of public use and the conservation of the Lake as a natural resource;
- f) Provide for the health, safety, order, convenience and general welfare by ordinances not inconsistent with the laws of the state;
- g) Carry out the responsibilities placed upon the district by its enabling act, Laws 1967, Chapter 907, as amended.

Section 1.02. Definitions. Words and phrases used in this Code shall be interpreted and understood in accordance with common and accepted usage, but any technical words and phrases, or such others which have acquired a specific or peculiar meaning, shall be interpreted and understood in accordance with such technical, specific or peculiar meaning.

It is the intent of the Board that terms used in this Code, which are also used in the enabling act, have the meanings given and intended for those terms in the enabling act, unless otherwise specified. For the purposes of this Code, the following words and terms shall have the meanings given to them.

Subd. 1. "Agency" means the Minnesota Pollution Control Agency.

Subd. 2. "Aircraft" means and contrivance now known or hereafter invented, used or designed for navigation or flight in the air; the term includes aircraft equipped with floats or skis.

Subd. 3. "Authorized dock use area" means that area in the Lake which may be used for docks, moorings, boat storage, swimming floats, ski jump storage, or diving towers, or which may be enclosed on three sides for any of these purposes.

Subd. 4. "Board of Directors" or "Board" means the Board of Directors of the Lake Minnetonka Conservation District.

Subd. 5. "Boat house" means a permanent year-round boat shelter.

Subd. 6. "Boat Storage Units" means a space or facility available for mooring, docking or storing a watercraft to be used on the Lake. Boat Storage Units does not include such a space or facility located on land unless it is used in conjunction with a commercial dock.

Subd. 6a. "Bridge" means a structure, used for pedestrian or vehicular passage, on or over the water of the Lake connecting two points of land that are not on continuous shoreline of the same Site.

Subd. 6b. "Canopy" means that part of a slip structure comprised of an overhead, fabric cover designed to shelter a watercraft from sun, wind or rain, together with poles, rigging and appurtenances that support the cover. An overhead, fabric cover that is an integral part of a boat lift is not a canopy unless the vertical height of the fabric cover exceeds 30 inches.

Subd. 7. "Code" and "Code of Ordinances" means the ordinances of the district as organized and compiled herein.

Subd. 8. "Commercial dock" means a dock or dock structure used in conjunction with a commercial or other revenue producing business enterprise including a private club, or a dock or dock structure on land owned by a municipality or political subdivision and operated, controlled or licensed by the municipality or political subdivision, but not including apartments or any such businesses involving the leasing of real property for residential use.

Subd. 9. "Commissioner" means the Commissioner of the Minnesota Department of Natural Resources or the commissioner's duly authorized representatives.

Subd. 10. "County" means Hennepin County.

Subd. 11. "Daytime" means from a half hour before sunrise to a half hour after sunset, except at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and watercraft at a distance of 500 feet. "Nighttime" means at any other hour or at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and watercraft at a distance of 500 feet.

Subd. 12. "Deck" means a structure other than a dock, or element thereof, measuring more than eight feet in length or width, located above the surface of the Lake and designed for use as a platform, floor, cover, or any combination thereof.

Subd. 13. "De-icing equipment" means a machine, mechanism, device, substance or a lawfully installed and operated outlet or drain which is used for, or which has the effect of, preventing or restricting the normal formation of ice or hastening the normal melting of ice.

Subd. 14. "District" or "LMCD" means the Lake Minnetonka Conservation District.

Subd. 15. "Dock" means any wharf, pier, or other structure or combination of wharves, piers, or other structure constructed or maintained in or over the Lake, whether floating or not, including all "Is", "Ts" or posts which may be a part thereof, whether affixed or adjacent to the principal structure.

Subd. 16. "Enabling act" means Laws 1967, Chapter 907, as amended.

Subd. 17. "Executive Director" means the Executive Director of the district appointed pursuant to the enabling act.

Subd. 17a. "Fish House" means a structure set on the ice of the Lake to provide shelter that is required to be licensed under Minnesota Statutes, section 97C.355.

Subd. 18. "Garbage" means any organic refuse of any kind resulting from the preparation and serving of food; old, decayed or spoiled food; dead animal litter; or any other organic refuse of any source.

Subd. 19. "Governing Body" means, in the case of the LMCD, its board of directors and, in the case of other governmental subdivisions, the council, board, and other body charged with general responsibility for management and control of the governmental subdivision.

Subd. 20. "Horsepower" means the power rating established for a motor by the manufacturers thereof or, if no rating is so established, then the rating established by the commissioner.

Subd. 21. "Industrial Waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.

Subd. 22. "Lake" means Lake Minnetonka and all the parts, bays, and channels thereof.

Subd. 23. "Launching ramp" means any ramp, deck, roadway, crane, tracks, slides, or any other or similar device or location used for launching boats or watercraft from the shore into Lake Minnetonka other than those located at residential sites and used solely for launching boats or watercraft owned by residents of that site or to be stored or moored at that site.

Subd. 24. "Living quarter" means a facility or place where people dwell permanently, seasonally, for more than 10 successive days, or for a total of more than 30 days in any calendar year.

Subd. 25. "Minimum wake" means the wave moving out from a watercraft and trailing behind it in a widening "V" of insufficient size to affect other watercraft or be detrimental to the shoreline.

Subd. 26. "Mooring" means any buoy, post, structure or other device at which a watercraft may be moored and which is surrounded by navigable water.

Subd. 27. "Motorboat" means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors.

Subd. 28. "Multiple dock or mooring area" means any dock or mooring area constructed or maintained for the storage of five or more restricted watercraft, other than commercial docks.

Subd. 29. "Municipality" means any municipality named in the enabling act.

Subd. 30. "Non-conforming structures" mean docks, mooring areas and other structures, including seasonal structures, which were legal structures immediately prior to the effective date of an ordinance with which the structures do not conform, and which are permitted to continue by the terms of such ordinances subject to limitations or restrictions contained therein.

Subd. 31. "Operate" means, in the case of watercraft, to navigate or otherwise use a watercraft; in the case of snowmobiles, to ride in or on and control the operation of a snowmobile; and in the case of other craft and vehicles, to drive and be in effective control of such craft or vehicle.

Subd. 32. "Operator" means a person who operates or has charge of the navigation or use of a watercraft of any other craft or vehicle.

Subd. 33. "Owner" in the case of personal property means a person, other than a lien holder, having the property interest in or title to such property; the term includes a person entitled to the use or possession of such property, subject to an interest in another person, reserved or created by agreement and securing payment or performance of any obligation, but the term excludes a lessee under a lease not intended as security. In the case of real property, the term "owner" means the fee owner of land or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership; the term includes, but is not limited to, vendees under a contract for deed and mortgagors.

Subd. 34. "Other waste" means any refuse, organic or inorganic, wood, oil, tar or chemicals, and any other substance or material of any kind whatsoever which is or may be an aquatic nutrient source.

Subd. 35. "Permanent dock" means any dock which is not a Seasonal Dock.

Subd. 36. "Person" means an individual, firm, partnership, association or corporation; the term may extend and be applied to bodies corporate and politic, and to partnerships and other unincorporated associations.

Subd. 37. "Personal watercraft" means a watercraft less than 14 feet in length which uses a motor powering a water jet pump, as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on, rather than the conventional manner of sitting or standing inside, the watercraft.

Subd. 38 "Pollution" means the contamination of the waters of the district so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial or recreational use or to livestock, wild animals, birds, fish, or other aquatic life.

“Subd. 38a. “Practical Difficulties” mean one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code and that serve as a basis for the property owner to request a variance from the strict application of the provisions of the Code. Practical difficulties only exist with respect to a particular property if the conditions preventing the proposed reasonable use of the property are unique to the property, were not created by the property owner, and are not based solely on economic considerations. While this definition is similar to the definition of practical difficulties used for the purposes of issuing a municipal zoning variance under Minnesota Statutes, section 462.357, subdivision 6, this definition exists independently from that statute and is to be interpreted by the Board in the context of this Code without being bound by how municipalities interpret and apply the definition in a zoning context.

Subd. 39. "Club" has the meaning given by Minnesota Statutes, Section 340A.101, Subd. 7; the term does not include a homeowner's association, an outlot association, or other similar organization whose membership is restricted to, or comprised in major part of, owners of specific property not abutting the Lake who have an interest in or right to use an outlot or similar tract or parcel of land located on the Lake.

Subd. 40. "Prohibited drug" means any of those substances designated as controlled substances pursuant to Minnesota Statutes, Chapter 152, whether prescribed or unprescribed.

Subd. 40a. “Qualified Commercial Marina” means a privately owned, revenue-producing business that rents storage space at one facility for thirteen or more watercraft on the Lake. A facility does not qualify as a Qualified Commercial Marina unless all rented Boat Storage Units on the Lake are freely available to members of the public without requiring membership in any organization and without providing any priority or preference to members of any organization. Except as allowed in paragraphs a) and b) below, a facility does not qualify as a Qualified Commercial Marina if any part of the facility meets the definition of any of the following classifications of use as defined in Section 2.11, Subd. 2: Club Facilities, Municipal Facilities, Outlot Association Facilities, Multiple Dwelling Facilities, or Private Multiple Facilities. Additional Boat Storage Units may be used for purposes other than rental to the general public, subject to the following limitations:

a) No more than twenty percent of all Boat Storage Units at the facility may be used for any combination of the following uses: watercraft held for sale by the marina owner, watercraft being repaired by the marina owner, rental watercraft, emergency storage of a disabled watercraft for up to three business days or Boat Storage Units made available under a priority or preference to owners of specified real property under real estate interests created prior to 1995;

b) No more than the number of Boat Storage Units rented to the general public may be used for any combination of the following uses: transient use, storage of commercial or governmental lake maintenance watercraft, or storage of governmental watercraft for emergency response or law enforcement uses.

Subd. 40b. “Qualified Sailing School” means a corporation qualified under Internal Revenue Code Section 501(c)(3) that is created to educate and train for the sport of sailing and that is the sole occupant of the licensed Site or occupies the Site with a Qualified Yacht Club.

Subd. 40c. “Qualified Yacht Club” means a non-profit corporation, owned by its members, volunteer-driven, created to further the sport of sailing, with at least 25 Boat Storage Units at its licensed Site, that is the sole occupant of the licensed Site or occupies the Site with a Qualified Sailing School.

Subd. 41. "Restricted Watercraft" means any boat or vessel for use on or stored on the public waters on the Lake except for unrestricted watercraft as defined in this section.

Subd. 42. "Roof" means a permanent dock cover.

Subd. 43. "Rubbish" means any trash, refuse or waste material of any kind and old automobiles or machinery or parts thereof.

Subd. 44. "Schedule A" means a sound level emission range as prescribed in S.A.E. Standards - S.A.E. J986a for mufflers.

Subd. 45. "Season" or "boating season" means the period between April 15 and October 15 of any year.

Subd. 46. "Seasonal dock" means any dock which is so designed and constructed that it may be removed from the Lake on a seasonal basis. All components such as supports, decking and footings must be capable of removal by manual means without use of power equipment, machines or tools other than hand held power tools.

Subd. 47. "Sewage" means the water-carried waste products from residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

Subd. 48. "Sheriff" means the Sheriff of Hennepin County or the sheriff's authorized agents.

Subd. 49. "Shoreline" means the line of contact of the body of water in the Lake with the shore.

Subd. 50. "Shorezone" means that area of the ice of the Lake within 150 feet of the shoreline.

Subd. 51. "Site" means any shoreline lot, parcel or other piece of property legally subdivided and recorded in the office of the County Recorder. Parcels combined into a single county parcel identification number are considered a single Site.

Subd. 52. "Slip structure" means a structure designed solely to secure a watercraft for the purpose of protecting it from damage from sun, wind, storm, or rain; the term does not include boat houses, decks, roofs or similar structures.

Subd. 53. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice or on natural terrain steered by wheels, skis or runners.

Subd. 54. "Special event" means any act or activity on the Lake which will involve:

- a) the placing of any structures or buoys in the Lake other than in authorized dock use or mooring areas or as authorized by permit issued pursuant to Section 2.07; or
- b) the assistance of the sheriff's water patrol or other law enforcement authority for its safe execution; or
- c) the blocking off of a portion of the Lake from general public use or the substantial impairment of the ability of the general public to use simultaneously that portion of the Lake; or
- d) exceeding lawful speed limits or violating Rules of the Road; or
- e) a competition, contest, exhibition, race, tournament, regatta, show, parade, or other organized or scheduled event; or
- f) product marketing events at which demonstrations or contests are held, products are distributed to the public, or where signs, banners, or other displays of corporate sponsorship are displayed; or
- g) winter events including, but not limited to, snowmobile or other motorized vehicle races, contests, parades, or competitions, or product marketing events as described in paragraph f above; or
- h) any event that is reasonably anticipated to obstruct the free flow of traffic of a portion of the Lake, either by the use of temporary structures placed upon the Lake or the use of watercraft or other vehicles in a coordinated manner.

This definition does not include events deemed by the Executive Director to be transitory in nature, based on either their scope or length, or both, and that are not likely to cause an obstruction to traffic upon the Lake.

Subd. 55. "State" means the State of Minnesota.

Subd. 55a. "Stored Boat" means any watercraft stored, kept or maintained on, under or suspended from another watercraft.

Subd. 55b. "Storage Boat" means any watercraft which is used to store, carry or house a Stored Boat unless:

- a) the use of the Stored Boats is clearly incidental to the use of the Storage Boat as an operating watercraft; and
- b) all Stored Boats are either:
 - 1) Inflatable watercraft which are deflated, or
 - 2) kept or maintained on or above decks, suspended from external davits or on an external stern platform and either: i) less than 33% of the length of the Storage Boat or ii) less than 18 feet in length, whichever is less.

Subd. 55c. "Unrestricted Watercraft" means any boat or vessel for use on or stored on the public waters of the lake that is:

- a) 16 feet or less in length and has no motor; or
- b) 16 feet or less in length and has a motor of 10 horsepower or less, as rated by the manufacturer at the time of manufacture, whether or not the motor is operational; or
- c) 20 feet or less in length and has no motor, and that is propelled solely by human power.

Subd. 56. "Underway or in use" applies to any watercraft in operation or use when not securely fastened to a dock or other permanent mooring.

Subd. 57. "Vehicle" or "motorized" means any vehicle that is self-propelled; the term includes, but is not limited to, motor vehicles, snowmobiles and aircraft, and all terrain vehicles as defined in Minnesota Statutes, Section 84.92, Subd. 8.

Subd. 58. "Visible lights" means lights visible on a dark night with clear atmosphere.

Subd. 59. "Watercraft" means any vessel, boat, canoe, raft, barge, sailboard, or any similar device used or useable for carrying and transporting persons on the Lake.

Subd. 60. "Watercraft density classification criteria" means the standards and guidelines adopted by the LMCD establishing classifications for degrees of boat storage and use in various parts of the Lake.

Subd. 61. "Watercraft License" means the authorized document used to designate the numbers assigned a watercraft.

Subd. 62. "Waters of the district" means Lake Minnetonka, all other lakes, all streams, ponds, marshes, watercourses, waterways, well, springs, reservoirs, aquifers, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained in or flow into the Lake Minnetonka Conservation District or any part thereof.

Section 1.03. Enactment of this Code of Ordinances.

Subd. 1. Enactment. This code of ordinances is in effect from and after its passage and publication in accordance with the enabling act of the district. It is enacted by a majority vote of all the members of the Board, and has the effect of an ordinance.

Subd. 2. Citation. This Code may be cited and referred to as the "Lake Minnetonka Conservation District Code of Ordinances" or the "LMCD Code."

Subd. 3. Adoption by Reference. The full text of the most current versions of the Minnesota Statutes and Minnesota Rules adopted by reference in this Code shall be treated as though they were set out in full herein and are made part of this Code. Those statutes and rules adopted by reference include any amendments made thereto and any successor provisions. The adoption by reference of specific statutes and rules shall also include the adoption of such other statutes and rules that are needed to give full effect to those provisions expressly adopted by reference.

Subd. 4. Statutory Rules. It is the intent of the Board that the rules and canons of construction, presumption, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645, apply to this Code and govern the interpretation thereof to the extent authorized by law, and that all questions of meaning, construction and interpretation be resolved in the context of Chapter 645.

Subd. 5. Relation to Other Laws. It is the intent of the Board that this Code of Ordinances, together with relevant state statutes and rules and regulations, comprise a comprehensive system of regulation of the use of the Lake and that such system of regulation is an element of the district's comprehensive program for conservation of the Lake. Where this Code imposes a more stringent regulation than state law or rule or regulation, it is the intent of the Board that the provisions of this Code prevail over the statute or rule or regulation to the extent permitted by law.

Subd. 6. Effect of Adoption. This Code of Ordinances is enacted as part of the district's program to codify its ordinances and is intended to consist of that Code. No right, privilege, liability, license, permit or variance or any action taken by the Board pursuant to ordinances herein repealed is intended to be altered, diminished or otherwise modified by the enactment of this ordinance. The provisions of this ordinance are essentially but not actually continuations of the ordinances herein repealed, and any act done, offense committed or right accruing or accrued, or liability, penalty, or punishment incurred or assessed prior to the effective date of this ordinance, is not affected by its enactment.

Subd. 7. Reliance on Headnotes. Chapter, section, subdivision, paragraph headings, titles and cross reference materials are not substantive parts of the Code, but merely matters to expedite and simplify the use of the Code.

Subd. 8. Severability. If any provisions in this Code or in any code, statute or ordinance adopted by reference in this Code are found to be unconstitutional or invalid for any reason, the remaining provisions of this Code shall remain valid, unless the valid provisions of the law are so essentially and inseparably connected with, and so dependent upon, the void provisions that it cannot be reasonably presumed that the Board of Directors would have enacted the remaining provisions without the invalid one, or unless it appears that the remaining provisions are incomplete and are incapable of being executed in accordance with the intention of the Board.

Section 1.04. Amendment of This Code of Ordinances.

Subd. 1. Enacting Clause. The enacting clause of an ordinance is: "The Board of Directors of the Lake Minnetonka Conservation District ordains:".

Subd. 2. Form of Amendments. Amendments to the Code shall specify the section and subdivision to be amended. Language to be added shall be underlined; language to be repealed shall be stricken or enclosed by brackets; except that an ordinance repealing an entire section or subdivision need only refer to that section or subdivision and an ordinance adding only new provisions to the Code need not be underlined.

Subd. 3. Ordinance Declaration. Each ordinance shall contain the following statement at its close: "This enactment is in effect from and after its passage and publication in accordance with the enabling act of the district. It is enacted by a majority vote of all the members of the Board and has the effect of an ordinance."

Subd. 4. Integration of Ordinances in Code. The Executive Director, in cooperation with the district's legal counsel, is directed to integrate new ordinances and amendments into the Code in the most expeditious manner possible. When an ordinance is integrated into the Code the following matters may be omitted from the ordinance:

- a) Title;
- b) Enacting clause;
- c) Section numbers;
- d) Definitions of terms identical to those contained in this ordinance;
- e) Final ordinance effect clause;
- f) Validating signatures and dates;
- g) Punctuation and other matters not an integral part of the text of the ordinance. In integrating ordinances into the Code, the Executive Director, in cooperation with the district's legal counsel, may correct manifest grammatical, punctuation and spelling errors; change reference numbers to conform with sections, chapters and ordinances; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance"; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

Subd. 5. Effective Date. District ordinances are effective after passage and upon the first day of publication unless a later effective date is specified in the ordinance. Ordinances may be published by title and summary instead of publishing the full text. The summary language must be approved by the Board, clearly inform the public of the intent and effect of the ordinance, and indicate where the full text of the ordinance may be viewed. All ordinances are in effect throughout the district until repealed, amended or superseded in accordance with the enabling act.

Section 1.05. Conduct of Hearings.

Subd. 1. General. Unless another penalty is expressly provided in a district ordinance or in the Code of Ordinances, any person violating any provisions of this Code, or any provision of any code adopted herein by reference, shall, upon conviction, be subject to a maximum fine or a maximum period of imprisonment, or both, as specified by Minnesota Statutes, Section 609.03 for misdemeanors.

Subd. 2. Before Board. All hearings required by resolution, this Code, or by law, to be held in connection with the granting of or revocation of a license or permit, the granting or rescission of a variance, or any other legislative or administrative matter, shall be held before the Board or such members thereof as may be specified by resolution, ordinance or law.

Subd. 3. Notice. All hearings before the Board shall be preceded by 10 days mailed notice to all persons entitled thereto by ordinance. Any person entitled to notice of a hearing may waive such notice orally at the hearing or in writing at any time. The notice shall state the time and place and purpose of the hearing. Failure to give the notice, or defects in it, shall not invalidate the proceedings provided a good faith effort to comply with this subdivision has been made. Unless otherwise specified in this Code, mailed notice shall be sent to owners of property within 350 feet of the boundary of the property which is the subject of an application. Notification shall be given to additional persons if required by either the Board or the Executive Director.

Subd. 4. Opportunity to be heard. At the hearing all parties in interest shall have an opportunity to be heard, and to present such matters by evidence and testimony as are relevant to the proceedings. The Board may adopt rules governing the conduct of such hearings, records to be made, and such other matters as it deems necessary.

Subd. 5. Record. Upon the disposition of any matter after hearing, the Board shall prepare a written summary of its findings and decision and enter the summary in the official minutes of the Board.

Section 1.06. Granting Licenses and Permits.

Subd. 1. General Rule. Except as otherwise provided in this Code, all licenses granted by the district shall be governed by the provisions of this section.

Subd. 2. Requirement. It is unlawful for any person to conduct any activity for which a license is required by law or this Code without a currently valid license for such activity.

Subd. 3. Application and Issuance. Applications for licenses are made to the Executive Director on forms provided by him which are completed and signed by the applicant. If, after investigation, the Executive Director is satisfied that all requirements of the ordinances and Code have been met and, if the application is accompanied by the required fee, if any, the Executive Director shall approve the application if authorized by this Code to do so, or present the application to the Board or committee thereof for action.

Subd. 4. Processing by Committee. The Board may provide for the consideration of applications for licenses by a committee of at least three members who shall report its findings and recommendations to the full Board for final action.

Subd. 5. Fees. License or permit fees shall not be prorated, nor shall they be refunded after receipt by the District, except as may explicitly be authorized by this Code. If a change in status during the term of the license requires an increase in fee, the licensee shall make prompt payment of the increased amount.

Subd. 6. Duration. All licenses shall be for a term of one calendar year.

Subd. 7. Transferability. Licenses issued by the Board are not transferable.

Subd. 8. No Vested Rights. No person holding a license or permit pursuant to the ordinances of the district shall gain thereby a vested right in the license or permit, and nothing in this Code is intended to confer upon any person for the benefit of any property any vested right to use the Lake in any manner permitted by this Code. The use of the Lake shall remain subject to regulation as the public interest requires.

Subd. 9. Violations. The violation of a provision of the Code under which the license is issued or of a condition of the license is grounds for revocation of the license, suspension of the license for such period as may be determined by the Board, or the imposition of such additional conditions or requirements as may be determined by the Board to be necessary to ensure compliance with this Code and the protection and preservation of the Lake and the public health, safety and welfare, upon at least 10 days mailed notice to the license holder and hearing upon such revocation or suspension before the Board.

Subd. 10. Permits. All the provisions of this section relating to licenses apply to permits.

Subd. 11. Compliance With Other Laws. The issuance of a license or permit by the district does not relieve any person from the responsibility of obtaining required licenses, permits, or other permission from any federal, state, municipal, county or other governmental agency having jurisdiction over the Lake.

Subd. 12. License Renewal and Conditions. Upon renewal by the Board of previously granted licenses the Board may impose additional or amended conditions on the license. In cases in which renewal occurs without a hearing, the license holder shall have the right to a hearing on such additional or amended conditions upon written demand therefor delivered to the Executive Director. Upon receipt of a demand for such a hearing, the Executive Director shall schedule a hearing upon the same notice as is provided for consideration of a new license of the type being renewed. Demand for a hearing must be made within 30 days of the receipt by the license holder of the first notice informing the license holder that amended or additional conditions have been imposed and describing the right to a hearing thereon provided for in this Subdivision.

Subd. 13. Commencing April 1, 2007, all applications to the District for any permit, license, or variance required by this Code that have not been granted or denied by the District by the one-year anniversary date of the date of the application shall automatically expire. Thereafter, the application shall be void and of no further force or effect and shall be deemed denied for all purposes. Notice of such expiration and denial shall be given to the applicant in writing by the Executive Director, citing this section as the reason therefor. Application fees shall not be refunded. Such expiration date may be extended in the discretion of the Board for good cause shown upon written application submitted by the applicant at least forty-five (45) days prior to the one-year anniversary date of the date of the application. Expiration of an application pursuant to this section shall not affect the right of the applicant to submit a new application with any fees required, under Code provisions in effect at the time of reapplication.

Section 1.07. Variance.

Subd. 1. General Statement. Where practical difficulties occur or where necessary to provide access to persons with disabilities, the Board may permit a variance from the requirements of this Code or may require a variance from what is otherwise permitted by this Code, provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners. Except as otherwise provided in this Code, all variances granted by the district shall be governed by the provisions of this section.

Subd. 2. Unusual Configurations. Where the provisions of this Code would cause the authorized dock use area of two or more sites to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby sites as the use of the same area of the Lake for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected sites may apply to the Board for a variance. A variance may be to permit the applicant to locate a dock, mooring area or other structure in a location different from that permitted by this ordinance or to permit or require the owner of any adjacent or nearby site to do so.

Subd. 3. Length Variances. The length limitations prescribed by this ordinance may be adjusted to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 feet NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect the environmental quality or natural habitat of the water adjacent to the dock.

Subd. 4. Application. Applications for variances shall be filed with the Executive Director of the district. The application shall contain (a) the name and address of the applicant; (b) the description and location of the property for which the variance is sought; (c) the variance for which the application is made; (d) the names and addresses of the owners of abutting sites; (e) the names and addresses of the owners of other affected sites; (f) a map or plat of the site for which the variance is sought, and of abutting or other affected sites, showing any existing docks, moorings or other structures; (g) the consent of the applicant permitting officers and agents of the district to enter upon the applicant's premises at reasonable times to investigate the application and to determine compliance with any variance which may be granted; and (h) such other information, such as surveys and photographs, as the Executive Director may require to assist the Board in consideration of the application.

Subd. 5. Fee. The variance application shall be accompanied by a fee in the amount established by resolution of the Board of Directors plus an additional deposit in an amount established by resolution of the Board to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit. Fees shall not be refunded at any time after the processing of the application has been commenced.

