

**ADJOURNED MEETING OF THE
COUNTY BOARD OF COMMISSIONERS
June 1, 2012 – BOARD AGENDA**

EMERGENCY MEETING

- 12:00** 1) **J. Mark Wedel, County Board Chairperson**
A) **Call to Order**
B) **Pledge of Allegiance**
C) **Board of Commissioners Meeting Procedure**
D) **Approval of Agenda**
E) **Citizens' Public Comment***
- 2) **Scott Turner, Sheriff**
A) **Big Sandy Lake – High Water Issues – Possible “No Wake Zone” Action**
- 1:00** **Adjourn**

* Comments from visitors must be informational in nature and not exceed five (5) minutes per person. The County Board cannot engage in a discussion or debate in those five minutes but will take the information and find answers if that is appropriate. As part of the County Board protocol, it is unacceptable for any speaker to slander or engage in character assassination at a public Board meeting.

**** Please note: all times, except public advertised hearings, are approximate and subject to change without notice.**

Aitkin County Board of Commissioners
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners Date: 5-31-12

Via: Patrick Wussow, County Administrator

From: Scott Turner, Sheriff

Title of Item:

Big Sandy Lake – High Water Issues – Possible “No Wake Zone Action”

Requested Meeting Date: 6-1-12 Estimated Presentation Time: _____

Presenter: Scott Turner, Sheriff

Type of Action Requested (check all that apply)

- For info only, no action requested
- For discussion only with possible future action
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute _____
- Approve under Consent Agenda
- Adopt Ordinance Revision
- Approve/adopt proposal by resolution (attach draft resolution)
- Other (please list) Discussion and possible action

Fiscal Impact (check all that apply)

- Is this item in the current approved budget? Yes _____ No _____ (attach explanation)
- What type of expenditure is this? Operating Capital Other (attach explanation)
- Revenue line account # that funds this item is: _____
- Expenditure line account # for this item is: _____

Staffing Impact (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected. Yes No
- Applicable job description(s) may require revision. Yes No
- Item may impact a bargaining unit agreement or county work policy. Yes No
- Item may change the department's authorized staffing level. Yes No

_____ HR Review

Supporting Attachment(s)

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) Watercraft Ordinance and Water Surface Use Rules & Statutes

Provide eleven (11) copies of supporting documentation NO LATER THAN Wednesday at Noon to make the Board's agenda for the following Tuesday. Items WILL NOT be placed on the Board agenda unless complete documentation is provided for mailing in the Board packets. (see reverse side for details)

AITKIN COUNTY ADMINISTRATION

Aitkin County Courthouse
217 Second Street N.W. Room 130
Aitkin, MN 56431
218-927-7276
Fax: 218-927-7374

TO: Aitkin County Board of Commissioners

FROM: Patrick Wussow, Aitkin County Administrator and Sheriff Scott Turner

RE: Big Sandy Lake – High Water Issues – Possible “No Wake Zone Action”

DATE: May 31, 2012

Due to the recent rain, there seems to be considerable discussion about high water issues on Big Sandy Lake and the effects on shorelines. Scott Turner will provide additional information at or before the board meeting.

As Scott explained it to me over the phone; the County Board has the ability to impose temporary restrictions that are limited to five days. The Commissioner of the DNR would have to take action for the extended “no wake zone” to be in place for a longer period of time. Temporary restrictions could be:

- A slow no wake zone on the entire lake
- A no wake zone within a certain distance of shore

At this time County staff is working with the DNR staff to provide additional details.

Please contact the Sheriff if you have any questions

**STATE OF MINNESOTA
COUNTY OF AITKIN**

WATERCRAFT ORDINANCE

AN ORDINANCE REGULATING THE USE OF WATERCRAFT ON WATERWAYS WITHIN AITKIN COUNTY.

Be it ordained and enacted by the Aitkin County Board of Commissioners, State of Minnesota, that these amendments following, by this act, hereby replace and nullify those like numbered clauses now existing and a part of the Watercraft Ordinance, or are newly enacted sections which, upon their enactment, become a part of the Watercraft Ordinance.

