



**WHITE BEAR LAKE CONSERVATION DISTRICT  
(WBLCD)**

**ORDINANCES CURRENT AS OF 3/15/2022**

**Document history**

- 11/5/2018 update to create this formatted copy—no material changes to ordinances
- 6/13/2019 update to correctly reflect 2017 update to ordinance #16 (addition of Section 2.01 Subd. 20)
- 1/21/2020 update to amend Ordinance 5 Section 3.01. Subd. 1.a.; Ordinance 5 Section 3.01. Subd. 1.b.; Ordinance 5 section 5.01. Subd. 1.a.; and the repeal of ordinance 12
- 1/18/2022 winter safety update to ordinance 5 section 3.01 subd. 1 as per order no. 2021-03, and excess slips penalty update to ordinance 5 section 4.01 subdivision 2.L as per order no. 2021-01.
- 3/15/2022 updates to incorporate use of ordinary high water level to ordinance 5 section 2.0.1 Subd. 18 as per order no. 2022-01, ordinance 5 section 2.0.1 Subd. 11 as per order no. 2022-02, and ordinance 5 section 3.0.1 Subd. 1b as per order no. 2022-03.

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**Ordinance #5 - AN ORDINANCE AMENDING ORDINANCE NO. 3; RELATING TO THE CONSTRUCTION, INSTALLATION, MAINTENANCE AND LICENSING OF DOCKS, BOAT MOORING AREAS AND OTHER FIXED OR FLOATING STRUCTURES ON WHITE BEAR LAKE.**

(See also ordinance #12 containing amendments to this ordinance.)

Section 1. Ordinance No. 3 is amended to read as follows:

**PART I**

Section 1.01 The Board of Directors of the White Bear Lake Conservation District, aware of the Legislature's concern for the welfare of White Bear Lake and the users thereof and mindful of the rights and legitimate interests of all riparian owners and users of the Lake, enacts this ordinance for the following purposes: to promote safety and sanitation in the use of the Lake, to keep Lake waters open for general public use, to avoid pollution and uncontrolled excessive use of public waters for docks and moorings and other structures, and to eliminate unsafe and unnecessary installations of docks, boat mooring areas and other fixed or floating structures on the Lake.

**PART II**

Section 2.01. Subdivision 1. For the purpose of this ordinance the terms defined in this section shall have the meanings ascribed to them:

Subd. 2. "Lake" means White Bear Lake and all the parts, bays and channels thereof.

Subd. 3. "Shoreline" means the line of contact of the body of water in White Bear Lake with the shore.

Subd. 4. "Municipality" means any municipality as defined in Laws 1971, Chapter 355, Sec. 1.

Subd. 5. "Dock" means any wharf, pier or other structure constructed or maintained in the Lake, whether floating or not, including all "Ls," "Ts" or posts which may be a part thereof, whether affixed or adjacent to the principal structure.

Subd. 6. "Board" means the Board of Directors of the White Bear Lake Conservation District.

Subd. 7. "District" means the White Bear Lake Conservation District.

Subd. 8. "Person" means an individual, individuals, partnership, association, corporation or other entity.

Subd. 9. "Mooring" means any buoy, post, boat lift, structure, or other device at which a watercraft may be moored which is surrounded by navigable water.

Subd. 10. "Site" means any shoreline, lot, parcel or other piece of property legally subdivided and recorded in the office of the Registrar of Deeds.

Subd. 11. "Authorized Dock Use Area" means that area in the Lake which may be used for docks, moorings, boat storage, swimming floats, ski jump storage, diving towers, other such equipment. "Authorized Dock Use Area" is further defined as that area extending into the Lake, as measured from the OHW, (1) a distance of 200 feet, or (2) in situations where, at a distance of 200 feet, the Lake is less than four feet deep, then either that distance at which the Lake is four feet deep, or a distance of 300 feet, whichever is less.

Subd. 12. "Single dock or mooring area" means an authorized dock use area which abuts a single owner site.

Subd. 13. "Multiple dock or mooring area" means an authorized dock use area which is abutted by a site with several owners.

Subd. 14. "Commercial dock or mooring area" 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 but not including apartments or any such business involving the leasing of real property for residential use.

Subd. 15. "Public dock or mooring area" means an authorized dock use area which is abutted by a site owned by a municipality, township, county, or state government.

Subd. 16. "Multiple user dock or mooring area" means:

Subd. 16.a. a single dock or mooring area as defined in Subd. 12 with more than 1 dock or five (5) or more boats, including beached boats, or

Subd. 16.b. a multiple dock or mooring area as defined in Subd. 13 with more than 1 dock, or five (5) or more boats, including beached boats, or

Subd. 16.c. any commercial dock or mooring area as defined in Subd. 14, or

Subd. 16.d. any public dock or mooring area as defined in Subd. 15.

Subd. 17. "Launching Facility" means any access to or from the Lake including a dirt roadway, fabricated ramp, track, mechanical contrivance, or other device or construction used in transferring watercraft from land to water.

Subd. 18. Ordinary high water level. "Ordinary high water level" or "OHW" means the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and: 1.

the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial; 2. for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and 3. for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool. 4. for White Bear Lake that elevation has been set at 924.89 feet above mean sea level as determined by the Department of Natural Resources, State of Minnesota.

### **PART III**

#### **General Regulations**

Section 3.01. Subdivision 1. The following regulations are applicable as provided.

Subd. 1.a. No dock, buoy, mooring, or other structure shall be so located as to: (1) obstruct navigable waters, (2) obstruct reasonable use or access to any other dock, buoy, mooring or other structure authorized under this ordinance, (3) present a potential safety hazard, or (4) come within ten feet of any other structure. No dock, buoy, mooring area or other structure shall be located or designed so that it unreasonably or unnecessarily requires or tends to encourage using it to encroach on any other authorized dock use area. No dock shall be left in the waters beyond December 1st without its vertical supports and terminus being clearly marked with reflective tape or paint visible to a distance of 100 ft. to ensure their visibility to off-season (winter) users in the interest of public safety. Mooring buoys must meet additional standards for size, color and marking as specified by State of Minnesota Administrative Rule 6110.1500, which also requires that no buoy may be placed in state waters without first obtaining a permit from the sheriff of the county.

Subd. 1.b. A dock, buoy, mooring or other structure is authorized in an authorized dock use area if it complies with subdivision 1.a. of this section or if it is permitted by a variance granted by the Board under Part VII of this ordinance. After public hearing, the Board by resolution shall be authorized to define explicitly the extent of the Authorized Dock Use Area, maximum dock length or side set in requirements. However, the maximum distance of intrusion into the Lake for any ADUA shall not exceed 300 feet as measured from the OHW. The Authorized Dock use Area for a multiple user dock and mooring area shall be defined as part of the license from the Board.

Subd. 1.c. No person shall use any area of the Lake outside an authorized dock use area, for docks, moorings, boat storage, swimming floats, ski jump storage or diving towers, or other such equipment unless such use is specifically permitted under the provisions of this ordinance. Exceptions:

(1) Two or more adjoining site owners may by mutual agreement, use their combined authorized dock use areas for a single common dock or mooring area for their respective private uses, but in any event, must observe these requirements involved in such a joint use. A dock or mooring area located, constructed, installed or maintained under this

provision shall not be considered a "Multiple User Dock or Mooring Area" unless such dock or mooring area is intended for the use of five (5) or more boats including any beached boats by any one site owner involved.

(2) An addition may be allowed at the outer end of an authorized multiple user dock for the purpose of fuel sales and related service but in no case for the storage of boats or rental of dock space.

(3) Any dock or mooring area with a valid license as pursuant to Part IV, Section 4.01, Subd. 2. of this ordinance or a valid variance as pursuant to Part VII of this ordinance.

Subd. 1.d. Reasonable space shall be provided in mooring areas to allow navigation freely between moored boats.

Subd. 1.e. Where the provisions of this ordinance would cause a conflict in the use of an Authorized Dock Use Area, the affected person may apply to the Board for resolution of the conflict.

Subd. 1.f. Fragmentation of sites to increase the number of Authorized Dock Use Areas shall be subject to approval by the Directors upon application.

Subd. 2. In the event of any conflicts between the owners of different sites whether adjoining or not and in the event of any conflicts among the common owners or users of one site over use of an authorized dock use area the Board shall arbitrate and settle said conflicts using the licensing procedure of Part IV, Section 4.01, Subd. or the variance procedure of Part VII.