Subd. 6. Hearings. Upon receipt of a completed variance application, the Executive Director shall schedule a hearing by the Board on the application in accordance with Section 1.05. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate that granting the variance will be in keeping with the spirit and intent of this Code, the plight of the property owner is due to circumstances unique to the property that were not created by the property owner, the proposed use is reasonable under the circumstances, and the variance, if granted, would not alter the essential character of the area. No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. No variance for access for persons with disabilities shall be granted which allows or provides for the storage of a greater number of watercraft than otherwise would be permitted under this Code.

Subd. 7. Orders to Other Owners. The Board shall not require the owner of any site who is not the applicant to take any action at variance with what is otherwise permitted by this chapter without first giving the owner a reasonable opportunity to be heard thereon as provided by subdivision 6. If the Board orders such owner to take the action proposed, or any part thereof, a reasonable length of time within which to take such action shall be afforded. Any such order shall be in writing, shall be served upon the owner in the manner that civil process is served, and shall specify the length of time within which the owner shall take the required action, which time shall be no less than 30 days.

Subd. 8. Violations. Locating, constructing, installing or maintaining a dock, mooring or other structure in a manner different from the terms and conditions of a variance which is ordered or permitted is a violation of this Code and grounds for rescission of the variance.

Subd. 9. Temporary Low Water Variances. During periods when the Lake level falls below elevation 928.0 feet NGVD, the Board may issue temporary low water variances for multiple docks and moorings in locations or configurations not otherwise allowed by this Code. Such variances shall be subject to the provisions of this section; provided, however, that the Board may waive application requirements of Subd. 4 and may waive the public hearing requirement of Subd. 6. No such variance shall be granted which provides storage for more watercraft or larger watercraft than would be allowed without a variance. Temporary low water variances may be issued for a specified term or for such time as low water conditions continue as determined by the Board. Removal or relocation for the winter season may be required.

Section 1.08. Penalties.

Subd. 1. Misdemeanors. Unless another penalty is expressly provided in a district ordinance or in the Code of Ordinances, any person violating any provisions of this Code, or any provision of any code adopted herein by reference, or the conditions of any license, permit or variance imposed by the Board, shall, upon conviction, be subject to a maximum fine or a maximum period of imprisonment, or both, as specified by Minnesota Statutes, Section 609.03, for misdemeanors.

Subd. 2. Separate Violations. Unless otherwise provided, each act of violation and every day upon which a violation occurs or continues constitutes a separate offense.

Subd. 3. Applicability. The penalty provided by this section or any section of the Code applies to the amendment of any section of the Code or any code adopted herein by reference to which the penalty relates, whether or not such penalty is reenacted in the amendatory provisions, unless otherwise provided in the amendment.

Subd. 4. Reference to Sections. Reference to any section of the Code shall be understood also to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

Subd. 5. Failure of Officers to Perform Duties. The failure of any officer or employee of the district to perform any official duty imposed by an ordinance or this Code shall not subject such officer or employee to the penalty imposed for a violation unless a penalty is specially provided for such conduct or omission.

Section 1.09. Enforcement. Special deputies duly appointed and sworn by the Hennepin County Sheriff are hereby authorized to enforce the provisions of this Code by the issuance of citations and such other means as permitted by state law.

CHAPTER II

REGULATION OF STRUCTURES WITHIN THE LAKE

Section 2.001. Statement of Findings. The Board of Directors of the LMCD finds and determines that:

- a) Increasing population and development pressure is occurring and is likely to continue in the future;
- b) Such pressures increase the storage of watercraft on the public waters of the Lake;
- c) There is a relationship between watercraft storage on the Lake and the intensity of watercraft usage; and
- d) The intensity of watercraft use and storage on the public waters of the Lake has the effect of: diminishing the aesthetic and recreational qualities of the Lake; increasing congestion along the shoreline; endangering the safety of users of the Lake; reducing the total area of lake surface available for public use; adversely affecting wildlife and its habitat on the Lake and along the Lake shore; and polluting the Lake and its shore.

Accordingly, in furtherance of the purposes, goals and policies set forth in Section 1.01 of this Code, the Board has adopted the provisions of this Chapter.

Section 2.01. Authorized Dock Use Area.

Subd. 1. Prohibition. No person shall use any area of the Lake outside an authorized dock use area, for docks, moorings, watercraft storage, swimming floats, ski jump storage or diving towers, unless such use is specifically permitted under the provisions of this chapter. No person shall use any area of the Lake within any authorized dock use area for docks, moorings, watercraft storage, swimming floats, ski jump storage or diving towers without the consent of the riparian owner. No person who is in charge or control of any property on the Lake whether as owner, tenant, occupant, lessee, or otherwise, shall allow any sunken, wrecked, junked, or discarded watercraft to remain within any dock use area for a period of longer than one week; provided, however, that this limitation shall not apply to watercraft within the dock use area of a commercial establishment engaged in the business of repairing and rehabilitating watercraft which is so engaged with regard to such watercraft.

Subd. 2. Description of Authorized Dock Use Area. An authorized dock use area is described as follows:

- a) Length - The authorized dock use area for sites bordering on the Lake extends into the Lake a distance equal to the site Lake frontage to be measured at right angles to the side site lines and, except as provided herein, shall not extend into the Lake a distance of greater than 200 feet in the case of commercial docks in existence on August 30, 1978, and 100 feet in the case of other docks to be measured on a line parallel to the site side lines as extended into the Lake. In the case of commercial docks in existence on August 30, 1978, the lakeward extension of the dock use area more than 100 feet from the shoreline shall be limited to the distance from shore of the docks in existence on said date and that portion of said docks more than 100 feet from the shoreline may not be altered or expanded.

The authorized dock use area for Qualified Commercial Marinas, Qualified Sailing School and Qualified Yacht Clubs extends into the Lake 200 feet.

A site in existence on February 5, 1970, which has a Lake frontage of 40 feet or more, but less than 60 feet, may have a dock extending up to 60 feet into the lake. Any such site which has a Lake frontage of less than 40 feet may have a dock which extends beyond the authorized dock use area to the point necessary to reach a water depth of four feet, measured from 929.4 feet NGVD, and no further; provided that no such dock shall be located or extended more than 60 feet into the Lake. Side setbacks requirements shall be observed, however, unless a variance is granted by the Board under Section 1.07.

The authorized dock use area for dock facilities owned and operated by state agencies, Hennepin County, the LMCD or cities bordering on the Lake and used exclusively for law enforcement, public safety or LMCD purposes may extend up to 125' into the Lake.

b) Width - The authorized dock use area for sites bordering on the Lake is limited in width by the setback limitations prescribed herein. The setback from side site lines as extended in the Lake shall be as follows:

| <u>For that portion of the length of the authorized dock use area which extends from the shore</u> | <u>The setback shall be</u> |
|--|-----------------------------|
| Zero to 50 feet | 10 feet |
| 50 to 100 feet | 15 feet |
| 100 to 200 feet | 20 feet |

- 1) Where boat slips open toward a side site line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.
- 2) Setbacks shall be doubled for all multiple docks or mooring areas and commercial docks on each side where such multiple docks are not located adjacent to another multiple dock or mooring area or commercial docks; provided, however, that multiple docks or mooring areas and commercial docks in existence on May 3, 1978, shall be non-conforming structures and shall not be subject to this subparagraph 2.) as long as such structures are not expanded, and further provided that setbacks established by Section 2.12, Subd. 3 are not required to be doubled pursuant to this subparagraph 2).
- 3) The authorized dock use area, in the case of sites 50 feet in width or less in existence on February 2, 1970, may be expanded to a side setback limitation of five feet, provided that such setback in no way impairs access to neighboring docks.
- 4) A canopy, as defined in Section 1.02, must be setback from side site lines a minimum distance of 20 feet.

c) Measurement - Authorized dock use areas shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum, 1929.

d) General Permit for low water dock extensions for docks that do not require a license under Section 2.03 (Section 2.03 requires licenses for commercial and multiple docks).

- 1) When the Lake level falls below elevation 928.0 feet NGVD, the Board may declare Low Water Conditions by resolution. Low Water Conditions will be canceled automatically if the Lake level is above 928.6 feet for five consecutive days. The Executive Director shall take appropriate steps to notify the public of the cancellation of Low Water Conditions.
- 2) During periods of declared Low Water Conditions, docks that do not require a license under Section 2.03 may be extended into the Lake in accordance with the following conditions and limitations:
 - aa) The extension must be a temporary, seasonal type dock. No extensions may be on pile-driven or permanent year-round docks. Extensions must be removed for the winter season no later than November 15th.
 - bb) The dock may be extended into the Lake up to 30 feet beyond the authorized dock use area if the Lake level is below elevation 928.0 feet and up to 60 feet beyond the authorized dock use area if the Lake level is below 927.0 feet; provided, however, that no dock may extend farther into the Lake than the point at which the water depth is five feet when the Lake elevation is at 928.0 feet.
 - cc) The dock must meet all requirements of the Code other than the length limitation described in this Section.
 - dd) The extension, together with the original dock, must not be used to provide storage for a greater number of watercraft than are authorized under this Code.
 - ee) The extension must not impair navigation or reasonable access to other authorized dock use areas or create a hazard to navigation.
 - ff) The landowner must grant LMCD staff permission, at all reasonable times, to inspect the dock to determine compliance with this Code.
 - gg) The site must not have received a variance from the provisions of this Code in the past.
 - hh) All sections of the dock and extension must be so designed, constructed, elevated, lighted or reflectorized that they are readily visible to boaters.
 - ii) All sections of the dock and extension must be so constructed that dock sections do not float away during high water or wave conditions.
 - jj) Prior to construction of the dock extension, the landowner or the landowner's authorized agent must register the dock extension with the Executive Director on a form provided by the District. A new registration is required for each calendar year.

- 3) Once lawfully constructed in accordance with the requirements of this Subdivision, temporary dock extensions may be left in place until November 15 of that year, even if the declaration of Low Water Conditions is canceled.
- 4) Construction and maintenance of a temporary dock extension that does not meet all conditions of this Code is a violation of this Code and, in addition, is ground for revocation of the low water extension permit and for a determination of ineligibility for permits in the future.
- 5) Permits authorized under this Subd. 2.d) may be modified, or revoked, following notice and hearing as provided in Section 1.05, upon a finding that such modification or revocation will preserve reasonable access to other authorized dock use areas and docks, safety, or general public navigation or that the dock does not meet the requirements of this Code.
- 6) Temporary low water dock extensions that do not meet all of the requirements of this Subd. 2.d) may be approved by the Board in accordance with Section 2.01, Subd. 2.e).

e) Low Water Condition Permits for Multiple Docks, Commercial Docks and Docks that do not qualify for a General Permit under Section 2.01, Subd. 2.d).

- 1) When the Board has made a declaration of Low Water Conditions under Section 2.01, Subd. 2.d) 1), the Board may issue temporary low water dock extension permits for facilities that do not qualify for a General Permit under Section 2.01, Subd. 2.d). Applications for low water extension permits shall be made on forms provided by the District and provide such information as is requested by the Executive Director or the Board.
- 2) No hearing is required for issuance of a permit under this paragraph e), unless a hearing is ordered by the Board.
- 3) In addition to any conditions imposed by the Board at the time of approval, all permits issued under this paragraph e) are subject to all conditions and limitations of Section 2.01, Subd. 2.d) 2) except sub-paragraphs bb) and gg).
- 4) All permits issued under this paragraph e) are subject to the provisions of Section 2.01, Subd. 2.d), paragraphs 3, 4 and 5.
- 5) Unless otherwise provided at the time of approval, a temporary extension permit issued by the Board under this paragraph e) after March 1, 2013 will automatically be renewed for any subsequent declaration of Low Water Conditions, provided that there is no change in the design of the dock or dock extension, and the owner has not been given notice of a violation of this Code or notice of hearing under paragraph d.) 5 of this Subdivision. In all cases that do not meet these requirements for automatic renewal, the Executive Director shall notify the applicant that a new application is required for consideration by the Board.

f) The authorized dock use area includes the area on, under, and over the surface of the Lake.

Subd. 3. Setback Adjustments and Common Use of Adjacent Dock Use Areas. Two or more adjoining site owners may by mutual agreement adjust the side setback requirements between such adjoining sites or may use their combined authorized dock use areas for a single common dock or mooring area subject to the following conditions:

a) Adjustment of side setback requirements is permitted subject to the following limitations:

- 1) adjustment is only permitted: a) between or among owners of two or more non-commercial docks for the private non-commercial use of the site owners; or b) between an owner of a municipal dock and an owner of a multiple dock.
- 2) owners must observe side setbacks at the outer site lines of such adjoining sites.
- 3) setbacks may not be adjusted if the effect is to increase the authorized dock use area of a site used for a structure or for watercraft storage which is not in compliance with the current provision of section 2.05.
- 4) separation between docks on such adjacent sites must be no less than the following:

| FOR THE PORTION OF THE LENGTH OF THE DOCK WHICH EXTENDS FROM THE SHORE | THE MINIMUM SEPARATION IS |
|---|------------------------------|
| zero to 50 feet | 20 feet |
| 50 to 100 feet | 30 feet |
| 100 to 200 feet | 40 feet |

b) Use of one or more sites for a single common dock or mooring area is permitted subject to the following limitations:

- 1) combination is only permitted between or among owners of two or more non-commercial docks for the private non-commercial use of the site owners.
- 2) only one dock structure may be constructed on the combined dock use areas.
- 3) no more restricted watercraft may be stored by any owner of a combined dock facility than would be permitted at that owner's site.

c) Side setbacks and dock use areas between two or more adjoining sites may be adjusted by mutual consent of the site owners subject to the following conditions:

- 1) adjustment is only permitted: a) between or among owners of two or more non-commercial docks for the private non-commercial use of the site owners; or b) between an owner of a municipal dock and an owner of a private non-commercial dock.
- 2) owners must observe side setbacks at the outer site lines of such adjoining sites.
- 3) consent to the adjustment is revocable by any party to the agreement at any time. In any case in which any structure in the dock use areas of any of the adjacent sites requires a license under this Code, each annual license application must include a written consent of the owners of all affected sites.
- 4) no more watercraft may be stored at the adjacent sites affected by the adjustment than the sum of the number of watercraft which would be allowed at each site if there were no such adjustment.

d) Notwithstanding anything to the contrary in this Code, the Board may approve, as part of a new multiple dock license, adjustments to side setbacks and dock use areas between a commercial multiple dock site and one or more adjoining residential (noncommercial) sites that are under common ownership as follows:

- 1) adjustments to the side setbacks may be allowed if all of the following conditions are met:
 - (a) side setbacks at the outer site lines of such adjoining sites are maintained;
 - (b) the residential site may maintain dockage and watercraft density as allowed by the Code; however, no more watercraft may be stored at the commercial multiple dock or at the adjacent residential site as a result of the adjustment that is otherwise allowed by the Code;
 - (c) the property ownership is verified and the setback adjustment is indicated on each license application submittal; and
 - (d) if the ownership of the properties change so that they are no longer under common ownership, the dock use area must be reconfigured to meet the setbacks as otherwise indicated in section 2.01.
- 2) shoreline measurement, for the purpose of calculating watercraft density, may be transferred from an adjoining residential (noncommercial) site to a commercial multiple dock site if all of the following conditions are met:
 - (a) dock structures, watercraft, or similar may extend up to, but not across, the extended property line between the different properties;

- (b) no docking, mooring, or storage of watercraft shall occur on the residential property;
- (c) the residential property has a minimum 50 feet of shoreline;
- (d) the property ownership is verified and the setback adjustment is indicated on each license application submittal; and
- (e) if the ownership of the properties changes so that they are no longer under common ownership, the dock use area must be reconfigured to meet the setbacks as otherwise indicated in 2.01.

Section 2.015. Reconfiguration of Non-Conforming Structures.

Subd. 1. Purpose. The protection and preservation of the Lake has required increasingly strict regulatory measures. While the Board has determined that these measures are generally appropriate on a lake-wide basis, it has recognized that requiring existing nonconforming structures to come into compliance with new requirements of the Code can impose substantial hardships. Therefore, as regulation of docks and boat storage on the Lake has changed, the Board, in some cases, has allowed docks lawfully in existence at the time of adoption of new ordinances to continue. In conferring such nonconforming status, the Board has imposed limitations on alterations or expansions of such facilities to protect the Lake and to otherwise further the purposes of this Code. However, the Board has determined that these limitations may be unduly restrictive without significantly advancing the public interest. The purpose of this section is to alleviate the hardship created by prohibiting changes or alterations to nonconforming structures by allowing reconfigurations and minor changes within certain limitations imposed to protect the spirit and intent of this Code. The Board also recognizes a need to allow some reasonable flexibility in the reconfiguration of nonconforming structures to enable owners to enhance the safety of their structures and respond to changing market demands and watercraft designs. The Board further recognizes that there may be alterations proposed to a nonconforming structure that comply with the requirements of the Code. The intent of the Board is to allow for such changes as part of an approved reconfiguration or minor change, provided the Board or the Executive Director finds the proposed changes do not increase the nonconforming nature of the structure and is otherwise consistent with the purpose of this section. It remains a priority of the Board to encourage owners to bring their nonconforming structures into compliance with Code to the extent reasonably possible, but the Board determines it is not necessary, and can result in unreasonably hardships, for an owner to be required to bring their nonconforming structure into conformance with the Code simply for seeking a reconfiguration of, or minor change to, the structure.

Subd. 2. Applicability. This section applies to all permanent docks, seasonal docks, and district mooring areas that are not in compliance with the requirements of the Code applicable to new facilities, but that are lawfully in existence by reason of Code provisions explicitly allowing such nonconformities to continue.

Subd. 3. Reconfigurations and Minor Changes Generally. This section sets out the procedure to seek approval for the reconfiguration of a nonconforming structure and also provides a process to obtain administrative approval for a minor change to a nonconforming structure. Without limiting the specific requirements of this section, the primary distinction between a reconfiguration and a minor change with respect to a nonconforming dock is that a reconfiguration proposes to substantially alter the principal structure of a dock, while a minor change only alters a minimal portion of the principal structure or the secondary structure of a dock. For the purposes of

this section, the “principal structure” of a dock is the main walkway, and the “secondary structure” of the dock includes the slip structures, dolphin poles, and other ancillary components affixed to or adjacent to the principal structure.

The reconfiguration of a nonconforming structure, to the extent allowed by this section, requires the submission of an application to the LMCD in accordance with subdivision 8 of this section requesting a new dock license or new district mooring area license for the proposed reconfigured nonconforming structure. If a proposed reconfiguration qualifies as a minor change, a minor change application may be submitted to the LMCD in accordance with subdivision 9 of this section and the Executive Director may approve the application without a public hearing, Board review, and without requiring a new license. The minor change process is only available if, in the determination of the Executive Director, the proposed reconfiguration complies with the limitations and criteria in subdivisions 6 and 9 of this section.

In considering a proposed reconfiguration or minor change to a nonconforming structure, the LMCD shall determine the number of boat storage units, total linear footage of the boat storage units, and the perimeter of the existing nonconforming structure. Each of these determinations, which must be made in accordance with subdivision 7 of this section, serve as limitations on the proposed and all future reconfigurations and minor changes to the structure. To the extent a proposed reconfiguration or minor change results in less than the full amount of the boat storage units, total linear footage, or perimeter area of the existing nonconforming structure being utilized, they are preserved as provided in subdivision 10 of this section for future use.

Subd. 4. Maintenance and Replacement. An owner may maintain, repair, restore, and improve a nonconforming structure without having to obtain a new dock or district mooring area license or administrative approval of the minor change under this section, provided that such work does not result in the alteration or relocation of any portion of the structure. The replacement of a majority of a dock shall require a minor change permit under subdivision 9 of this section.

Subd. 5. Code Requirements. The reconfiguration of nonconforming structures must comply, in all respects, with the requirements of this Code except as otherwise provided in this section and as follows:

- (a) The provisions of section 2.01, subd. 2(a) which prohibit alteration of docks extending more than 100 feet from the shoreline;
- (b) The provisions of section 2.05, subd. 9, which prohibit changes involving an increase in slip size without first securing a special density license pursuant to section 2.05; and
- (c) The provisions of 2.10, subd. 3, which prohibit the expansion of non-conforming uses.

Subd. 6. Limitations. Except to the extent expressly allowed by this section, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new district mooring area license, or grant administrative approval, if the proposed reconfiguration would result in any of the following:

- (a) An increase in boat storage units;
- (b) An increase in the linear footage of the boat storage units as determined in subdivision 7 of this section;

- (c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
- (d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
- (e) An increase in the nonconforming nature of the structure;
- (f) The creation of any new nonconformities; or
- (g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.

Subd. 7. Determination of Existing Boat Storage Units, Linear Footage and Perimeter. The Board desires to allow the reconfiguration of, and minor changes to, nonconforming structures to accommodate the changing widths of watercraft and the needs of owners, but to do so in a way that ensures the reconfigured structure does not extend beyond the perimeter of the existing structure and that preserves for the owner, as a maximum, the original number and linear footage of the boat storage units of the existing structure. This subdivision sets out the process for confirming the number of existing boat storage units, the calculation of the total linear footage of the boat storage units, and for determining the perimeter of the existing nonconforming structure as part of a proposed reconfiguration. The determinations made under this subdivision are based on the existing licensed structure, not on any past or proposed future configuration of the structure. The LMCD may prepare and make available to the public diagrams to demonstrate how one or more of these determinations are made. Any such diagrams are for illustration only and are not controlling on the determinations made by the Executive Director or the Board under this subdivision regarding any particular application.

- (a) Boat Storage Units. The number of boat storage units for the nonconforming structure is established as part of the license issued by the LMCD for the dock or the district mooring area. If a proposed reconfiguration will result in a reduction of the number of boat storage units, the new dock license, district mooring area license, or minor change permit issued for the reconfigured structure shall identify the number of boat storage units before and after the reconfiguration.
- (b) Linear Footage. Part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow the transfer of linear footage of the boat storage units among slips and to otherwise reconfigure the boat storage units as the owner determines is appropriate, provided the total linear footage of the boat storage units of the existing structure is not exceeded. Where the license is based on multiple sites with non-continuous shoreline, the linear footage may be transferred among sites. The linear footage shall be determined as follows:
 - (1) General Linear Footage Calculation. The linear footage of a boat storage unit contained by a slip structure shall be determined by a straight line measurement from the center of dock-side end of the slip to a point even with the outside edge of the slip structure, whether that is the end of the slip fingers, or other similar portion of the dock structure reasonably constituting the end of the slip.

- (2) Dolphin Poles or Similar. The linear footage of a boat storage unit with dolphin poles or that is not contained by a slip structure shall be determined based on the linear footage of the nearest slip finger or other similar portion of the dock structure reasonably constituting the end of the slip.
 - (3) Mooring Areas. The linear footage of a district mooring area shall be determined based upon the combined length of the watercraft, as identified in the most current license issued for the structure, allowed to be moored at the mooring area.
 - (4) Total Linear Footage. The total linear footage of the nonconforming structure shall be the combined linear footage of all the boat storage units.
- (c) Reduction in Linear Footage. If a proposed reconfiguration of, or minor change to, a nonconforming structure will result in reducing the amount of linear footage used for boat storage units, the new dock license, district mooring area license, or minor change permit issued for the reconfigured structure shall identify the total linear footage before and after the reconfiguration.
- (d) Linear Footage Appeal. The Executive Director is authorized to resolve any questions and to decide the total linear footage of a nonconforming structure. The Executive Director may bring a question regarding the determination of the linear footage to the Board for a final decision. If an applicant disagrees with the Executive Director's determination of the total linear footage, that person may appeal the determination to the Board for consideration at a regular meeting. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the total linear footage.
- (e) Perimeter. Another part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow reconfigurations without being limited to a particular structural design or configuration, provided the reconfigured structure does not extend beyond the perimeter of the existing structure. Confining the reconfigured structure to the perimeter of the existing structure will help avoid the negative impacts that can result to the Lake and neighboring owners if the structure was allowed to expand or extend further into the Lake.
- (1) Perimeter Structure and Storage. All docks, moorings, watercraft storage, swimming floats, ski jump storage, diving towers, and similar items must be located within the perimeter as approved in accordance with this Code.
 - (2) Perimeter Determination. The perimeter of the existing nonconforming structure shall be a closed line that extends from shoreline to shoreline around the outside portions of the structure (boxing in the structure). The perimeter shall be drawn by extending straight lines from the shoreline on either side of the structure to the furthest point of the structure into the Lake, and then drawing a straight line between the two side lines that parallels the shoreline. The Executive Director is authorized to resolve any questions and to decide the perimeter of a nonconforming structure. The Executive Director may bring a question regarding the determination of the perimeter to the Board for a final decision. The established perimeter shall be included in and made part of the new dock license, district mooring area license, or minor change permit issued for the reconfigured nonconforming structure. The

established perimeter shall also be shown on any survey submitted with a proposed reconfiguration of the nonconforming structure.

- (3) Perimeter Appeal. If an applicant disagrees with the Executive Director's determination of the perimeter, that person may appeal the determination to the Board for consideration at a regular meeting. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the perimeter.

Subd. 8. License for Reconfigured Nonconforming Structure. The reconfiguration of a nonconforming structure may only occur to the extent allowed by this section, and in accordance with the procedures established in this subdivision. The reconfiguration of a nonconforming structure under this subdivision requires the issuance of a new dock license or a new district mooring area license.

(a) Eligibility. The Board may only issue a new dock license or a new district mooring area license if the proposed reconfiguration of the nonconforming structure does not result in any of the conditions identified in subdivision 6 of this section and complies with the requirements of section 2.03, this section, and the other requirements of the Code, to the extent applicable or not otherwise exempted by the express provisions of this section.

(b) Application and Process. A person proposing to reconfigure a nonconforming structure shall file a new dock license or new district mooring area license application with the LMCD, together with the applicable application fee and escrow deposit to be used by the LMCD to reimburse itself for legal, surveying, engineering, inspection, maintenance and other expenses it incurs to process and act on the application. Except as provided in this section, the application for the new license shall be processed in accordance with section 2.03. The application for the new license shall include, in addition to the information required by section 2.03, subdivision 2, the following information:

- (1) A survey map of the nonconforming structure in its current configuration identifying the existing number of boat storage units, the linear footage of each boat storage unit, and the perimeter of the structure in accordance with subdivision 7 of this section; and
- (2) A survey map of the proposed reconfigured nonconforming structure showing the boat storage units used, the total linear footage of the boat storage units used, and the perimeter area of the reconfigured structure in accordance with subdivision 7 of this section.

Upon the receipt of a complete application, the Executive Director shall decide whether the boat storage units, linear footage, and perimeter determinations shown on the map were made in accordance with subdivision 7 of this section and require adjustments as needed.

(c) Variances. If a proposed reconfiguration of a nonconforming structure requires the issuance of a new variance, or an amendment to an existing variance, the applicant shall submit a variance application together with the application for a new dock or district mooring license application. Proceedings for consideration of such variance application and new dock or district mooring area license application shall be conducted concurrently.