Section 1: PURPOSE, INTENT AND APPLICATION: As authorized by Minnesota Statutes 86B.201, 86B.205, and 459.20, as now in effect and as hereafter amended, this Ordinance is enacted for the purpose and with the intent to control and regulate the use of the waters in Aitkin County, Minnesota, said bodies of water being located entirely within the boundaries of Aitkin County, to promote its fullest use and enjoyment by the public in general and the citizens of Aitkin County, in particular; to insure safety for persons and property in connection with the use of said waters; to harmonize and integrate the varying uses of said waters; and to promote the general health, safety, and welfare of the citizens of Aitkin County, Minnesota.

Section 2: ADOPTION AND INCORPORATION BY REFERENCE OF MINNESOTA WATERS AND WATERCRAFT SAFETY LAWS, AND BOAT AND WATER SAFETY RULES PROMULGATED BY THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES: The Minnesota Waters and Watercraft Safety Laws, Minnesota Statute, Section 86B.001, as they now exist and are hereafter by the State of Minnesota Department of Natural Resources, Minn. Rules parts 6110-0100-2300 as the same now exist and are hereafter amended, are hereby adopted, incorporated herein by reference, and made a part hereof as if set forth in their entirety. At least three copies of said Waters and Watercraft Safety laws and Boat and Water Safety Rules and Regulations, so adopted, shall be marked as official copies and filed in the office of the County Auditor along with this Ordinance.

Section 3: VIOLATIONS OF THE MINNESOTA WATERS AND WATERCRAFT SAFETY LAWS, AND BOAT AND WATER SAFETY RULES PROMULGATED BY THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES: Any person violating the Minnesota Waters and Watercraft Safety Laws, and the Boat and Water Safety Rules and Regulations promulgated by the Minnesota Department of Natural Resources, adopted and incorporated herein by reference, shall be subject of the penalties and punishment hereinafter provided.

Section 4: Definitions:

A. "Operate" means to navigate or otherwise use a watercraft.

- B. "Person" means an individual, partnership, corporation, the state and its agencies and subdivisions, and any other legal entity.
- C. "Slow-no wake" means operations of a watercraft at the slowest possible speed necessary to maintain steerage, but in no case greater than five miles per hour.
- D. "Watercraft" means as defined in M.S. 86B.005, subd.18.

Section 5: REGULATIONS: No person shall operate a watercraft at greater than a slow-no wake speed on the following:

- A. On the Sandy River, from Minnesota Highway 65 bridge 100 feet upstream and downstream:
- B. On the Prairie River, approximately 4350 feet upstream of the bridge on CSAH No. 14 over the Prairie River (A point 800 feet south of the north line and 450 feet east of the west line of the Northwest Quarter of the Southeast Quarter of Section 3, Township 49, Range 23, Aitkin County, Minnesota (Shamrock Township) and approximately 900 feet downstream from the bridge on CSAH No. 14 over Prairie River (A point 400 feet south of the north line and 400 feet west of the east line of Government Lot 1 of Section 9, Township 49, Range 23, Aitkin County, Minnesota (Shamrock Township).
- C. On the Ripple River, from Farm Island Lake downstream from County Road 28, to Pine Lake:
- D. 100 feet north and south of the bridge on Bridge Road on Big Sandy Lake, as marked:
- E. Ripple River – Hanging Kettle Lake to Diamond Lake: 200 feet into Hanging Kettle Lake and 600 feet south toward Diamond Lake:
- F. Big Sandy River – 232 Bridge: 2500 feet north from bridge and 100 feet south from bridge.
- G. The channel between Horseshoe Lake and Lake Minnewawa, and extending 100 feet eastward from the channel into the body of Horseshoe Lake (As located easterly of Government Lot 6 of Section 23, T49-R23) and extending 100 feet westward from the channel into Lake Minnewawa (As located westerly of Government Lot 8 of Section 23, T49-R23.
- H. Cedar Lake – the north channel between the main body of Cedar Lake and Bay Park Bay – extending 100 feet east from said channel into Bay Park Bay and 100 feet west from said channel into Cedar Lake. Said channel

being located northerly of Lots 48 and 49 of Sunset Hills, as platted in Government Lot 3 of Section 32, T47-R27.