Subd. 3. No person shall use any area of the Lake within an authorized dock use area for docks, moorings, watercraft storage, swimming floats, ski jump storage or diving towers without the consent of the riparian or site owner.

## **PART IV**

### **Multiple User Docks or Mooring Areas**

Section 4.01. Subdivision 1. Multiple user docks or mooring areas, for the multiple mooring of boats, may be established and maintained in the Lake but only subject to and in accordance with the provisions of this subdivision. It is the policy of the District to permit the establishment of such multiple docks and mooring areas in only a very limited number of instances where necessary to fulfill a public service and where such mooring areas can be established in such a manner as to preserve the use of waters of the Lake by the general public.

Subd. 2. No person shall locate, construct, install or maintain a multiple user dock, launching facility or mooring area on the shoreline of White Bear Lake or in the waters of such Lake, unless he is licensed by the Board of Directors of the District to do so. Obtaining

a license from the District shall not relieve any persons from any municipal permit or license requirements.

Subd. 2.a (1) Applications for such licenses shall be made to the Secretary of the District on forms provided by the District. The application shall include, among other things: (1) the name and address of the applicant, (2) the description of the property on which the facility is to be located, (3) the name and address of the owner of the premises, if different from the applicant, (4) if the applicant is not the owner, an explanation of the interest which the applicant has in the property, (5) 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, (6) a plan to scale showing the design and location of the facility, and (7) the fee for such a license, as may be established from time to time by resolution of the Board. The application shall include such other information as the Secretary may require to assist the Board in consideration of the application for the license.

(2) When requested by the Board, 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. 2.b. Licenses shall be issued on a calendar year basis or for a longer period subject to revocation at the discretion of the Board.

Subd. 2.c. When an application has been completed, the Secretary shall schedule the application for consideration by the Board or by a Committee of the Board, and shall notify the applicant of the time and place at which the application will be considered.

Subd. 2.d. The Board may provide for the consideration of applications for licenses by a committee of no less than three members of the Board. The committee shall report its recommendations to the Board for final action.

Subd. 2.e. Review Criteria: In exercising its discretion in resolution of conflicts and in granting or denying licenses, the Board may consider, among other things, the following: (1) whether the proposed facility will create a volume of traffic on the Lake which will tend to be unsafe or which will cast an undue burden of traffic upon the Lake in the vicinity of the facility, (2) whether the proposed facility will be compatible with adjacent development, (3) whether the proposed facility will be compatible with the maintenance of the natural beauty of the Lake, (4) whether the proposed facility will be structurally safe for use by the intended users, (5) 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, (6) whether adequate parking and sanitary facilities, such as head pump-out facilities, are available or will be provided (7) whether the facility

will comply with the regulations contained in the ordinance, (8) whether the proposed facility will affect the quality of the water of the Lake and the ecology of the Lake, (9) whether the proposed facility will serve the general public as opposed to a limited segment of the public or a limited geographical area,

(10) whether the proposed facility will obstruct or occupy too great an area of the public water in relationship to its utility to the general public, (11) whether adequate water depth is available for the proposed facility without churning of the bottom sediments, (12) whether the proposed facility will be compatible with the adjacent water use area. 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. 2.f. Renewal of Licenses. Applications for renewals of licenses under this ordinance shall be made no later than October fifteenth in the year preceding the year for which the license is sought. The board shall not accept license applications received after October fifteenth unless the application is accompanied by a late fee, which shall be established from time to time by resolution of the Board.

Subd. 2.g. 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. 2.h. No person licensed pursuant to this section shall gain a vested right in said license. The use of the Lake shall remain subject to regulation, and to changes in regulations, from time to time, as the public interest requires.

Subd. 2.j. A licensed multiple user dock or mooring area shall be maintained in a structurally safe condition and shall be maintained in a neat, clean and orderly condition at all times.

Subd. 2.k. When deemed necessary, the Board may impose conditions upon the granting of a license, which conditions shall be in writing. A violation of any of such conditions shall be a violation of this ordinance.

Subd. 2.l. Any license issued under this ordinance may be suspended or revoked by the Board of the District for violation by the licensee of this ordinance or any other ordinance of the District. Any licensee that exceeds their permitted number of slips will have that number of slips removed from their license for the following 2 seasons. Action to suspend or revoke a license or reduce subsequent-season's permitted slips shall not be taken by the Board except upon at least 10 days prior written notice to the licensee, notifying the licensee of the time and place of the meeting at which the Board will consider such suspension or revocation. At such meeting the licensee shall be given a reasonable opportunity to be heard. Any proceedings to suspend or revoke a license or to temporarily reduce subsequently permitted slips are not to be deemed to penalize the licensee for



violations of the ordinances of the District but shall constitute regulatory action of the District.

Subd. 2.m. New Licenses Required. Any change in slip size, ownership, length, width, height or location of a structure or launching ramp requiring a license under this ordinance requires the issuance of a new license therefor.

## **PART V**

### **Swimming Floats and Other Temporary Structures**

Section 5.01. Subdivision 1. Licenses for swimming floats, ski jumps, slalom course, diving towers, buoys, markers or other structures surrounded by navigable water.

Subd. 1.a. No swimming floats, buoys, or markers, whether floating or on posts, shall be located in the lake outside the authorized dock use area as prescribed in Part III, Section 3.01, Subd. 1.c. without being authorized by a license from the Board. No ski jumps, slalom courses, diving towers, or other structures surrounded by navigable water, whether floating on or posts, shall be located anywhere in the Lake without being authorized by a license from the Board. Any such license may be granted by the Board if they determine that the granting of the license will not create unusual hazards or obstructions to navigation. Licenses are not required for scuba diving, floats or navigation buoys which meet the current state regulations in effect for navigation season. State of Minnesota Administrative Rule 6110.1500 requires that no buoy may be placed in state waters without first obtaining a permit from the sheriff of the county; any license application to the Board for a buoy must include a copy of the approved sheriff's permit.

Subd. 1.b. Applications for licenses shall be made upon forms provided by the District and shall include the following information: (1) name, address and telephone number of the applicant, (2) type, number and proposed location of structures for which the license is sought, (3) the period of time for which the license is sought, (4) a statement as to how the structure will be reflectorized or lighted, (5) if an organization is seeking the license, a statement as to the nature of the organization, (6) if the license is sought for a particular event, the nature of the event, (7) such other information as the Secretary may require to assist him/her, or the Board, in considering the application for the license, (8) a statement by the applicant that he assumes responsibility for the presence and removal of the structure or structures from the Lake, (9) the fee for such license as may be established from time to time by resolution of the Board.

Subd. 1.c. If a license is granted, the license shall specify the dates, or the period of time, for which it is granted. The granting of licenses may be subject to conditions to protect uses of the Lake. A violation of the terms and conditions of the Permit is a violation of this ordinance.

Subd. 1.d. If any structure is located in the Lake pursuant to a license and is thereafter found to be a hazard or obstruction to the safe use of the lake by others, such license may

be revoked. Notice of revocation shall be given to the applicant by the Secretary orally or in writing. If the applicant cannot be found, it shall be sufficient notice of revocation if written notice thereof is delivered to the address of the applicant. Upon 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, and the cost of removal shall be borne by the applicant or owner. The failure of the applicant to remove the structure upon receipt of the notice of revocation of the license, and in accordance with such notice, is a violation of this ordinance.

## **PART VI**

### **Construction, Repair and Maintenance Standards**

Section 6.01. Subdivision 1. All docks, moorings and other structures must be constructed and maintained in the following manner:

Subd. 1.a. Permanent docks, moorings and other structures require a license by the Board.

Subd. 1.b. Temporary docks, moorings and other structures 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. 1.c. Multiple user docks or mooring areas may be constructed of such materials and in such a manner as the owner determines provided that such dock or mooring area shall be so built and maintained as to be safe for use by the public, that they do not constitute a hazard to the Lake, or constitute a hazard to the public using the waters of the Lake.

Subd. 1.d. No oscillating, rotating, flashing or moving sign or light may be used on any dock.

Subd. 1.e. Swimming flats, 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. Said material shall be capable of retaining 80% of its dry weather reflective signal strength when wet.

Subd. 1.f. No advertising signs may be displayed from any dock other than an identifying sign or "for sale" sign which shall be no larger than three square feet in area.

Subd. 1.g. Installation of electrical and fueling facilities on docks, moorings and other structures shall be in accordance with applicable fire and building codes and subject to state and local inspection procedures. Persons making such electrical or fueling installations shall maintain records of compliance with state and local codes and regulations.

