

**LAKE MINNETONKA CONSERVATION DISTRICT
STATE OF MINNESOTA**

ORDINANCE NO. 228

**AN ORDINANCE AMENDING THE LAKE MINNETONKA
CONSERVATION DISTRICT CODE OF ORDINANCES**

THE BOARD OF DIRECTORS OF THE LAKE MINNETONKA CONSERVATION DISTRICT
ORDAINS:

Article I. Definitions. Chapter I, Section 1.02 of the Lake Minnetonka Conservation District Code of Ordinances (“LMCD Code”) is hereby amended by adding a new subdivision 38a as follows:

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.

Article II. Definitions. Chapter I, Section 1.02, subdivision 54 of the LMCD Code is hereby amended by adding the double-underlined material and deleting the ~~stricken~~ material as follows:

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) ~~fishing contests; or~~
- f) ~~boat shows; or~~
- g) ~~parasailing, hang gliding or other activity involving boat towing~~

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.

Article III. Publication. Chapter I, Section 1.04, subdivision 5 of the LMCD Code is hereby amended by adding the double-underlined material and deleting the ~~stricken~~ material as follows:

Subd. 5. Effective Date. District ordinances are effective ~~upon~~ 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 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.

Article IV. Variances. Chapter I, Section 1.07, subdivisions 1 and 6 of the LMCD Code are hereby amended by adding the double-underlined material and deleting the ~~stricken~~ material as follows:

Section 1.07. Variance.

Subd. 1. General Statement. Where practical difficulties ~~or particular hardship~~ occur or where necessary to provide access to ~~the handicapped~~ 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 ordinance, 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.

Sub. 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 ~~their strict enforcement would cause undue hardship because~~ 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 the handicapped persons with disabilities. ~~and shall grant such variances only when it is~~ The Board may only grant a variance if the property owner is able to demonstrated that such actions 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 ~~the handicapped 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.

Article V. Special Events. Chapter III, Section 3.09, subdivision 1 of the LMCD Code is hereby amended by adding the double-underlined material and deleting the ~~stricken~~ material as follows:

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~~ for the event 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.

Article VI. Special Events. Chapter III, Section 3.09 of the LMCD Code is hereby amended by deleting subdivisions 2 through 10 and renumbering the remaining subdivisions accordingly:

~~Subd. 2. Purpose. The Board has determined that it is necessary and expedient for the protection and preservation of the Lake to adopt rules and regulations to prevent the introduction to the Lake of exotic species of plants and animals from infested waters. The Board has further determined that special events on the Lake, such as sailing races, boat parades and displays, waterski contests and fishing contests, have a greater potential for introducing such exotic species because such events encourage participation by boaters who would not otherwise come to the Lake and who may come from infested waters or areas, including areas out of the State of Minnesota, where exotic species are more prevalent and where boater education about the spread of exotic species is not well established. Accordingly all special events which include participation by any watercraft which are not stored on the waters of Lake Minnetonka shall be subject to the requirements of Subdivisions 3 through 9 of this Section.~~

~~Subd. 3. Information to Special Event Participants. Licensees shall provide copies of all informational and educational materials provided by the District to all participants in the special event prior to the commencement of the event. Such information shall include, as a minimum, a summary of Minnesota laws relating to the transportation of exotic species, a list of waters known to~~

~~be infested by undesirable exotic species, a summary of the requirements of Subdivisions 3 through 9 of this section, educational materials about exotic species, and instructions for contacting the District and arranging for watercraft to be inspected and cleaned. Within five (5) working days of the issuance of a license, the licensee shall contact the Executive Director to discuss arrangements and scheduling for inspection and washing of participating watercraft.~~

~~Subd. 4. Entry Forms. It shall be unlawful for any licensee to allow participation by any person who has not submitted to the licensee an entry form prior to participation in the event. It shall be unlawful for any person to participate in any special event or to launch a watercraft in advance of participation in any special event without first having submitted an entry form to the licensee.~~

~~(a) Each entry form shall contain the following certification form which shall be completed for each watercraft participating in the event:~~

~~"I acknowledge receipt of a list of waters infested by exotic species of plants and animals prepared by the Lake Minnetonka Conservation District. [Participants must sign one of the following:]~~