Section 6: ENFORCEMENT: The enforcement of this Ordinance shall be the primary responsibility of the Aitkin County Sheriff's Office. Other licensed peace officers including Conservation Officers of the Department of Natural Resources of the State of Minnesota are also authorized to enforce this ordinance.

Section 7: All authorized Resource Management, Emergency and Enforcement Personnel, while acting in the performance of their assigned duties are exempt from the foregoing restrictions.

Section 8: It shall be the responsibility of the County to provide for adequate notification of the public, which shall include placement of a sign at each public watercraft launching facility outlining essential elements of the ordinance, as well as the placement of necessary buoys and signs.

Section 9: PENALTIES: Any person who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, may be punished as provided by Minnesota Statutes 86B.811, as amended.

Section 10: EFFECTIVE DATE: This Ordinance shall be in effect from and after the date of its passage and publication.

Ordinance passed April 16, 1996; amended April 15, 2003; amended July 22, 2008, amended June 7, 2011.

Water Surface Use Rules And Statutes



**Minnesota Department
of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046**

October 2005

Dear Water Surface Use Manager:

Each year the Minnesota Department of Natural Resources (DNR) receives numerous inquiries regarding water surface use management. This packet contains general information concerning the rules and statutes that may govern the water surface of lakes and rivers in Minnesota.

Water surfaces are managed through numerous statutes and rules. Minnesota Rules parts 6110.3000-.3800, Water Surface Use Management (WSUM) Rules describe the goals of the rules, require an assessment of the water surface use conditions, and establish water surface management standards or parameters, which may be included in an ordinance. For more specific information, a copy of the statutes and rules are enclosed. Also, see the note on "Enforcement" in the sample ordinance that is enclosed.

Governmental units formulating, amending or deleting controls for water surface use must submit the following information to the DNR for review prior to adopting a proposed WSUM ordinance:

- **A water surface worksheet with a map of the water body, highlighting the affected areas.**
- **A statement explaining the necessity for the ordinance and the solution to the problem this ordinance will offer.**
- **A copy of the proposed ordinance (sample wording is included).**
- **An account of the public hearing held concerning the proposed controls, including an account of the statements of each person who testified.**

When more than one governmental unit is involved in adopting an ordinance, all the governmental units with jurisdiction over the particular body of water must agree with the ordinance. All the governmental units must submit the required information to the DNR for approval. Enclosed is an example of a WSUM ordinance that was approved by the DNR. If for some reason the DNR denies the proposed ordinance, then the denial will be sent in the form of a letter, which will explain the reasons for denial. The governmental unit may amend the proposed ordinance in accordance with the denial letter and resubmit the proposed ordinance for a second review by the DNR.

The DNR will notify the governmental unit in writing of approval or denial within 120 days after receiving all of the above information. The governmental unit adopting an ordinance must provide for notification of the ordinance to the public, which involves placing signs at public watercraft launch sites outlining essential elements of the ordinance.

For further information about water surface use management, call me at the DNR, Boat and Water Safety Section at (651) 259-5343 or e-mail me at: kim.elverum@dnr.state.mn.us.

Sincerely,

Kim A. Elverum
Boat and Water Safety Coordinator

Enclosures

MINNESOTA WATER SURFACE USE MANAGEMENT RULES

6110.3000 POLICY.

It is the policy of this state to promote full use and enjoyment of waters of the state, to promote safety for persons and property in connection with such use, and to promote uniformity of laws relating to such use.

