

ORDINANCE NUMBER 16

(Amends and replaces Ordinance #4 as of May 18, 2004)

AN ORDINANCE RELATING TO THE USE OF WHITE BEAR LAKE INCLUDING REGULATIONS CONCERNING THE TYPES OF WATERCRAFT PERMITTED ON THE LAKE, THEIR EQUIPMENT, THE MANNER OF THEIR OPERATION, THEIR RENTAL, SCUBA DIVING, AND OTHER MATTERS

PART I

Purpose and Intent

The Board of Directors of the White Bear Conservation District are authorized to enact regulations relating to White Bear Lake, including regulation of the types of boats permitted to use the Lake, the regulation of the use of the Lake at various times and the conduct of other activities on the Lake. This ordinance is enacted for the purpose and with the intent of exercising such authority so as to secure the public health and safety, the most general public use of the Lake and the conservation of its resources, and to provide local media whereby the public may present complaints of misuse for the purpose of arbitration.

PART II

Definitions

Section 2.01, Definitions:

Subd. 1. For the purposes of this ordinance, the terms defined in this section shall have the meanings ascribed to them:

Subd. 2. "Person" means an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.

Subd. 3. "Owner" means a person, other than a lienholder, having the property in or title to a watercraft. The term includes a person entitled to the use or possession of such craft, 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 a security.

Subd. 4. "Operate" means to navigate or otherwise use a watercraft.

Subd. 5. "Operator" means every person who operates or is in actual physical control of a watercraft.

Subd. 6. "Watercraft" means any vessel or structure used or designed for navigation on water or an aircraft on the water. On White Bear Lake, inflatable inner-tubes, rafts, air mattresses, floating lounge chairs, and other recreational floating devices are considered to be watercraft if operated more than 300' from shore and shall be required to meet State and Federal construction standards for watercraft and shall carry personal flotation devices and equipment required for watercraft under the Minnesota Laws. Permanently anchored rafts are excluded from this definition.

Subd. 7. "Habitable Watercraft" means all motorized and non-motorized watercraft with an enclosure intended for human habitation or overnight shelter either attached to or an

integral part of the watercraft. Evidence of habitability of such enclosures shall include one or more of the following: berths or horizontal surfaces usable for the placement of bedding; windows, hatches or portholes; a head or other sanitary facility; facilities for cooking. Explicitly excluded from this definition are watercraft with folding fabric shelters and no other structures suitable for human habitation, watercraft with cuddy shelters or stowage areas under the decking and no other structure suitable for human habitation, aircraft on the water, and motorized vehicles operated on the ice in the winter.

Subd. 8. "Cuddy" means an enclosure with not more than three sides which is fully open on one end, normally intended for temporary shelter or stowage of gear, and not containing berths, a head, or evidence of human habitation.

Subd. 9. "Living Quarter" means any facility or place where persons dwell permanently, seasonally, for more than ten successive days, or for a total of more than thirty days in any calendar year.

Subd. 10. "Motorboat" means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors.

Subd. 11. "Underway or in use" means any watercraft in operation or use when not securely fastened to a dock or other permanent mooring or at anchor.

Subd. 12. "Commissioner" means the Commissioner of Natural Resources of Minnesota acting directly or through his authorized agents.

Subd. 13. "Lake" means White Bear Lake and all the parts, bays, and Channels thereof.

Subd. 14. "License" means the authentic document used to designate the numbers assigned a watercraft and to renew the same.

Subd. 15. "Sheriff" means the sheriff of the county in which the Lake or part thereof is located, acting directly or through his authorized agents.

Subd. 16. "Horsepower" means the power rating established for a motor by the manufacturer thereof, or, if no rating is so established, then the rating established by the Commissioner.

Subd. 17. "Board" means the Board of Directors of the White Bear Lake Conservation District.

Subd. 18. "Animal" means any non-human vertebrate, either domestic or wild.