~~1. I certify that the watercraft in which I will participate in this special event will not have been in any of the listed infested waters for at least thirty (30) days prior to participation in the event; or, if the watercraft has been in such infested waters within such thirty (30) day period, it will have been completely dry (including all live wells, bilges, and other parts of the watercraft which are capable of holding water) for a period of at least five (5) consecutive days prior to participation in the event. By my signature below I acknowledge that I understand: 1) that a false certification is a crime under the ordinances of the Lake Minnetonka Conservation District (LMCD); and 2) that if the watercraft identified below is placed in infested waters within thirty (30) days prior to launching in Lake Minnetonka and is not completely dry for five (5) consecutive days during that period, I will be required by law to have the watercraft inspected and cleaned by personnel approved by the LMCD.~~

~~Name (please print)_____:~~

~~Signature:_____~~

~~Date:_____~~

~~State of registration of watercraft:_____~~

~~Registration number of watercraft:_____~~

~~2. I acknowledge that the watercraft in which I will participate in this special event has been in, or may be in, infested waters within thirty (30) days prior to participation in the event and may not be completely dry (including any live wells, bilges and other parts of the watercraft which are capable of holding water) for at least five (5) consecutive days. By my signature below I acknowledge and understand that it is a crime under the ordinances of the Lake Minnetonka Conservation District (LMCD) to participate in the event without first having the watercraft inspected and cleaned by personnel approved by the LMCD, securing~~

~~a written certification that the watercraft has been so inspected and cleaned from the LMCD, and providing the certification to the organizers of the event prior to my participation.~~

~~Name (please print) _____:~~

~~Signature: _____~~

~~Date: _____~~

~~State of registration of watercraft: _____~~

~~Registration number of watercraft: _____~~

~~Subd. 5. Prohibitions on Participation. It shall be unlawful for a participant in a special event:~~

~~a) to make a false certification on the form described subdivision 4;~~

~~b) to participate in a special event with a watercraft which has been in waters identified in the list of infested waters provided by the District within thirty (30) days prior to the special event and which has not been inspected and cleaned by personnel approved by the LMCD unless the watercraft has been completely dry for five (5) consecutive days during such thirty (30) day period;~~

~~c) to participate in a special event without first providing to the event licensee either:~~

~~i) a certification in the form prescribed in subdivision 4(a) 1; or~~

~~ii) a certification from the District that the watercraft has been inspected and cleaned by personnel approved by the LMCD.~~

~~Subd. 6. Prohibitions of Licensees. It shall be unlawful for a licensee to allow participation in the special event by any person in a watercraft for which the certification required by subdivision 5 has not been provided prior to commencement of the event.~~

~~Subd. 7. Records. Licensees shall maintain in a central location copies of all entry forms and certifications of all participants. Such records shall be retained for one year after the special event and shall be made available for inspection by the Sheriff or District personnel upon request. The application for a special events license shall state the name, address and telephone number of the person responsible for the collection and retention of such records.~~

~~Subd. 8. Duties of Executive Director. The Executive Director shall:~~

~~a) make available to any licensee upon request copies of information specified in subdivision 3.~~

~~b) make available boat inspection and cleaning services at no charge to all participants in special events either with LMCD employees and equipment or by authorizing other qualified persons to provide such services. Hours of operation and locations of inspections and cleaning services shall be as established by the Board; and the Executive Director shall provide licensees with information describing such times and locations and instructions for contacting the District to arrange for inspection and cleaning.~~

~~e) provide certification of inspection and cleaning upon providing such services, stating date and time of inspection and cleaning, the watercraft registration number, and the signature of the authorized personnel providing such services.~~

~~Subd. 9. Certificate of Waiver. In circumstances under which the risk of infestation of exotic species is low or adequate watercraft inspection and washing services are not available, the Executive Director or the Executive Director's authorized designee may issue certificates of waiver stating the date of the waiver and the special event for which it is applicable, the watercraft registration number, and the signature of the Executive Director or designee. Such certificate shall satisfy the requirements of subdivision 5e)ii) of this section.~~

~~Subd. 10. Violations. Violating any provision of subdivisions 3 through 7 of this section is a misdemeanor. Violation of subdivisions 3, 4, 6 or 7 is also ground for revocation or suspension of a special events license and for a decision to deny license applications from the licensee for subsequent events.~~

Article VII. Effective Date. This Ordinance shall be effective on the first day of publication after adoption, is enacted by a majority vote of all the members of the Board, and has the effect of an ordinance.

Adopted this 11th day of May, 2016.

BY THE BOARD OF DIRECTORS

/s/ James Jay Green
James Jay Green, Chair

ATTEST:

/s/ Gregory J. Thomas
Gregory J. Thomas, Secretary

Date of Publication: May 17, 2016

Effective Date: May 18, 2016