



LAKE MINNETONKA CONSERVATION DISTRICT

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Gregory S. Nybeck, EXECUTIVE DIRECTOR

December 8, 2011

TO: Board of Directors
FROM: Emily Herman, Administrative Assistant/Code Enforcement
SUBJECT: 2011 LMCD Proactive Code Enforcement Program Report

Background

Since 2006, the Lake Minnetonka Conservation District (LMCD) has developed and implemented a process for enforcement of watercraft storage ordinances for residential sites on Lake Minnetonka (Code Section 2.02). Staff spends an estimated two days a week from May to August surveying the shoreline of Lake Minnetonka to identify and re-inspect sites storing five or more restricted watercraft that do not have a multiple dock license or sites storing three or four larger, restricted watercraft that do not comply with the 1:50' General Rule. Once data is obtained (watercraft information and GIS waypoints), staff initiates the assessment process and updates a program database. Communication is then initiated for those sites that are found out of compliance.

Communication Process

Through the 2010 boating season, staff utilized a three-part communication process (three, non-consecutive boating seasons of non-compliance) prior to initiating legal action. However, in presenting a Code Enforcement Program update to the Board on April 27, 2011, staff was directed to compress the communication process to two-parts prior to initiating legal action. Additionally, some Board members expressed an interest in removing and/or softening the notation of possible prosecution in the concluding paragraph of the initial letter; bringing that notation forward and following through with action in the second letter. With that said, the following sentences were incorporated:

Initial Letter Concluding Paragraph

The LMCD is requesting your prompt attention and cooperation in this matter. Repeat inspections are scheduled for the 20__ boating season and beyond, in which ongoing violations may result in legal consequences. I welcome your call to answer any questions you may have or to assist in reviewing your boat storage needs.

Second Letter Concluding Paragraph

Re-inspection of your watercraft storage is planned this boating season and beyond. **Any further violations could result in legal consequences as documentation would then be turned over to the LMCD prosecuting attorney.** I continue to welcome your call to answer any questions you may have or to assist in reviewing your boat storage needs.

Web Page Address: <http://www.lmcd.org>

E-mail Address: lmcd@lmcd.org

2010 Prosecuting Matters: Resolved in 2011

Eleven Complaints from the 2010 boating season were filed with the LMCD prosecuting attorney and finalized in 2011. These are highlighted as follows:

Four charged with being in violation of LMCD Code 2.03, subd. 1(maintaining a multiple dock without a license)

- One dismissed
- Three signed a Continuance for Dismissal with the condition that they not have any new or same violations by a specific date set

Seven charged with being in violation of LMCD Code Sec. 2.02, subd. 2 (non-compliance of 1:50' Rule)

- One failed to appear; warrant out for arrest
- Two dismissed
- Two pleaded guilty
- Two signed a Continuance for Dismissal with the condition that they not have any new or same violations by a specific date set

2011 Code Enforcement Findings

At the April 27, 2011 Board meeting, staff was directed to maintain the following enforcement priorities for the 2011 boating season: 1) take the necessary steps to resolve problematic sites established from 2006 forward, 2) document only new flagrant violations, 3) re-inspect and define sites where necessary; working with LMCD prosecuting attorney when warranted, and 4) keep Board members apprised of any prosecuting matters within their represented municipality. The following findings for the 2011 season are outlined below:

In Compliance	96
In Compliance but Annually Reviewed	13 (1)
New (Flagrant) 5-Boat Violations	14
Second 5-Boat Violations	<1> (2)
Customized Letter for 5-Boat Violations	3 (3)
Customized Letter for 5-Boat Shared Dock Violations	0 (4)
New (Flagrant) 3 or 4-Boat Violations	9
Second 3 or 4-Boat Violations	<3> (5)
3 or 4-Boat Violations Pending Further Research	1
Customized Letter for 3 or 4-Boat Violations	1
Defined Sites Pending Prosecution	5
Formal Complaints	<u>2</u>
TOTAL	144 (6)

- (1) Typically has multiple empty lifts or in and out of compliance.
- (2) Number documented under "2011 Defined Sites Pending Prosecution" (Resulting from Compressed Communication; 2nd violation, submitted communication, re-inspected, defined for prosecution in one boating season)

- (3) Require special communication, i.e., working with local municipality/resident.
- (4) Shared docks that are candidates for a multiple dock license via Ordinance #207.
- (5) Number documented under "In Compliance" (Resulting from Compressed Communication; 2nd violation, submitted communication, re-inspected, in compliance)
- (6) Numbers within individual categories are subject to change.

2011 Prosecuting Matters

As noted above, there are five sites in which the LMCD will file a Complaint on. Board members within their respective cities will receive notification of such, as well as follow-up communication on the final outcome. All pending communication from the 2011 boating season (initial letters and filing of Complaints) will be finalized by early January.

Conclusion

Staff offers the following for Board consideration:

1. Staff believes the Board's decision to compress the communication process to two boating seasons prior to initiating legal action went well and recommends continuation of that process. Today's findings provide for a total of 33 sites that could potentially require two inspections and follow-up legal action (defining of sites) for the 2012 boating season; however, many are anticipated to come into compliance with their watercraft storage.
2. At the April 27, 2011 meeting, the Board expressed an interest in researching the storage and use patterns of personal watercraft (PWC), including how they are taken into consideration with the current residential storage rules and whether those rules should be reviewed. Additionally, the Board has always directed staff to inspect sites storing three or four larger, restricted watercraft. However, one area staff struggles with is when a site reduces their larger watercraft, but maintains or increases their PWCs. Therefore, staff questions if the Board would like to enforce sites that have reduced their storage but may still be out of compliance with smaller watercraft. It is important to note that if that is the Board's choice, there may be future prosecution cases that provide for two larger watercraft and two PWCs; still remaining of compliance but not as visibly intrusive as the larger watercraft.
3. At the June 9, 2010 meeting, the Board adopted Ordinance #207; providing for the issuance of a streamlined, multiple dock license for two or more residential sites maintaining a single common dock structure. Although there is currently only one shared dock license issued under this situation, staff believes this process has worked well in offering this, more environmentally and economically friendly, option to the lake residents. Many have been receptive of the idea; however, chose to come into compliance by other means.
4. The 2012 Proactive Code Enforcement Program will be completed in conjunction with the 2012 Shoreline Boat Storage Count Program.