Subd. 19. "Undesignated public area" means any publicly owned shoreline which is not already defined and posted as a public park, swimming or bathing area, or boat launch.

PART III

Operating Regulations

Section 3.01, Licenses. No person shall operate on the Lake, or give permission for the operation on the Lake, of any watercraft for which a license fee is prescribed by Minnesota Statutes 361.03, unless the required license for such watercraft has been issued, is in effect and has been affixed as required by law.

Section 3.02, Careless Operation. No person shall operate a watercraft in a careless or heedless manner so as to endanger the person or property of another by either the watercraft or its resultant wake, or at a rate of speed greater than will permit him in the exercise of reasonable care to bring the watercraft to a stop within the assured clear distance ahead.

Section 3.03, Reckless Operation. No person shall operate a watercraft in a reckless or grossly negligent manner, so as to cause personal injury to another or damage to the property of another.

Section 3.04, Obstruction to navigation:. Advertising Buoys. No person shall operate any watercraft in a manner which shall obstruct or tend to obstruct the normal and ordinary navigation of the waters of the Lake. No person shall use any fixed or anchored structure on the waters of the Lake, not a part of a dock or pier, which extends from the shore, for advertising purposes. 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.

Section 3.05,

Subd. 1. Swimming and Bathing Areas and Undesignated Public Areas. No person shall operate a watercraft within a water area:

Subd. 1.a. which, has been marked off or set aside as a swimming or bathing area as prescribed by the commissioner's regulation or,

~~Subd. 1.b. which is within an Authorized Dock Usage Area (ADUA as defined in Ordinance 5 of the White Bear Lake Conservation District) of another person without his permission.~~

Subd. 1.c. No person shall operate a watercraft within 100 feet of any person in the water or floating on a raft, except those being towed by the same watercraft.

Subd. 1.d. Within an undesignated public area, no person shall operate a watercraft which produces a wake within 100 feet of any person in the water, except to render assistance.

Section 3.06. Towing Person on Water Skis or Other Device.

Subd. 1. Between Memorial Day and labor Day, no person shall operate a watercraft on the lake, towing a person on water skis, aqua-plane, 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 on Saturdays, Sundays, or holidays between the hours of noon to one hour after sunset, and on other weekdays between the hours of 4 p.m. to one hour after sunset. The operator of such watercraft shall be at least 13 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 and shall watch the person, or persons, being towed at all times. At other times a mirror will suffice to observe the person or persons being towed.

Subd. 2. 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 hour after sunset to sunrise of the day following.

Subd. 3. 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 Coast Guard approved vest (Type I, II, or III Personal Flotation Device), except with the written permission of the Board.

Subd. 4. No person shall be towed by rope, cable or other towing device longer than 100 feet, except with the written permission of the Board.

Subd. 5. No person shall drag an unoccupied tow line behind a watercraft for an unreasonable length of time.

Subd. 6. A person who has fallen and/or is no longer in tow of the watercraft shall be recovered as soon as is safely possible.

Subd. 7. No airborne vehicle will be allowed to be towed by a watercraft without written permission from the Board.

Subd. 8. No person operating a watercraft when towing a person, and no person being towed, shall come within 100 feet of any bathing or swimming areas, undesignated public areas, raft, watercraft, dock or pier except the ADUA from which he is operating.

Subd. 8.a. Parallel operation along the shoreline shall be prohibited within 100 feet of any device, ADUA, or person in the water.

Subd. 8.b. Operating within an ADUA will be limited to emerging straight out from the shoreline or releasing a person being towed. Other operation of watercraft within 100 feet of the shoreline and/or within the ADUA shall be limited to "no wake" speed.