Statutory Authority: M.S. § 361.25

6110.3100 SCOPE.

As part of implementing that policy, Minnesota Statutes, sections 378.32 and 459.20 authorize counties, cities, and towns to regulate by ordinance the use of surface waters by watercraft, upon approval of any such ordinance by the commissioner. Minnesota Statutes, section 361.26, subdivision 2a authorizes the commissioner to regulate such use by rule, upon request of a county, city or town, and after the rule is approved by the majority of the counties affected. Parts 6110.3000 to 6110.4200, however, shall not apply to units of government other than counties, cities, and towns, or to counties, cities, or towns adopting ordinances identical to and on the same body of water as a lake conservation district ordinance.

Statutory Authority: M.S. § 361.25

6110.3200 GOAL OF WATER SURFACE USE MANAGEMENT.

The goal of water surface use management shall be to enhance the recreational use, safety, and enjoyment of the water surface of Minnesota and to preserve these water resources in a way that reflects the state's paramount concern for the protection of its natural resources. In pursuit of that goal, an ordinance or rule shall:

- A. where practical and feasible, accommodate all compatible recreational uses;
- B. minimize adverse impact on natural resources;
- C. minimize conflicts between users in a way that provides for maximum use, safety, and enjoyment; and
- D. conform to the standards set in part 6110.3700.

Statutory Authority: M.S. § 361.25

6110.3300 STATUTORY AUTHORITY.

Parts of 6110.3000 to 6110.4200 are required by Minnesota Statutes, section 361.25. They provide procedures for the development and approval of rules and ordinances for resolving water surface use conflict by regulating:

- A. type and size of watercraft;
- B. type and horsepower of motors;
- C. speed of watercraft;
- D. time of use;
- E. area of use; and
- F. the conduct of other activities on the water body where necessary to secure the safety of the public and the most general public use.

Statutory Authority: M.S. § 361.25

6110.3400 JURISDICTION OF COMMISSIONER.

The commissioner shall exercise his discretion under Minnesota Statutes, section 361.26, subdivision 2 to regulate a water body when so requested by a county, city, or town only when the water body:

- A. is traversed by a state or international boundary; or
- B. is within the jurisdiction of two or more counties which cannot agree on the content of

ordinances; and

C. regulation is necessary to achieve the goals in part 6110.3200.

In all other cases, water surface use regulation shall be by county, city, or town ordinance as specified in Minnesota Statutes, sections 378.32 and 459.20. If a body of water is located within the jurisdiction of two or more cities or towns which cannot agree on the content of ordinances, any such city or town may petition the county in which they are located to adopt an ordinance.

Statutory Authority: M.S. § 361.25

6110.3500 EXISTING ORDINANCES AND RULES.

All existing ordinances and rules adopted on or after January 1, 1975 affecting water surface use shall be brought into compliance with parts 6110.3000 to 6110.4200 within a reasonable time period after promulgation of these parts.

Statutory Authority: M.S. § 361.25

6110.3600 ASSESSMENT OF CONDITIONS.

Subpart 1. **Factors to consider.** The commissioner of any governmental unit formulating, amending, or deleting controls for surface waters shall acquire and consider the following information, noting factors that are not relevant:

A. Physical characteristics:

- (1) size: normal surface acreage, if available, or the basin acreage listed in the Division of Waters Bulletin No. 25, An Inventory of Minnesota Lakes;
- (2) crowding potential: expressed as a ratio of water surface area to length of shoreline;
- (3) bottom topography and water depth;
- (4) shore soils and bottom sediments;
- (5) aquatic flora and fauna;
- (6) water circulation: for lakes, the existence and locations of strong currents, inlets, and large water level fluctuations; for rivers and streams, velocity and water level fluctuations;
- (7) natural and artificial obstructions or hazards to navigation, including but not limited to points, bars, rocks, stumps, weed beds, docks, piers, dams, diving platforms, and buoys; and
- (8) regional relationship: the locations and the level of recreational use of other water bodies in the area.