(d) Public Hearing. Once an application is deemed complete, a public hearing shall be scheduled before the Board to consider the application.

(e) Board Determination. After conducting the public hearing, the Board shall make the final decision on whether to approve the requested new dock license or new district mooring area license for the reconfigured nonconforming structure. The Board, as part of an approval, may allow minor modifications to the perimeter in order to accommodate changes to the structure that otherwise comply with the Code. The Board may impose conditions on a license it issues as it determines is reasonably needed to address navigation, safety, and environmental concerns including, but not limited to, imposing restrictions on the length of watercraft. If the application is approved, the applicant may seek annual renewal of the license following the same annual licensing procedures required of conforming structures.

Subd. 9. Minor Changes to Nonconforming Structures. The Executive Director may administratively approve a minor change to a nonconforming structure and issue a minor change permit without requiring a new dock license or a new district mooring area license, and without a public hearing, to the extent allowed by, and in accordance with the procedures established in, this subdivision.

(a) Eligibility. The Executive Director may administratively approve, as a minor change, a proposed reconfiguration of a nonconforming structure that meets all of the following criteria:

- (1) The minor change will not result in any of the conditions identified in subdivision 6 of this section;
- (2) There is no conversion of slides to slips;
- (3) There is no substantial increase in the amount of the Lake obstructed or occupied;
- (4) There is no substantial change in the use or the type of watercraft stored;
- (5) The minor change does not require an amendment to an existing variance or the issuance of a new variance;
- (6) No more than a combined total of 50 feet or 25%, whichever is greater, of the principal structure of a nonconforming dock is being moved, shortened, or lengthened; and
- (7) No new docks are being added.

(b) Application and Process. A person proposing a minor change to a nonconforming structure shall file a minor change application with the LMCD, together with the required application fee. The application materials shall include a map that shows the proposed minor change as well as the number of boat storage units, the linear footage of each boat storage unit, and the perimeter of the structure in accordance with subdivision 7 of this section both before and after the proposed minor change. Upon the receipt of a complete application, the Executive Director shall decide whether the boat storage units, linear footage, and perimeter determinations shown on the map were made in accordance with subdivision 7 of this section and require adjustments as needed. If the Executive Director determines the proposed minor change is consistent with the eligibility criteria in this subdivision, the Executive Director may administratively approve the application and

issue a minor change permit. The Executive Director may refer any minor change application to the Board for a final decision and shall refer to the Board any minor change application the Executive Director proposes to deny. If the Board approves the license, the Executive Director shall issue a minor change permit in accordance with the decision. The Executive Director or the Board may, as part of an approval, allow minor modifications to the perimeter in order to accommodate changes to the structure that otherwise comply with the Code. The Executive Director or the Board may impose conditions on a minor change permit as it determines is reasonably needed to address navigation, safety, and environmental concerns including, but not limited to, restrictions on the length of watercraft.

Subd. 10. Preservation of Unused Boat Storage Units, Linear Footage, and Perimeter Area. If the reconfigured or changed nonconforming structure does not utilize the full number of boat storage units, the total linear footage, or the full perimeter area of the existing nonconforming structure, as determined in accordance with subdivision 7 of this section, the unused boat storage units, unused linear footage, and unused perimeter area shall be preserved and may be used for a future reconfiguration of the nonconforming structure, provided that any such future reconfiguration is in compliance with this section. The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this section does not constitute an unlawful expansion of the nonconforming structure. No expansion beyond the preserved number of boat storage units, linear footage, or perimeter shall be allowed unless such expansion is otherwise allowed by this Code or a variance is applied for and obtained prior to, or as part of, the issuance of the new dock license, district mooring area license, or minor change permit for the newly reconfigured nonconforming structure.

Subd. 11. No Vested Rights. It is anticipated that in the future it may become necessary for the LMCD to attempt to make an allocation or apportionment of multiple dock, mooring area, commercial dock, and launching facility privileges on and within the Lake, on an equitable basis, in order to avoid overcrowding of the Lake, or portions thereof, and in order to balance the many conflicting demands upon the Lake. In order to give notice to licensees that the license does not create any vested rights and that future regulatory actions by the LMCD may necessitate modifying or discontinuing the facility for which the license is granted, each license shall state upon its face that the licensed facility is subject to existing and future density policies and regulations adopted by the Board.

Subd. 12. Conversion of Slides to Slips. An applicant proposing to reconfigure a nonconforming structure may request to convert one or more licensed slides to slip storage spaces. A request for such a conversion may only be considered as part of a reconfiguration request under this section and may not be administratively approved by the Executive Director as part of a minor change under subdivision 6 of this section.

(a) Criteria. The Board may only approve a conversion request if it meets all of the following criteria:

- (1) The slides proposed for conversion to slips must be licensed for the same site; and
- (2) The conversion does not increase the number of boat storage units at the site.

(b) Removal and Credit. All slides converted to slips must be removed. In converting slides to slips, the applicant shall be given credit for linear length of slip space based on the linear length of each slide converted.

Section 2.02. Shoreline Requirements.

Subd. 1. General Rule. No docks or mooring areas shall be constructed, established or maintained that provide space for or are used for mooring or docking a greater number of restricted watercraft than one for each 50 feet of continuous shoreline in existence on May 3, 1978, unless authorized to do so by special density license pursuant to Section 2.05. For sites with continuous shoreline greater than 100 feet, when measurements determining the number of restricted watercraft allowed result in the provision of a fractional restricted watercraft, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall be counted as one additional restricted watercraft.

Subd. 2. Special Rule for Sites in Existence on August 30, 1978. Unless a greater number is authorized by the provisions of Subd. 1 above, up to two restricted watercraft may be moored or docked at any dock or mooring facility that is located on a site (as defined in Section 1.02) that was in existence on August 30, 1978.

Subd. 3. Additional Watercraft Allowance in Certain Cases. Unless a greater number is authorized by the provisions of Subd. 1 above, up to four restricted watercraft may be moored or docked at a dock or mooring area located on any site (as defined in Section 1.02) provided that all of the following conditions are met:

a) There must be one, and no more than one, single family residential structure on the site. If there is no residential structure on a site, any one off-lake lot, parcel or other piece of property that 1) is legally subdivided and recorded in the office of the County Recorder; 2) adjoins the site or is separated from the site only by a public right-of-way; 3) is under common ownership and unified use with the site; and 4) is occupied by one single family residential structure, may be designated to be a part of one site by the owner, for purposes of this paragraph.

b) The dockage rights at the site are owned exclusively by the owners of the lot parcel or other piece of property on which the residential structure referred to in paragraph a) is located.

c) All of the restricted watercraft moored or docked at a dock or mooring at the site must be owned by and registered to persons who live in the one residential structure referred to in paragraph a).

The homestead or non-homestead status of property for ad valorem real estate tax purposes has no bearing on or application to this subdivision.

Subd. 4. Special Rule for Non-Conforming Docks and Moorings in Existence on May 3, 1978. Docks and mooring areas lawfully in existence on May 3, 1978 may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978. No such docks or moorings may be maintained without first securing a dock license under Section 2.03 or a non-conforming use permit under this subdivision. Applications for non-conforming use permits shall be made on forms provided by the District and upon payment of the fee established by resolution of the Board. Non-conforming use permits need not be renewed on an annual basis. Such licenses and permits will be issued only after a public hearing and upon presentation of evidence deemed sufficient by the Board to prove that the dock or mooring was in existence on May 3, 1978 and that the number of restricted watercraft applied for were moored or docked at such facility as of such date.

Subd. 5. Special Rule for Non-Continuous Shoreline of Dock Use Areas in Close Proximity. The Board may authorize shoreline from one or more sites (the "transferor sites") to be counted as part of another site (the "transferee site") for the purpose of computing permissible boat density. Applications for permission to transfer boat density shall be made in accordance with the procedures set forth in section 2.03 and shall be processed as a part of the applicant's multiple or commercial dock license application. Criteria to be considered by the Board in evaluating whether to approve such application shall include all criteria set forth in Section 2.03, subd. 3a). No such permission to transfer boat density shall be granted by the Board unless the following additional conditions are met:

a) The dock use areas of each transferor site and the transferee site may be no more than 300 feet apart.

b) The credit for boat density transferred from any transferor site may not exceed one restricted watercraft for each 100 feet of shoreline of the transferor site (with fractional watercraft counted in accordance with subdivision 1).

c) The total number of restricted watercraft moored or docked at the transferee site may not exceed one restricted watercraft for each 25 feet of shoreline of the transferee site (with fractional watercraft counted in accordance with subdivision 1).

d) No variances, other than temporary low water variances, may be granted for construction of docks at the transferee site.

e) As long as the transferee site is used to moor or dock more restricted watercraft than this Code would allow without the transfer of boat density under this subdivision:

- i) the transferor sites and the transferee site must be in common ownership and without restriction as to material riparian rights;
- ii) no docks or mooring or docking of boats is permitted on the transferor sites; and
- iii) the transferor sites must be maintained in essentially a natural state and may not be used for residential dwelling units or commercial uses.

Subd. 6. Special Rule for Government Service Watercraft. Government Service Watercraft are not counted for density purposes at the Site at which they are stored; license fees for the Boat Storage Units at which they are stored are waived; and application fees for a dock plan amendment being made solely to accommodate such Boat Store Units are waived, provided:

a) the Government Service Watercraft is stored at a designated Boat Storage Unit on a dock plan and within the Dock Use Area of the Site. Boat Storage Units for Government Service Watercraft may be approved by the Executive Director upon receipt of such information as the Executive Director may require for such approval, and

b) the Boat Storage Unit is provide by the owner as a public service for no compensation.

For purposes of this Subdivision, a Government Service Watercraft is a watercraft that is owned and operated exclusively by a federal, state or local government unit or agency and used exclusively for law enforcement, firefighting, rescue, environmental studies or maintenance of the Lake or aids to navigation.

Subd. 7. Special Rules for Shoreline Calculation in Certain Cases. In any case in which the measured shoreline at a site exceeds of the distance, measured on a straight line, between the two end points of the shoreline at the site, the Board may adjust the length of shoreline for which credit is given for purposes of computing the number of restricted watercraft at the site as follows:

(a) Shoreline will not be adjusted to a length shorter than the straight line distance between the end points of the shoreline.

(b) Shoreline will be adjusted only for sites requiring a multiple dock license.

(c) Shoreline will not be adjusted at any site for any dock facility that was in existence on September 17, 1999 unless the number of boat storage units is increased at the site.

(d) The Board will make adjustments to shoreline at the time of issuance of new multiple dock licenses. Adjustments may be made when the Board concludes that the amount of shoreline measured at elevation 929.4 NGVD is not fairly representative of the amount of shoreline that is reasonably useable for the construction and maintenance of docks at the site due to such features as narrow inlets, small coves, highly sinuous shoreline configuration, large areas of the shoreline covered by emergent vegetation or a great difference between the length of measured shoreline and the distance measured along the edge of emergent vegetation between the extended lot lines of the site. Shoreline adjustments shall be made so as to approximate the number of restricted watercraft and impacts resulting from mooring or docking of watercraft to that of other sites with comparable useable dockage space that do not have the same characteristics of unusual topography, shoreline configuration or vegetation.

Subd. 8. Definition of Moored or Docked. For purposes of this Section:

(a) A site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Section are moored, docked, anchored or secured at the site, for any period of time, on three or more calendar days in any fourteen-day period; and

(b) Any restricted watercraft is considered to be moored or docked at a site if it is moored, docked, anchored or secured at the site, for any period of time, on three or more calendar days in any fourteen-day period.

Subd. 9. Special Rule for Sites with Non-Continuous Shoreline in a Single Parcel Identification Number. The owner of a site with a single County Parcel Identification Number (PID) that has two or more segments of non-continuous shoreline may apply for a variance under Section 1.07 to combine non-continuous shoreline within that PID for density purposes without demonstrating a hardship.

Subd. 10. Special Rule for Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs. Up to one restricted watercraft may be moored or docked at a Qualified Commercial Marina, Qualified Sailing School or Qualified Yacht Club on any site (as defined in Section 1.02) for each 10 feet of continuous shoreline in existence on May 3, 1978. When calculation of the number of restricted watercraft allowed results in a fractional restricted watercraft, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall be counted as one additional watercraft.

Subd. 11. Special Rule for Qualified Sailing Schools and Qualified Yacht Clubs. Watercraft that are 20 feet or less in hull length and have no motor and are stored on land are not counted for density purposes under this Section.

Subd. 12. Special Rule for Qualified Sailing Schools. Motorized watercraft stored at a Qualified Sailing School Site or on the adjacent site of a Qualified Yacht Club are not counted for density purposes under this Section provided:

- a) the overall length of the watercraft is 20 feet or less; and
- b) the horsepower of the motor on the watercraft is 90 horsepower or less; and
- c) sailboats stored at the Qualified Sailing School Site and used exclusively for students at the sailing school that are registered with the LMCD shall be declared student sailboats and there is no more than one such motorized watercraft for each six registered student sailboats; and
- d) all such motorized watercraft are stored on land or over the land on a slide or ramp; and
- e) the motorized watercraft is used by the Qualified Sailing School exclusively for safety, education, and coaching or managing sailboat races.

Section 2.03. Multiple Docks, Mooring Areas, Commercial Docks, and Launching Ramps.

Subd. 1. License Required. No person may locate, construct, install or maintain a multiple dock or mooring area or a commercial dock or a launching ramp on the shoreline of the Lake, or in the waters of the Lake unless licensed by the Board to do so.

Subd. 2. Application for License. Application for a license shall be made on forms provided by the Executive Director. The application for license shall contain (a) the name and address of the applicant, (b) the description of the property on which the facility is to be located, (c) the name and address of the owner of the premises, if different from the applicant, (d) if the applicant is not the owner, an explanation of the interest which the applicant has in the property, (e) a showing that all requisite permits, licenses and approvals from the local municipality have been obtained and that the requirements of any other governmental authority have been met, and (f) a plan showing the design and location of the facility including all Boat Storage Units. The application shall include such other information as the Executive Director may require to assist the Board in consideration of the application for the license. The application shall also be accompanied by a license fee which shall be established from time-to-time by resolution of the Board; provided that no fee shall be required for applications for launching ramps owned and operated by municipalities or other governmental agencies which are available for use by the general public without payment of fees or other charges. An additional deposit in an amount established from time to time by resolution of the Board shall accompany the application to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit, and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit. No such deposit shall be required in the case of renewal applications under Subdivision 13 of this Section or new license applications required by Subdivision 7 of this Section which do not require a public hearing, unless a hearing is requested by the applicant pursuant to Section 1.06, Subd. 12.

Subd. 2a. As Built Survey. Upon completion of the dock installation, the licensee shall provide an as-built survey of the docks and site indicating the 929.4 foot shoreline, a line indicating the 100 foot distance from shore, dock dimensions, setbacks from property lines and witness marks for seasonal docks. The Executive Director or the Board may waive this requirement in writing.

Subd. 3. Issuance of License. Licenses required by this section may be issued after a public hearing by the Board. Proceedings for the issuance of a license and the granting of a variance under Section 1.07 may be combined and conducted as one proceeding. The Board may impose conditions on the granting of a license, which conditions shall be in writing.

a) Review Criteria. In exercising its discretion in granting or denying licenses, the Board may consider, among other things, the following:

- 1) Whether the proposed facility is compatible with the LMCD watercraft density classification criteria.
- 2) Whether the proposed facility will be structurally safe for use by the intended users.
- 3) the facility will comply with the regulations contained in this ordinance.
- 4) Whether the proposed facility will create a volume of traffic on the Lake in the vicinity of the facility which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the facility.
- 5) Whether the proposed facility will be compatible with the adjacent development.
- 6) Whether the proposed facility will be compatible with the maintenance of the natural beauty of the Lake.
- 7) Whether the proposed facility will affect the quality of the water of the Lake and the ecology of the Lake.
- 8) Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
- 9) Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.

- 10) Whether the proposed facility will serve the general public as opposed to a limited segment of the public or a limited geographical area.
- 11) Whether the facility will obstruct or occupy too great an area of the public water in relationship to its utility to the general public.

b) Factors Not Considered. The use of multiple dock or mooring areas or launching ramps on the Lake for the purpose of increasing non-riparian property values is not a valid consideration in licensing such facilities.

Subd. 3a. Additional Review Criteria for Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs. In addition to the review criteria specified in Subdivision 3 of this Section, applications for Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs to increase the number of Boat Storage Units or to extend docks further into the Lake beyond 100 feet require Board action and are subject to the following conditions:

a) No license will be granted for a facility with an existing variance unless a new variance for the proposed facility is granted by the Board;

b) No license will be granted for a proposed facility that overlaps the dock use area of another site;

c) No license will be granted for a proposed facility that will require removal of emergent native vegetation;

d) No license will be granted for a proposed facility that interferes with general public navigation or impairs access to use of the dock use area of another site or a district mooring area.

Subd. 4. Implied Consent to Inspection. By making application for a license, the applicant consents to permitting officers and agents of the district to enter upon the applicant's premises at all reasonable times to investigate the application and to determine whether the ordinances of the district are being complied with. The application form shall contain a statement to this effect.

Subd. 5. Construction and Maintenance Standards. Construction of licensed multiple docks or mooring areas, launching ramps and commercial docks must comply with all local, state and federal regulations applicable to facilities and services provided; municipal zoning, parking and other land use regulations applicable to the facility; and the rules and regulations contained in this code pertaining to Lake use and structures in the Lake. All licensed multiple docks and mooring areas, launching ramps and commercial docks shall be maintained in a structurally safe condition and shall be maintained in a neat, clean and orderly condition at all times.

Subd. 6. Compliance with Conditions. A violation of any condition imposed by the Board shall be a violation of this section and grounds for revocation, suspension or modification of conditions of the license pursuant to Section 1.06, Subd. 9.

Subd. 7. New Licenses Required. Any change in slip size, boat storage units, ownership, length, width, height or location, or change in use from one of the classifications of use specified in Section 2.11, Subd. 2 to another, of a structure or launching ramp requiring a license under this section requires the issuance of a new license therefor. The Executive Director may issue a new license without a public hearing and without requiring the payment of a fee therefor, provided:

- a) all information required by the Executive Director has been submitted by the applicant;
- b) the dock, mooring area or launching ramp is in compliance with the provisions of this code;
- c) there is no change in the number of watercraft to be stored at the dock or launched from a ramp;
- d) the change will not adversely affect nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment; and
- e) the change will not involve a change in use from one of the classifications of use specified in Section 2.11, Subd. 2 to another.
- f) for all facilities except Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs, there is no substantial change in the slip size, length, width, height or location of the dock or launching ramp, the amount of the Lake obstructed or occupied by the dock or launching ramp, the use of the dock or launching ramp, or the type of watercraft stored at the dock or launching ramp.

The Executive Director may refer any application to the Board and must refer any application that the Executive Director proposed to deny.

Subd. 8. Specification of Boat Storage Units.

- a) Specification of Boat Storage Units. At the time of the issuance of a license pursuant to this section, all authorized Boat Storage Units at the licensed facility will be specified by facility.
- b) Storage Rule. No watercraft may be kept, stored, tied or moored except at the location of a Boat Storage Unit designated as such on a current license issued pursuant to this section, and no facilities requiring a license under this Section may be used to keep, store, tie or moor a greater number of watercraft than the total number of designated Boat Storage Units for that facility.

c) Special Rule for Transient Facilities. At the time of the issuance of a license pursuant to this Section for transient use facilities or portions of facilities designated for transient use, the Board shall specify the extent to which such facilities or portions of facilities are subject to the requirements of subparagraph c) above. If the Board does not so specify, the following rule shall apply to transient facilities or portions of facilities designated for transient use: No watercraft may be kept, stored, tied or moored except at the location of a Boat Storage Unit designated as such on a current license issued pursuant to this section; however, more than one watercraft may be tied or docked at a Boat Storage Unit, on a transient basis only, provided such use of the facilities do not represent a hazard to navigation or to the safety of the public or persons using such facilities.

d) Special Rule for Storage of Lake Maintenance Equipment. Maintenance equipment such as barges, weed harvesting machines, lake dredging machines, and the like, may temporarily be moored or stored in unlicensed locations, in the vicinity of the work site for the equipment, subject to the following limitations:

- 1) Equipment may not be located at any one site, as defined in Section 1.02, for more than two business days before and two business days after work is done in the vicinity of that site.
- 2) Equipment must be stored within a dock use area, as defined in Section 1.02, with the consent of the owner of the site, or in the setback area between dock use areas with the consent of the owners of both affected sites.
- 3) If, at any time, the storage of such equipment is deemed by the Sheriff to be a hazard to navigation or a threat to the public safety, the Sheriff may order the owner thereof to move the equipment to an appropriate location. Failure to comply with any such order is a misdemeanor.
- 4) All such equipment must be posted with the identification of the owner and name, address and telephone number of a person who may be contacted in an emergency or may be notified by the Sheriff, if necessary, in accordance with the preceding paragraph.

Subd. 9. Dock Extensions. No multiple dock or mooring area or commercial dock shall extend across the extended zone line between sites zoned differently by a municipality.

Subd. 10. Fuel Sales Facilities. Notwithstanding the provisions of section 2.01, subd. 2a), a 25-foot addition may be allowed in the discretion of the Board, at the outer end of a commercial dock which does not extend more than 100 feet from the shoreline, for the purpose of fuel sales and related service. In the case of non-conforming dock which extends more than 100 feet from the shoreline, the Board may allow the construction of a 25 foot dock addition for fuel sales provided the additional docks extend no further lakeward than the original non-conforming docks. In no case shall docks authorized under this subdivision be used for the storage of watercraft or rental of dock space.

Subd. 11. Service Consoles and Shelters. The Board may authorize the construction and maintenance of service consoles or shelters as part of an annual multiple dock license under this section subject to the following limitations:

a) the construction and maintenance of consoles or shelters may only be authorized for use in conjunction with the sale of fuel to the public;

b) the size of service consoles may not exceed four and one-half feet in height, three feet in width and six feet in length. The size of shelters may not exceed six feet in width, six feet in length and eight feet in height. The Board may further restrict dimensions of consoles or shelters for aesthetic or safety reasons;

c) the size, configuration, design and location of service consoles and shelters may be specified by the Board. The Board will make its decision on the basis of considerations set forth in Subd. 3 of this section and on the applicant's demonstrated need for a service console or shelter for the storage of such items as fire and safety equipment, motor oil, and credit card machines. Shelters will be permitted only when necessary to shelter electronic equipment used in conjunction with the sale of fuel or oil;

d) Upon application, the Board may authorize as a part of a service console, the construction of a canopy for protection from the elements of the console and personnel engaged in related sales of gasoline and motor oil. The size, configuration, design and location of such canopy may be specified by the Board; but in no case shall a canopy;

- 1) include an opaque vertical surface other than poles and rigging needed to support the canopy, or
- 2) have any horizontal dimension greater than 8 feet, or
- 3) have a greater horizontal surface area than 36 square feet, or
- 4) be used for advertising.

e) No service consoles or shelters shall be used for the display or sale of any goods or merchandise other than fuel and oil.

f) The location, design, material, and color of service consoles and associated canopies and of shelters are subject to approval as a part of the annual license required by this section. The color of such facility shall be neutral and unobtrusive so as to blend into the surroundings.

g) Consoles, shelters and associated facilities and equipment shall be constructed in compliance with all applicable fire, safety and building codes.

h) Advertising and lighting shall conform to all applicable codes. No sign shall use internal lighting.

i) The Board may impose any additional conditions to construction and maintenance of consoles and shelters which it deems necessary or appropriate in the interests of the public health, safety or welfare and protection of Lake Minnetonka. Conformance to approved design and any such additional conditions are conditions to the license issued under this section.

Subd. 12. Lighting. Multiple docks or mooring areas and commercial docks shall be suitably and adequately lighted in accordance with district regulations. No oscillating, rotating, flashing or moving sign or light may be used on any dock. Dock lighting shall not be directed toward the Lake in such a manner that it impairs the vision of or confuses operators of watercraft. No lighting in the area of the Lake shall be installed or directed so as to affect adjoining dock use areas or create a hazard to navigation.

Subd. 13. No Vested Rights. It is anticipated that in the future it may become necessary for the LMCD to attempt to make an allocation or apportionment of multiple dock, mooring area, commercial dock and launching facility privileges on and within the Lake, on an equitable basis, in order to avoid overcrowding of the Lake, or portions thereof and in order to balance the many conflicting demands upon the Lake. In order to give notice to licensees that the license does not create any vested rights and that future regulatory actions by the LMCD may necessitate modifying or discontinuing the facility for which the license is granted, each license shall state upon its face that the licensed facility is subject to existing and future density policies and regulations adopted by the Board.

Subd. 14. Renewal of Licenses. Applications for renewals of licenses under this section shall be made no later than December first of the year preceding the year for which the license is sought. The Executive Director shall not accept license applications received after December 1st unless the application is accompanied by a late fee, which shall be established from time to time by resolution of the Board. A public hearing is not required for a license renewal unless requested pursuant to Section 1.06, Subd. 12. The Executive Director may issue a license renewal if the applicant proposes no changes to the facility from the application approved in the preceding year. The Executive Director may refer any application to the Board and must refer any application to the Board that the Executive Director proposes to deny.

Subd. 15. Transient Authorized Dock Use Area. The transient use of docks or specified portions thereof may be authorized by the Board for commercial docks. Such docks or portions thereof may be used only for transient uses of the commercial establishment and no watercraft shall be permitted to remain overnight.

Subd. 16. Special Rules for Municipal Docks. Application may be made under this section for a new multiple dock license which has a length exceeding that which is allowed under Section 2.01, subd. 2 or a width exceeding that which is allowed under Section 2.12, subd. 12 (notwithstanding the prohibition of Section 2.12, subd. 2b). The Board may grant or deny such application or grant such application subject to conditions, after consideration of the criteria set forth in Subdivision 3 of this Section. Notice of the hearing on such new dock applications shall be published and shall be mailed to the owners of all property within 500 feet of the applicant's site. No such license shall be granted unless all of the following conditions are met:

- a) The dock must be owned and operated by a city, county or state agency.
- b) The dock must be open to the general public subject to reasonable regulations of the owner.
- c) No permanent or overnight storage shall be allowed at the dock.
- d) No license shall be granted for a dock extending more than 150 feet from the shoreline.
- e) No retail sales, other than fuel, shall be permitted on the dock.

Subd. 17. Special Rule for New Dock Facilities Serving More Than One Residential Unit. Multiple Dock Facilities constructed after September 17, 1999 which provide dockage for more than one residential unit shall be so located and configured as to minimize the impact of the facility on adjacent and nearby properties which are not provided dockage at the facility, provided such location and configuration is reasonable, does not pose a hazard to navigation and is deemed by the Board to be generally consistent with the criteria set forth in Subd. 3 of this Section.