Subd. 8.b.1 **EMERGING:** Watercraft towing a person may emerge straight out from the shoreline of an ADUA provided the following conditions are met:

1. No other watercraft within 100 feet is underway.
2. Docks on either side of the person being towed create a barrier for persons in the water at adjacent ADUA's if they are less than 100 feet away.
3. No visual obstructions prevent the watercraft operator from seeing persons in the water.
4. No persons in the water are within 100 feet of the path of the oncoming watercraft or path of the person being towed.
5. The watercraft is either owned or operated by the ADUA holder, a permanent or temporary resident of the ADUA holder's household, an acknowledged guest of the ADUA holder, or person holding written permission of the adjacent ADUA holder on board the watercraft.

Subd. 8.b.2 **RELEASING:** No releasing of persons being towed shall be conducted less than 100 feet from the nearest dock, raft, mooring area, watercraft, person in the water, another's ADUA, or other obstruction without written permission of the adjacent ADUA holder.

Section 3.07. Tampering. No person shall board, use, damage, or tamper with a watercraft, except the owner or a person having the owner's consent, except as provided in Section 6.02.

Section 3.08. Age for Operation of Watercraft. The age of operators of watercraft on the Lake shall comply with the State Law as specified in Section 361.055.

Section 3.09. Capacity of Watercraft. 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 as defined by the OBC or BIA rating for boats under 19 feet long. The capacity must comply with Section 361.10 of the State Law.

Section 3.10. Riding on Gunwales or Decking. No person shall ride on the starboard or port gunwales or the decking over the bow or transom of any boat while under motor power, 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.

Section 3.11. Liquor, Drugs, Physical or Mental Disability. No person shall operate or be in actual physical control of any watercraft while under the influence of intoxicating liquor or narcotic or habit-forming drugs. 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 intoxicating liquor, narcotic or habit-forming drugs 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 3.12. Stopping at Scene of Accident or Incident: Reports. 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 his 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.

Section 3.13. Speed. All watercraft shall be operated at a reasonable speed for given situations and shall be kept under complete control at all times. Under no conditions shall a watercraft be operated in excess of 35 miles per hour.

Section 3.14. Passing; Changing Course; Meeting; Right of Way

Subd. 1. When watercrafts are running in the same direction, the craft which is astern shall pass only when there is sufficient distance between the craft so it can do so safely and only at such speed that its wash or wake will not endanger the craft being passed or its occupants. No person operating a watercraft shall abruptly change its course without first determining that it can be safely done without risk of collision with another craft.

Subd. 2. When two or more watercraft have approaching or crossing courses the operators shall follow the United states Inland Navigational Rules as stated in U.S. Coast Guard publication CG-169 as amended.

Subd. 3. Sailboats under sail alone shall have right of way over other watercraft underway except when overtaking such other watercraft.

Section 3.15. 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. In congested, commercial or public mooring access areas, and ADUA's, persons shall limit operation of watercraft to a manner which produces no wake except as allowed by Section 2.06, Subd. 8 and Subd. 9.

Section 3.16. Seaplanes. No person shall operate a seaplane in a manner which endangers any other users of the Lake. No person shall operate a watercraft in any manner as to intentionally obstruct or interfere with the takeoff, landing, or taxiing of any seaplane.

Section 3.17. Distance from Diver's Flags. No person shall operate a watercraft within 150 feet of a diver's warning flag.

Section 3.18. Noise. No person shall operate a watercraft in a manner which creates excessive or unreasonable noise.

Section 3.19. Life Vests. (NOTE: Section 3.19 shall be an Advisory Statute for three (3) years with verbal warnings issued and WBLCD review at the end of three (3) years). No watercraft operator under age 19, unaccompanied by an adult shall permit any child under the age of five (5) years in a watercraft unless the child is wearing a U.S. Coast Guard approved vest (Type I, II, or III) Personal Floatation Device and said vest is properly secured.

PART IV

Scuba Divers

Section 4.01. Scuba Divers. Scuba divers must meet the provisions outlined in the State Law and Department of Natural Resources Boat and Water Safety Rules and Regulations when using the Lake.

PART V

Rental of Watercraft

Section 5.01. Rental Watercraft. Rental of watercraft will comply with the provisions outlined in the State Law and Department of Natural Resources Boat and Water Safety Rules and Regulations.

