

906 **Docks: Construction and Use.**

(1) **Permits, Docks.**

(A) **Definitions.**

- a. The term "**Dock**" means and includes any dock, wharf, pier, boathouse or other structure or combination of wharves, piers, or other structure constructed or maintained in or over the Lake, whether floating or not, including all "Is", "Ts" or posts which may be a part thereof, whether affixed or adjacent to the principal structure.
- b. The term "**Unrestricted Watercraft**" means any boat or vessel for use on or stored on the public waters of the lake which is:
 - i. 16 feet or less in length and unmotorized; or
 - ii. 16 feet or less in length and which uses a motor of 10 horsepower or less; or
 - iii. 20 feet or less in length and unmotorized, and which is propelled solely by human power.
- c. The term "**Restricted Watercraft**" means any boat or vessel for use on or stored on the public waters on the Lake except for unrestricted watercraft as defined herein.
- d. The term "**Boat Storage Units**" means a space or facility available for mooring, docking or storing a watercraft to be used on the Lake. Boat Storage Units does not include such a space or facility located on land unless it is used in conjunction with a commercial dock.

(B) **Permit Required.** No person shall erect, keep or maintain a dock on or abutting upon any public street, road, park, or public property, public waters and Dock Use Areas without first securing a permit therefore from the Council. For the purpose of this section, a "person" shall include a family unit as a single permit holder. Family unit is defined as immediate family residing at the real property in Minnetonka Beach.

(C) **Permits for Multiple Use.** A permit may be issued for the placing and maintenance of a dock to be used by more than one person or family unit as defined in the preceding paragraph. In such event, each person or family unit using a dock shall be deemed to be a separate permit holder. The Council may require the sharing of dock space between and among permit holders at its discretion. Failure of permit holders to cooperate in the maintenance or transfer of dock hardware shall constitute a forfeiture of all permits on the offending dock. Permits are issued only for the benefit of individuals living in the household and not for the benefit of others that do not reside at the residence.

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- (D) **Owner Defined.** The term "owner" means an owner of real property in Minnetonka Beach upon which a residential house is constructed, being constructed or remodeled whether or not the owner resides in it during the construction phase.
 - (E) **Nonresident Owner Defined.** The term "nonresident owner" shall mean an owner who does not occupy his property as his regular and usual residence from Memorial Day to Labor Day of the application year, unless the residence cannot be occupied due to construction or matters of physical safety that would prevent the occupancy of the property from Memorial Day to Labor Day.
 - (F) **Renter Defined.** The term "renter" shall mean an individual or a family unit that does not own real property in Minnetonka Beach, however, leases real property
- (2) **Application for and Issuance of Permits.**
- (A) **Separate Permit Required.** Each dock or boat storage unit shall require a separate permit and is limited to one restricted watercraft. Application shall state, among other things, the names and addresses of the applicants, if more than one person or family unit will be using the dock or boat storage unit, the description of such dock, and a description and drawing or sketch of the proposed dock and of the location or proposed location of such dock, and such other information as may be required by the application form. Application for such permit shall be filed with the City Clerk who shall check the applications and report to the Council. No such permits will be authorized or issued by the Council until it shall have first determined that such proposed dock, or the maintenance of any such dock at the time of the passage of this section, complies substantially with the terms of this section. All such applications shall be considered by the Council. Boat registration numbers shall be registered with the City Clerk (a copy of a watercraft registration issued by a State authority shall be provided to the Clerk), and subsequently verified to the boat in the dock. All dock permit holders shall inform the City Clerk within ten days if the permit holder sells or vacates such property, or becomes a nonresident for purposes of this Section during the calendar year.
 - (B) **Permit for Unrestricted Watercraft.** A permit holder for a restricted watercraft may also place an unrestricted watercraft at the dock or boat storage unit assigned to such permit holder for restricted watercraft. Only restricted watercrafts are eligible for City Dock Permits for dock or boat storage units.
 - (C) **Permits: Priorities.** The City of Minnetonka Beach is able to issue a limited number of dock or boat storage unit permits given the capacity of the public properties available for dock use and boat storage. In order to

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create a fair and equitable policy for issuing those permits, a system of priority is hereby established. Priorities shall be determined as of March 15 of each year. However, should any dock permit holder for a given year change his or her status and therefore his or her priority rating, then the dock previously assigned to that party may be reassigned by the City at any time throughout the calendar year. The priorities are as follows:

- (i) **First Priority.** Upon application dock permits shall be first issued to residents of property in Minnetonka Beach whose property abuts Shoreline Drive and Lafayette Bay and defined as:
 1. 3022 Shoreline Drive: Lot 1, Block 1, Lot 1 including adjacent south ½ of VAC Brooks Ave VAC also including adjacent part of Lafayette Ave. VAC. PID 16-117-23-32-0015
 2. 2512 Shoreline Drive: Addition Name: REG. LAND SURVEY NO. 1660 Metes and Bounds: TRACTS A B AND D. PID 15-117-23-32-0087
- (ii) **Second Priority.** A resident owner shall have a second priority on any City dock site or boat storage unit location. The resident owner shall have the first priority over any other resident owner as to any dock or boat storage unit that he or she occupied during the previous dock season.
- (iii) **Third Priority.** A nonresident owner shall have third priority with the understanding that, irrespective of prior years' dock location(s), their priority begins after all first and second priority owners have been assigned to dock sites or boat storage unit locations.
- (iv) **Fourth Priority.** A renter shall have fourth priority on all locations vacant on April 1 of each year. Irrespective of prior years' dock location(s), their priority begins after all first, second and third priority owners have been assigned to dock sites or boat storage unit locations.
- (v) **Fifth Priority.** Non-riparian and Lafayette Ridge Association residents who wish to obtain a second permit shall have fifth priority on all locations vacant on April 1 of each year. Irrespective of prior years' dock location(s), their priority begins after all first, second, third and fourth priority owners have been assigned to dock sites or boat storage unit locations.
- (vi) **Sixth Priority.** Riparian residents who have reached the maximum number of watercraft as permitted by the LMCD including any variances allowed by the LMCD for their property and who wish to obtain a permit shall have sixth priority on all locations vacant

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on April 1 of each year. Irrespective of prior years' dock location(s), their priority begins after all first, second, third, fourth and fifth priority owners have been assigned to dock sites or boat storage unit locations.

(D) **Location.** The Council will by resolution approve the permit application and upon approval designate the location where permit holders may place docks and boat storage units and no docks and boat storage units shall be authorized in locations other than those designated. However, historical precedent will govern unless contrary to current law. The city will vigorously defend this precedent to the LMCD. Boathouses are permitted in all areas designated by the Council except for locations at the end of designated fire lanes. The location of all Docks will be “staked” (pole at shoreline and inland with sufficient distance inland to provide sightline on property line enabling dock placement to be in compliance and consistent from year to year).

(E) **Applications: Deadlines.** Applications for dock permits may be made between January 1 and March 1 of each year.

(F) **Applications: Processing.**

(i) Previous year's permit holders may be given until March 1 to reapply and pay the appropriate fees.

(ii) On or after March 1 any remaining municipal dock or boat storage unit permits will be assigned to applicants in order of priority.

If a permit is not approved by the City any fees paid shall be refunded to the applicant within 60 days.

(G) **Waiting List** – A waiting list shall be retained in order of priority first, and time submitted second, and used to assign the applicant in the event of reasonable turnover of slip holders. Such waiting list is available upon request. Individuals requesting to be on the waiting list shall submit their request to the City Clerk in writing. When slips become available, individuals on the waiting list shall be contacted by the City. The individual may pass on the available dock or boat storage unit location and retain their place on the list only one time. If a subsequent opportunity is passed up, the individual will go to the bottom of the waiting list for that respective dock or boat storage unit location.

(H) **Watercraft Eligibility.** Only restricted watercrafts are eligible for City Dock Permits for dock or boat storage units. Restricted watercraft exceeding the following standards shall be eligible to obtain a dock or boat

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storage unit permit only at special designated areas or at regular permit areas only after other applicants have been assigned and it has been determined that the docking of a watercraft of that size will not interfere with the City of the Village of Minnetonka Beach's goal of allocating dock permits to the greatest number of Minnetonka Beach residents consistent with preservation of the character, health, safety and welfare within Minnetonka Beach.

- (i) **Beam.** No watercraft shall have a beam exceeding nine (9) feet.
- (ii) **Length.** No watercraft shall exceed twenty-six (26) feet in length from bow to stern as per a watercraft registration issued by a State authority.
- (iii) **Limitations.** All watercraft shall be subject to available dock or boat storage unit spaces and seasonal water levels of Lake Minnetonka.