Subd. 1.i. 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 ordinances of the District 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.

## **PART VII**

### **Variances**

Section 7.01. Subdivision 1. Where practical difficulties or particular hardships occur, the Board, upon application being made to it by a person affected, may permit a permanent or temporary variance as designated from the requirements of this ordinance or may require a variance from what is otherwise permitted by this ordinance, provided that such variance, with whatever conditions are deemed necessary by the board, does not adversely affect the purpose of this ordinance, the public health, safety, and welfare, and reasonable access to, or use of, the Lake by the public or riparian owners.

Subd. 2. Applications for variances shall be in writing and shall be filed with the Secretary of the District. The application shall be on the form approved by the Board of Directors. It shall contain (1) name and address of the applicant, (2) description and location of the property for which the variance is sought, (3) the variance for which the application is made, (4) the names and addresses of the owners of abutting sites, (5) if the application is made under Part V the names and addresses of the owners of other affected sites, (6) a map or plat to scale of the site for which the variance is sought, and of abutting or other affected sites, showing any existing docks, moorings or other structures of the proposed location or relocation of any such structures or the proposed location or relocation of any such structures, (7) 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 (8) such other information, such as surveys and photographs, as the Secretary may require to assist the Board in consideration of the application.

Subd. 3. The variance application shall be accompanied by an application fee as may be determined from time to time by resolution of the Board. Such fee shall not be refunded at any time after the processing of the application has been commenced. 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 of other expenses incurred by the District in excess of the amount of the deposit.

Subd. 4. Upon receipt of a completed variance application the Secretary shall schedule a review by the Board on the application. He/She shall notify the owners of abutting sites or any other affected site for which the applicant seeks to require a permit a variance.

Subd. 5. The Board may grant a variance from the literal provisions of this ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property or properties under consideration, and shall grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this ordinance. It may impose conditions in the granting of variances to insure compliance and to protect other riparian owners and users of the Lake.

Subd. 6. 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 ordinance without first giving him a reasonable opportunity to be heard thereon as provided in Subd. 4 of this section. If the Board orders him to take the action proposed, or any part thereof, he shall be afforded a reasonable length of time within which to take such action. Any such order shall be in writing, shall be served upon him in the manner that civil process is served and shall specify the length of time within which he shall take the required action.

Subd. 7. 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 ordinance.

## **PART VIII**

### **General Provisions**

Section 8.01. Subdivision 1. The provisions of this ordinance shall not supersede any municipal ordinance, variance from any ordinance, permit or regulation:

Subd. 1.a. more restrictive in its provisions and applications as to the location,

construction, installation and maintenance of docks, moorings and other structures:

Subd. 1.b. allowing variances that are more restrictive than this ordinance:

Subd. 1.c. establishing zoning provisions regulating land use adjacent to the Lake which are not in conflict with this ordinance or with the White Bear Lake Conservation District generalized purpose of avoiding pollution and uncontrolled excessive use of the Lake.

Subd. 2. Nothing in this ordinance is intended to authorize the use, rent, sale, lease or conveyance of dock space or mooring facilities in the Lake contrary to municipal zoning laws. Nothing in this ordinance is intended to confer upon any person for the benefit of any property any vested right to use the Lake in the manner permitted by this ordinance, but the use of the Lake shall remain subject to such regulations as the District Board and other

competent regulatory authorities shall deem necessary from time to time in the public interest.

Subd. 3. From and after the effective date of this ordinance docks, mooring area and other structures in the Lake shall be in conformity with the provisions of this ordinance and any of the same which is not in conformity with the regulation herein shall be regarded as non-conforming.

Subd. 4. All non-conforming uses shall be terminated one year after the effective date of this ordinance.

## **PART IX**

### **Violations**

Section 9.01, Subdivision 1. Every person who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700.00 and costs or imprisonment for not to exceed 90 days or both. Each day a violation continues shall constitute a separate offense.

Subd. 2. In case of a violation of this ordinance, the Board, in addition to the foregoing penalties may institute any proper action or procedure in the name of the District to prevent such violations.

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## **Ordinance #6 - AN ORDINANCE REGULATING THE APPROPRIATION AND USE OF WATER FROM WHITE BEAR LAKE**

### **THE BOARD OF DIRECTORS OF THE WHITE BEAR LAKE CONSERVATION DISTRICT DOES ORDAIN:**

Section 1. Appropriation of Water Prohibited. No person may pump or otherwise appropriate water from White Bear Lake at any time when the lake level is below an elevation of 923.5 feet above mean sea level.

Section 2. Exception. Section 1 of this ordinance shall not apply to the emergency pumping or appropriation of water by a municipal fire department for emergency fire-fighting purposes.

Section 3. Criminal Penalties. A violation of this ordinance is a petty misdemeanor. A second violation that occurs in the same calendar year is a misdemeanor.

Section 4. Other Remedies. In addition to the penalties in Section 3 of this ordinance, the White Bear Lake Conservation District may institute any proper action or procedure to enforce this ordinance.

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**Ordinance #7 - AN ORDINANCE REGULATING COMMERCIAL SALES FROM WATERCRAFT ON WHITE BEAR LAKE; REQUIRING A LICENSE; ESTABLISHING LICENSING PROCEDURE AND REQUIREMENTS**

(See also ordinance #13 containing amendments to this ordinance.)

**THE WHITE BEAR LAKE CONSERVATION DISTRICT BOARD DOES ORDAIN:**

**PART I**

**Purpose and Intent**

The Board of Directors of the White Bear Lake Conservation District are authorized to enact regulations relating to White Bear Lake, including: regulating the use of the lake at various times and the activities on the lake to secure the safety of the public and the most general public use. The operation of commercial sales activities from watercraft on White Bear Lake raises several public health and safety concerns, including: littering and pollution; interference with recreational use of the lake; safety hazards in bringing watercraft alongside the commercial craft. In order to ensure that commercial sales from watercraft are conducted in a manner which minimizes the potential for littering and pollution and which maximizes the safe operation of watercraft and the use of the lake for recreational purposes, the Board of Directors finds it necessary to regulate the conduct of commercial sales activities from watercraft on the lake.

**PART II**

**Definitions**

Section 2.01, For the purposes of this ordinance, the terms defined in this section shall have the meanings ascribed to them:

Subd. 1. "Person" includes an individual, partnership, corporation, or any body of persons, whether incorporated or not.

Subd. 2. "Watercraft" means any vessel or structure used or designed for navigation on water.

Subd. 3. "Lake" means White Bear Lake and all the parts, bays, and channels thereof.

Subd. 4. "Board" means the Board of Directors of the White Bear Lake Conservation District.

Subd. 5. "Commercial sales activity" means the sale of food, beverages, supplies or other merchandise which requires a license under Section 3.01 of this ordinance.

### **PART III**

#### **General Requirement**

Section 3.01. License Required.

Subd 1. Requirement. It is unlawful for any person to sell food, beverages, supplies or other merchandise from any watercraft on the Lake without first obtaining a license from the Board.

Subd. 2. Exception. This section does not apply to the sale of food or beverages on a watercraft to passengers who leave the shore and return on the watercraft on which the food and beverages are sold.

Section 3.02. A separate license is required for each watercraft to be used in the conduct of any commercial sales activity on the lake.

### **PART IV**

#### **Licensing Procedure**

Section 4.01, Application.

Subd. 1. Application Form. Applications for commercial sales licenses must be made to the Secretary of the District on forms provided by the District. The application shall include: (1) the name and address of the applicant, (2) the description of and watercraft license number assigned to each watercraft to be used by the applicant in the conduct of the commercial sales activity; (3) a description of the sales activity proposed to be conducted by the applicant; (4) the areas of the lake where the sales activity is proposed to be conducted; (5) the license fee, as established in Section 4.03 of this ordinance; (6) such other information as the Board may require in the application form.

Section 4.02. License Fee. The license fee for a commercial sales license shall be \$100. No portion of the license fee is refundable after the license has been granted. If the license application is denied or withdrawn prior to being granted, the amount of \$50 will be refunded to the applicant.

Section 4.03. Procedure for review and approval. The following steps shall be followed in reviewing all applications:

Subd. 1. Upon receipt of the application, the Secretary shall review it to determine whether the application is complete in all particulars; and if incomplete, the



application shall be returned to the applicant as promptly as possible to enable the applicant to complete the application.

Subd. 2. When an application has been completed, the Secretary shall schedule the application for consideration by the Board or a committee of the Board and shall notify the applicant of the time and place at which the application will be considered.