PART VI

Required and Prohibited Equipment on Watercraft

Section 6.01. Equipment. Watercraft equipment must meet the provisions outlined in the State Law and Department of Natural Resources Boat and Water Safety Rules and Regulations.

PART VII

Equipment Violations; Inspections

Section 7.01. Equipment Violations.

Subd. 1 No person shall operate a watercraft on the Lake or engage in scuba diving unless equipped in the manner required by this ordinance.

Section 7.02. Watercraft Inspections..

Subd. 1. The Board 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 ordinance.

Subd. 2. The Board shall, by resolution, establish service charges to pay for the costs of such inspection.

Subd. 3. 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 his agent, or to the operator thereof.

Subd. 4. Upon completion of inspection of any watercraft, 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 watercraft, indicating that the watercraft has been inspected and that it meets the requirements of this ordinance. Such certificate shall 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. 5. Apart from such inspection the Sheriff may direct the operator of any watercraft on the Lake to display the lights; fire extinguishers; life preservers; and horn, whistle or bell on the watercraft; and to demonstrate that they are in good working condition. If such directions are not complied with, the Sheriff may direct such watercraft to return immediately and by the shortest feasible route to the point on the shore of the Lake from which its operation began.

Subd. 1. Hazard Discovery. If the Sheriff encounters a condition on any watercraft which constitutes an immediate hazard to the occupants of the watercraft, 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 ordinance.

Subd. 6. 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, he may request permission to inspect such watercraft. If the operator of the watercraft consents to such inspection, 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 Subdivision 3 of this section.

Subd. 7. Any watercraft which is ordered to be inspected as provided in the provisions of this section shall not 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.

Subd. 8. The provisions contained in Subd. 7 shall not 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.

PART VIII

Habitable Watercraft and Living Quarters

Section 8.01. Restrictions on Use.

Subd. 1. Residing on Lake prohibited. No person shall use any watercraft as living quarters while it is in or upon the Lake or while it is upon the shore at public parks, beaches, or public or commercial launching areas.

Subd. 2. Habitable Watercraft whose heads or connected holding tanks have been discharged into the Lake or on the shoreline by the owner or other persons authorized by the owner to use the Habitable Watercraft shall, upon conviction, be removed from the Lake within 24 hours by the owner and shall be prohibited from returning to the lake for one calendar year from the date of conviction. This penalty is mandatory and in addition to other fines or penalties resulting from conviction and is assessed against the Habitable Watercraft Owner, regardless of the person convicted as a result of the act. Accidental discharges shall be exempt from this penalty if reported to the Board or the Sheriff within 4 hours but not at the time of arrest for this or other violations.

PART IX

Miscellaneous Provisions

Section 9.01. General Violations.

Subd. 1. No persons shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to enforce this ordinance or to direct, control or regulate the movement of watercraft on the Lake.

Subd. 2. Every person who commits or attempts to commit, or aids or abets in the commission of any act declared in this ordinance to be prohibited, whether individually or in connection with one or more other persons or as principal agent or accessory shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits, or directs another to violate this ordinance is likewise guilty of such offense.

Subd. 3. It is unlawful for the owner, or any other person, employing or otherwise directing the operator of any watercraft to require or knowingly to permit the operation of such watercraft upon the Lake in a manner contrary to this ordinance.

Section 9.02. Citations. In lieu of an arrest of a person for a violation of this ordinance, 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 he is to appear in court.

Section 9.03. Penalties. Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700 or imprisonment of not to exceed 90 days, or both.

Section 9.04. Effective Date. This ordinance shall be in full force and effect from and after its passage approval and publication as provided by Law and is hereby declared by the Board to have the effect of an ordinance.

The foregoing ordinance was enacted by a majority vote of all members of the Board of Directors.

Gary Cox, Chairman

Attest:

Diane Longville, Secretary

Date: May 18,2004