Subd. 18. Exception for Municipal Emergency Response Watercraft Docks. No license is required under this section for a municipal dock on a site with docking facilities for four or fewer watercraft, all of which are publicly owned, emergency response watercraft.

Subd. 19. Administrative Issuance of License.

- a) A license may be issued administratively by the Executive Director, without a hearing, for residential multiple docks that meet all of the following conditions:
 - 1) The owners of two or more adjoining sites are using their combined authorized dock use areas for a single common dock in accordance with Section 2.01, subd. 3 b).
 - 2) All of the sites combined for the common multiple dock conform to current density requirements of Section 2.02.

- 3) Each of the combined riparian sites is occupied by one single family residential structure.
- 4) All of the restricted watercraft stored at the facility are owned by and registered to persons who live in the single family residential structures on the combined sites.
- 5) The dock structure has a single point of entry from the shoreline.
- 6) All of the combined sites have at least 20 feet of shoreline at elevation 929.4 NGVD.
- 7) No more watercraft may be stored at the combined site than can be practically and validly stored at the uncombined sites including consideration of side setback requirements at the uncombined sites.
- 8) The dock structure and watercraft storage must meet side setback requirements of the Code at both ends of the combined sites.
- 9) The length of the dock use area will be based on the shoreline of the combined sites.

b) The Executive Director may waive requirements for information required by subdivision 2 of this Section.

c) The Executive Director may issue renewal without change licenses if the applicants provide ownership and registration information on all of the watercraft stored at the facility.

d) The Executive Director may refer any complex or environmentally sensitive application to the Board and shall refer any application that the Executive Director proposes to deny.

e) No deposit is required for licenses issued under this subdivision, and applicants are not required to pay additional legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District.

Section 2.04. District Mooring Areas.

Subd. 1. Establishment. District mooring areas may be established and maintained in the Lake beyond the authorized dock use areas subject to and in accordance with the provisions of this section. The Board shall permit the establishment of such mooring areas in only those limited instances in which necessary to fulfill a public service and in which such mooring areas can be established in such a manner as to preserve the use of the waters of the Lake by the general public.

Subd. 2. License Required. Such mooring areas shall not be established, used or maintained by any person unless a license has first been obtained from the District Board. Once established, all moorings at the facility shall become part of the district mooring area.

Subd. 3. Application for License. An application for a license for a district mooring area shall be filed with the Executive Director. The application shall be on a form prepared by the Executive Director. It shall state (a) the name and address of the applicant, (b) the location of the area of the Lake for which the license is sought, (c) the type of moorings to be used by the applicant, the number of moorings and the spacing of moorings, (d) whether the mooring areas will be available for use by the general public, and, if not, the manner in which the use of moorings will be restricted, (e) the person or persons who will be responsible for operating the mooring area, (f) the amount and type of public liability insurance which will be maintained by the applicant for the operation of the mooring area, and (g) any other procedures or regulations of the applicant relating to the use of the mooring area. Such application shall also be accompanied by a map showing the location of the proposed mooring area within the Lake and such other information as the Executive Director may require to assist the Board in consideration of the application. Upon receipt of a completed application, the Executive Director shall refer the application to the Board, which shall have sole discretion to grant or deny the license.

Subd. 4. License Fees. The fee for a district mooring area license shall accompany the application. The fees for district mooring area license shall be those established by resolution of the Board of Directors. An additional deposit in an amount established from time-to-time by resolution of the Board shall accompany the application to cover legal, surveying, engineering, inspection, maintenance, or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit, and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit.

Subd. 5. Issuance of License. The Board shall not grant a license for a district mooring area unless it finds that the area will fulfill a public service and will not conflict with the general public interest in the use of the waters of the Lake. In granting a license or a renewal of a license for a district mooring area, the Board may alter the size, shape, peripheral limits and density of the area for which the license is granted and the Board may impose other conditions upon the granting of a license for a district mooring area. Licenses shall be granted on an annual basis for a single boating season.

Subd. 6. Compliance with Conditions. Locating, maintaining or using a district mooring area in a manner contrary to the conditions imposed by the Board is a violation of this section and grounds for revocation, suspension or modification of conditions of the license pursuant to Section 1.06, Subd. 9.

Subd. 7. No Vested Right. No person to whom a license for a district mooring area has been granted shall have a vested right to such license or to a renewal thereof.

Subd. 8. Renewal of Application. An application for renewal of a license for a district mooring area shall be made no later than December 1st of the year preceding the year for which the license is sought. The Executive Director shall not accept a license application received after December 1st unless the application is accompanied by a late fee, which shall be set by resolution of the Board.

Subd. 9. Conversion to Docks. Licensed District mooring area spaces may be converted to slip storage spaces at dock facilities of the same licensee subject to the following:

a) The mooring area must be immediately offshore from the dock facility to which the storage spaces are being transferred.

b) No more spaces must be created at the dock facility than are abandoned at the district mooring area.

c) Dock spaces created shall be no larger than 11 feet by 24 feet.

d) All dock and boat storage shall be within the authorized dock use area as defined in Section 2.01, unless a variance is granted pursuant to Section 1.07.

e) Application to convert district mooring area spaces to dock spaces shall be made by application for a multiple or commercial dock license under Section 2.03.

f) In granting either variances under paragraph d) or dock licenses under paragraph e), the Board may impose conditions, which may include limitations as to the period of time for which such variance or dock license is in effect.

g) Conversions to dock spaces under this subdivision may be authorized by the Board notwithstanding the density limitations of Section 2.02, Subd. 1, and such conversions shall not require a special density license under Section 2.05.

h) This subdivision applies only to District Mooring Areas licensed and in existence on date of adoption.

i) No mooring space converted to a dock space may thereafter revert to a mooring space unless such mooring is in compliance with all provisions of the Code in effect at that time and unless a new district mooring area license is first secured.

Section 2.045. Off-Lake Storage Facilities.

Subd. 1. Purpose. It is the purpose of this Section to provide reasonable standards and criteria under which off-Lake boat storage facilities may be regulated on the Lake which meet current LMCD Special Density License and Dock License requirements, and which are consistent with the most general public use of the Lake, public safety, and LMCD Lake Use density policies.

Subd. 2. General. Off-Lake boat storage facilities may be established on the Lake or existing facilities expanded only after obtaining a Special Density License and a new dock license under the LMCD Code.

Subd. 3. Definitions. For purposes of this Section, the terms defined in this subdivision shall have the following meanings:

a) "Off-Lake Storage Facilities" shall mean any dock, mooring area or launching ramp used by any club, business or association in conjunction with the storage of restricted watercraft off the water of Lake Minnetonka.

b) "Full-Service Marina" shall mean a marina which has one or more employees on duty seven days a week during normal business hours in the boating season and provides at least the following services to its patrons, members or the public: storage of boats or watercraft, toilet facilities, boat repair service, telephone and emergency towing.

c) "Limited Off-Lake Storage Areas" shall mean those areas of the Lake on a map adopted and approved by resolution by a majority vote of all the Board of Directors of the District and on file in the offices of the District in which it has been determined that either a) Lake use density exceeds one boat in use for each twenty (20) acres of water at peak usage periods, or b) twenty percent or more of the boats stored in the area are customarily used in parts of the Lake where Lake use density exceeds one boat in use for each twenty (20) acres of water during peak usage periods.

Subd. 4. Special Requirements. Off-Lake Storage Facilities must meet, in addition to other Special Density and licensing requirements, the following conditions:

a) Limited Off-Lake Storage Areas. No facilities established after December 28, 1987, may be located in Limited Off-Lake Storage Areas.

b) Density. No Off-Lake Storage Facility may be established in any location in which the Board determines that either i) Lake use density exceeds one boat in use for each twenty (20) acres of water at peak usage periods, or ii) twenty percent or more of the boats stored at the proposed facility are likely to be used in parts to the Lake where Lake use density exceeds one boat in use for each twenty (20) acres of water during peak usage periods.

c) Established Marinas. Off-Lake Storage Facilities may only be established at Full Service Marinas.

d) Boat Storage Units. Facilities must include staging docks for loading and unloading which provide storage space in a ratio of at least one Boat Storage Unit on the water for each three (3) Boat Storage Units of off-Lake storage. For each 60 Boat Storage Units or part thereof of off-Lake storage, the facility must have one launching ramp and one launching device.

e) Proximity of Storage Location. The storage rack building must be on property contiguous to a full-service marina and the lakeshore.

f) Frontage for Staging. Continuous lakeshore frontage for Off-Lake Storage Facilities must be at least 10 feet for each Boat Storage Unit at the facility whether stored on or off the Lake.

g) Parking. One car parking space must be provided for each two boats stored at the facility whether stored on or off the Lake.

h) Building and Safety Requirements. All facilities provided must meet zoning, building and fire code requirements in the City in which it is located.

Subd. 5. Existing Facilities. All existing facilities which are licensed within thirty (30) days of December 28, 1987, shall be allowed to continue in use and operation; all other facilities shall conform to the provisions of this Section.

Subd. 6. Nonconforming Structures Conversion. Current nonconforming in-water boat slips may be exchanged for off-Lake Boat Storage Units at the rate of one-for-two for ten (10) years from December 28, 1987.

Section 2.05. Special Density License.

Subd. 1. Maximum Boat Storage Density. The District has determined that the intensity of use of Lake Minnetonka and the density of storage on the Lake has reached a level which necessitates the limitation on the construction of new docks and mooring facilities provided for herein. It is the purpose of this section to reduce environmental degradation of the Lake, avoid an increase in boat storage on the Lake without a corresponding increase in available amenities and services for the boating public, and encourage facilities which enhance the use and enjoyment of the Lake by the general public. The District has recognized that the impact on the Lake of a given facility will vary depending on such factors as the compatibility of nearby uses, the type of watercraft being stored, whether the watercraft storage is transient or permanent, the degree of watercraft storage and intensity of lake use in a given area, and the level of services or amenities available to the public using the Lake. The District has determined through its various studies that a watercraft storage density of one watercraft stored per 50 feet of shoreline is generally appropriate for Lake Minnetonka and should be applied to the entire lakeshore while making provision for a special density license procedure in those instances where increased watercraft storage density may be clearly demonstrated to be a benefit to the Lake and to the most general public use of the Lake.

Subd. 2. License Required. No person shall be issued a multiple dock or mooring area or commercial dock license for a facility that provides for a watercraft storage density greater than one watercraft stored per 50 feet of shoreline, unless a special density license has been issued by the District or the facility is a Qualified Commercial Marina, Qualified Sailing School or Qualified Yacht Club. Licenses shall not be granted for any facility which includes watercraft storage facilities which are available only to persons having an interest in specified riparian or non-riparian real property.

Subd. 3. Application for License. Application for a Special Density License shall be made on forms provided by the Executive Director and shall contain (a) the name and address of the applicant, (b) the description of the property on which the facility is to be located, (c) the name and address of the owner of the premises, if different from the applicant, (d) if the applicant is not the owner, an explanation of the interest which the applicant has in the property, (e) a showing that all requisite permits, licenses and approvals from the local municipality have been obtained and that the requirements of any other governmental authority have been met, (f) a plan showing the design and location of the facility, and (g) boat storage density applied for. The application shall include such other information as the Executive Director may require to assist the Board in consideration of the application for the license. The application shall be accompanied by a license service fee in an amount established by resolution of the Board plus an additional deposit in an amount established by resolution of the Board to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit.

Applications may be received for densities greater than one watercraft per 50 feet but not greater than one watercraft per 10 feet of shoreline. When measurements determining the number of watercraft allowed result in the provision of a fractional watercraft, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall allow one additional watercraft.

Subd. 4. Issuance of License. Licenses required by this section may be issued after a public hearing by the Board. Proceedings for the issuance of a license and the granting of a variance under Section 1.07 and a license under Section 1.06 may be combined and conducted as one proceeding. The license may be granted, denied, or granted with modifications. In the granting of any license, the Board may impose conditions on the license.

a) Review Criteria. In exercising its discretion in reviewing applications for licenses under this section, the Board shall consider the following factors:

- 1) Whether the facility will obstruct or occupy too great an area of the public water in relationship to its utility to the general public.
- 2) Whether the proposed facility will serve the general public as opposed to a limited segment of the public or a limited geographical area.
- 3) Whether the proposed facility will be compatible with the adjacent water use area.
- 4) Whether the proposed facility will be compatible with the adjacent riparian zoning.
- 5) Whether adequate water depth is available for the proposed facility without churning of the bottom sediments.
- 6) Whether the proposed facility will create a volume of traffic on the Lake in the vicinity of the facility which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the facility.

- 7) Whether the proposed facility is compatible with the LMCD watercraft density classification criteria.
- 8) Whether the facility will comply with the regulations contained in this ordinance.
- 9) Whether the proposed facility will be compatible with the maintenance of the natural beauty of the Lake.
- 10) Whether the proposed facility will affect the quality of the water of the Lake and the ecology of the Lake.
- 11) Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
- 12) Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.
- 13) Whether the multiple dock or mooring area will be structurally safe for use by the intended users.
- 14) Whether the proposed facility will provide for additional permanent non-transient boat or watercraft storage on the Lake.
- 15) Whether the detrimental impact of the proposed facility will be reduced by limiting storage to boats which are not restricted watercraft as defined in Section 1.02.
- 16) Whether the applicant proposes to construct or to maintain certain amenities deemed beneficial to the Lake and the general public use of the Lake which offset the impact of all or part of the increased density. In determining whether amenities which the applicant proposes to maintain or construct are sufficient to offset the effect of the increased density, the Board will take into consideration existing as well as proposed density and amenities.

b) The amenities proposed by the applicant shall be categorized as follows and may be from any group, but at least one must be from Group A. All amenities are to be available to the public, properly signed, with appropriate fees charged for amenity use where necessary. Handicapped access meeting state standards for docks and boats and adequate general public parking are mandatory requirements. Amenity groups are:

1. Group A - Public Access
 - a) Fishing dock/pier (Minimum 30' in length in suitable water)
 - b) Launching ramp with car-trailer parking
 - c) Boat with outboard motor rental (minimum 5 boats, any type)
 - d) Swimming beach
 - e) Provide free charter boat excursion or fishing trips for handicapped or underprivileged with minimum of 100 people served per season
 - f) Additional amenities unique to the application

2. Group B - Environmental Protection Over and Above City and Other Governmental Agencies' Minimum Requirements:
 - a) Runoff water quality improvement (i.e., holding ponds)
 - b) Vegetative screening or cover
 - c) Shoreline protection, enhancement and/or riprap
 - d) Eurasian water milfoil offload sites Additional amenities unique to the application

3. Group C - Public Service
 - a) Water safety education programs (formal program, at least 100 persons served per season, with qualified instructors)
 - b) Lake use educational programs (formal program, at least 100 persons served per season, with qualified instructors)
 - c) Marine towing service
 - d) Marine emergency repair service, at docks or on the Lake
 - e) Make-ready dock (minimum 20' in length)
 - f) Ramp use for emergencies
 - g) Boating safety literature distribution
 - h) Food service in a seated facility
 - i) Sanitary pump-out facilities
 - j) Meeting rooms
 - k) Winter access (signed for public use)
 - l) Slip and/or boat use for emergencies and governmental agency use
 - m) Auto lookout
 - n) Observation deck
 - o) Additional amenities unique to the application

c) Amenity Point Scale. Each amenity, subject to acceptance by the Board of Directors, earns 10 points for each item of Group A, 5 points for each item of Group B, and 3 points for each item of Group C.

d) Amenity Point Requirements. Special density applications require .5 points for each slip over 1:50' density allowance, with a minimum of 20 points.

e) Factors Not Considered. The use of special density licenses on the Lake for the purpose of increasing riparian or non-riparian property values is not a valid consideration in permitting such facilities.

Subd. 5. City Applicants. In acting on the application of a city under this section, density shall be computed by including all shoreline owned by the city.

Subd. 6. Compliance With Conditions. The failure to comply with any condition imposed by the Board is ground for revocation of the license. Any change in the conditions under which a special density license is issued or the amenities proposed by the applicant will require application for a new license.

Subd. 7. No Vested Rights. The granting of a special density license shall grant no vested rights to the use of the Lake, and future regulatory action by the District may require modification or removal of the structure.

Subd. 8. Renewals, Abandonment. Except as provided in Subdivisions 6 and 9 of this section, no renewals of special density license applications shall be required; provided, however, that the licensing of all facilities is subject to the annual review and regulation provided in Section 2.03. Licenses issued under this section for facilities which are not fully constructed for any two year period commencing at any time after March 10, 1993 shall be deemed abandoned and revoked except to the extent such facilities are actually constructed within such period; provided, however, that facilities may be partially constructed if the licensee: a) receives approval from the Board for such partial construction at the time of the granting of the applicant's annual multiple or commercial dock license under Section 2.03, and b) all amenities required for the facility are provided during that year.

Subd. 9. Non-conforming Mooring Areas or Structures. Except as otherwise provided in this subdivision, this section shall not apply to mooring areas or structures which are licensed or lawfully in existence on March 31, 1982. No change in the configuration of the mooring area or structure which results in an increase in slip size or Boat Storage Units may be made without first securing a license under this section. For purposes of this subdivision the addition of unrestricted watercraft which are not counted for purposes of determining compliance with density limitations pursuant to subdivisions 10 and 11, are not considered to be an increase in Boat Storage Units. When acting on such a license application, the Board shall not limit its consideration to changes or additions to the facility, but shall consider the entire facility of the applicant.

Subd. 10. Special Rule for Unrestricted Watercraft at Non-Commercial Docks. Unrestricted watercraft, as defined in Section 1.02, shall not be counted for purposes of determining compliance with density limitations of this section at non-commercial docks provided such unrestricted watercraft are not stored on the water of the Lake or on a mechanical lift.

Subd. 11. Special Rule for Unrestricted Watercraft at Commercial Docks. Unrestricted watercraft, as defined in Section 1.02, shall not be counted for purposes of determining compliance with density limitations of this section at commercial docks provided:

- a) the watercraft are not stored in the water of the Lake or on a mechanical lift, and
- b) the Board finds that either:
 - 1) the watercraft are used for public rental, are under the exclusive control of the rental organization, and do not number more than one such uncounted watercraft for each 25 feet of shoreline at the site (unless a greater number is required by the Board as a public amenity); or
 - 2) the watercraft are used for educational purposes, are under the exclusive control of the educational organization, and do not number more than one such uncounted watercraft for each 15 feet of shoreline at the site (unless a greater number is required by the Board as a public amenity).

Section 2.06. Permanent Non-Multiple Non-commercial Docks.

Subd. 1. Permit Required. No person may locate, construct, install or maintain a new permanent dock on the Lake without first securing a permit therefor from the Executive Director pursuant to this section, provided that no such permit shall be required for docks regulated by Section 2.03.

Subd. 2. Application for Permit. Application for a permit shall be made on forms provided by the Executive Director. The application shall include a certified survey and dock plan and all other information deemed necessary by the Executive Director to determine whether the proposed dock is in compliance with this Code. The permit application shall be accompanied by such fee as may be established by resolution of the Board of Directors plus an additional deposit in an amount established by resolution of the Board to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit.

Subd. 3. Issuance of Permit. The Executive Director shall grant the permit if information provided shows that the dock will be in compliance with this Code. If the Executive Director refuses to issue a permit, he shall state the reasons therefor to the applicant in writing. An as-built survey shall be provided upon completion of the dock installation.

Subd. 4. Changes to Docks. A new permit is required whenever the size, type, location or configuration of the dock is changed. No new permit is required for repair or replacement of a previously permitted dock where such repair or replacement does not alter the size, type, location or configuration of the dock.

Subd. 5. Existing Docks. Permanent docks lawfully in existence on May 5, 1982, may be continued without a permit.

Section 2.07. Temporary Structures.

Subd. 1. Permit Required. No swimming floats, ski jumps, diving towers, buoys, markers, or other structures surrounded by navigable water shall be located in the Lake beyond the authorized dock use area without a permit from the district. Permits shall not be issued for free floating structures. Permits are not required for scuba diving floats, navigation buoys, fishing markers, or temporary sailing craft training markers during the week except on holidays.

Subd. 2. Structures Within 200' of Shore. An application for a permit for a structure less than 200 feet from shore, as measured in the manner provided in Section 2.01, Subd. 2, shall be made on forms provided by the Executive Director and shall include the name, address and telephone number of the applicant; the type, number and proposed location of structures for which the permit is sought; the period of time for which the permit is sought; a statement as to whether the structure will be reflectorized; if an organization is seeking the permit, a statement as to the nature of the organization; if the permit is sought for a particular event, the nature of the event; a statement by the applicant assuming responsibility for the presence and removal of the structure or structures in the Lake; and such other information as the Executive Director may require to assist the Executive Director, or the Board, in considering the application for the permit.

The Executive Director may grant any such permit upon a determination that the granting of such permit will not create unusual hazards or obstructions to navigation.

Subd. 3. Structures More Than 200' From Shore. Permits for a location more than 200 feet from the shoreline may be granted by the Board in accordance with Section 3.09. Where the Board issues a permit it may impose conditions to protect users of the Lake.

Subd. 4. Compliance With Conditions. Locating, maintaining or using a temporary structure contrary to the conditions of this Code or the permit issued therefor is a violation of this section and grounds for revocation, suspension or modification of conditions of the permit pursuant to Section 1.06, Subd. 9.

Subd. 5. Hazardous Structures. If any permitted structure is found by the Executive Director to be a hazard or obstruction to the safe use of the Lake, the permit may be revoked by the Executive Director in accordance with Section 1.05. Upon receipt of notice of revocation the applicant shall remove the structure within a reasonable time, which shall be specified in the notice of revocation. If the applicant does not remove the structure it may be removed by the district. Failure of the applicant to remove the structure upon receipt of the notice of revocation of the permit, and in accordance with such notice, is a violation of this section.

Section 2.08. Illegally Placed and Hazardous Structures.

Subd. 1. Prohibition. Any temporary or permanent structure which is not currently licensed or permitted under the provisions of this code is illegal. Any temporary or permanent structure which is an obstruction or hazard to navigation shall be so declared by the sheriff. No person shall maintain or permit to be maintained any illegal or hazardous structure owned by such person.

Subd. 2. Notice of Removal. Any illegal or hazardous structure may be removed from the Lake in accordance with the provisions of this section. Upon notification by the sheriff of the presence of an illegally placed structure in the Lake, the Executive Director shall give personal written notice to the owner of the structure that it is illegally placed and that if the owner does not remove the structure within 48 hours of receipt of the notice the district will do so. If the owner cannot be found or determined after reasonable efforts, the Executive Director may remove the structure without notice, but shall publish notice of such removal once in the official newspaper of the district. If a structure is, in the judgment of the sheriff, an imminent hazard to navigation and endangers the life, safety, or property of users of the Lake, he may remove it without notice and shall make reasonable efforts to determine the owner and inform him of the removal.

Subd. 3. Impoundment. Structures removed pursuant to this section shall be stored at such place of safety as may be designated by the sheriff. Owners of such structures may reclaim them at any time upon the payment of reasonable removal and storage expenses.

Subd. 4. Disposition of Impounded Structures. Impounded structures which are not reclaimed by the owner within a period of sixty days may be disposed of by the Sheriff at public auction or by 10 days published notice. Proceeds of the sale shall be placed in the general fund of the district, subject to the right of the owner to payment of the sale price from the fund upon application and satisfactory proof of ownership within six months after the sale. Property having no substantial value need not be sold at such public auction or sale but may be discarded or given away, but a list of any such items shall be retained in the files of the district for at least six years after such disposition of such property.

Subd. 5. Other Penalties. The removal of a structure pursuant to this section does not prevent the district from enforcing any other penalty provided by this Code for the placing or maintenance of an unlicensed or unpermitted structure within the Lake.

Section 2.09. Deicing Equipment.

Subd. 1. License Required. It is unlawful for any person to install, operate, maintain or use de-icing equipment on Lake Minnetonka without a special license issued in accordance with this section, or to install, operate, maintain or use de-icing equipment on Lake Minnetonka, with or without a license therefor, which constitutes a hazard to the safety of persons on the Lake. For purposes of this section, de-icing equipment shall be deemed to constitute such hazard whenever any of the following circumstances exist without being specifically authorized in a current or valid license for the facility:

a) Except as provided in paragraph d) of this Subdivision, the entire area of open water or weakened ice is not enclosed by a semi opaque fence which is at least four feet in height;

b) The entire fence, the area enclosed by the fence and the area deiced is not lighted from one-half hour before sunset to one-half hour after sunrise;

c) The entire fenced area is not marked by reflectorized warning signs at least every fifty feet around the perimeter of the fence.

d) During the periods prior to the generally accepted total Lake freezeover in the fall and following the beginning of the final thaw in the spring, the shoreline along the area deiced is not fenced with a semi opaque fence which is at least four feet in height and marked by reflectorized warning signs visible from 50 feet and installed every 50 feet along the shoreline.

Subd. 2. Application for License. A person desiring to install de-icing equipment may apply for a special license therefor to the Executive Director of the District on forms provided by the Executive Director. The application shall set forth the name and address of the owner, a general description of the equipment, its location, its general purpose and such other information as will enable the Executive Director and the Board of Directors to determine if the proposed installation will conform to the purposes of this section. The application shall be accompanied with such documentation as is necessary to show that the proposed installation will be made in accordance with applicable state and local building, electrical and other construction codes.

Subd. 3. Fee. A seasonal fee for a special de-icing license in an amount to be fixed from time to time by resolution of the Board shall accompany the application. A special license may not be issued unless the fee established pursuant to this subdivision is paid. An additional deposit in an amount established from time-to-time by resolution of the Board shall accompany the application to cover legal, surveying, engineering, inspection, maintenance, or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit, and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit.