Subd. 3. The Board may provide for the consideration of applications for licenses by a committee of no less than three members of the Board. The committee shall report its recommendations to the Board for final action. If the committee recommends that the license be denied, the committee must provide the reasons for its recommendation in writing to the Board. The committee may recommend that approval be conditioned upon compliance with conditions which the committee must provide in writing to the applicant and the Board. If any conditions are recommended, the applicant must indicate in writing to the board whether the applicant consents to the recommended conditions or does not consent.

Subd. 4. Review criteria. The application must be presented to the board for final action. The board may either grant or deny the license. In granting the license, the Board may impose the conditions recommended by the committee or other or further conditions as it determines necessary to the public health, safety, convenience, or general welfare. The board may consider, among other things, the following: (1) whether the proposed activity will cause an undue burden of traffic upon the lake; (2) whether the proposed activity will unduly interfere with recreational use of the lake.

Section 4.04. Issuance of license. After the Board has granted a license, the Secretary of the District shall issue a license to the licensee, except that no license may be issued until the licensee has provided proof of compliance with the insurance requirement in Section 5.02 of this ordinance.

## **PART V**

### **License terms and Conditions**

Section 5.01, License term. Licenses shall be issued for the period of April 1 to October 1 in a stated year, subject to suspension or revocation by the Board. No person licensed under this section shall gain a vested right in said license. Licenses are not subject to renewal; a new license application must be made each year.

Section 5.02 Conditions governing license.

Subd 1. General Rule. All licenses issued are subject to the following conditions:

Subd. 2. Insurance. Prior to issuance of the license, the licensee must provide to the Secretary of the District a certificate of insurance which evidences that the licensee has obtained public liability insurance which provides property damage and personal injury coverage for the activity to be conducted, in an amount of at least \$600,000. The licensee must keep the required insurance in force at all times during the term of the license.

Subd. 3. No alcohol. No alcoholic beverages may be stored or transported on the licensed watercraft while it is engaged in any commercial sales activity.

Subd. 4. Food licenses. The licensee must comply with applicable regulations and obtain any licenses required by appropriate licensing authorities for the sale of food and beverages.

Subd. 5. Equipment. The licensed watercraft must carry a pole net for the purpose of netting litter which falls into the lake in the course of making any sale.

Subd. 6. Display of license. The licensee shall exhibit the license in a prominent place on each watercraft.

Subd. 7. Inspection. By making application for a license, the licensee consents to the county sheriff making periodic inspections of the licensed watercraft for the purpose of ensuring that the licensee is in compliance with the conditions of the license. It is a violation of this ordinance for the licensee to refuse the request of the county sheriff or authorized deputy to board the licensed watercraft for the purpose of making an inspection.

Subd. 8. Additional conditions. The licensee must comply at all times with any additional conditions imposed by the Board at the time of granting the license. A violation of any of such conditions is a violation of this ordinance.

Section 5.03. Transfer of License. A license issued under this ordinance is issued to the named licensee for a particular watercraft. A license may not be transferred from person to person. A licensee may transfer the license from one watercraft to another watercraft by making application for such a transfer to the Secretary of the District on a form provided by the District. The Secretary of the District may approve the transfer by administrative action and without Board approval.

## **PART VI**

### **Violations; Penalties**

Section 6.01. License suspension or revocation. The Board may suspend or revoke a license issued under this ordinance for violation by the licensee of this ordinance or any other ordinance of the District. The Board shall give the licensee at least 10 days written notice to the licensee of any contemplated suspension or revocation.

The notice shall advise the licensee of the basis for the contemplated suspension or revocation and the time, date and place of the hearing at which the Board will consider the suspension or revocation. The licensee must be given a reasonable opportunity to be heard on the proposed action and to respond to each alleged violation. The board may, in its discretion and in lieu of suspension or revocation, impose a civil penalty upon the licensee. A suspension, revocation or civil penalty imposed under this section is in addition to the penalties provided elsewhere in this ordinance.

Section 6.02. Criminal penalty. A violation of any provision of this ordinance is a misdemeanor.

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# **Ordinance #9 - AN ORDINANCE REGULATING OPERATION AND RENTAL OF PERSONAL WATERCRAFT ON WHITE BEAR LAKE**

## **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: regulating the use of the lake at various times and the use of various parts of the lake; and, regulating the conduct of activities on the lake in order to secure the safety of the public and the most general public use. This ordinance is enacted for the purpose, and with the intent, of exercising such authority so as to secure the public health and safety and the most general public use of the Lake.

## **PART II**

### **Definitions**

Section 2.01 For the purposes of this ordinance, the terms defined in this section shall have the meanings ascribed to them.

Subdivision. 1. "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. 2. "Lake" means White Bear Lake and all the parts, bays, and channels thereof.

Subd. 3. "Board" means the Board of directors of the White Bear Lake Conservation District.

## **PART III**

### **Operation of Personal Watercraft**

Section 3.01, Operation of Personal Watercraft.

Subdivision. 1. Prohibition. It is unlawful for any person to operate or ride upon 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 of Minnesota.

Subd. 2. Personal Flotation Devices; Towing Skiers. 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. No person shall tow a person on waterskis, or any other device, without an observer on board. The person being towed must wear a Type I, II, III or V personal flotation device.

Subd. 3. Hours of Operation. No person shall operate a personal watercraft between 8:00 p.m. and 8:00 a.m. the following day.

Subd. 4. Speed. 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 within 100 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 100 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. The rental agency is responsible for the correct maintenance and repair of all personal watercraft it rents.

Subd. 7. Wake Jumping. No person operating a personal watercraft shall jump the wake of another watercraft within 100 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 intentionally steering towards a person, dock, or other watercraft and swerving at the last possible moment to avoid collision shall constitute careless, reckless or grossly negligent operation within the meaning of White Bear Lake Conservation District Ordinance No. 4, Sections 2.02 and 2.03. Intentionally operating a personal watercraft in a manner by which the operator is separated from the watercraft during its operation except to avoid injury or collision, shall also constitute careless, reckless or grossly negligent operation.

## **PART IV**

### **Rental of Personal Watercraft**

Section 4.01. License Required. It is unlawful for any person to rent to another a personal watercraft from any dock or launching facility on the Lake without first obtaining a license from the Board.

Section 4.02. Application.

Subdivision. 1. Application Form. Applications for rental licenses must be made to the Secretary of the District on forms provided by the District. The application shall include: (1) the name and address of the applicant, (2) the description of and watercraft license number assigned to each watercraft to be rented by the applicant; (4) the license fee, as established in Section 4.03 of this ordinance; (5) the certificate of insurance required by Section 5.02 of this ordinance; (6) names and addresses of owners of property adjacent to premises where rentals will be made; (7) such other information as the Board may require in the application form.

Section 4.03. License Fee. The license fee for a personal watercraft rental license shall be \$100. No portion of the license fee is refundable after the license has been granted. If the license application is denied or withdrawn prior to being granted, the amount of \$50 will be refunded to the applicant.

Section 4.04. Procedure for review and approval. The following steps shall be followed in reviewing all applications:

Subdivision. 1. Upon receipt of the application, the Secretary shall review it to determine whether the application is complete in all particulars; and if incomplete, the application shall be returned to the applicant as promptly as possible to enable the applicant to complete the application.

Subd. 2. When an application has been completed, the Secretary shall schedule the application for consideration by the board or a committee of the Board and shall notify the applicant of the time and place at which the application will be considered.

Subd. 3. Review criteria. The Board may either grant or deny the license. In granting the license, the Board may impose conditions as it determines necessary to the public health, safety, convenience, or general welfare. The board may consider, among other things, the following: (1) whether the number of personal watercraft proposed to be rented will cause an undue burden of traffic upon the lake; (2) whether the proposed rental activity will unduly interfere with recreational use of the lake.

Section 4.05. Issuance of license. After the Board has granted a license, the Secretary of the District shall issue a license to the licensee, except that no license may issue until the licensee has provided proof of compliance with the insurance requirement in Section 5.02 of this ordinance.

## **PART V**

### **License Terms and Conditions**

Section 5.01. License term. Licenses shall be issued for the period of April 1 to October 1 in a stated year, subject to suspension or revocation by the Board. No person licensed under this section shall gain a vested right in said license. Licenses are not subject to renewal; a new license application must be made each year.

Section 5.02. Conditions governing license.

Subdivision. 1. General Rule. All licenses issued are subject to the following conditions.