(3) **Rules and Regulations.**

- (A) **Dock and Boat Storage Unit Location.** The Council shall establish rules and regulations and administrative policies to implement the issuance of dock and boat storage unit permits and their enforcement and shall determine and approve the location of each dock and boat storage units. With respect to docks erected or maintained by owners of land abutting upon any street, road or public property intervening between such property and the shore of Lake Minnetonka, such docks shall be constructed and maintained midway between the intersections of the opposite side lines of the property of such applicant, as extended, with the shore of Lake Minnetonka; except that variations may be permitted by the Council where it appears impracticable to so locate such dock and where it further appears that any such dock or proposed dock constructed elsewhere will not interfere unreasonably with the use or enjoyment of said waters of Lake Minnetonka by the public or other adjoining lot owners abutting upon any such street or public property.
- (B) **Other Laws Incorporated.** Chapter 1, Section 1.07 and Chapter 2, Sections 2.01, 2.015, 2.02, 2.03, 2.04, 2.12 of the Lake Minnetonka Conservation District Code of Ordinances, and amendments thereto, are hereby adopted into this Ordinance by reference as though said sections were fully set forth herein. Such ordinances are applicable to all residents of the City.
- (C) **Compliance.** The Council or such officer as may be designated by the Council for the purpose, will inspect or cause to be inspected on an annual basis, any dock erected or maintained upon, or abutting upon, any such public streets, road, park or public property, and if it shall appear that any

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such dock has not been constructed or is not being maintained in accordance with the application therefore or the plans or location thereof as approved by the Council or if it shall appear that such dock has become in such condition that it no longer complies with the requirements of this section or it shall appear that the dock is not maintained in a safe manner, the Council by its clerk will forthwith notify the owner thereof in writing specifying the way or ways in which said dock does not comply with this section, after which said owner shall have twenty (20) days to remove such dock or make the same comply with the terms of this section and the terms of the application and issuance of the permit therefore. In the event such owner shall fail, neglect or refuse to remove such dock or make the same comply with the terms of this section within such period of twenty (20) days, the license therefore will be revoked by direction of the Council and by notice in writing to the owner thereof issued by the City Clerk. The notices herein required will be given in writing by the City Clerk by mail directed to such dock owner at the address given in the application for the erection of such dock or in the notice of transfer of such permit. Such violations may result in the loss of rights under all Sections of this code.

(D) **Non-eligible Applicants.** No permit shall be issued to:

(i) Any business organization, including but not limited to corporations, partnerships or limited partnerships.

(ii) A person for the benefit of another. The permit holder shall be the actual user of the dock. If it is determined that a dock is being used in violation of this section, the Clerk shall proceed in the manner set forth in Section 906 (3) (C).

(iii) No permit shall be assignable or transferable.

(4) **Leasing or Renting of Docks Prohibited.** No person shall rent or lease mooring space on any dock located within the corporate limits of the City whether located on public or private property.

(5) **Term of Permit, Installation and Removal of Docks and Placement of Watercraft.** All permits issued pursuant to this section shall have a term from March 15 to December 31 of the calendar year in which issued. Every dock, including boat lifts and other appurtenances, constructed or installed pursuant to a permit issued hereunder shall be installed by the permit holder on or before June 15 and removed by the permit holder on or before December 31 of the year that the permit was issued. Watercraft shall be placed in the dock on or before June 15 of the year that the permit was issued.

(6) **Penalties.** No person shall erect or maintain a dock without

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securing a permit therefore as herein provided, nor shall any person fail to comply with any of the requirements herein set forth. The Council may remove or cause to be removed any dock for which no permit has been issued in accordance with this section or for which any permit shall have been revoked as herein provided, at the expense of the owner thereof who may also lose all rights under all Sections of this code. Any permit holder who does not comply with provisions of this ordinance shall be subject to having such permit revoked by the City Council.

(7) **No Vesting of Interest; Non-assignability.** The granting of a permit under this section shall not vest in the permit holder any right of re-issue or continued use other than those rights specifically provided for herein.

(8) **Permit Fee.** An annual fee as may be established by the City Council from time to time shall be charged each permit holder for a dock permit to cover the cost of license fees charged by the LMCD, City administration, compliance and enforcement of all sections of this code. The annual fee per dock or boat storage unit shall be based on the following criteria:

Size of dock or boat storage unit calculated based on total square feet using the following parameters:

- Tier 1 – 200 square feet or less;
- Tier 2 – Greater than 200 square feet and less than 301 square feet; or
- Tier 3 – Greater than 300 square feet.

Tiers shall be weighted for the determination of costs such that the costs allocated to a Tier 3 dock or boat storage unit shall be greater than the costs allocated to a Tier 1 dock or boat storage unit, as follows:

- Tier 1 – One (1).
- Tier 2 – One point 5 (1.5).
- Tier 3 – Two (2).