Subd. 4. Issuance of License. A license may be granted by the Board, denied, or granted upon such conditions as are deemed necessary or prudent by the Board to protect the public health, safety and welfare. In deciding whether to grant or deny a license, determining appropriate conditions of issuance or establishing an Authorized De-icing Area, the Board shall consider such factors as the proximity of public access points, the size and configuration of adjacent and nearby properties, the use of the surface of the lake in the vicinity of the facility by the general public and other riparian owners, the proximity of channels, the effect on the public and adjacent riparian owners of any failure to confine deicing to the Authorized De-icing Area, and the past history of deicing operations by the applicant. All licenses issued under this Section shall be subject to the following conditions:

a) Fencing to enclose the area to be de-iced must be within the extended side site lines of the site and less than one hundred (100) feet beyond the end of the dock structure at the site. The area within these boundaries shall be referred to in this Subdivision as the "Authorized De-icing Area". The Board may establish a smaller Authorized De-icing Area if it deems such adjustment reasonable or prudent in the interest of public safety or protection of reasonable access to, and use of, the Lake by the public and other riparian owners. The Board may establish a larger Authorized De-icing Area by variance in accordance with Section 1.07.

b) The area to be de-iced shall be no greater than is necessary to prevent damage to the installation and shall not extend nor affect areas beyond the Authorized De-icing Area.

c) The area to be de-iced shall be enclosed by a snow fence or approved alternative four feet in height and a minimum of six reflectorized "Thin Ice" signs and at least one sign for every 50 feet; in a form approved by the Executive Director. De-icing will occur only in the fenced area. If open water or weakened ice occurs outside of the Authorized De-icing Area, or if water is pumped by deicing equipment onto the surface of the ice outside of the Authorized De-icing Area, all de-icing equipment shall be turned off until sound ice is reestablished outside of the Authorized De-icing Area and all open water or weakened ice is enclosed by the fence required by this paragraph. The licensee will maintain fencing and signs around all open water or weakened ice at all times. Fencing installed temporarily outside of the Authorized De-icing Area shall be removed when sound ice is reestablished.

d) The installation including the fenced area will be adequately lighted to protect the public.

e) The applicant shall maintain liability insurance covering claims for death, injury or damage to property arising out of the operation of the de-icing equipment. Such insurance shall be in the amount of at least \$1,500,000 for persons and \$50,000 for property. In the case of insurance for commercial facilities, the insurance shall name the District as additional insured and shall provide that the insurance will not be amended or canceled without first giving 30 days' written notice to the District.

f) The applicant will, by the installation of adequate screening, signing, or other means, effectively prevent the feeding and congregation of waterfowl and other animals and the creation of conditions constituting health hazards or public nuisances within the licensed area.

g) The installation will be supervised at all times and the applicant will provide the District with a primary telephone number and a 24 hour emergency telephone number.

h) The installation shall include an easily identifiable on-off switch located near the de-icing unit on the dock.

i) The applicant shall consent to permitting officers and agents of the District to shut off or remove the equipment if de-icing extends beyond the Authorized De-icing Area or if water is pumped by deicing equipment onto the surface of the ice outside of the Authorized De-icing Area.

Subd. 5. Compliance With Conditions. The Executive Director or the Board of Directors may attach such guarantees and conditions to the license as are necessary to ensure compliance with this section. Violation of any such guarantees and conditions is grounds for revocation, suspension or modification of the conditions of the license pursuant to Section 1.06, Subd. 9. In the event the licensee does not consent in writing to any conditions imposed by the Executive Director, the application shall be referred to the Board. The license shall be of such duration as is specified in it, but in no event shall it extend beyond April 20 in any year.

Subd. 6. Maintenance of Equipment. Persons granted a license under this section shall maintain the safety facilities and equipment in a safe, neat, and orderly condition during the season, and upon termination of the license, the equipment shall be removed completely and the surrounding area cleared of all related materials and equipment.

Subd. 7. Issuance of License, New and Renewal. An application for a renewal de-icing license must be received prior to October 1st of the year of the beginning of the winter season during which the applicant wishes to operate de-icing equipment. The Executive Director shall not accept a renewal application received after October 1st unless it is accompanied by a late fee in an amount determined by resolution by the Board. For facilities that are eligible for a license under Subd. 11b), any renewal licenses requiring an enlargement of a proposed Authorized De-icing Area or license for de-icing enlarged or reconfigured docks may be granted only by the Board of Directors. In other cases, the Executive Director may issue renewal licenses without action by the Board of Directors provided there were no violations or alleged violations during the term of the prior seasonal license and a full deposit refund was given for the prior seasonal license. The Executive Director may issue new licenses without action by the Board of Directors upon determining that the applicant agrees through the application process to comply fully with the requirements of this Section. In the case of all other applications and in cases in which the Executive Director declines or fails to issue a license for any reason, the application shall be referred to the Board of Directors.

Subd. 8. Dams. Permanent dams which are licensed by the Department of Natural Resources and operated by a municipality or political subdivision of the state shall not be required to secure a special license under this section providing the following conditions are met:

a) a snow fence four feet in height shall be provided which encloses all open water or dangerously thin ice in the vicinity of the dam;

b) a minimum of six reflectorized warning signs shall be provided at intervals not exceeding 75 feet;

c) appropriate steps shall be taken, either by obtaining insurance or otherwise to hold the District and its officers and employees harmless from any damage or injury arising out of the operation of the dam;

Subd. 9. Permits of Other Jurisdictions. Where a person has been issued a license to install and operate de-icing equipment by a municipality, and satisfactory proof thereof is presented to the Executive Director, the application shall so state. The Executive Director shall thereupon issue a license and attach whatever additional conditions the Executive Director deems necessary to ensure compliance with this section.

Subd. 10. Exception. No license shall be required for installation and operation of deicing equipment during that part of the winter season occurring after March 1st, provided warning signs with the message "Thin Ice", of a size and type approved by the Executive Director, are installed and maintained at least each 50 feet along the affected shoreline. Anyone initiating the operation of deicing equipment between March 1st and March 15th under this exception shall, prior to such operations, entirely enclose the area to be deiced with snow fence that is at least four feet in height and place at least six reflectorized "Thin Ice" signs on the fence with a minimum of one sign for every 50 feet.

Subd. 11. Eligible Facilities. Permits may be issued only for:

- a) Commercial docks;
- b) Dock facilities that were issued deicing licenses for the winters of 2002/2003, 2003/2004 or 2004/2005; and
- c) Permanent docks initially issued permanent dock permits between August 17, 2003 and August 10, 2005.

Section 2.10. Nonconforming Structures.

Subd. 1. Compliance with this Code. From and after May 3, 1978, docks, mooring areas and other structures in the Lake shall be in conformity with the provisions of this Code except as is otherwise provided.

Nonconforming structures in existence on February 5, 1970, were required to be terminated on February 5, 1971; provided, however, that the length limitations applicable to docks under Section 2.01 were not applicable until February 5, 1975, to docks legally existing on February 5, 1970, which were not seasonally removed from the Lake.

Subd. 2. Vested Rights. No provision of this Code which grants nonconforming structure status to any structure on the Lake shall be deemed to create any vested rights, and all structures shall remain subject to future regulation by the District in the public interest.

Subd. 3. Expansion of Nonconforming Use. A use which is nonconforming under the terms of this section may not be expanded.

Section 2.11. Conversion of Use.

Subd. 1. Purpose and Policy. Certain structures and uses of structures on the Lake are nonconforming structures under this Code. These structures and uses do not comply with the current requirements of the Code. They are lawfully in existence because the District has chosen to grant them nonconforming use status as new ordinances relating to such structures and uses have been adopted. The District finds, however, that to require that such nonconforming structures and uses be discontinued upon the abandonment of nonconforming use status by alteration of use as hereinafter defined or increase in slip size will preserve the Lake for the general public use and will best serve the protection and preservation of the Lake as a natural recreational and aesthetic resource for the general public.

Subd. 2. Classification of Uses. For purposes of this section, all facilities on the Lake that require the issuance of a license pursuant to Section 2.03 of this Code are comprised of one or more of the following classifications of use:

a) "Commercial Marina Facilities" includes those facilities, or parts thereof, used in conjunction with a revenue-producing business renting storage for or launching of watercraft on or for use on the Lake. For purposes of this section, those parts of facilities licensed for transient use only are not Commercial Marinas Facilities. Facilities or portions of facilities that meet the definition of Multiple Dwelling Facilities or Outlot Association Facilities are not Commercial Marina Facilities. Commercial Marina Facilities must be freely available to the general public and no owner of specified real property may be given priority, preference or advantage in renting, purchasing or otherwise securing boat storage rights.

b) "Club Facilities" includes those facilities or parts thereof owned or operated by a private club as that term is defined by Minnesota Statutes Section 340A.101, Subdivision 7 or by any other non-profit corporation, group or association. "Club" does not include those parts of facilities licensed for transient use only or facilities that are Outlot Association Facilities or Multiple Dwelling Facilities.

c) "Municipal Facilities" includes those facilities located on or adjacent to land owned by a municipality or political subdivision of the State that are operated, controlled or licensed by the municipality or political subdivision.

d) "Transient Facilities" includes those facilities or parts of facilities that are licensed for transient use only.

e) "Outlot Association Facilities" includes facilities owned or operated by a homeowners association, outlot association or other similar organization whose membership is restricted to, or comprised in major part of, owners of specified real property. Outlot Association Facilities also include any facilities that provide to owners of specified real property any priority, preference, or advantage over the general public in renting, purchasing, or otherwise securing boat storage rights. In the case of facilities at riparian property that is owned or controlled in whole or in part by an outlot association, any policy or practice that allows the subletting, assignment, or other transfer of dock storage rights from one lessee to another shall be deemed a priority, preference, or advantage for specified real property.

Also, in the cases of facilities at riparian property that is owned or controlled in whole or in part by an outlot association, any characteristic of the facility or any policies or practices of the owners or operators that tend to, 1) discourage the general public from renting boat storage space at the facility, or 2) make the facility less desirable to the general public than commercial marinas providing a full range of services and facilities, may be deemed a priority, preference or advantage for specified non-riparian real property if a majority of slips are rented to owners of such property.

For purposes of this paragraph, an outlot association includes a homeowners association, condominium association or any similar organization whose membership is restricted to, or comprised in major part of, owners of specified real property.

f) "Multiple Dwelling Facilities" includes facilities leased or otherwise made available in conjunction with the leasing of apartments or other dwellings for residential use.

g) "Private Multiple Facilities" includes any facilities constructed or maintained at single family residential properties for the private uses of the residents thereof.

h) "Service Facilities" include those facilities or parts of facilities that are designated on an approved dock plan for service use or as service slips.

i) "Other Facilities" includes all facilities requiring a license pursuant to Section 2.03 of the Code that are not described in paragraphs a) through g).

Subd. 3. Conversion of Use or Slip Size. Effective October 29, 1984, no facilities or parts thereof may be converted from any classification of use described in subdivision 1 to any other classification without first securing a new license therefor pursuant to Section 2.03 and, if required, a special density license pursuant to Section 2.05.

From and after February 28, 1987, no facility requiring a license under Section 2.03 shall be altered, reconstructed or reconfigured to increase slip size without first securing a new license therefor pursuant to Section 2.03 and, if required, a special density license pursuant to Section 2.05. The facilities and the use of such facilities shall not be nonconforming within the meaning of Section 2.10 or any other provision of the Code granting rights to continue facilities lawfully in existence or licensed as of the effective date of any ordinance, but shall be required to comply with all requirements of the Code as though the facilities were new and not previously existing or licensed.

Subd. 4. Change in Rental Policy as Conversion of Use. Any change in rental policy of a Commercial Marina or Private Club which limits or restricts the rental of any slips, moorings or other boat or watercraft storage capacity to owners or groups of owners of specified real property is a conversion of use within the meaning of this Section.

Subd. 5. Annual License Restrictions. In the case of any Commercial Marina Facilities or Private Club Facilities which are located at riparian property which is owned, operated or controlled in whole or in part by owners of specified real property, the Board may require additional information and, following a public hearing, may impose conditions and restrictions at the time of the annual renewal of the license required by Section 2.03 to ensure that no conversion of use within the meaning of this section occurs and that boat rental rights are freely available to the general public with no priority, preference or advantage to owners of specified real property. If at any time the Board determines that for two or more consecutive boating seasons a majority of the slip spaces at any such facility have been rented, sold or otherwise made available to owners of specified real property, the Board may impose such conditions as it deems necessary or expedient, after a public hearing, to ensure that the slip spaces are freely available to the general public. Such conditions may include, but are not limited to: changes in rental policies and practices, including a required selection of all or some tenants by lot; the addition of readily available parking spaces; alterations enhancing convenience of access; addition of facilities such as restrooms or pump out facilities; and the addition of services such as motor repair, emergency towing, gasoline sales, launching and retrieval of boats, or sale of equipment and supplies. Failure or refusal to comply with such conditions shall be deemed a conversion of use within the meaning of this section.

If at any time an outlot association, as that term is defined in Section 2.11, Subd. 2 e), acquires an ownership interest in riparian property at which a Commercial Marina Facility is located, the Board may impose on the license of such facility any conditions deemed necessary to assure that all previously existing amenities of the types listed in Section 2.05, Subd. 4b, whether or not previously required pursuant to Section 2.05, remain available and to assure that boat storage space remains freely available to members of the general public with no priority preference or advantage to owners of specified real property.

Subd. 6. Exception for Conversion of Commercial Marina Facilities to Outlot Association Facilities. Conversion of facilities from Commercial Marina Facilities to Outlot Association Facilities may be permitted by issuance of a new multiple dock license by the Board, subject to the following conditions:

- a) The number of restricted watercraft stored at the new facility may not exceed the least of:
 - (i) 50 percent of the number of non-transient boat storage units licensed at the Commercial Marina Facility, or
 - (ii) one restricted watercraft for each 20 feet of continuous shoreline, or
 - (iii) the number of residential units approved for development on the Riparian Property. For purposes of this clause, "Riparian Property" includes only the Site of the licensed facilities as it existed on the date of application for a 1999 multiple dock license, together with adjoining lots, pieces or parcels of land under common ownership or control and used as a part of the Commercial Marina Facilities on the same date.

When measurements determining the number of restricted watercraft allowed result in the provision of a fractional watercraft, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall be counted as one additional restricted watercraft.

- b) There is adequate water depth to support the proposed facilities, and no variances are required for the new facilities.
- c) The shoreline of the site may not be altered by subdivision or addition of additional land.
- d) Conversion is only permitted for facilities, which were licensed for 1999.
- e) No watercraft may be stored at the new facility which has a length overall (LOA) in excess of the limitations of this paragraph. For purposes of this paragraph, LOA means the horizontal measurement from the foremost to the aftermost points of the watercraft, including all equipment and attachments in their normal operating positions. The LOA of watercraft stored at the facility may not exceed the least of the following:
 - (i) 32 feet, or
 - (ii) 4 feet in excess of the slip length determined as follows:
 - (a) for boat storage units enclosed by a slip with an end and two sides, the length of the longer side, including licensed dolphin poles;
 - (b) for all other boat storage units, the length of the side of the boat storage unit location at the dock which is parallel to the longitudinal axis of the watercraft, including licensed dolphin poles, or
 - (iii) any other LOA limitation specified at the time of the issuance of the first multiple dock license for the new facility.
- f) Total square footage of slips must be reduced by at least 50%.
- g) All dock structures and boat storage must be within 100' from the shoreline and comply with all side setback requirements applicable to new facilities.
- h) No Launching ramp may be located on the Site.
- i) Upon conversion pursuant to this Subdivision, the facilities will be deemed a nonconforming Outlot Association Facility under this Section.

Section 2.12. Miscellaneous Provisions.

Subd. 1. Use of Structures for Storage. Unless otherwise specifically permitted by this Code, no structure may be used for the storage of any materials or items other than watercraft. However, throw-out life preservers and fire extinguishers may be stored on multiple docks and mooring areas and commercial docks provided such equipment is properly stored in an orderly manner on racks provided for that purpose.

Subd. 2. Prohibited Structures. Except as authorized by subd. 3 of this Section or Section 2.03, subd. 11, the following may not be erected or maintained on the Lake:

- a) boat houses;
- b) decks as defined in Section 1.02;
- c) roofs;
- d) any structure above the horizontal plane of a dock;
- e) any structure above the horizontal plane of a dock which is designed or used to store boats whether such structure is floating or affixed to the bottom of the Lake; and
- f) storage boats.

A deck or roof lawfully in existence on May 5, 1977, may continue in existence but may not be structurally altered or expanded in any way.

Subd. 3. Boat Slips and Slip Structures. Boat slips, slip structures, or canopies as defined in Section 1.02, may be erected in the Lake. Such structures may be of no greater height, area, volume or mass than is necessary to secure and protect the number of watercraft that it is designed to shelter.

Subd. 4. Construction Standards. Except as provided in subd. 13 of this Section, any structure may be constructed of such materials and in such a manner as the owner determines, provided that they shall be so built and maintained that they do not constitute a hazard to the public using the waters of the Lake.

Subd. 5. Reflectorized Material. Swimming floats, ski jumps, diving towers, and other structures surrounded by navigable water whether floating or on posts, shall be lighted with a light visible in all directions or have attached thereto sufficient reflectorized material so as to reflect light in all directions. Reflectorized material must be capable of retaining 80% of its dry weather reflective signal strength when wet.

Subd. 6. Signs. No signs shall be erected, maintained or stored in any dock use area or on any ice house on the Lake except as authorized by this subdivision. For purposes of this subdivision: "sign" means any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known; "logo" means any identifying graphic, whether or not it is a registered trademark; and "copy and graphic area" means the area in square feet of the smallest four-sided figure that encloses the wording and other display messages such as logos or symbols on a sign. The prohibition of this subdivision shall not apply to the following:

a) The name and logo of a product or manufacturer affixed to that product by the manufacturer if it is sold to the general public with such name and logo affixed. Such signs on boat lift covers and canopies shall have a copy and graphic area of no more than five (5) square feet.

b) Any signs required by governmental authority.

c) Safety or warning signs relating to fuel sales.

d) The name of a watercraft affixed to the watercraft by the owner.

e) A "For Sale" sign on a dock indicating that the real property to which the dock structure is attached is for sale. The copy and graphic area of such signs shall not exceed five (5) square feet.

f) A Sign on facilities of a commercial marina giving the name of the business and identifying goods or services available for sale at that site. The copy and graphic area of such signs shall not exceed six (6) square feet.

g) Safety, information or directional signs maintained by an authorized government agency or signs approved by the District in connection with a multiple dock license.

h) Slip identification signs no larger than one (1) square foot.

i) Non-commercial flags.

j) Signs authorized with a special event permit.

Subd. 7. Buoys. All buoys placed on the Lake must be removed or submerged under the ice no later than December 15 of each year. A later date may be authorized in writing by the county sheriff upon application by the owner submitted to the sheriff prior to December 15 in cases where the buoy will not create a hazard to navigation or traffic on the Lake. Buoys not removed in accordance with this subdivision are illegally placed and hazardous structures within the meaning of Section 2.08.

Subd. 8. Relation to Municipal Ordinances. Nothing in this chapter is intended to authorize the use, rental, sale, lease or conveyance of dock space or mooring facilities in the Lake contrary to municipal zoning laws. The provisions of this chapter shall not supersede any municipal ordinance which:

- a) is more restrictive in its provisions and application as to the location, construction, installation and maintenance of docks, moorings and other structures;
- b) allows variances that are more restrictive than this ordinance;
- c) establishes or maintains a municipal dock or mooring area 100 feet or less in length measured parallel to the side site lines as extended into the Lake;
- d) provides for the maintenance of a municipal park or beach area; and
- e) establishes zoning provisions regulating land use adjacent to the Lake which are not in conflict with this ordinance.

Subd. 9 Fuel and Power Supply. Installation of electrical and fueling facilities on docks, moorings and other structures shall be in accordance with applicable building codes and subject to state and local inspection procedures. Persons making such electrical or fueling installation shall maintain records of compliance with state and local codes and regulations.

Subd. 10. Structures Not to Obstruct. No dock, mooring, or other structure shall be so located as to obstruct a navigable channel, or so as to obstruct reasonable access to any other dock, mooring area or similar structure authorized under this Code. No dock, mooring area or similar structure shall be located or designed so that it unnecessarily requires or encourages boats using it to encroach into any other authorized dock use area. A dock, mooring or other structure is "authorized" if it is automatically permitted under this ordinance or if a variance has been granted for it pursuant to Section 1.07.

Subd. 11. Space Between Boats. Reasonable space shall be provided in mooring areas to allow navigation freely between moored boats.

Subd. 12. Dock Dimensions. A dock may exceed eight feet, excluding posts, in either its length or width, but not both. In connection with issuance of a license under section 2.03, the Board may authorize the construction and maintenance of docks used in conjunction with the sale of fuel to the public of up to ten feet in width to the extent deemed necessary by the Board for safe and efficient fuel sales activities. Docks that were in existence on June 30, 1982 and that are in compliance with all the provisions of the LMCD Code other than this section shall be allowed to continue in their present form without expansion or modification until such time as such docks are replaced or until 50% or more of any such dock is damaged or destroyed. A ski jump may exceed eight feet in width provided it is no wider than 12 feet and meets all other requirements of the Code.

Subd. 13. Use of Non-Encased Molded Expanded Bead Polystyrene Foam Material in Buoys and Floating Structures.

a) Definition. Non-encased molded expanded bead polystyrene foam material means any brand of expanded polystyrene beads molded into a block, sheet, billet or other shape which is not completely encased in a fully sealed casing, coating or container the life of which will at least equal the time the water structure is intended for use in Lake Minnetonka. Such casing, coating or container must be capable of withstanding action by ice or other elements, animals and normal activity by users so that disintegration of the molded shapes into smaller chunks or individual beads is prevented.

b) Use of Non-encased Molded Expanded Bead Polystyrene Foam Material Prohibited.

- 1) No person shall use non-encased molded expanded bead polystyrene foam blocks, sheets, billets or other shapes for dock construction or floatation, swimming platforms, buoys or other floating or similar structures in Lake Minnetonka, whether such uses are permanent or seasonal in nature.
- 2) Buoys, docks, swimming platforms, and other structures using non-encased molded expanded bead polystyrene foam material which are in existence on the effective date of this ordinance may be continued in use until April 15, 1995, provided that no prohibited materials may be used in repair or replacement of such buoys or structures.

Section 2.13. Regulation of Bridges.

Subd. 1. Application. Construction and maintenance of bridges is regulated by this section. Any bridge that is used to tie up or store watercraft shall be regulated as a dock or other structure and not under the provisions of this section.

Subd. 2. Exceptions. The following bridges are exempt from the permitting requirements of this section.

- a) railroad bridges,
- b) state, county or municipal roadway bridges for public motorized vehicle traffic,
- c) state, county or municipal pedestrian bridges that have been permitted by the Board prior to the effective date of this ordinance.

Subd. 3. General Rule. All bridges, including those exempted from permitting requirements under Subd. 2, must be so designed, constructed and maintained as not to interfere unreasonably with navigation when the Lake is at or below its ordinary high water level by watercraft of the kind and size using the waterway.

Subd. 4. Bridge Permits.

a) Permit Required. No person may locate, construct, install or maintain a bridge on the Lake without first securing a permit therefor from the Executive Director pursuant to this section.

Application for Permit. Application for a permit shall be made on forms provided by the Executive Director. The application shall include a certified survey and bridge plan and all other information deemed necessary by the Executive Director to determine whether the proposed bridge is in compliance with this Code. The permit application shall be accompanied by such fee as may be established by resolution of the Board of Directors plus an additional deposit in an amount established by resolution of the Board to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit.

b) Issuance of Permit. The Executive Director shall grant the permit if information provided shows that the bridge will be in compliance with this Code. If the Executive Director refuses to issue a permit, the Executive Director shall state the reasons therefor to the applicant in writing. An as-built survey shall be provided upon completion of the bridge installation.

c) Changes to Bridges. A new permit is required whenever the size, type, location or configuration of the bridge is changed. No new permit is required for repair or replacement of a previously permitted bridge where such repair or replacement does not alter the size, type, location or configuration of the bridge.

d) Standards. Bridges shall conform to the following standards:

- 1) The length of the bridge may not exceed 100 feet without a variance.
- 2) The bridge must be constructed between the extended lot lines of the sites at both ends of the bridge unless a variance is granted.
- 3) The bridge may not be constructed in a dock use area of another property without a variance.
- 4) The bridge may not unreasonably interfere with navigation or access to other riparian property.
- 5) No watercraft may be stored or tied up at the bridge.
- 6) The bridge shall be no wider than necessary to serve its intended function.

Section 2.14. Municipal Planned Unit Development Dock Licenses.

Subd. 1. Any city bordering the Lake may apply for a Planned Unit Development dock license for a defined, continuous segment of its municipal shoreline. Upon approval of a multiple dock license and a Planned Unit Development license for a segment of shoreline, that segment of shoreline shall be separately licensed from the remainder of that city's municipal shoreline and shall be considered a separate Site for the purposes of this Code. For purposes of this section, the term municipal shoreline means the shoreline over which the municipality has exclusive dockage rights.

Subd. 2. Exceptions to this Code that may be authorized by a Planned Unit Development License.

a) The Board may approve, by a Planned Unit Development License, an increase in the length of the Dock Use Area for a defined segment of municipal shoreline of up to 200 feet, notwithstanding the limits of Code Section 2.02, Subd. 2 a). As a condition of approval of any Planned Unit Development dock plan, the Dock Use Area of the Site shall be divided as nearly as is practical, in half, by a line drawn from the halfway point of a straight line drawn between the two ends of the licensed segment of municipal shoreline to the halfway point between the two outermost corners of the Dock Use Area. In cases in which there is an unusual or irregular shoreline or there are other practical difficulties with dividing the Dock Use Area in half in the manner described above, the Board may divide the Dock Use Area as it deems appropriate. The Board will establish side Site lines for purposes of defining the Dock Use Area of any Site without side Site lines. All watercraft storage and dock structure used for watercraft storage must be fully contained within one of the two Dock Use Areas in accordance with an approved multiple dock license.

Subd. 3. Procedure. Application for a Planned Unit Development dock license shall be made along with, and processed in the same manner as, a new dock license under Section 2.03. The application shall be considered together with a separate application for a new dock license for the remainder of the city's municipal shoreline. The application shall be accompanied by applications for reconfiguration of nonconforming structures under Section 2.015 or applications for new or amended special density licenses under Section 2.05, as appropriate, for facilities with watercraft storage that exceeds the density limitations of Section 2.02.

Subd. 4. Review Criteria and Conditions. In exercising its discretion in granting or denying a Planned Unit Development license, the Board may consider, in addition to the review criteria of Section 2.03, Subd. 3 a), the following:

a) Whether the clustering of watercraft storage in one-half of the Dock Use Area of the Site as proposed is consistent with the spirit and intent of this Code.

b) If the applicant's Site is included in a special density license, under Section 2.05, the Planned Unit Development Site and the remainder of the municipal shoreline must each meet the density standards of Section 2.02 or secure a new or amended special density license.

c) If the applicant's Site is nonconforming as to density under Section 2.02, the Planned Unit Development Site must include all contiguous municipal shoreline and the application may not result in an increase in the number of Boat Storage Units or increase the total square footage of slips at that Site. The application must meet all requirements for reconfiguration of nonconforming structures under Section 2.015 except 2.015.

d) The Planned Unit Development Site must have at least 200 feet of shoreline.

e) A Planned Unit Development on municipal shoreline subject to one or more variances can only be approved if new variances are granted.

f) No extension to a greater Dock Use Area length will be permitted if it overlaps another Dock Use Area or district mooring area, interferes with navigation or access to another Dock Use Area or district mooring area, or requires the removal of native emergent vegetation.

CHAPTER III

REGULATION OF WATERCRAFT AND OTHER CRAFT AND VEHICLES

Section 3.01. General Provisions.