Subd. 2. Insurance. Prior to issuance of the license, the licensee must provide to the Secretary of the District a certificate of insurance which evidences that the licensee has obtained public liability insurance in an amount of at least \$600,000, which provides property damage and personal injury coverage for persons who suffer damage or injury arising out of the operation of a rented personal watercraft. The licensee must keep the required insurance in force at all times during the term of the license.

Subd. 3. Age Restriction. The licensee shall not rent a personal watercraft, regardless of the horsepower, to any person who is less than 18 years of age.

Subd. 4. Instruction. The licensee shall provide a summary of the laws and rules governing the operation of personal watercraft and to provide instruction regarding safe operation to every person renting a personal watercraft, as described in the "Minnesota Boating Guide." 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.

Subd. 5. Flotation device. The licensee shall provide a United States Coast Guard approved Type I, II, III or V wearable personal flotation device to every operator or rider who rents a personal watercraft, as well as all other required safety equipment.

Subd. 6. Identifying Sticker. Every personal watercraft which is available for rental must have affixed to it in a prominent location a sticker or emblem that identifies the licensee.

Subd. 7. Operations record. The licensee shall be responsible for the conduct of the persons to whom personal watercraft are rented. It shall be grounds for denial, suspension, or revocation of a license if, during any four month period, there are two or more incidents in which persons who rent a personal watercraft from the licensee engage in conduct which violates section 3.01 of this ordinance, whether or not a criminal citation was issued for the conduct.

Subd. 8. Additional conditions. The licensee must comply at all times with any additional conditions imposed by the Board at the time of granting the license. A violation of any of such conditions is a violation of this ordinance.

Section 5.03. Transfer of license. A license issued under this ordinance may not be transferred from person to person.

## **PART VI**

### **Violations; Penalties**

Section 6.01. License suspension or revocation. The Board may suspend or revoke a license issued under this ordinance for violation by the licensee of this ordinance or any other ordinance of the District. The Board shall give the licensee at least 5 days written notice to the licensee of any contemplated suspension or revocation. The notice shall advise the licensee of the basis for the contemplated suspension or revocation and the time, date and place of the hearing at which the Board will consider the suspension or revocation. The licensee must be given a reasonable opportunity to be heard on the proposed action and to respond to each alleged violation. The Board may, in its discretion and in lieu of suspension or revocation, impose a civil penalty upon the licensee. A suspension, revocation, or civil penalty imposed under this section is in addition to the penalties provided elsewhere in this ordinance.

Section 6.02. Criminal penalty. A violation of any provision of this ordinance is a misdemeanor.

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**Ordinance #12 - AN ORDINANCE AMENDING ORDINANCE NO. 5:  
RELATING TO BUOYS AND ACCESS TO NAVIGABLE WATERS, DOCKS  
AND STRUCTURES.**

**THIS ORDINANCE, WHICH MADE CHANGES TO ORDINANCE NO. 5, HAS BEEN  
REPEALED AND ITS TEXT MOVED INTO ORDINANCE NO. 5  
BY ACTION OF THE BOARD ON JANUARY 21, 2020.**

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**Ordinance #13 - AN ORDINANCE AMENDING EXISTING ORDINANCE NUMBER 7 OF THE WHITE BEAR LAKE CONSERVATION DISTRICT BY ADDING LANGUAGE TO AND CLARIFYING THE MEANING OF THE DEFINITIONS OF "WATERCRAFT" AND "COMMERCIAL SALES ACTIVITY."**

THE WHITE BEAR LAKE CONSERVATION DISTRICT, ACTING BY ITS BOARD OF DIRECTORS, DOES HEREBY ORDAIN:

That part II, Section 2.01, Subd. 2, of Ordinance #7 shall be amended to read:

Subd. 2. "Watercraft" means any vessel or structure designed for navigation on water. It shall include, but not be limited to any airplane, helicopter or other aircraft equipped with flotation devices, or any other means by which it can navigate or float on the waters of White Bear Lake, but only to the extent that the airplane, helicopter or other aircraft, so equipped, is actually navigating on the surface of White Bear Lake.

That Part II, Section 2.01, subd. 5, shall be amended to read:

Subd. 5. "Commercial sales activity" means the sale of food, beverages, supplies or other merchandise or services which requires a license under Section 3.01 of this ordinance.

That Part III, Section 3.01, subd. 1, shall be amended to read:

Subd. 1. Requirement. It is unlawful for any person to sell food, beverages, supplies or other merchandise or services from any watercraft, dock, wharf, pier or other structure on the lake without first obtaining a license from the Board. For purposes of this subdivision, "services" shall include any practice by which an operator of a watercraft takes on passengers for a fee.

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# **Ordinance #14 - AN ORDINANCE PROHIBITING POLLUTION OF WHITE BEAR LAKE AS PART OF A COMPREHENSIVE PROGRAM TO ELIMINATE POLLUTION.**

**(Amends and replaces Ordinance #2 as of 2/22/00)**

## **PART I**

### **Purpose and Intent**

The Board of Directors of the White Bear Lake Conservation District enacts this ordinance as part of the development of a comprehensive program to eliminate pollution of White Bear Lake; to promote the public health and general welfare; to promote safety and sanitation in use of the Lake and; to improve the quality of the waters thereof for general use.

## **PART II**

### **Definitions**

Section 2.01, Subdivision 1. The following words and phrases when used in this ordinance shall have the meanings ascribed to them in this section:

Subd. 2. "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. 3. "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. 4. "Garbage" means any organic refuse of any kind including that resulting from the preparation and serving of food, decayed or spoiled food, and dead animal matter.

Subd. 5. "Rubbish" means any trash, refuse, or waste material of any kind including containers and wrappers for food and other substances, leaves, branches, grass clippings, and machinery or parts thereof.

Subd. 6. "Other wastes" means any organic or inorganic refuse wood, oil, tar, chemicals, and any other substance of any kind whatsoever which does or may promote or hinder growth or proliferation of aquatic life.

Subd. 7. "Pollution of water", "water pollution", or "pollute the water" means: (a) the discharge of any pollutant into any waters of the District or the contamination of any 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, agricultural, commercial, industrial, recreational or other legitimate uses, or the livestock, animals, birds, fish or other acquit life; or (b) the man-made or man-induced alterations of the chemical, physical, biological, or radiological integrity of waters of the District.

Subd. 8. "Waters of the District" means White Bear Lake, all other lakes, all streams, ponds, marshes, watercourses, waterways, wells, 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, under or flow into White Bear Lake.

Subd. 9. "Shoreline" means the line of contact of the surface water of the District with the shore.

Subd. 10. "Person" means any municipality, governmental subdivision, public or private corporation, and any officer or official thereof, any individual, partnership, association, or other entity.

Subd. 11. "District" means White Bear Lake Conservation District.

Subd. 12. "Municipality" means any municipality as defined in Laws 1971, Chapter 355, Sec. 1.

Subd. 13. "Board" means the Board of Directors of the White Bear Lake Conservation District.

### **PART III**

#### **Regulations**

Section 3.01 Subdivision 1. No person shall cause pollution of the waters of the District or shoreline thereof by placing or depositing or by permitting to be placed or deposited in, on, or upon said waters of the district or shoreline or upon any public or private property from which runs into or is carried into said waters any sewage, industrial waste, garbage, rubbish, or other waste.

Subd. 2. No person shall cause pollution of the public beaches or other public facilities for access to the lake within the territory of the municipalities by placing or depositing or by permitting to be placed or deposited thereon any sewage, industrial waste, garbage, rubbish or other waste.

Subd. 3. Discharge from any kind of sewage disposal system into or unto the waters of the District is prohibited.

Subd. 4. Any person organizing and running a public or private gathering or event involving more than 50 participants and spectators on White Bear lake or the frozen surface thereof or on any public beaches or other public facilities for access to the lake is required to obtain a license from the Board.

Subd. 4.a. Applications for such licenses shall be made to the Secretary of the Board on forms provided. The application shall include:

- (1) Name and address of the applicant and organization represented.
- (2) Information including location and size of structures and activities on the Lake drawn to scale and appropriately labeled on maps designated by the District.
- (3) A showing that all requisite permits, licenses, and approvals have been obtained or requested from all other governmental units having jurisdiction.
- (4) A general description of the event including purpose, date, time, number of people to be involved, vehicles or other equipment to be used, and other facts as the Secretary may request.
- (5) A detailed plan to insure compliance with Subdivisions 1, 2, and 3 of this Section of the ordinance. This plan shall include provisions for waste disposal, sanitary facilities, inspections of vehicles or equipment, post-event cleanup, and other necessary precautions to prevent pollution.
- (6) Fee as established by the Board.

