

**LAKE MINNETONKA CONSERVATION DISTRICT
STATE OF MINNESOTA**

ORDINANCE NO. 230

**AN ORDINANCE AMENDING THE LAKE MINNETONKA
CONSERVATION DISTRICT CODE OF ORDINANCES
REGARDING MINOR CHANGES TO NONCONFORMING STRUCTURES**

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

Article I. Legislative Findings. The Board of Directors (“Board”) hereby finds and determines as follows:

- (a) There are approximately forty-eight (48) nonconforming structures on the Lake that are on file with the Lake Minnetonka Conservation District (“LMCD”);
- (b) Lake Minnetonka Code of Ordinances (“Code”) places reasonable restrictions on nonconforming structures that allow them to continue, but in a way that also respects other users of the Lake and the goals and policies of the LMCD;
- (c) Chapter II, Section 2.015, Subd. 4 allows owners of nonconforming structures to seek permission to reconfigure the structure by submitting a minor change application to the LMCD Executive Director;
- (d) The Executive Director may approve such requests if they meet certain conditions listed in the section including: (2) All watercraft stored at the reconfigured facility conform to the length limitations of Subdivision 9 of [Section 2.015]; and (6) There is no increase in the square footage of slips outside of 100 feet from the shoreline at elevation 929.4 NGVD and that;
- (e) The restrictions imposed by these conditions can prohibit minor changes to nonconforming structures that are objectively reasonable in that they may result in a minor increase in the square footage of slips, but does not result in an overall increase in the footprint of the structure;
- (f) For example, an owner that wishes to replace the fingers between slips with Dolphin poles to accommodate the trend toward wider watercraft without increasing the number or length of the slips, or otherwise increasing the footprint of the structure, is reasonable and is currently prohibited under condition (6) without reducing some other portion of the structure to avoid any increase in total square footage;
- (g) Owners are also deterred from making minor changes to their nonconforming structures because doing so requires them, under condition (2), to potentially prohibit or remove watercraft that have previously been allowed to be stored at the structure;
- (h) The Board determines that creating a limited exception to the conditions placed on the minor change reconfiguration of nonconforming structures that do not increase the footprint of the structure is in the best interest of the LMCD.

Article II. Exception. Chapter II, Section 2.015, Subdivision 4, of the Lake Minnetonka Code of Ordinances is hereby amended by adding the double-underlined material as follows:

Minor Change Applications Approved by Executive Director. The Executive Director may approve reconfiguration of non-conforming structures other than Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs without a public hearing and without Board approval if, in addition to the requirements of Subdivision 3 of this Section, all of the following conditions are met:

- 1) The proposed reconfiguration does not include a conversion of slides to slips.
- 2) All watercraft stored at the reconfigured facility conform to the length limitations of Subdivision 9 of this Section.
- 3) There is no substantial change in the amount of the Lake obstructed or occupied by the dock.
- 4) There is no substantial change in the use of the dock or type of watercraft stored at the dock.
- 5) There is no increase in the number of BSUs stored outside of 100 feet from the shoreline at elevation 929.4 NGVD.
- 6) There is no increase in the square footage of slips outside of 100 feet from the shoreline at elevation 929.4 NGVD.

If a proposed reconfiguration does not, in the reasonable determination of the Executive Director, result in an increase in the footprint of the nonconforming structure, the Executive Director may approve the minor change application without requiring compliance with conditions (2) or (6) above, provided the proposed reconfiguration otherwise complies with the Code. For the purpose of this provision, the “footprint” of the existing nonconforming structure shall be the total outside dimensions of all parts of the particular structure being reconfigured. The term does not include other structures that are not connected to or immediately adjacent to the structure being reconfigured even if the additional structures are part of the same dock license. No approval of a minor change application shall be deemed to exclude compliance with conditions (2) or (6) unless such exclusion is expressly stated in the approval issued by the Executive Director. A reconfiguration approved under this provision shall not constitute an expansion of a nonconforming use under Section 2.10, subdivision 3, and if it results in an increase in slip size, a special density license shall not be required under Section 2.05, subdivision 9.

The Executive Director may approve reconfiguration of non-conforming Qualified Commercial Marina structures, Qualified Sailing School structures and Qualified Yacht Club structures without a public hearing and without Board approval if, in addition to all provisions of Subdivision 3.a) of this Section, all of the following conditions are met:

- 1) The proposed reconfiguration does not include a conversion of slides to slips.
- 2) There is no substantial change in the amount of the Lake obstructed or occupied by the dock.

The Executive Director may refer any application to the Board and shall refer any application that the Executive Director proposes to deny.

Article III. Effective Date. This ordinance shall be effective the day following its publication or a summary thereof.

Adopted this 12th day of October, 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: October 18, 2016

Effective Date: October 19, 2016