Subd. 1. Licenses. No person shall operate on the Lake, or give permission for the operation on the Lake, of any watercraft for which a license is required by Minnesota Statutes, Section 86B.401, unless the required license for such watercraft has been issued, is in effect, and has been affixed as required by law and regulation of the commissioner.

Subd. 2. Careless or Reckless Operation. No person shall operate a watercraft in a careless, reckless or grossly negligent manner so as to endanger the person or property of another, or at a rate of speed greater than will permit the operator, in the exercise of reasonable care, to bring the watercraft to a stop within the assured clear distance ahead.

Subd. 3. Obstruction to Navigation. No person shall operate any watercraft in a manner which obstructs or tends to obstruct the normal and ordinary navigation of the waters of the Lake.

Subd. 4. Mooring. No person shall moor, attach or hold in any manner a watercraft to any buoy, other than a mooring buoy, or any other marking device or guide placed in the waters of the Lake pursuant to lawful authority.

Subd. 5. Swimming or Bathing Areas. No person shall operate a watercraft within a water area which has been marked off or set aside as a swimming or bathing area as prescribed by the regulations of the commissioner.

Subd. 6. Bruhn Bay: Prohibition. No person shall operate a motor-operated watercraft on Bruhn Channel at the northwest corner of Halstead Bay.

Subd. 7. Tampering. No person shall board, use, damage or tamper with a watercraft, except the owner or a person having a owner's consent, except as provided in Section 3.05.

Subd. 8. (Repealed, Ord. No. 151)

Subd. 9. Overloading. No person shall operate a watercraft which is loaded with passengers or cargo beyond its safe carrying capacity, or which is equipped with any motor or other propulsion machinery beyond its safe power capacity. The B.I.A. or O.B.C. rating, if any, shall not be exceeded as to loading or power. Other unrated or experimental watercraft must comply with standard O.B.C. ratings and obtain a Sheriff's Water Patrol permit.

Subd. 10. Riding on Gunwales or Decking. No person shall ride or sit on the starboard or port gunwales or the decking over the bow or the transom or any appendage thereto of any motorboat while under way, unless such boat is provided with adequate guards or railing to prevent passengers from falling overboard, and no person shall operate such a motorboat while any person is so riding or sitting.

Subd. 11. Living Quarters. No person shall use a watercraft as living quarters while it is in or upon the Lake.

Subd. 12. Distance from Diver's Flag. No person shall operate a watercraft within 150 feet of a diver's warning flag.

Subd. 13. Improper Display of Insignia. No person shall operate a watercraft having a number, letter, design or insignia displayed on either side thereof which is closer than 24 inches to any part of the watercraft registration number.

Subd. 14. Obstructing Channel. No person shall operate, anchor or tie-up, except at a lawful dock, a watercraft in such a manner as to obstruct or interfere with the passage of any other watercraft through any channel or narrow water passageway. No person shall swim in any such channel in the Lake, or jump or dive from any bridge over any such channel. No motorboat shall overtake and pass another motorboat going in the same direction in a channel, closed throttle area, or restricted waterway.

Subd. 15. Wash and Wake. No person shall operate a watercraft in such a manner that its wash or wake will endanger, harass or unnecessarily interfere with any other person or property.

Subd. 16. Interference with Aircraft. No person shall operate a watercraft in a manner which intentionally obstructs or interferes with the landing, take-off or taxiing of any aircraft.

Subd. 17. Noise. No person shall operate any watercraft or boat, other than an aircraft, on the Lake in a manner that exceeds the noise limits contained in Minnesota Statutes, Section 86B.321, which is hereby adopted by reference and incorporated herein.

Subd. 18. Commercial Sales on the Lake. It is unlawful for any person to sell food, beverages, supplies or other merchandise from any watercraft on the Lake; provided, however, that food and beverages may be sold on watercraft to passengers who leave the shore and return on the watercraft on which such food and beverages are sold.

Subd. 19. Reporting Accidents. The operator of any watercraft at the scene or involved in an accident or incident resulting in injury or death to any person or in damage to property shall, if he can do so without serious danger to the watercraft he is operating or the persons aboard, immediately stop at the scene of the accident or incident and render such assistance as may be practicable and necessary and shall give him name, address and license number of the watercraft he is operating and the name and address of the owner thereof to the person injured or the operator or occupants of the other watercraft or owner or occupant of the property involved, and shall promptly report the accident or incident to the sheriff.

Subd. 20. Compliance with Code. It is unlawful to fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to enforce this Code or to direct, control or regulate the movement of watercraft, aircraft or other craft or vehicles on the Lake. It is unlawful for the owner, or any other person, employing or otherwise directing the operator of any watercraft, aircraft or other craft or vehicle to require or knowingly to permit the operation of such watercraft, aircraft or other craft or vehicle upon the Lake in a manner contrary to this Code.

Subd. 21. Citations. In lieu of an arrest of a person for a violation of this chapter the sheriff may issue a written notice to appear in court. The notice shall contain the name and address of the person suspected of the violation, the nature of the offense charged and the time when and the place where the person is to appear in court.

Subd. 22. Size of Watercraft. Unless authorized under Section 3.07, Subd. 11, no person shall maintain, locate, store or operate a boat or watercraft on Lake Minnetonka which is either a) more than seventy (70) feet in length or b) more than twenty (20) feet in width; provided, however, that the foregoing shall not apply to boats or watercraft that are used exclusively for dredging, construction, Lake maintenance or similar activities, and that do not carry passengers for hire.

Subd. 23. Public Nuisances on Watercraft. It shall be unlawful for any person to commit or engage in any conduct which constitutes a public nuisance on the Lake or to allow or permit any person to commit or engage in any conduct which constitutes a public nuisance on any watercraft owned or operated by said person while the watercraft is on the Lake.

a) Public Nuisances Defined. For the purposes of this section, public nuisances shall include the following:

- 1) fighting or brawling;
- 2) using offensive, obscene or abusive language;
- 3) engaging in loud, noisy or boisterous conduct;
- 4) engaging in lewd or lascivious conduct offensive to public decency or indecent exposure;
- 5) using lights in a manner which annoys, frightens or endangers others;
- 6) violating curfew; and
- 7) engaging in any other conduct which unreasonably disturbs the peace, quiet or repose of others.

b) Loud Noise Defined. For the purpose of this section, loud, noisy or boisterous conduct shall, at a minimum, include any noise or sound, however produced, which:

1) exceeds the levels established by the Minnesota pollution control agency when measured from any property abutting the Lake;

2) unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person; or

3) unreasonably interferes with or precludes the use or enjoyment of property, or negatively affects property value.

c) Curfew. Except when accompanied by a parent or guardian, no minor under the age of 15 shall be on any watercraft on the Lake between the hours of 10:00 p.m. and 6:00 a.m. the following day and no minor between the ages of 15 and 17 shall be on any watercraft on the Lake between the hours of 12:00 midnight and 6:00 a.m. the following day.

Subd. 24. Large Commercial Vessels. Small watercraft shall not insist on the right-of-way, nor unnecessarily impede the passage of large commercial vessels, which are restricted in their ability to maneuver by size, draft or speed. For the purpose of this subdivision, large commercial vessels shall be defined as boats that are longer than 65 feet carrying passengers for hire and commercial barges.

Subd. 25. Public Safety Lanes. The Board may designate public safety lanes to assure reasonable public safety access and general navigation in areas of the lake which are subject to high concentrations of boat use for such activities as anchoring and rafting. The Board shall designate such public safety lanes by resolution and provide for the placement of buoys or markers to delineate the location thereof. No person may cause or allow a watercraft or any part of a watercraft to occupy or obstruct entrance to a public safety lane while anchored, moored or attached to another watercraft unless such other watercraft is underway.

Subd. 26. Quiet Hours. Between the hours of 10:00 p.m. and 7:00 a.m. no person shall use or operate, or permit the use or operation, of any device, equipment, or instrument designed or used for sound production, reproduction, or amplification including, but not limited to, a radio, television, stereo, tape player, compact disk player, MP3 player, digital recording player, phone, loud speaker, public address system, sound amplifier, musical instrument, or other sound producing or amplification system for the production or reproduction of sound in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. The use of any such device, equipment, or instrument between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 150 feet shall be prima facie evidence of a violation of this subdivision.

Section 3.02. Watercraft Speed.

Subd. 1. Maximum Speeds. No person shall operate a watercraft on the Lake at a speed greater than is reasonable and prudent under the conditions and with regard to the actual and potential hazards then existing. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, watercraft or structure in or upon the Lake which is in compliance with legal requirements and the duty of all persons to use due care. No watercraft may be operated on the Lake at a speed in excess of the following limits:

- a) 40 miles per hour during the daytime;
- b) 20 miles per hour during the nighttime;
- c) 5 miles per hour in the following areas:
 - i) a quiet waters area established by this section.
 - ii) that area within 150 feet of the shoreline.
 - (iii) that area within 150 feet of an authorized bathing area or swimmer, an authorized scuba diver's warning flag, an anchored raft or watercraft, or a dock or pier except that from which a watercraft with a person in tow is being operated.
 - iv) an area of restricted speed posted in accordance with Subd. 4.
- d) 10 miles per hour for watercraft for hire in excess of (70) feet in length.

The sheriff or executive director may provide for the erection of signs at appropriate locations in the Lake to inform operators of watercraft of the speed limitations established by this subdivision.

Subd. 2. Prima Facie Rule. Operation of watercraft in excess of the speeds set forth in Subdivision 1 is prima facie evidence that the watercraft is being operated in violation of Section 3.01, Subd. 2 of this Code.

Subd. 3. Exceptions. The provisions of Subdivision 1 do not apply to the sheriff, his deputies, or other law enforcement officers, while engaged in the performance of their duties, or to seaplanes during landing or takeoff.

Subd. 4. Quiet Waters Areas. No person shall operate a motor operated watercraft, including waterborne aircraft, on those areas of the Lake hereinafter specified at a speed in excess of 5 miles per hour, or at a speed which results in more than a minimum wake in any area of the Lake designated as quiet waters areas. Quiet Waters restrictions shall apply to areas, channels, bays and shorelines as delineated by markers, buoys, or other aids to navigation placed by the County or the District.

Subd. 5. Bay St. Louis, Carson Bay, Emerald Lake, Seton Lake, Libbs Lake, and the causeway area of Wayzata Bay are designated Quiet Waters Area.

Subd. 6. The following channels are designated Quiet Waters Areas: Arcola (Smith's Bay to Crystal Bay), Black Lake-Spring Park Bay, Noerenberg, Hendrickson, Coffee, Emerald Lake-Cook's Bay, Seton, Narrows, Tanager Lake, Boy Scout, Stubb's Bay-Maxwell Bay, Gray's Bay-Wayzata Bay, Forest Lake, Zimmerman's Pass, St. Alban's, Priest's Bay, Big Island, Seton Lake-Emerald Lake, Black Lake-Seton Lake, Lost Lake Channel from Cook's Bay, the Libbs' Lake Channel from Gray's Bay, the two channels leading to docking areas in Tonka Bay from Gideon's Bay, Wayzata Municipal Channel, the channel between Big Island and West Point, Narrow Point of North Arm (Windjammer Point), the south shore of Maxwell Bay from the Noerenberg Bridge to the Boy Scout Bridge and Noerenberg Inlet.

Subd. 7. Special Rule for Gray's Bay: The quiet waters restriction applies in Gray's Bay

during the period from 4:00 o'clock p.m. on Friday until 12:00 o'clock midnight on Sunday, and during the entire day on any holiday as defined by Minnesota Statutes § 645.44, Subdivision 5.

Subd. 8. That part of Black Lake lying north of a line described as follows: Commencing at the southwest corner of the channel between Spring Park and Black Lake and running westerly to a point three hundred feet due south of the southernmost point of North Point on Black Lake, and continuing westerly to the south side of the channel between Seton Lake and Black Lake is designated as Quiet Waters Area.

Subd. 9. That part of Excelsior Bay lying south of a line running from the west shore from a small point just south of the bandstand and north of the city mooring area to a point at the north property line of Cochranes' Boatyard on the east shore of Excelsior Bay is designated as Quiet Water Area.

Subd. 10. That part of the North Seton Channel lying southwesterly of a straight line drawn between the slow buoy located at latitude 44.939311 north, longitude 93.644048 west and the slow buoy located at latitude 44.939573 north, longitude 93.644825 west, and extended northwesterly and southeasterly to the shore.

Subd. 11. That part of St. Albans Bay west of a line running south of Solberg's Point is designated as Quiet Waters Area.

Subd. 12. That part of Coffee Cove lying between the Coffee Cove Channel and a line running from Fagerness Point to Park Lane extended is designated as Quiet Waters Area.

Subd. 13. (Repealed, Ordinance No. 150)

Subd. 14. That part of the channel in the Lower Lake North lying northeast of Huntington Point and southeast of the Arcola Bridge.

Subd. 15. The channel south of Huntington Point between Lafayette Bay and the Lower Lake North.

Subd. 16. The following area to the north of Big Island is designated as a Quiet Waters Area: The area lying southerly of a line beginning at a point on the north shoreline of Big Island directly south of the buoy located at latitude 44.932675 north, longitude 93.571501 west; thence north to the buoy at that location; thence northeasterly to the buoy located at latitude 44.935813 north, longitude 93.559323 west; thence easterly to the northernmost point of Big Island.

Subd. 17. The part of Wayzata Bay in the channel through the shallow water area north of Cedar Point East marked by navigation buoys.

Section 3.021. High Water

Subd. 1. Policy; Purpose. The Board of Directors of the LMCD has determined that (i) the operation of watercraft at normal speeds on the Lake during periods of High Water, as defined in this section, has serious adverse effects on the shoreline of the Lake and structures existing on the shoreline, and (ii) the restriction of watercraft wakes during periods of High Water is essential to the conservation of the shoreline of the Lake and the overall quality of the Lake as a natural resource. It is the purpose of this section to provide reasonable regulation of watercraft wakes during periods of High Water, and to establish a mechanism for enforcing of those limits and adequately informing Lake users of the existence and need for the regulations.

Subd. 2. Definitions. For purposes of this section the terms defined in this subdivision have the meanings given them.

a) "High Water" means a High Water Declaration has been made as provided in this section and has not been terminated.

b) "Minimum Wake" means the wave moving out from a watercraft and trailing behind in a widening "V" of insufficient size to affect other watercraft or be detrimental to the shoreline.

(c) "Regulated Area" means:

(i) all of the surface area of the following bays and portions of the Lake; Emerald Lake, Libbs Bay, Seton Lake, Bay St. Louis, Black Lake, Coffee Cove, Big Island Passage, Robinson's Bay, Tanager Lake, Forest Lake, Carson's Bay, Excelsior Bay, Priest's Bay, St. Alban's Bay, Gray's Bay, Stubb's Bay, and Jennings's Bay, and

(ii) the surface area of the Lake within a distance of 600 feet of the shoreline on all parts of the lake not included in paragraph (i) above.

Subd. 3. General Rule. When a High Water Declaration has been made, it is unlawful for a person to operate a watercraft in the Regulated Area at a speed of more than 5 miles per hour or a speed that results in more than a Minimum Wake.

Subd. 4. Procedure: High Water Declaration. The Executive Director is authorized and directed to determine from authoritative sources the Executive Director deems reliable the water level of the Lake from time to time. The Executive Director may make a High Water Declaration when the Lake elevation has been at or above elevation 930.0 feet NGVD for a period of five consecutive days; provided, readings show an elevation of 930.0 feet or more on the first day and the fifth day (or next day thereafter when readings are available), at least one such reading between the first and last reading, and no intervening readings below 930.0 feet. The Executive Director shall make a High Water Declaration when the Lake elevation either 1) has been at or above elevation 930.0 feet NGVD for a period of eight consecutive days; provided, readings show an elevation of 930.0 feet or more on the first day and eighth day (or next day thereafter when readings are available), at least two such readings between the first and last reading, and no intervening reading below 930.0 feet, or 2) the Lake elevation has reached or exceeded 930.25 feet NGVD. Upon making a High Water Declaration, the Executive Director must forthwith take the following steps:

a) Notify the Hennepin County Sheriff's Water Patrol that a High Water Declaration has been made and that the wake regulations of this section are in effect as of a specific date and time.

b) Notify, by any practicable means, marina operators, associations and other interested persons that a High Water Declaration has been made.

c) Take whatever action deemed by the Executive Director to be necessary to disseminate as widely as possible the fact that a High Water Declaration has been made and that the wake regulations of this section are in effect.

Subd. 5. Procedure: High Water Termination. When the Executive Director determines from authoritative sources that the lake level has fallen and remained below elevation 930.0 feet NGVD for a period of three consecutive days, the Executive Director may take the same steps set out in subdivision 4 to inform the Water Patrol and other persons that High Water no longer exists and that the wake regulations of this section are not in effect.

Subd. 6. Exceptions. The provisions of this section do not apply to the sheriff, deputies, or other law enforcement officers, while engaged in the performance of their duties, or to seaplanes during a landing or takeoff.

Section 3.022. Use of Motorboats Prohibited.

Subd. 1. Prohibition. No person, other than authorized law enforcement personnel or governmental resource management personnel in performance of their duties, shall operate a motorboat using propulsion by machinery in any of the following areas:

a) Six Mile Creek from the mouth of the creek (located at a line between Latitude 44° 54.844' North, Longitude 93° 42.166' West and Latitude 44° 54.831' North, Longitude 93° 42.138' West) upstream to the right of way of State Highway 7.

b) Painters Creek west of County Road 110 (located at Latitude 44°, 57.723' North, Longitude 093°, 30.931' West) upstream to the contour line at elevation 929.4 NGVD.

c) Long Lake Creek from the railroad trestle (located at a line between Latitude 44°, 57.793' North, Longitude 093°, 33.860' West and Latitude 44°, 57.806' North, Longitude 093°, 33.842' West), upstream to the contour line at elevation 929.4 NGVD.

Subd. 2. Aids to Navigation. If such areas in which use of motorboats using propulsion by machinery is prohibited are delineated by signs, buoys, markers or other aids to navigation by the District or by the County, the location indicated by such aids to navigation shall control.

Subd. 3. Exception. The prohibition in Subdivision 1 shall not apply to any watercraft that is 24 feet in length overall or less and that is being propelled by a single electric motor that has only a single propeller and is not capable of generating more than 60 pounds of thrust at its maximum operating voltage. Length overall means the horizontal measurement from the foremost to the aftermost points of the watercraft, including all equipment and attachments in their normal operating positions.

Section 3.03. Watercraft Safety Rules and Rules of the Road. All watercraft operating on the Lake must at all times be in compliance with the safety and operating requirements in Minnesota Rules, part 6110.1200, which is hereby adopted by reference and incorporated herein.

Section 3.04. Watercraft Equipment and Rules. All watercraft operating on the Lake must at all times be in compliance with the equipment requirements of Minnesota Rules, part 6110.1200, which is hereby adopted by reference and incorporated herein.

Section 3.041. Personal Watercraft.

Subd. 1. Prohibition. It is unlawful for any person to operate a personal watercraft or for the owner thereof to permit the operation of a personal watercraft on the Lake in any way which is contrary to the provisions of this Code or the laws, rules or regulations of the state.

Subd. 2. Personal Flotation Devices. No person shall operate or ride on a personal watercraft unless wearing a United States Coast Guard approved Type I, II, III, or V personal flotation device.

Subd. 3. Hours of Operation. No person shall operate a personal watercraft between one hour before sunset and 9:30 a.m. the following day.

Subd. 4. Speed. No person shall operate a personal watercraft at greater than slow no-wake speed within 150 feet of any shoreline, swimmer, anchored boat, person fishing, mooring, dock or other water structure.

Subd. 5. Operation Within 300 Feet of the Shoreline. No person shall operate a personal watercraft at a speed in excess of 5 miles per hour or at a speed which results in more than a minimum wake between 150 feet and 300 feet of the shoreline unless the personal watercraft is being driven perpendicular to the shoreline and to or from the nearest point of water 300 feet from the shoreline or parallel to the shoreline from one location to another in a manner which is not repetitive.

Subd. 6. Automatic Cut-off Device. No person shall operate a personal watercraft which is equipped by the manufacturer with a lanyard-type cutoff switch unless the lanyard is attached to the person, clothing or personal flotation device of the operator. No person shall operate a personal watercraft on which the automatic cut-off device applied by the manufacturer has been altered, disabled or removed.

Subd. 7. Wake Jumping. No person operating a personal watercraft shall jump the wake of another watercraft within 150 feet of that watercraft.

Subd. 8. Careless Operation. A personal watercraft must at all times be operated in a reasonable and prudent manner. Maneuvers which unreasonably or unnecessarily endanger life, limb or property, including, but not limited to weaving through congested boat traffic or swerving at the last possible moment to avoid collision shall constitute careless, reckless or grossly negligent operation within the meaning of LMCD Code Section 3.01, Subd. 2.

Subd. 9. Rental. Any person who offers personal watercraft for rent:

(a) shall not rent a personal watercraft, regardless of the horsepower, to any person who is less than 16 years of age or who is 16 years of age or over but less than 18 years of age and not in possession of an operator's permit required by law.

(b) is required to provide a summary of the laws and rules governing the operation of personal watercraft and to provide instruction regarding safe operation to any person renting personal watercraft. The instruction provided to a renter must cover the laws and rules governing personal watercraft as well as the actual operation of the personal watercraft itself; and

(c) is required to provide a United States Coast Guard approved Type I, II, III or V wearable personal flotation device to all persons who rent a personal watercraft, as well as all other required safety equipment.

Subd. 10. Prolonged Operation. No personal watercraft shall be operated in a single area for more than thirty consecutive minutes. A person in control of such watercraft shall be subject to citation. A single area is defined as an area of the Lake which is so small that the noise emanating from personal watercraft operated continuously within it is liable to be a nuisance or cause substantial annoyance to residents of one or more shoreline properties during all of the time of such continuous operation.

Section 3.05. Watercraft Inspections.

Subd. 1. Testing Stations. The district may establish one or more watercraft testing stations for the purpose of testing and inspecting watercraft using the Lake or to be used on the Lake, to determine whether such watercraft comply with the health and safety regulations of this Code. The Board of Directors of the district shall, by resolution, establish service charges to pay for the costs of such inspection.

Subd. 2. Inspection on Order of Sheriff. The sheriff may direct any watercraft on the Lake to be inspected at such testing station, after due written notice thereof shall be first given to the owner of such watercraft or the owner's agent. If it is determined that such watercraft complies with the provisions of this ordinance, the inspector shall issue a certificate which shall be in the form of a decal, to be displayed on the exterior hull of the watercraft at a location where it can be readily seen without boarding the watercraft. Inspection certificates shall expire on December 31 of the year in which they are issued.

Subd. 3. Inspection Without Notice. If the sheriff has reasonable and probable grounds to believe that a watercraft being operated on the Lake does not meet the requirements of this ordinance with respect to its equipment, the sheriff may request permission to inspect such watercraft. If the operator of the watercraft consents to such inspection being made the sheriff may thereupon make such inspection or cause such inspection to be made. If consent to such inspection is refused by the operator of the watercraft, the sheriff may order such watercraft to be inspected as provided in Subd. 2 of this section.

Subd. 4. No Operation Pending Inspection. No watercraft which is ordered to be inspected as provided in the provisions of this section shall thereafter be operated on the Lake until after an inspection certificate has been obtained, showing that such watercraft has been inspected and is equipped in accordance with the requirements of this ordinance and Code; provided, however, that nothing herein shall prevent the operator of the watercraft from subsequently going from the place of launching or harborage of the watercraft directly to the watercraft inspection station, by appointment, for the purposes of obtaining a compliance inspection.

Subd. 5. Operational Tests. Apart from such inspection the sheriff may direct the operator of any watercraft on the Lake to display the lights, fire extinguishers, noise muffling devices, life preservers, and horn, whistle or bell on the watercraft, and to demonstrate that they are in good working condition.

Subd. 6. Noise. If the sheriff has reason to suspect that a boat is exceeding noise limitations, or is capable of exceeding noise limitations, he may direct the operator to traverse a noise pollution test course at any location selected by the sheriff, at full throttle or at such lesser speeds as the sheriff may direct. Refusal to submit to such a test is a misdemeanor.

Subd. 7. Emergencies. If the sheriff encounters a condition on any watercraft which constitutes an immediate hazard such as overloading or imminent hazard of fire or explosion, he may direct the occupants of such watercraft to take immediate emergency measures to eliminate such hazard. Failure to obey such emergency instructions is a violation of this Code.

Section 3.06. Watercraft Impounding.

Subd. 1. Reasons for Impoundment. Watercraft may be removed from the Lake by the sheriff or other duly authorized law enforcement officer and taken to a place of safety designated by him in the following circumstances:

a) the watercraft is unattended or unoccupied and is not moored or otherwise safety secured. A boat or watercraft which is at anchor is not considered to be safely secured for purposes of this section, or

b) the watercraft is unattended and is moored or secured to an unlicensed or unpermitted structure, or

c) the watercraft is so disabled as to constitute a hazard to navigation and the person or persons in charge of the watercraft are for any reason physically incapacitated and unable to provide for its custody and control, or

d) the watercraft is, and has been for a period of more than one week, sunken, wrecked, junked or discarded.

Subd. 2. Notice. Upon the removal of a watercraft pursuant to this section the sheriff shall promptly notify the Executive Director who shall thereupon give written notice to the registered owner of the watercraft of the fact of such removal, the reason therefor, and the place to which the watercraft has been removed. If the owner cannot be determined or found, or if the watercraft is not claimed within three days after its removal, the Executive Director shall send a written report of the removal to the Commissioner of Natural Resources. The report shall describe the watercraft, the reasons for its removal, and the place to which the watercraft has been removed. The owner of a watercraft removed pursuant to this section may reclaim it at any time without charge, upon the payment of reasonable towing and storage charges.

Subd. 3. Disposition of Impounded Watercraft. Impounded watercraft which are not reclaimed by the owner may be disposed of in the same manner as impounded structures under Section 2.08, Subd. 4.

Subd. 4. Other Penalties. The removal of a watercraft pursuant to this section does not prevent the district from enforcing any other penalty provided by this Code for the unlawful operation or mooring of a watercraft.

Section 3.07. Watercraft for Hire.

Subd. 1. Prohibition. No person shall operate or offer to operate any watercraft carrying passengers for hire on Lake Minnetonka without an LMCD certificate of registration.

Subd. 2. Application for Certificate. Applications for registration shall be made on forms provided by the Executive Director. The application shall be accompanied by a copy of all valid pilot licenses, a current state inspection certificate of operation, evidence of insurance, berthing location, docks, moorings or other facilities at which passengers will be embarked or disembarked, and all other information deemed necessary by the Executive Director to determine whether the application is in compliance with this section of the LMCD Code. The application shall also be accompanied by the fee established from time to time by resolution of the Board.