Subd. 4.b. License shall be obtained prior to each event and shall be in effect only at times specified by the Board.

Subd. 4.c. After an application is submitted, the Secretary shall schedule (within stipulations of Minnesota Statutes section 15.99 -- the 60 day action law) the application for consideration by the Board and shall notify the applicant of the time and place at which the application will be considered.

Subd. 4.d In exercising its discretion in granting or denying licenses, the Board may consider, among other things, the following:

- (1) Whether the proposed event will cause pollution of the waters or shoreline of White Bear Lake.
- (2) Whether the proposed event is compatible with activities of unorganized users of the Lake or public land facilities.

(3) Whether the proposed event will create a condition hazardous to participants, spectators, or property.

(4) Whether the proposed event, by reason of noise, fumes, light, or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the event.

Subd. 4.e. By making application for a license the applicant consents to permitting officers and agents of the District to enter the event area at all times to investigate the application and to determine whether the ordinance of the District are being complied with. The application form shall contain a statement to this effect.

Subd. 4.f. No person licensed pursuant to this section shall gain a vested right to obtain such licenses in the future. The use of the Lake shall remain subject to regulation, and to changes in regulations, from time to time as the public interest requires.

Subd. 4.g. When deemed necessary, the Board may impose conditions upon the granting of a license, which conditions shall be in writing. A violation of any of the conditions shall be a violation of this ordinance.

#### **PART IV**

##### **Variance Procedure**

Section 4.01 Whereupon written application of the responsible person or persons, the board finds that by reason of exceptional circumstances strict conformity of 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 conditions and within such time limitations as it may prescribe for prevention, control, or abatement of pollution in harmony with the intent of regulatory standards enacted by all governmental units having jurisdiction.

#### **PART V**

##### **Conflicting Standards**

Section 5.01 In the case of regulatory standards in conflict with this ordinance, the more restrictive standards enacted by any governmental unit having jurisdiction shall take precedence.

## **PART VI**

### **Violations**

Section 6.01 Subdivision 1. Any persons who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700.00 and costs, or imprisonment for not to exceed 90 days, or both. Each day a violation continues shall constitute a separate offense.

Subd. 2. In case of a violation of this ordinance, the Board, in addition to the foregoing penalties may institute any proper action or procedure in the name of the District to prevent such violation.

## **PART VII**

### **Validity**

Section 7.01 Should any section, subdivision, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

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# **Ordinance #15 - AN ORDINANCE RELATING TO ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES FOR VIOLATION OF DISTRICT ORDINANCES.**

## **PART I.**

### **Purpose**

Section 1.01. The Board of Directors finds that there is a need for educating the public and for alternative methods of enforcing the District ordinances. There are certain negative consequences for both the District and the accused when criminal fines and penalties are the only available enforcement mechanism. Criminal law enforcement personnel and the criminal enforcement process do not always regard District ordinance violations as having sufficient priority. The delay inherent in that system does not ensure prompt resolution. Reluctance to label citizens as criminals for violations of ordinances may discourage enforcement. The higher burden of proof and the potential of incarceration do not appear appropriate for administrative enforcement. Accordingly, the Board finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for District ordinance violations. The District thus enacts this ordinance in order to fully execute its duties as provided in Minnesota Statutes, Sections 103B.651 to 103B.691.

## **PART II.**

### **General Provisions**

Section 2.01. Administrative offense. A violation of a provision of the District ordinances is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.

Section 2.02. Civil penalty. An administrative offense may be subject to a civil penalty not exceeding \$1,000.00, plus any costs, including restitution or abatement, as provided herein.

Section 2.03. Amount of civil penalty. The Board of Directors must adopt by resolution a schedule of civil penalties for offenses initiated by administrative citation. The Board of Directors is not bound by that schedule when a matter is appealed to it for administrative review.

Section 2.04. Procedures. The Board of Directors must appoint one or more education and enforcement officer and adopt procedures to administer the administrative citation program.



Section 2.05. Enforcement authority. The Board of Directors must authorize by resolution the appointment of one or more education and enforcement officers and any persons other than sworn peace officers who shall enforce District ordinances by means of administrative citation.

### **Part III.**

#### **Administrative Citation**

Section 3.01. Citation issuance. A person authorized to enforce provisions of the District ordinances may issue an administrative citation upon probable cause that a code violation has occurred. The citation must be issued in person or by mail to the person alleged to be responsible for the violation or may be attached to the watercraft or vehicle in the case of a watercraft or vehicle offense. The citation must state the date, time, and nature of the offense, the name of the authorized enforcement person issuing the citation, the amount of the scheduled civil penalty, and the manner for paying the civil penalty or appealing the citation.

Section 3.02. Responsibility of the accused. The person responsible for the violation must either pay the scheduled civil penalty or request a hearing within ten days after personal service of the citation or 13 days after mailed service of the citation. Payment of the civil penalty constitutes admission of the administrative violation. A late payment fee of 10 percent of the scheduled civil penalty amount may be imposed under Section 7.04. Admission of an administrative violation shall not be admission to any crime.

Section 3.03. Criminal option. Participation by any charged person in these administrative enforcement proceedings is voluntary. Any charged person may withdraw from these proceedings at any stage and elect to have the matter treated as a criminal proceeding by so informing the District or its representatives. The administrative citation will be withdrawn and a criminal citation or complaint issued for the same offense.

### **PART IV.**

#### **Administrative Hearing**

Section 4.01. Hearing officer. The Board of Directors will periodically appoint a hearing officer to hear and determine a matter for which a hearing is requested. The accused will have the right to request no later than five days before the date of the hearing that the assigned hearing officer be removed from the case. One request for each case will be granted automatically by the Board. A subsequent request must be directed to the assigned hearing officer who will decide whether he or she has reason to withdraw. If the hearing officer withdraws, the District Staff will assign another hearing officer. The hearing officer is not a judicial officer but is a public

officer as defined by Minn. Stat., §609.415.

Section 4.02. Orders. Upon the hearing officer's own initiative or upon written request of an interested party demonstrating the need, the officer may issue an administrative order served in the manner for serving subpoenas in a civil action for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the order is responsible for serving the order in the manner provided for civil actions and for paying the fees and expenses of a witness. A person served with an order may file an objection with the hearing officer promptly but no later than the time specified in the order for compliance. The hearing officer may cancel or modify the order if it is unreasonable or oppressive. A person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to such an order may be subject to such penalties, including default, as the hearing officer may deem fair under the circumstances. Alternatively, the party requesting the order may seek an order from district court directing compliance.

Section 4.03. Notice. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least 10 days in advance, unless a shorter time is accepted by all parties.

Section 4.04. Evidence. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and receive testimony and exhibits. The officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. In a case of alleged pollution, alleged safety or sanitation violations, or alleged detriment to the quality of waters or wildlife, evidence of an improper or prohibited action may be considered sufficient proof without demonstrating that the action resulted in actual harm.

Section 4.05. Determination. The hearing officer has the authority to determine that a violation occurred; to dismiss a citation; to impose the scheduled civil penalty; to reduce, stay, or waive a scheduled civil penalty either unconditionally or upon compliance with appropriate conditions; to refer the matter to the Board for suspension or revocation of a District-issued license; to order the accused person to cease and desist from conduct in violation; to order the performance remedial measures; and to impose or recover costs, including restitution and abatement of a nuisance or hazardous condition, as may be incurred by the District and other parties in conducting these proceedings and in undertaking cleanup or remedial measures. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:

(a) the duration of the violation;

- (b) the frequency or reoccurrence of the violation;
- (c) the seriousness of the violation;
- (d) the history of the violation;
- (e) subsequent remedial measures taken by the violator after issuance of the citation;
- (f) the good faith effort by the violator to comply;
- (g) the economic impact of the penalty on the violator;
- (h) the impact of the violation upon the community;
- (i) the impact of the violation upon the environment of the lake, shoreland, or watershed; and
- (j) any other factors appropriate to a just result.

Section 4.06. Limited appeal Except for matters subject to administrative review under Part V, the decision of the hearing officer is final without any further right of administrative appeal. In a matter subject to administrative review under Part V, the hearing officer's decision may be appealed to the Board of Directors by submitting a request in writing to the District staff within 10 days after the hearing officer's decision.

Section 4.07. Failure to attend hearing. When the accused fails without good cause to attend the hearing, the hearing officer will either renotice the civil citation or refer the matter for criminal prosecution. Failure to appear a second time constitutes withdrawal from these administrative proceedings and the hearing officer will refer the matter for criminal prosecution. Examples of "good cause" are: death or incapacitating illness of the accused or a family member; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.

## **PART V.**

### **Administrative Review**

Section 5.01. Appeal to the Board. The hearing officer's decision in any of the following matters may be appealed by a party in writing to the Board of Directors for administrative review:

- (a) an alleged failure to obtain a permit, license, or other approval from the Board of Directors as required by an ordinance;
- (b) an alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, that was granted by the Board of Directors; and/or
- (c) an alleged violation of regulations governing a person or entity who has received a license granted by the Board of Directors.

Section 5.02. Review by the Board. The review will be conducted by the Board of

directors after notice served in person or by mail at least 10 days in advance. The Board may request parties to present oral or written arguments regarding the hearing officer's decision.

Section 5.03. Board consideration. The Board of Directors must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The Board is not bound by the hearing officer's decision, but may adopt all or part of the officer's decision. The Board's decision must be in writing.

Section 5.04. Board finding, penalty, and order. If the Board makes a finding of a violation, it may impose a civil penalty not exceeding \$1,000 per day per violation, and may consider any or all of the factors contained in Section 4.05(a) through (j). The Board may also reduce, stay, or waive a civil penalty unconditionally or based on reasonable and appropriate conditions. In addition to the civil penalty, the Board may impose or recover costs, including restitution and abatement of a nuisance or hazardous condition, as may be incurred by the District and other parties in conducting these proceedings and in undertaking cleanup or remedial measures. Further, the Board may order the performance of remedial measures and may order the accused person to cease and desist from conduct in violation.

Section 5.05. License revocation or suspension. In addition to imposing a civil penalty, the Board may suspend or revoke a District-issued license, permit, or other approval associated with the violation. The Board will suspend or revoke a license when, in its judgment, such action will serve to cease, abate, clean up, or remediate a violation.

## **Part VI.**

### **Judicial Review**

Section 6.01. Judicial review. An aggrieved party may obtain judicial review of the decision of the hearing officer or the Board of Directors by proceeding under a writ of certiorari or other means authorized by law. At any time prior to the hearing herein, an aggrieved party may require the issuance of a criminal citation or complaint in lieu of an administrative citation.

## **Part VII.**

### **Recovery of Civil Penalties**

Section 7.01. Failure to pay penalty. If a civil penalty is not paid within the time specified, it will constitute a personal obligation of the violator.

Section 7.02. Property lien. Nothing in this provision precludes the District from seeking and obtaining a lien on the property of the violator to recover the civil penalty or costs incurred by the District or other parties, including restitution and

abatement of a nuisance or hazardous condition, in undertaking cleanup or remedial measures.

Section 7.03. Personal obligation. A personal obligation may be collected by appropriate legal means.

Section 7.04. Late fee. A late payment fee of 10 percent of the civil penalty shall be assessed for each 30-day period, or part thereof, that the civil penalty remains unpaid after the due date.

Section 7.05. Revocation of license. Failure to pay a civil penalty is grounds for suspension or revocation of a license related to the violation

## **Part VIII.**

### **Criminal Prosecution**

8.01. Failure to pay penalty. Failure to pay a civil penalty within 30 days after it was imposed, or such other time as may be established by the hearing officer or the Board of Directors, may be deemed by the hearing officer or the Board to constitute withdrawal from these administrative proceedings and the District may prosecute the offense as a criminal matter.

8.02. Limit to prosecution. After final adjudication under the administrative penalty procedure herein, the District may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the District from pursuing a criminal conviction for a violation of the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

## **Part IX.**

### **Adoption of State Laws and Rules**

9.01. Enforcement. The Conservation District hereby adopts by reference, except where in conflict with District ordinance or resolution, the following state laws and rules which shall be enforceable under this ordinance:

- (a) Minnesota Statutes, Section 84.0895, regarding protection of threatened and endangered species;
- (b) Minnesota Statutes, Section 84.091, regarding destruction of aquatic vegetation in public waters;
- (c) Minnesota Statutes, Chapter 84D, and Minnesota Rules, Part 6216, regarding harmful exotic species management;
- (d) Minnesota Statutes, Chapter 86B, regarding water use policy including buoys and water safety;

- (e) Minnesota Statutes, Chapter 97A, regarding game and fish;
- (f) Minnesota Statutes, Chapter 97C, regarding discharge of pollutants into waters; permits required for structures in public waters; fishing contests and fishing houses;
- (g) Minnesota Statutes, Chapter 103D, regarding watershed law;
- (h) Minnesota Statutes, Chapter 103E, regarding drainage authority;
- (i) Minnesota Statutes, Chapter 103F, regarding soil loss and wetland preservation;
- (j) Minnesota Statutes, Chapter 103G, regarding alteration of public waters, filing and dredging in public waters, drainage of public waters, drainage of wetlands, work in public waters, surface water appropriations, deicing water bodies, harvesting or destruction of aquatic plants, and control of aquatic vegetation and organisms;
- (k) Minnesota Statutes, Chapter 115, regarding pollution of waters;
- (l) Minnesota Rules, Part 6115, regarding fill, excavation, structures, water level controls, bridges, culverts, intakes and outfalls, permit reviews and coordination with other agencies, enforcement, drainage, and the conservation and use of water;
- (m) Minnesota Rules, Part 6120, regarding subdivision, use, and development of shorelands of public waters and local shoreland management controls.
- (n) Enforcement of state law and rule under this ordinance is intended to supplement, not supplant, enforcement by state agencies and other local agencies.

## **Part X.**

### **Severability**

The provisions of this ordinance are severable. Should any part, section, subsection, clause or other provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

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**Ordinance #16 - 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**

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

**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 floatation 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.

Subd. 20. "Boat" means all motorized watercraft and all non-motorized watercraft over 10 feet, or any watercraft that requires registration with the Minnesota Department of Natural Resources (see Minnesota Boating Guide for more information).

### **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 anymanner 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.

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# **Ordinance #17 - AN ORDINANCE RELATING TO THE PLACEMENT AND ENFORCEMENT OF NAVIGATIONAL MARKINGS ON WHITE BEAR LAKE**

## **PART I**

### **Purpose and Intent**

The Board of Directors of the White Bear Lake Conservation District are authorized at the discretion of the Board by resolution to place and enforce navigational markings on the waters of White Bear Lake to regulate the use of the lake at various times and the use of various parts of the lake: to regulate the conduct of activities on the lake in order to secure the safety of the public and the most general public use and to secure the conservation of wildlife, aquatic plants, water quality and lake structure. This ordinance is enacted for the purposed, and with the intent of exercising such authority so as to secure the public health and safety, the general public use of the lake and the protection of the public resource.

## **PART II**

### **Definitions**

Section 2.01 For the purposes of this ordinance, the terms defined in this section shall have the meanings ascribed to them.

Subdivision 1. "Navigational markings" shall include but not be limited to, buoys, signs, and other appropriate marking devices the Board deems suitable to restrict, direct, or define watercraft operation or public use.

Subdivision 2. "Lake" means White Bear Lake and all the parts, bays and channels there of.

Subdivision 3. "Board" means, the Board of Directors of the White Bear Lake Conservation District.

Subdivision 4. "Resolution" means a resolution passed by majority vote of the Board.

## **Part III**

Section 3.01 Observation of navigational markings on the lake

Subdivision 1. All persons shall observe, comply with and understand all navigational markings placed on the lake by the Board including but not limited to shallow water, now wake, prohibited use, limited use and directional markings.

## **Part IV**

### Section 4.01 Penalties

Subdivision 1. a violation of this ordinance is a misdemeanor.

Subdivision 2. Other/civil remedies are available a the discretion of the Board as proscribed and provided for under ordinance #15 of the White Bear Lake Conservation District.

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## **Ordinance #18 - AN ORDINANCE TO REGULATE THE CONDUCT OF VEHICULAR ACTIVITY ON THE ICE OF WHITE BEAR LAKE.**

(Amends & replaces Ordinance Number 1)

### **PART I**

#### **Purpose and Intent**

The Board of Directors of the White Bear Lake Conservation District enacts this ordinance regulating the conduct of vehicle activity on White Bear Lake to secure the safety of the public thereon and to provide for the most general use thereof. Vehicles shall be operated in accordance with the Laws of the State of Minnesota and the local ordinances. It is the intent of this ordinance to supplement Minnesota Statutes 2005, Sections 84.81 to 84.915, and Minnesota Rules 2005, Chapter 6100. This ordinance is not intended to permit what state statutes or local ordinances prohibit. This ordinance repeals all provisions of previous Ordinance No. 1 adopted and approved on November 28, 1972, revised and approved on April 18, 2006.