Subd. 3. Issuance of Certificate. A certificate of registration may be issued by the Executive Director upon determination that the application complies with this section of the LMCD Code and the watercraft has passed all required inspections of the Sheriff's Water Patrol, Department of Natural Resources, and State of Minnesota. The certificate will specify authorized ports of call and no passengers except law enforcement personnel or employees may be embarked or disembarked except at either a) authorized ports of call or b) other locations at a frequency of no more than once each year at any one location. No ports of call shall be authorized without first securing a certificate from the municipality within which such port of call lies stating that the activities to be conducted by the applicant at the port of call are in compliance with municipal zoning laws. No embarkation or disembarkation at other locations is authorized unless permission for such activity has been secured from appropriate officials of the city in which it occurs.

Subd. 4. Renewals. A renewal certificate of registration is required for each year of operation and must be obtained by March 1 of each year.

Subd. 5. Watercraft Registration. All watercraft for hire or charter shall be registered with the state of Minnesota as "For Hire" or be United States Coast Guard Documented for Commercial use. The license number shall be affixed to the hull with a valid registration sticker. The United States Coast Guard Documentation number must be affixed on a main bulkhead or structural member of the watercraft. The full name of the watercraft must be displayed on the hull, either the stern or on the port and starboard sides of the watercraft.

Subd. 6. Age of Operation and Pilot Licenses. A person under the age of 18 may not operate a watercraft for hire. All pilots must have a current and valid State of Minnesota Pilots License.

Subd. 7. Required Equipment. When a watercraft is in use and carrying passengers for hire, the following equipment must be on board and in serviceable condition.

a) Fire Extinguishers. Fire extinguishers shall be of a number and type that meets the requirements of the Minnesota DNR and, in addition, each such watercraft shall have installed a fixed fire extinguishing system to protect the engine room(s) on all watercraft using gasoline or other fuel having a flash point of 110 degrees F or lower; provided, however, that where the engine room(s) are so open to the atmosphere to make the use of a fixed system ineffective, no such system will be required. The system shall have the appropriate number of pounds of chemical for the gross volume of space to be covered as specified in 46 CFR § 181.410.

b) Bilge Pumps. The watercraft for hire must have one fixed bilge pump for each non-connected bilge compartment. The bilge pump shall be rated at 10 GPM or greater.

c) Personal Floatation Devices. All vessels for hire must carry on board one Coast Guard Approved Type 1 adult personal floatation device for each person permitted to be carried, including the crew. In addition, unless children are never to be carried, a number of personal flotation devices suitable for children equal to ten percent of the total number of persons carried must be aboard. If more children are aboard, the appropriate number of child PFD's are required for each child on board. All Type 1 PFD's must be labeled with the vessel's name or registration number and be in good and serviceable condition. All PFD's shall have 200 sq. cm. (31 sq. in) of retro-reflective material attached to the front side, 200 sq. cm. of retro-reflective material attached to the back side and on each of the reversible sides.

- 1) Life preservers shall be distributed through the upper part of the vessel in protected places convenient to the passengers on board.
- 2) Life preservers for children, when provided, shall be stowed separately.
- 3) When life preservers are stowed so that they are not readily visible to passengers, the containers in which they are stowed shall be marked "LIFE PRESERVERS" and with the number contained therein, in at least one inch letters and figures. This legend shall indicate if the stowage is for "ADULT" or "CHILDREN" life preservers.

d) Ring Buoy/Life Buoy. All watercraft for hire must have one ring buoy. The ring buoy shall have 30 feet of line, retro-reflective tape on both sides, and the name of the watercraft on the buoy. The ring buoy must be mounted in an accessible area. The ring buoy shall be 20" or more in diameter for watercraft less than 26 feet. For watercraft over 26 feet a 24" buoy is required. If the watercraft is operated during night time hours, buoys shall be fitted with a water activated or automatic light.

e) First Aid Kit. All watercraft for hire must have a stocked first aid kit on board.

f) Electrical. All watercraft for hire must have all batteries fastened down so as not to move in any direction more than one inch, and the entire battery shall be covered to eliminate sparking or arcing.

g) Communications. All watercraft for hire shall be required to have one of the following types of communications: VHF Marine Radio with Channels 16 and 6 and/or a Cellular Telephone.

Subd. 8. Major Repairs and Alterations. No major repairs or alterations affecting the safety of the watercraft or passengers with regard to the hull, super structure, machinery, or equipment shall be made without the knowledge and approval of the Hennepin County Sheriff's Water Patrol. Proposed alterations shall be approved by the Hennepin County Sheriff's Water Patrol before any work is started. Drawings, sketches or written specifications describing the alterations in detail may be required. Drawings will not be required for repairs in kind.

Subd. 9. Passengers Permitted. The maximum number of passengers and crew permitted to be carried on a watercraft for hire shall be determined by the LMCD and/or Hennepin County Sheriff's Water Patrol and shall be stated on the inspection report. The maximum number of passengers and crew permitted on any vessel for hire of reasonable design and proportions may be determined by length of rail criteria, deck area criteria, or fixed seating criteria. A final test may be a stability test at the owner's expense.

a) Length of Rail Criteria. One passenger may be permitted for each 30 inches of rail space available to the passengers at the watercraft's sides and across the transom with a minimum of 18" of open deck space.

b) Deck Area Criteria. One passenger may be permitted for each 10 square feet of deck area available for the passengers' use. In computing such deck area, the areas occupied by the following shall be excluded:

- (i) Concession stands;
- (ii) Toilets and washrooms;
- (iii) Companionways, stairways, etc.;
- (iv) Spaces occupied by and necessary for handling lifesaving equipment;
- (v) Spaces below deck which are unsuitable for passengers;
- (vi) Pilot control area; and
- (vii) Interior passageways less than 30" wide and passageways on the open deck less than 18" wide.

c) Fixed Seating Criteria. One passenger may be permitted for each 18 inches of width of fixed seating provided.

d) Notwithstanding the number of passengers permitted by any of the criteria described above, the maximum number may be further limited by stability.

Subd. 10. Operational Rules.

a) Violation of any provision of this code is a misdemeanor and violation of any provisions of this code or of state or federal law shall be grounds for revocation or suspension of a charter boat certificate.

b) No watercraft holding a certificate under this section shall, while carrying passengers for hire:

- 1) Stop, moor or anchor closer than 300 feet from shore except at authorized ports of call;
- 2) Stop, moor or anchor at any place in the lake other than an authorized port of call after 6:00 p.m. for more than two hours;
- 3) Pass within 300 feet of the shoreline except at an authorized port of call or in channels having a width of less than 600 feet in which case such watercraft shall remain as nearly in the center as is consistent with good seamanship and the Rules of the Road.

c) All watercraft carrying passengers for hire must disembark all customers, passengers or patrons by 12:30 a.m. and must return to and be tied, moored or secured for the night at its home port by 1:00 a.m.

d) No watercraft holding a certificate under this section may play any live or amplified music or amplified voice except in fully enclosed areas of the watercraft or in emergency situations. Operations and activities on the watercraft shall be so conducted as not to interfere with the peaceful enjoyment of the Lake and of surrounding properties by riparian owners and by the public. License holders shall be responsible to ensure that operation and activities shall be so conducted as not to violate Section 3.01, Subd. 23. The act of any employee on the watercraft is deemed the act of the certificate holder as well, and the certificate holder shall be liable to all penalties provided by this code and the law equally with the employee.

Subd. 11. Watercraft Size Exception. Watercraft for Hire may exceed the limitations on the size of watercraft set forth in LMCD Code Section 3.01, Subd. 22, providing the following conditions are met:

a) The size of the watercraft may not exceed either ninety (90) feet in length or twenty-two (22) feet in width;

b) The watercraft may not have a rated capacity of over 149 passengers, excluding crew;

c) The watercraft must have twin engines and bow thrusters to ensure maneuverability of the watercraft;

d) Watercraft exceeding the size limits of Section 3.01, Subd. 22 may only be operated on the Main Upper Lake and Main Lower Lake; provided, however, that they may be operated on other areas of the Lake either; 1) to store the watercraft at its home port, or 2) to pick up or drop off passengers at authorized ports of call;

e) The watercraft shall be of a height that allows it to pass between the Main Upper Lake and Main Lower Lake under the Narrows Bridge between Lafayette Bay and Carman Bay.

Section 3.075. Licensing of Adult Cabaret and Exotic Dancing on Watercraft for Hire.

Subd. 1. Statement of Intent. It is declared to be the purpose and intent of this ordinance to protect the public health, safety, and welfare of the Lake Minnetonka communities by curtailing the dangers and potential criminal offenses associated with watercraft for hire featuring adult cabaret or exotic dancing. The LMCD, a body politic pursuant to Minnesota Statutes, Section 103B.601, has determined that adult cabaret or exotic dancing may be dangerous if performed on watercraft for hire and may lead to prostitution, sexually-transmitted diseases, drug and alcohol offenses, or other criminal activity. However, it is not the intent of this Section to inhibit the freedom of speech component of exotic dancing. Instead, this Section represents a balancing of competing interests: reduced dangerous or criminal activity through the regulation of exotic dancing versus the protected rights of exotic dancers and their patrons.

Subd. 2. Definitions. The following definitions shall apply to words used in this Section:

- a) "Adult Cabaret" shall mean exotic dancing and/or other live entertainment which is distinguished or characterized by an emphasis on sexually oriented performance.
- b) "Exotic Dancer" shall mean a person who dances or otherwise performs and who seeks to arouse or excite the patrons' sexual desires.
- c) "Licensed watercraft" shall mean any watercraft for hire for which a license to provide adult cabaret or exotic dancers has been issued.
- d) "Patron" shall mean a customer on a licensed watercraft.
- e) "Sexual activities" shall mean activities consisting of the following:
 - 1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, direct physical stimulation of clothed or unclothed genitals, actual or simulated masturbation; or
 - 2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
 - 3) Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
 - 4) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons.

Subd. 3. Conditions. Adult cabaret or exotic dancing may only be performed on licensed watercraft subject to the following conditions:

- a) A licensed watercraft is subject to the conditions in Section 3.07 and this Section, all other provisions of this Code, and of other applicable regulations, ordinances and state law.
- b) A licensed watercraft may not also be licensed for the sale of alcohol under Chapter 5 of this Code.
- c) Exotic dancing or adult cabaret performances may not be in any way visible or perceivable, including aurally, at any time from outside the watercraft.
- d) Exotic dancing or adult cabaret may not in any way depict sexual activities.
- e) Exotic dancing or adult cabaret may not involve display of less than completely and opaquely covered human genitals, female breast(s) below a point immediately above the top of the areola, buttocks, anus, pubic region or male genitals in a discernibly turgid state, even if completely and opaquely covered.
- f) Exotic dancers and cabaret performers must be at least 21 years of age.
- g) Patrons must be at least 21 years of age.
- h) Exotic dancing may only be performed on a platform intended for that purpose which is raised at least two feet from the level of the floor. The platform must incorporate a padded safety rail that will prevent dancers or performers from falling from the platform in the event of windy or inclement boating conditions.
- i) Exotic dancing shall not occur closer than ten (10) feet from any patron.
- j) No exotic dancer or performer shall touch, fondle or caress any patron and no patron shall touch, fondle or caress any exotic dancer or performer.
- k) No patron shall directly pay or give any gratuity to any exotic dancer or performer.
- l) No licensed watercraft may dock at any location except the dock from which the watercraft originates, except in the case of emergency.
- m) No person other than a law enforcement officer may board a licensed watercraft except from the dock from which the watercraft originates.
- n) No exotic dancer or performer shall solicit any pay or gratuity from any patron.
- o) Licensed watercraft may not have booths, stalls, partitioned portions of a room, or individual rooms, except:

- 1) restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
- 2) storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager, and employees is allowed in them.

p) The operator of a licensed watercraft is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed watercrafts is deemed the act of the operator as well, and the operator is liable for all penalties provided by this Section equally with the employee, except criminal penalties.

q) The license must be posted in a conspicuous place in the portion of the watercraft used for exotic dancing or adult cabaret.

Subd. 4. License Application. Application for a license must be made on a form supplied by the LMCD and must provide the following information:

- a) The business in connection with which the proposed license will operate;
- b) The location of the dock or slip from which the watercraft for hire originates;
- c) A description of the watercraft to be licensed including a floor plan of the area for which the license is sought, showing dimensions and locations of facilities;
- d) Whether the applicant is the owner and operator of the business and if not, who is;
- e) Whether the applicant has ever used or been known by a name other than his/her true name, and if so, what was the name, or names, and information concerning dates and places where used;
- f) Street address at which applicant has lived during the preceding ten years;
- g) Kind, name and location of every business or occupation applicant and spouse have been engaged in during the preceding ten years;
- h) Names and addresses of applicant's employers and partners, if any, for the preceding ten years;
- i) Whether the applicant has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;
- j) Whether the applicant has ever been engaged as an employee or in operating a sexually-oriented business, massage business, or other business of a similar nature. If so, applicant must furnish information as to the time, place and length of time;

k) If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above.

l) A managing partner, or partners, must be designated. The interest of each partner, or partners in the business must be submitted with the application and, if the partnership is required to file a certificate as to trade name, a copy of the certificate must be attached to the application;

m) If the applicant is a corporation or other organization, the applicant must submit the following:

- 1) name, and if incorporated, the state of incorporation;
- 2) names and addresses of all officers;
- 3) the name of the manager or proprietor or other agent in charge of, or to be in charge of the watercrafts to be licensed, giving all information about said person as is required in the case of a single applicant; and
- 4) a list of all persons who, single or together with their spouse own or control an interest in said corporation or association in excess of five percent or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

n) The amount of the investment that the applicant has in the business, including watercrafts, buildings, fixtures, furniture, and proof of the source of the money;

o) A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the twin cities metropolitan area as defined by Minn. Stat. § 473.121, subd. 2;

p) Whether the applicant holds a current license or has ever held a license for a sexually-oriented business or similar business from another governmental unit;

q) Whether the applicant has ever been denied a license for a sexually-oriented business or similar business from another governmental unit; and

r) Other information that the LMCD deems appropriate.

Subd. 5. Fees.

a) An applicant for a license or renewal thereof must pay an annual fee in the amount specified by resolution of the Board.

b) Each license shall be issued for a period which expires on December 31st of the year in which it is issued. Fees for licenses issued during the license year will not be prorated.

Subd. 6. Granting of Licenses.

a) No license shall be issued until the LMCD or its designee has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. Applicants must cooperate with this investigation.

b) No license may be issued until the LMCD has held a public hearing in accordance with the following:

- 1) Notice of the hearing must be published at least two (2) weeks in advance; and
- 2) All parties interested in the matter shall be heard, and the hearing may be adjourned from time to time. No hearing will be required for a renewal of a license, but the LMCD may, at its option, hold a hearing.

c) After investigation and hearings, the LMCD may, at its discretion, grant or deny the application for a license.

d) A license will be issued only to the applicant and for the watercraft described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25 percent or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license.

e) In the case of the death of a licensee, a representative of licensee may continue operation of the business for not more than 30 days after the licensee's death.

Subd. 7. Suspensions and Revocations of License. The LMCD may suspend or revoke a license for operation on a watercraft for hire in the event of any of the following:

a) Taxes, fees assessments or other financial claims of the LMCD or one of its members of the state are due, delinquent, or unpaid.

b) Upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing, with the exception of a violation as provided for in subparagraph c. below.

c) Conviction of crime.

Subd. 8. Violations. Any person violating this Section shall be guilty of a misdemeanor. A fine or sentence imposed does not affect the right of the city to suspend or revoke a license as the LMCD deems appropriate.

Subd. 9. Severability. If any term or provision of this Section is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected and it shall be construed and enforced as if this section did not contain the particular term or provision held to be invalid.

Section 3.08. Rental of Watercraft.

Subd. 1. Conditions. No watercraft which is in a broken, rotten or otherwise hazardous condition shall be rented or offered for rent. No watercraft shall be rented or offered for rent unless all oars, oarlocks, and paddles rented or made available for use with the watercraft, are free of cracks, splits and breaks. No watercraft shall be rented or offered for rent unless its rear transoms are strongly constructed and capable of standing the stresses imposed by fully reversing the motors attached or to be attached. No metal or fiberglass watercraft shall be rented or offered for rent unless it is equipped with air chambers or other buoyancy devices and is capable of sustaining complete buoyancy for capacity load in the event the craft is capsized.

Subd. 2. Fueling. No watercraft shall be rented or offered for rent unless it is free of spilled gasoline and oil.

Subd. 3. Safety Equipment. No watercraft shall be rented or offered for rent unless it is equipped with a pair of oars and oarlocks, or with a paddle, in serviceable condition and unless, on departure, there are on board personal flotation devices for each person on board.

Subd. 4. Rental to Person Under Influence. No watercraft shall be rented or offered for rent to any person who is under the influence of alcoholic beverages or prohibited drugs.

Subd. 5. Overloading. No watercraft which has been rented shall be permitted to depart from the premises at which it was rented if it is loaded beyond its safe carrying capacity or powered beyond its safe power capacity.

Subd. 6. Overnight Occupancy. No person shall rent or lease any watercraft for use as living quarters while it is in or upon the Lake. No person shall regularly lease or rent any watercraft for overnight occupancy in or upon the Lake.

Section 3.09. Special Events.

Subd. 1. Permit Required. No person shall carry on or sponsor a special event on the Lake without first securing a permit therefor from the District. Applications for such permits shall be submitted on forms prepared by the Executive Director no less than 30 days prior to the scheduled date of the special event. The Executive Director or the Board may waive this deadline in appropriate cases. For purposes of this Section, the term "special event" shall have the meaning given it in Section 1.02 of this Code.

Subd. 1a. Applications for Permit. The Executive Director may require the submission of any information which is relevant to the considerations listed in this section. The Board or Executive Director may grant or deny the permit or issue a permit with such restrictions or conditions as he or she may deem in the public interest. Restrictions or conditions imposed by the Executive Director shall be stated in writing on the permit. Accepting the permit and conducting the special event shall constitute acceptance of such restrictions and conditions and agreement to comply therewith. An applicant who does not agree to the imposition of such restrictions or conditions shall so notify the Executive Director, whereupon such application shall be deemed denied and shall be referred to the Board as provided in Subd. 1c. Nothing in this section is intended to permit the use of watercraft or other vehicles in violation of Section 3.01, Subd. 2 or at a speed or in any manner which is not reasonable and prudent under the conditions and with regard to the actual and potential hazards then existing. Motorboat races in violation of Section 3.02, Subdivisions 1a) and 1b) of this Code, or motor vehicles races, are not permitted. Applications shall be accompanied by a fee which shall be established by resolution of the Board, plus an additional deposit in an amount established by resolution of the Board to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. Fees will be set in an amount determined by the Board to recover the estimated costs of administration of the special events licensing process and the enforcement thereof. The Board shall approve all expenses charged against the deposit and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, enforcement engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit.

Subd. 1b. Issuance of Permit. The Board of Directors recognizes that the conduct of special events on the Lake may require the operation of watercraft or other vehicles or the placing of structures for limited times in a manner which would otherwise be prohibited by this Code, or which restricts the use of the Lake by the general public. In determining whether to grant or deny the permit or grant a permit with restrictions or conditions the Executive Director or Board may consider any or all of the following:

- a) whether the special event will involve use of the Lake outside of the applicant's authorized dock use or mooring areas;
- b) whether the special event will adversely affect the quality of the water of the Lake;
- c) whether the special event will involve the violation of speed restrictions or Rules of the Road;
- d) whether the special event will require the placing of temporary buoys or structures in the Lake;
- e) whether the special event could be conducted on land or on waters other than Lake Minnetonka;
- f) whether the special event will cause a hazard to navigation or other safety hazard;

- g) whether the special event will require supervision or control by the sheriff's water patrol or other law enforcement officers;
- h) whether the special event will create additional noise on the Lake;
- i) whether the special event will restrict or limit the use or enjoyment of the Lake by the general public;
- j) whether the special event is open to the general public as participants or as spectators;
- k) whether the time or place of the event will cause it to have an undue adverse effect on boat density or intensity of Lake use;
- l) whether the special event has the written permit approval of the Sheriff and any other appropriate law enforcement officials, any municipality which may be affected with respect to parking, zoning, law enforcement, or any other municipal concern;
- m) whether appropriate insurance is provided;
- n) whether the time or place of the event will have an undue adverse effect on any other scheduled events;
- o) whether the event complies with conditions of policy guidelines adopted by resolution of the LMCD Board.
- p) whether the event will increase the risk of the introduction of exotic species to the Lake or make control of exotic species on the Lake more difficult.

Subd. 1c. Appeal of Decision of Executive Director. In the event the Executive Director a) refuses or declines to waive the application deadline set forth in Subd. 1, or b) imposes restrictions or conditions pursuant to Subd. 1a. which are not accepted by the applicant, or c) refuses or declines to grant the permit after consideration of the criteria set forth in Subd. 1b., the application shall be forwarded to the Board for review. Upon receipt and consideration of such recommendation the Board may affirm, reverse or modify the decision of the Executive Director.

Subd's 2-10 (Repealed, Ordinance No. 228)

Subd. 11. General Permit. The Board may authorize the issuance of special events permits by the Hennepin County Sheriff's Water Patrol. Such authority shall be granted by resolution and shall be subject to such terms, conditions, and limitations as are specified in the resolution. The Board may revoke or modify such authority at any time by duly adopted resolution.

Section 3.10. Water Skiing.

Subd. 1. Observers Required. Watercraft may not be operated to tow a person on water skis, an aquaplane, surfboard, saucer, or similar device, unless there is in such watercraft another person in addition to the operator in a position to continually observe the person being towed. The operator of such watercraft shall be at least 12 years of age and must watch where the watercraft is being driven at all times. The second person on board shall act as observer of the person being towed, shall be at least 12 years of age and shall watch the person, or persons, being towed at all times.

Subd. 2. Hours. No person shall be towed, or shall operate a watercraft towing a person on any such device on the Lake at any time from one-half hour after sunset to sunrise of the day following.

Subd. 3. Safety Equipment. No person shall be towed, or shall operate a watercraft towing a person on any such device unless the person being towed is wearing a life vest, belt or other buoyant device, except with the written permission of the sheriff. If the buoyant-device worn is not a U.S. Coast Guard approved personal flotation device, a U.S. Coast Guard approved personal flotation device must also be on board and readily accessible to the person being towed.

Subd. 4. Number Towed. Not more than three persons may be towed at one time, except with the written permission of the sheriff.

Subd. 5. Length of Tow. No person shall be towed by rope, cable or other towing device longer than 85 feet, except with the written permission of the sheriff.

Subd. 6. Distance. No person shall operate a watercraft when towing a person, and no person being towed shall come within 150 feet of any bathing area, skin or scuba diver's warning flag, swimmer, raft, watercraft, dock or pier except the raft, dock or pier from which he is operating.

Subd. 7. Empty Tow. No person shall drag an unoccupied tow line behind a watercraft for an unreasonable length of time.

Subd. 8. Towing in Channels. No person shall tow or be towed into or through any marked channel connecting two bodies of water of the Lake.

Section 3.11. Motorized Vehicles.

Subd. 1. Equipment. All motorized vehicles shall have head lamps, red tail lamps, brakes, muffler, and reflective material, all of which must conform to the standards prescribed by the rules and regulations of the Commissioner of Natural Resources. Except as otherwise provided by law motorized vehicles must be equipped at all times with a muffler in good working order which blends the exhaust noise into the overall vehicle noise and is in constant operation to prevent excessive or unusual noise. The exhaust system may not emit or produce a sharp popping or crackling sound. The permissible noise levels for snowmobile mufflers shall be those established by rules and regulations of the Commissioner of Natural Resources.

Subd. 2. Careless Operation. No person shall operate a motorized vehicle on the ice of the Lake:

- a) in a careless, reckless or grossly negligent manner so as to endanger the person or property of another, or at a rate of speed greater than will permit the operator in the exercise of reasonable care, to bring the vehicle to a stop within the assured clear distance ahead, or at a rate of speed greater than the prevailing conditions will allow;
- b) while under the influence of an alcoholic beverage or prohibited drug;
- c) without a lighted head and tail light when required for safety;
- d) in a manner so as to create a loud, unnecessary or an unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.

Subd. 3. Speed. No motorized vehicle may be operated at a speed greater than is reasonable and proper under the surrounding circumstances. No motorized vehicle may be operated at a speed in excess of 25 miles per hour within 150 feet of any fisherman, fish house, pedestrian, skating rink, sliding area, or in any other area on the Lake where the operation would conflict with or endanger other persons or property.

Subd. 4. Operation Within Shorezone. In general, uses of the shorezone are limited to non-motorized activities, including but not limited to walking, skating, snowshoeing, cross-country skiing and fishing.

A motorized vehicle may not be operated at a speed in excess of 25 miles per hour within the shorezone.

A motorized vehicle may traverse the shorezone by the shortest direct route from shoreline to open ice 150 feet beyond shoreline and return as necessary for access to the Lake. A motorized vehicle may traverse the shorezone approximately parallel to the shoreline in narrow areas of the Lake when necessary to proceed from one part of the Lake to another.

Subd. 5. Speed and Operation Outside of Shorezone. Outside the shorezone, motorized vehicles may not be operated in excess of the following speeds:

- a) During the daytime, 50 miles per hour; and
- b) During the nighttime, 50 miles per hour for snowmobiles, as defined in Minnesota Statutes, Section 84.81, Subdivision 3, and 30 miles per hour for all other motor vehicles.

Subd. 5a. Speed on Black, Emerald, and Seton Lakes. Motorized vehicles may not be operated on Black, Emerald, or Seton Lakes at a speed in excess of 25 mile per hour.

Subd. 6. Litter. It is unlawful for the operator of a motorized vehicle to deposit on the ice of the Lake any garbage, rubbish or other litter.

Subd. 7. Unattended Motorized Vehicles. It is unlawful for the owner or operator of a motorized vehicle to leave or allow the vehicle to be or remain unattended on the Lake while the motor is running or with the key to start the vehicle in the ignition switch or if the vehicle does not have an ignition switch which can be locked.

Subd. 8. Access. It is unlawful to permit a motorized vehicle to enter upon the ice of the Lake at any point other than a public access, or from the owner's own property, or from property of a person other than the owner's with the written permission of such property owner.

Subd. 9. Violation. It is unlawful for any person to operate a motorized vehicle or for the owner thereof to permit the operation of a motorized vehicle on the ice of the Lake contrary to the code, to the laws of the state and rules and regulations promulgated thereunder, or to an ordinance of any political subdivision having jurisdiction on the Lake.

Subd. 10. Special Events. Permits for the conduct of special events involving motorized vehicles on the ice of the Lake may be issued by the District in the same manner and under the same procedures as is authorized for special boating events under Section 3.09 of this Code.