### **PART II**

#### **Definitions**

Section 2.01, Subdivision 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, firm, partnership, association or corporation; the term may extend and be applied to bodies of corporate and politic, and to partnerships and other unincorporated associations.

Subd. 3. "Operate" means, in the case of snowmobiles, to ride in or on and control the operation of a snowmobile; and in the case of other vehicles, to drive and be in effective control of such vehicle.

Subd. 4. "Vehicle" means any vehicle that is self-propelled; the term includes, but is not limited to, motor vehicles, snowmobiles and aircraft, and all terrain vehicles defined in Minnesota Statutes 84.92, Subd.8.

Subd. 5. "Schedule A" means a sound level emission range as prescribed in SAE Recommended Practice J192(a) in accordance with Minn. Rules 6100.5700, Subp.5.

Subd. 6. "Owner" means a person other than a lien holder having the property in or title to a vehicle.

Subd. 7. "Administrative offense" Some violations of a provision of the District ordinances can be handled, by violator's choice, as an administrative offense that may be subject to an administrative citation and civil penalties.

Subd. 8. "Civil penalty" The Board of Directors has adopted by resolution a schedule of civil penalties for offenses initiated by administrative citation.

### **PART III**

#### **Equipment**

Section 3.01, Subdivision 1. No person shall operate a motorized vehicle upon the ice-covered waters of White Bear Lake unless it is equipped with the following safety equipment:

Subd. 2. At least one head lamp, one red tail lamp, brakes, muffler and reflector material, all of which must conform to the standards prescribed by the Rules and Regulations of the Commissioner of Natural Resources pertaining to the same.

Subd. 2.1. A muffler that limits engine noise to not more than 78 decibels at Schedule A at 50 feet, in accordance with Minn. Rules 6100.5700, Subp.5.

Subd. 3. A safety or "deadman": throttle in operating condition is required for snowmobiles; 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.

### **PART IV**

#### **Certification**

Section 4.01, Subdivision 1. No operator born after December 31, 1976 at the time of operation shall operate a snowmobile on White Bear Lake unless the operator has a valid snowmobile safety certificate in immediate possession issued pursuant to Minnesota Statutes 84.862.

Subd. 2. It shall be unlawful for the owner of a snowmobile to permit the snowmobile to be operated on White Bear Lake by a person described in Subdivision 1 of this section unless such person has the certificate therein described and required.

Subd. 3. No person shall operate a motorized vehicle on White Bear Lake (except as previously provided) without a valid operator's permit, unless the vehicle does not require a permit.

## **PART V**

### **Operation**

Section 5.01, Subdivision 1. It shall be unlawful for any person to drive or operate any vehicle on White Bear Lake or its public accesses in the following ways:

Subd. 2 a. at a speed in excess of 15 mph within 150 feet of any person fishing, fish house, pedestrian, skier, skater, skating rink, sliding area, ski tow area, or any public access, or any other area on the lake where the operation would conflict with or endanger other persons or property, or where the operation would conflict with the lawful use of the property.

Subd. 2 b. travel within 250 feet of any shoreline except for the purposes of access to the lake or egress from the lake or for the purpose of parking, mooring or docking such vehicle near the shoreline or at a dock.

Subd. 2c. At a rate of speed greater than reasonable or proper under all the surrounding circumstances, and, in no instance, shall any vehicle's speed exceed 35mph:

Sub. 2c(1). Specifically excluded from speed limit restrictions are: iceboats, wind propelled/nonmotorized recreation vehicles, and aircraft taking off and landing.

Subd. 3. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

Subd. 4. Racing is prohibited, except when authorized in responsibly organized events after receiving a permit for the County Sheriff and the White Bear Lake Conservation District. Prima facie evidence of "racing" as herein used shall be the observation of two or more vehicles in close proximity to each other, traveling abreast for a distance of more than 25 yards at a speed in excess of thirty-five (35) miles per hour.

Section 5.02. Operating and lighted head and tail lights shall be required on all motorized vehicles from dusk to dawn and during inclement weather, and on snowmobiles at all times, when traveling on White Bear Lake. The head light on a snowmobile must be of sufficient intensity to reveal persons or vehicles at a distance of at least 100 feet.

Section 5.03. It shall be unlawful for the owner or operator of any motorized vehicle to leave or allow a vehicle to be or remain unattended on White Bear Lake while the motor is running or with the key to start said vehicle in the ignition switch or if said vehicle does not have an ignition switch which can be locked.

Section 5.04. It shall be unlawful for the operator of any vehicle on White Bear to

deposit onto the surface of, or into the body of the lake, or at lake accesses any garbage, rubbish, or other litter.

Section 5.05. It shall be unlawful for the operator or the owner thereof to permit the operation of a vehicle in a specially prepared or marked skating rink.

Section 5.06. It shall be unlawful for the operator or the owner thereof to permit a vehicle to enter White Bear Lake other than via public easements or accesses, or the vehicle owner's property, or by written permission of the property owner. Such written permission shall be in the possession of the operator or owner.

Section 5.07. It shall be unlawful to operate a vehicle, except automobiles, on the ice of White Bear Lake during the following times:

Sunday 11:00 P.M. to Monday 7:00 A.M.  
Monday 11:00 P.M. to Tuesday 7:00 A.M.  
Tuesday 11:00 P.M. to Wednesday 7:00 A.M.  
Wednesday 11:00 P.M. to Thursday 7:00 A.M.  
Thursday 11:00 P.M. to Friday 7:00 A.M.  
Saturday 1:00 A.M. to Saturday 7:00 A.M.  
Sunday 1:00 A.M. to Sunday 7:00 A.M.

Section 5.08. No person shall operate or be in physical control of any vehicle while under the influence of an alcoholic beverage or prohibited drug. No owner or other person having charge or control of any vehicle shall knowingly authorize or permit any person who is under the influence of an alcoholic beverage or prohibited drug to operate such vehicle. The provisions of Minnesota State Statutes, Chapter 169A, Minnesota Impaired Driving Code are hereby incorporated in and made a part of this ordinance as completely as if set out here in full to apply where applicable to motor vehicles on ice.

Section 5.09. The provisions of Minnesota Statutes, Chapter 169, Highway Traffic Regulations are hereby incorporated in and made a part of this ordinance as completely as if set out here in full to apply where applicable to motor vehicles on ice.

Section 5.10. No person shall have on White Bear Lake a receptacle or container of greater than 64 ounce capacity for the storage or transport of intoxicating liquors or non-intoxicating malt liquor without first receiving a permit from the Board of Directors of the White Bear Conservation District.

Section 5.11.

Subdivision 1. It shall be unlawful for any person to operate a snowmobile or the owner thereof to permit the operation of a snowmobile on White Bear Lake inconsistent with the provisions of Minnesota Statutes, Section 84.81 to 84.915

inclusive and the rules and regulations promulgated thereunder.

Subd. 2. It shall be unlawful for any person to operate a vehicle or for the owner thereof to permit the operation of a vehicle on White Bear Lake contrary to this ordinance or the Rules and Regulations of the Commissioner of Natural Resources or any resolution or ordinance of any county, city, village or borough within the White Bear Lake Conservation District which regulates the operation of vehicles on White Bear Lake.

Subd. 3. It shall be unlawful for any person to operate a vehicle or for the owner thereof to permit the operation of a vehicle on White Bear Lake or the shoreland of White Bear Lake in a manner that causes harm to wildlife, wildlife habitat, or aquatic plants, as those terms are defined by the Department of Natural Resources.

## **PART VI**

### **Violations**

Section 6.01. Any person who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed \$1,000.00 and costs or imprisonment for not to exceed 90 days or both. Each day a violation continues shall constitute a separate offense.

Section 6.02. Any person who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, shall be guilty of a misdemeanor but will, in lieu of the criminal track outlined above, have the alternative choice of having the hearing and disposition of the alleged conduct decided through the use of an administrative citation(s) and civil penalties.

Section 6.03. In case of a violation of the within ordinance, the Board, in addition to the foregoing penalties may institute any proper action or procedure in the name of the District to prevent such violation.

## **PART VII**

### **Validity**

Section 7.01. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

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