Subd. 11. Zone Markers. The sheriff may place distinguishing markers on the ice at various times and locations to assist identification of the limits of the shorezone, the 1,000 foot distance from shoreline, and fish houses and other non-motorized activities. Municipalities may place distinguishing markers on the ice to assist in identification of the shorezone. Only markers provided by the Executive Director and placed in accordance with his directions may be used for this purpose.

Subd. 12. Impounding Motor Vehicles. Motor vehicles may be removed from the Lake by the sheriff or other duly authorized law enforcement officer and taken to a place of safety designated by him in the following circumstances:

- a) The motor vehicle is unattended or unoccupied and represents a hazard to other vehicles using the Lake, or
- b) The motor vehicle is unattended for more than 6 hours, or
- c) The motor vehicle is unattended or unoccupied between one-half hour after official sunset and one-half hour before official sunrise, or
- d) The motor vehicle is unattended or unoccupied and is lacking vital component parts, or
- e) The motor vehicle constitutes a hazard to traffic and the person or persons in charge of the motor vehicle are for any reason physically incapacitated and unable to provide for its custody and control, or
- f) The motor vehicle operator has been taken into custody by the sheriff or other law enforcement officer and the vehicle would otherwise be left unattended.

Subd. 13. (Repealed)

Section 3.12. Snowmobiles.

Subd. 1. Operation by Persons Under 18. No person less than 18 years of age shall operate a snowmobile on Lake Minnetonka unless the operator shall have a valid snowmobile safety certificate in his immediate possession issued pursuant to Minnesota Statutes, Section 84.86, Subdivision 1, or is under the supervision of an adult. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated on the Lake by a person described in this Subdivision unless such person has the certificate required.

Subd. 2. Safety Equipment. A snowmobile must be equipped with a safety or "deadman" throttle in operating condition: a safety or deadman throttle is defined as a device which, when pressure is removed from the accelerator or throttle, causes the motor to be disengaged from the driving track.

Subd. 3. (Repealed)

Subd. 4. Out of State Snowmobiles. It is unlawful for any person to operate a snowmobile which is not registered in the State of Minnesota at a special event without a permit therefor from the Commissioner of Natural Resources.

Subd. 5. Special Events. In granting a permit for a special event involving snowmobiles, the Board may authorize operations of such vehicles in a manner which exceeds the sound limitations of this Code, provided, however, that such operation has been approved by the Commissioner of Natural Resources pursuant to Minnesota Statutes, Section 84.871.

Section 3.13. Scuba Diving.

Subd. 1. Diver's Flags. Every person swimming in the Lake while wearing or carrying any apparatus for breathing while under water shall tow a diver's flag, displayed above the surface of the water, which shall be attached to a device capable of supporting such swimmer and the swimmer's equipment upon the surface of the water.

Subd. 2. Remaining Near Flag. Every person who causes a diver's flag to be displayed shall remain within 50 feet thereof, measured on the surface of the water.

Subd. 3. One Person Per Flag. A diver's flag shall not be towed by more than one person.

Subd. 4. Improper Location of Flag. No person shall display a diver's flag so as to cause unlawful obstruction to navigation.

Subd. 5. Group Diving. If a group of divers is operating in an area, the outside of the perimeter shall be marked and shall be outside of the normal area of navigation.

Section 3.14. Aircraft.

Subd. 1. Use of Lake for Training. No person may operate an aircraft, including an ultralight, on the Lake for training or proficiency purposes on Saturday, Sunday or on a legal holiday. No person may operate an aircraft, including an ultralight, on the Lake for training or proficiency purposes in a manner consisting of a series of more than one landing and take-off in the same officially designated Lake area.

Subd. 2. Multiple Take-Offs and Landings. No person may operate an aircraft, including an ultralight, on the Lake for any purpose consisting of more than one take-off and landing on each Saturday, Sunday, or legal holiday.

Subd. 3. Quiet Waters. Waterborne aircraft are subject to the restrictions or ordinances of the district relating to quiet water areas.

Subd. 4. Licenses. Any person operating an aircraft based on the Lake shall maintain a current personal use seaplane license from the State of Minnesota.

Section 3.15. Barriers Around Thin Ice or Open Water.

Subd. 1. Placement by Sheriff. The sheriff may place markers, signs, barriers, fences, barricades or obstructions around or adjacent to thin or dangerous ice or open water when such placement is deemed necessary by the sheriff to protect the public safety.

Subd. 2. Prohibition. It shall be unlawful to:

- a) drive or walk or pass over, through or around any such barriers, fences, barricades or obstructions; or
- b) disobey any such signs; or
- c) move, remove, deface, damage or tamper with any such markers, signs, barriers, fences, barricades or obstructions.

Section 3.16. Alcohol and Controlled Substances. Liquor, Drugs, Physical or Mental Disability. No person shall operate or be in physical control of any watercraft while under the influence of an alcoholic beverage or prohibited drug. No owner or other person having charge or control of any watercraft shall knowingly authorize or permit any person who is under the influence of an alcoholic beverage or prohibited drug to operate such watercraft. No owner or other person having charge or control of any watercraft shall knowingly authorize or permit any person who by reason of any physical or mental disability is incapable of operating such watercraft to operate such watercraft.

Section 3.17. Adoption of State Statutes and Regulations by Reference. The provisions of the following laws and regulations of the State of Minnesota are adopted by reference and made a part hereof as though fully set forth herein:

Subd. 1. Watercraft Registration. Minnesota Statutes 2000, Section 86B.401 (as amended).

Subd. 2. Fire Extinguishers and Ventilation. Minnesota Statutes 2000, Section 86B.531 (as amended) and Minnesota Rules 1999, Section 6110.1200, Subparts 5 and 6 (as amended).

Subd. 3. Age of Operator/Certificate. Minnesota Statutes 1996, Section 86B.305 (as amended).

Subd. 4. General Rules for Watercraft Operation. Minnesota Statutes 2000, Section 86B.311 (as amended).

Subd. 5. Failure to Stop for Sheriff. Minnesota Rules 1999, Section 6110.1200, Subpart 2E (as amended).

Subd. 6. Removal of Navigation Buoys. Minnesota Statutes 2000, Section 86B.111, Subdivision 2 (as amended).

Subd. 7. Snowmobile Registration. Minnesota Statutes 1984, Section 84.82 and 84.84 (as amended).

Subd. 8. Failure to Report Stolen or Destroyed Snowmobiles. Minnesota Rules 1985, Section 6100.5000, Subpart 8 (as amended).

Subd. 9. Reflectorized Material on Towed Object. Minnesota Rules 1985, Section 6100.5700, Subpart 2 (as amended).

Subd. 10. (Deleted)

Subd. 11. Theft. Minnesota Statutes 1984, Section 609.52, Subdivision 2(1) (as amended).

Subd. 12. Driving Motor Vehicles While Under the Influence. Minnesota Statutes 2004, Chapter 169A (as amended).

Subd. 13. Snowmobiles and All-Terrain Vehicles. Minnesota Statutes 1998, Chapter 84 (as amended).

Subd. 14. Watercraft. Minnesota Statutes 1998, Chapter 86B (as amended).

Subd. 15. (Repealed)

Section 3.18. Bowfishing.

Subd. 1. Prohibition. No person shall engage in bowfishing on Lake Minnetonka except in compliance with the limitations set forth in this Section.

Subd. 2. Compliance with Laws. Bowfishing must be conducted in compliance with all state laws, rules, regulations, and local ordinances including, but not limited to, Minnesota Statutes, Section 97C.376 and Minnesota Rules, Part 6262.0600.

Subd. 3. Prohibited Times and Dates.

- a) Bowfishing is prohibited from one-half hour after sunset to sunrise.
- b) Bowfishing is prohibited from November 15th through May 1st.

Subd. 4. Prohibited Areas. Bowfishing is prohibited from Memorial Day through Labor Day from 10 a.m. on Friday through sunrise on Monday, and on public holidays in the following areas:

- a) High traffic areas including, but not limited to, anchorages, commercial marinas, public or municipal docks, charter boat ports-of-call, public launch ramps and public swimming beaches.
- b) The anchorage commonly known as Cruiser's Cover on the northeast side of Big Island.
- c) The anchorage to the northeast of the channel between Maxwell Bay and Crystal Bay.
- d) Goose Island in Spring Park Bay.

Subd. 5. Orders of Law Enforcement Officers. The Hennepin County Sheriff's Water Patrol and the law enforcement officers of any city bordering the lake are authorized to order a person to cease bowfishing at any specified location on the Lake whenever, in the judgment of such law enforcement officer, it is in the interest of the public peace and safety to do so. Failure to comply with any such lawful order is a misdemeanor.

Subd. 6. Disposal of Fish and Fish Remains. Disposal of fish or fish remains is prohibited:

- a) Anywhere on the waters of Lake Minnetonka, its channels, tributaries or wetland area.
- b) Within 300 feet of the shoreline, except in private refuse containers or where remains are used as buried fertilizer by residents of the property.
- c) At any public access point, except in containers designed for and specifically signed to allow fish disposal.

CHAPTER IV
ENVIRONMENTAL CONTROL

Section 4.01. Pollution of Waters of the Lake.

Subd. 1. Prohibition. No person shall pollute the surface waters of the district by placing or depositing or by permitting to be placed or deposited in, or upon said waters or upon any public or private property from which may run into said water any sewage, industrial waste, garbage, rubbish or other waste.

Subd. 2. Private Sewage Systems. Private sewage disposal systems designed for soil absorption of subsurface disposal shall be operated as such and any surface discharge from either is pro-hibited.

Subd. 3. Littering. No person shall throw or otherwise discard or deposit any bottle, can, carton, or other food or beverage wrapper or container, leaves, branches, grass clippings or any other rubbish or wastes in the waters of the district or on the shoreline of such waters.

Subd. 4. Pieces of Ice. No person shall leave on the surface of the ice or snow pieces of ice cut from the Lake. All such pieces of ice cut from the Lake shall be removed from the Lake, replaced in the hole from which they were cut, or deposited under the surface of the ice.

Subd. 5. Variances. Where, upon the written application of the responsible person or persons, other than metropolitan sewer board sewage facility operators, the Board finds that by reason of exceptional circumstances strict conformity with any of the provisions contained herein would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the Board may permit a variance from these provisions upon such condition and within such time limitations as it may prescribe, for prevention, control, or abatement of pollution in harmony with the intent of state, federal and Lake Minnetonka Conservation District Laws.

Section 4.02. Weeds; Introduction and Removal Prohibited.

Subd. 1. Definition. For purposes of this Section, the term "weed" means any plant or any cutting, part or fragment of any plant.

Subd. 2. Prohibition.

- a) No person shall introduce weeds into the Lake or remove weeds from the Lake to a point more than 50 feet from the shoreline of the Lake.
- b) No person shall introduce into the Lake or remove from the Lake to a point outside the defined boat launch area or 200 feet, whichever is less, any vehicle, boat, trailer or any other object which is capable of holding or carrying weeds without first carefully and thoroughly inspecting such vehicle, boat, trailer or other object for weeds and removing all weeds discovered.

Subd. 3. Exceptions. The provisions of Subdivision 2 of this Section do not apply to any of the following:

a) The introduction of weeds into the Lake or the removal of weeds from the Lake pursuant to license from the Commissioner.

b) The removal of weeds from the shoreline or beaches of the Lake or the lawful harvesting of weeds for weed control purposes, provided the weeds so removed or harvested are composted beyond 150 feet of the shoreline, are transported and disposed of by an authorized hauler of refuse or yard waste, or are transported and disposed of in a manner designed to ensure that such weeds will not be introduced into any other waters of the State.

Section 4.03. Zebra Mussel: Introduction Prohibited. No person may introduce into the Lake or operate on the Lake any vehicle, watercraft, trailer or other object which has had affixed or attached any zebra mussels (any species of the genus *Dreissena*) until such vehicle, watercraft, trailer or other object has been cleaned of all visible or discoverable mussels and either 1) 15 days have elapsed after such cleaning before it is introduced to the Lake during which time it shall remain dry or 2) the owner has secured the opinion of a person recognized as qualified by the Minnesota Department of Natural Resources or the District that there are no viable zebra mussels or any of the life stages thereof on such vehicle, watercraft, trailer or other object.

CHAPTER V
LIQUOR AND BEER

PART 1. INTOXICATING LIQUOR LICENSING

Section 5.01. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licenses, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

Section 5.02. License Required.

Subd. 1. General Requirement. No person shall directly or indirectly deal in, sell, or keep for sale on the Lake any intoxicating liquor with-out a license to do so as provided in this ordinance. Liquor licenses shall be of two kinds: "on-sale" and "on-sale wine" licenses.

Subd. 2. On-Sale Licenses. "On-sale" licenses shall be issued only to registered charter boats which meet the requirements of Minnesota Statutes, Chapter 340A for clubs, restaurants, or exclusive liquor stores and shall permit "on-sale" of liquor only. On-sale licenses shall only be issued to registered charter boats which provide food service and which have on-demand facilities to serve full meals as well as snacks to all of its patrons.

Subd. 3. On-Sale Wine Licenses. "On-sale" wine licenses shall be issued only to registered charter boats meeting the qualifications for restaurants of Minnesota Statutes, Section 340A.404, Subdivision 5 and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. A holder of an on-sale wine license who is also licensed to sell non-intoxicating malt liquors at on-sale, and whose gross receipts are at least 60 percent attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional license.

Subd. 4. Special Licenses for Sunday Sales. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any registered charter boat meeting the requirements of Minnesota Statutes, Chapter 340A for restaurants or clubs which has facilities for serving at least 30 guests at one time, and which has an on-sale license. A special Sunday license is not needed for sales by wine licensees.

Subd. 5. (Repealed)

Section 5.03. Application for License.

Subd. 1. Form. Every application for a license to sell liquor shall state the name and age of the applicant, representations as to character, with such references as the Board may require, citizenship, the type of license applied for, the charter boat and other business in connection with which the proposed license will operate and their locations including the storage location of the charter boat, whether the applicant is owner and operator of the businesses, how long the applicant has been in the business, a sample menu showing food service to be made available to customers, and such other information as the Board may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the Executive Director. No person shall make a false statement in an application.

Subd. 2. Liability Insurance. Prior to the issuance of a liquor license, the applicant shall file with the Executive Director a liability insurance policy, bond, or other security in compliance with the provisions of Minnesota Statutes, Section 340A.409.

Subd. 3. Approval of Security. The security offered under Subdivision 2 shall be approved by the District and, in the case of applicants for "on-sale" wine licenses, by the state Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the District's attorney. Operation of a licensed business without having on file with the District at all times effective security as required by Subdivision 2 is a cause for revocation of the license.

Subd. 4. Application Due Date. All renewal applications for intoxicating liquor licenses must be submitted no later than February 1st of the license year. Applications must be complete and accompanied by the required fee. Renewal licenses will not be granted to applicants submitting applications that are late, incomplete or not accompanied by the required fee if the number of applications and statements of intent to submit new applications received on or before February 1st exceeds the number of licenses that the district may lawfully issue.

Section 5.04. License Fees.

Subd. 1. Fees. The annual fee for all liquor licenses shall be established from time to time by resolution of the Board.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the Executive Director for payment in full of the license fee and the fixed investigation fee required under Section 5.05, Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the Executive Director shall refund the amount paid as the license fee.

Subd. 3. Term, Pro Rata Fee. Each license shall be issued for a period of one year and shall expire on the last day of December.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by statute.

Section 5.05. Granting of Licenses.

Subd. 1. Preliminary Investigation. On an initial application for an "on-sale" license and on application for transfer of an existing "on-sale" license, the applicant shall pay with the application an investigation fee in an amount to be established from time to time by resolution of the Board and the District shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and contain such additional information as the Board may require. If the Board deems it in the public interest to have an investigation made on a particular application for renewal of an "on-sale" license, it shall so determine. If the Board determines that a comprehensive background investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Board that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged with the actual cost not to exceed \$10,000. The fee, after deducting any initial investigation fee already paid, shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and Issuance. The District shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Board shall, in its discretion, grant or refuse the application. No "on-sale" wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Section 5.06. Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by state law.

Section 5.07. Charter Boats, Watercraft for Hire, and Businesses Ineligible for License.

Subd. 1. General Prohibition. No license shall be issued for any charter boat, watercraft for hire or any business ineligible for such a license under state law, where a licensee has been convicted of the violation of this ordinance, or of the state beer or liquor law, or for any watercraft for hire for which a license allowing adult cabaret or exotic dancing has been issued or requested.

Subd. 2. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which financial claims of the District are delinquent and unpaid.

Section 5.08. Conditions of License.

Subd. 1. General. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

Subd. 2 Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

Section 5.09. Suspension and Revocation. The Board may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor, this chapter, or any license condition. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section 14.57 to 14.69.

PART 2. BEER LICENSING

Section 5.21 Definition of Terms. Beer. As used in this ordinance, "beer" or "non-intoxicating malt liquor" means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Section 5.22 License Required.

Subd. 1. Licenses. No person shall deal in or dispose of by sale or otherwise, or keep or offer for sale, any beer on the Lake without first having received an on-sale license as hereinafter provided. "On-sale" licenses shall be granted only to registered charter boats meeting the requirements of Minnesota Statutes Chapter 340A for restaurants, clubs and establishments used exclusively for the sale of non-intoxicating malt liquor with the incidental sale of tobacco and soft drinks. "On-sale" licenses shall permit the sale of beer for consumption on the premises only.

Subd. 2. (Repealed)

Section 5.23 License Applications. Every application for a license to sell beer shall be made to the Executive Director on a form supplied by the District and containing such information as the Executive Director or the Board may require. It shall be unlawful to make any false statement in an application. On an initial application for a license or an application for transfer of an existing license, the applicant shall pay with the application a non-refundable investigation fee in an amount to be determined from time to time by resolution of the Board of Directors, and the District shall conduct a preliminary background and financial investigation of the applicant.

Section 5.24 License Fees.

Subd. 1. Payment Required. Each application for a license shall be accompanied by a receipt from the Executive Director for payment in full of the required fee for the license. All fees shall be paid into the general fund of the District. Upon rejection of any application for a license, the Executive Director shall refund the amount paid.

Subd. 2. Expiration. Every license shall expire on the last day of December in each year. Each license shall be issued for a period of one year or part thereof.

Subd. 3. Fees. The annual fees for a regular "on-sale" license shall be established from time to time by resolution of the Board.

Section 5.25. Granting of License.

Subd. 1. Investigation and Hearing. The Board shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Board shall grant or refuse the application in its discretion.

Section 5.26. Persons Ineligible for License. No license shall be granted to or held by any person who:

- (1) is ineligible for such a license under state law by reason of age;
- (2) has, within five years prior to the application for such license, been convicted of a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;

- (3) is a manufacturer of beer or has an interest in or control of any place where beer is manufactured;
- (4) is an alien;
- (5) is not of good moral character;
- (6) is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place; or
- (7) is not the proprietor of the establishment for which the license is issued.

Section 5.27. Charter Boats, Watercraft for Hire, and Businesses Ineligible for License. No license shall be issued for any charter boat, watercraft for hire or any business ineligible for such a license under state law, or where a licensee has been convicted of the violation of this ordinance, or of the state beer or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation, or for any watercraft for hire for which a license allowing adult cabaret or exotic dancing has been issued or requested.

Section 5.28. Conditions of License.

Subd. 1. General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the District or state law.

Subd. 2. Sales to Under Age or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any person under legal age.

Subd. 3. Consumption by Under Age Persons. No person under legal age shall be permitted to consume beer on the licensed premises.

Subd. 4. Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of state law. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 5. Liquor Dealers' Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.

Subd. 6. Sales of Intoxicating Liquor. No beer license licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquors for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.

Subd. 7. Searches and Seizures. Any peace officer may enter, inspect and search the charter boat of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquor found on the licensed premises in violation of Subdivision 6.

Section 5.29. Clubs. No club shall sell beer except to members and to guests in the company of members.

Section 5.30. Restrictions on Purchase and Consumption.

Subd. 1. Definitions. For purposes of this Section, the following terms have the following meanings:

- a) "Alcoholic beverage" means any beverage containing more than one-half of one percent (0.5%) alcohol by volume.
- b) "Underage person" means any individual under twenty-one (21) years of age.

Subd. 2. Age Misrepresentation. It is unlawful for any underage person to claim to be 21 years old or older for the purpose of obtaining or purchasing an alcoholic beverage.

Subd. 3. Inducing Purchase. It is unlawful for any person to induce an underage person to purchase or procure an alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by an underage person for the purpose of purchasing or attempting to purchase an alcoholic beverage.

Subd. 4. Procurement. It is unlawful for any person to sell, barter, furnish, or give an alcoholic beverage to an underage person..

Subd. 5. Possession. It is unlawful for any underage person to possess an alcoholic beverage with the intent to consume it. Possession of an alcoholic beverage creates a rebuttable presumption of intent to consume. This presumption may be rebutted by a preponderance of the evidence.

Subd. 6. Consumption. It is unlawful for any underage person to consume an alcoholic beverage. As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage. A violation of this subdivision exists if consumption, or evidence of consumption, is observed.

Subd. 7. Liquor Consumption and Display. No person shall consume or display any alcoholic beverage on the premises of a business establishment, club, charter boat, or watercraft for hire that is not also licensed to sell alcoholic beverages or who does not hold a consumption and display permit.

Subd. 8. Watercraft Owners and Operators. It is unlawful for an owner of a watercraft who is present in the watercraft, or for the operator of a watercraft if the owner is not present, to allow,

or fail to take reasonable steps to prevent, the possession or consumption of any alcoholic beverage by an underage person on the watercraft if the owner or operator knows, or reasonably should know, the underage person possesses or is consuming any alcoholic beverage. This prohibition does not apply to situations in which an underage person is lawfully in possession of alcoholic beverages during the course and scope of employment.

Subd. 9. Fish Houses. It is unlawful for the license holder of a fish house who is present in the fish house to allow, or fail to take reasonable steps to prevent, the possession or consumption of any alcoholic beverage by an underage person in the fish house if the license holder knows, or reasonably should know, that the underage person possesses or is consuming any alcoholic beverage.

Section 5.31. Revocation. The violation of any provision or condition of any applicable statute, regulation, or ordinance relating to intoxicating liquor, this chapter or any license condition by a beer licensee or his agent is grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this ordinance may be revoked or suspended by the District in accordance with and in the same manner as revocation or suspension of liquor licenses under Section 5.10.

PART 3. GENERAL PROVISIONS

Section 5.41. Pre-Licensing Inspection. Prior to any public hearing on the issuance of a license under this chapter, the Executive Director or the Executive Director's designee shall inspect the watercraft and the facilities of proposed ports of call and shall report to the Board on recommended modifications, conditions or operating restrictions which may be necessary to protect the safety of the public and of passengers on the watercraft and the enjoyment of the Lake by the public.

Section 5.42. Persons and Watercraft Licensed; Transfer. Each license required under this chapter shall be issued only to the applicant and for the watercraft described in the application. No transfer of a license to another watercraft or to another applicant is authorized without first securing the permission of the Board upon application, payment of fees, and consideration of the application in the same manner as in the granting of a new license. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior Board approval is a ground for revocation of the license. No licenses may be granted except to watercraft holding a charter boat license from the District.

Section 5.425. Mandatory Training. Each year, at the direction of the Board, the Executive Director will conduct one or more training sessions for applicants for new or renewal licenses. Training shall be given in state laws and local ordinances relating to the sale of alcohol and to the operation of charter boats. No new or renewal license shall be granted to an applicant who has not attended a training session for that license year, either personally or by authorized representative.

Section 5.43. General License Conditions.

Subd. 1. General. Every license issued under this chapter is subject to the conditions in the following subdivisions.

Subd. 2. Licensee's Responsibility. Every licensee is responsible for the conduct of the licensee's place of business and the conditions of sobriety and order in it. No watercraft holding a license under this chapter may play any live or amplified music or amplified voice except in fully enclosed areas of the watercraft or in emergency situations. Operations and activities on the watercraft shall be so conducted as not to interfere with the peaceful enjoyment of the Lake and of surrounding properties by riparian owners and by the public. License holders shall be responsible to ensure that operations and activities shall be so conducted as not to violate Section 3.01, Subd. 23. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subd. 3. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the District, Hennepin County or the State of Minnesota to enter, inspect and search the premises of the licensee during business hours without a warrant.

Subd. 4. Display During Prohibited Hours. No "on-sale" establishment shall display any alcoholic beverage to the public during hours when the sale of liquor is prohibited.

Subd. 5. Gambling. No gambling or any gambling device shall be permitted on any licensed premises.

Section 5.44. Authorized Ports of Call.

Subd. 1. Designation. At the time of application for any license under this chapter, the applicant shall designate specific docks, moorings or other facilities at which passengers will be embarked and disembarked. Licenses granted by the Board will designate specific authorized ports of call, and no passengers, except law enforcement personnel or employees, may be embarked or disembarked except at either a) authorized ports of call or b) other locations at a frequency of no more than once each year at any one location.

Subd. 2. Certificate. No ports of call shall be authorized by the Board without first securing a certificate from the municipality within which such port of call lies stating that the activities to be conducted by the applicant at the port of call are in compliance with municipal zoning laws. No embarkation or disembarkation at other locations is authorized unless permission for such activity has been secured from appropriate officials of the city in which it occurs.

Subd. 3. Stopping, Mooring, Anchoring Prohibited. No licensed boat shall stop, moor or anchor closer than 300 feet from shore except at authorized ports of call or at any place in the Lake other than authorized ports of call after 6:00 p.m. for more than two hours.

Subd. 4. Additional Ports of Call. The notice of public hearing for consideration of a license shall specify ports of call for which approval is requested by the applicant. Licensees may request approval of additional ports of call upon application, payment of a fee which shall be set from time to time by resolution of the Board, and consideration by the Board which may grant or deny approval for additional ports of call, or grant approval with conditions in the same manner as in action on an application for a new license. No public hearing is required for an existing licensee who is applying to add additional ports of call.

Section 5.45. Operational Rules.

Subd. 1. Distance from Shoreline. No watercraft holding a license under this chapter may pass within 300 feet of the shoreline except at an authorized port of call or in channels having a width of less than 600 feet in which case such watercraft shall remain as nearly in the center of the channel as is consistent with good seamanship and the Rules of the Road.

Section 5.46. Hours of Operation. No sale of intoxicating liquor or non-intoxicating malt liquor may be made except during times established by state law. All boats to which any license has been issued under this chapter must disembark all customers, passengers or patrons by 12:30 a.m. and must return to, and be tied, moored or secured for the night at its home port by 1:00 a.m.

Section 5.47. Restrictions; Vested Rights. Upon granting a license under this chapter, the Board may impose any restrictions on the operations of the licenses deemed by the Board to be necessary or desirable to protect the public safety, the enjoyment of the Lake by the public, or the safety of passengers on the licensed watercraft. The granting of a license shall create no vested rights in the licensee and all rights and operations of the licensee shall continue to be subject to further or additional regulation by the District.