B. Existing development:

- (1) Private: to include number, location, and occupancy characteristics of permanent homes, seasonal homes, apartments, planned unit developments, resorts, marinas, campgrounds, and other residential, commercial, and industrial uses.
- (2) Public: to include type, location, size, facilities, and parking capacity of parks, beaches, and watercraft launching facilities.

C. Ownership of shoreland: to include the location and managing governmental unit of shoreline in federal, state, county, or city ownership as well as private, semipublic, or corporate lands.

D. Public regulations and management: to include federal, state, or local regulations and management plans and activities having direct effects on watercraft use of surface waters.

E. History of accidents which have occurred on the surface waters.

F. Watercraft use: to include information obtained in the morning, afternoon, and evening on at least one weekday and one weekend day, concerning the number and types of watercraft in each of the following categories: kept or used by riparians, rented by or gaining access through resorts or marinas, using each public watercraft launching facility, in use on the waterbody.

G. Conflict perception and control preferences: to include opinions gained by surveys or through public meetings or hearings of riparians, transients, local residents, and the public at large.

Subp. 2. **Written statement.** Any governmental unit formulating, amending, or deleting controls for surface waters shall submit to the commissioner the following:

- A. the information requested in subpart 1, portrayed on a map to the extent reasonable;
- B. a statement evaluating whether the information reveals significant conflicts and

explaining why the particular controls proposed were selected;

C. the proposed ordinance; and

D. a description of public hearings held concerning the proposed controls, including an account of the statement of each person testifying.

Subp. 3. **Commissioner review and approval.** The commissioner shall require the ordinance proposer to provide additional information of the kind described in subpart 1 when needed in order to make an informed decision. The commissioner shall approve the ordinance if it conforms with these rules.

Statutory Authority: M.S. § 361.25

6110.3700 WATER SURFACE MANAGEMENT STANDARDS.

Subpart 1. **Purpose.** To promote uniformity of ordinances or rules on the use of watercraft on surface waters of this state, to encourage compliance and to ease enforcement, the commissioner and any government unit formulating such ordinances or rules shall follow these standards. When formulating an ordinance or rule, it is not required that all the standards listed below be incorporated into every ordinance or rule. Rather, the commissioner or governmental unit shall select from the standards listed below such standard(s) as are needed to regulate the surface use of waters.

Subp. 2. **Watercraft type and size.** Controls may be formulated concerning the type and/or size of watercraft permissible for use on surface water body(ies) or portions thereof.

Subp. 3. **Motor type and size.** Controls, if any, concerning the maximum total horsepower of motor(s) powering watercraft on surface waters shall utilize one or more of the following horsepower cutoffs or motor types: 25 hp; 10 hp; electric motors; no motors.

Subp. 4. **Direction of travel.** Directional controls, if used, shall mandate watercraft to follow a counterclockwise path of travel.

Subp. 5. **Speed limits.** Controls, if any, concerning the maximum speeds allowable for watercraft on surface waters shall utilize one or more of the following miles-per-hour cutoffs:

A. "Slow-No Wake" means operation of a watercraft at the slowest possible speed necessary to maintain steerage and in no case greater than five mph.

B. 15 mph.

C. 40 mph.

Subp. 6. **Effective Time.** Controls must use one or more of the following time periods:

A. sunrise to sunset or sunset to sunrise the following day;

B. 9:00 a.m. to 6:00 p.m. or 6:00 p.m. to 9:00 a.m. the following day;

C. noon to 6:00 p.m. or 6:00 p.m. to noon the following day;

D. all 24 hours of the day.

Controls must be in effect during one of the following calendar divisions: all year; Memorial Day weekend through Labor Day weekend; on all weekends and legal holidays occurring within Memorial Day weekend through Labor Day weekend.

Controls governing the use of watercraft may be adopted which are placed into effect based upon specific water elevations.

Subp. 7. **Area zoning.** Controls shall clearly specify which portion of the water body is affected by such controls.

Area controls may be formulated concerning any of the subject matter covered in the water surface management standards in subparts 2 to 9.

Controls concerning a "Slow-No Wake" shall be established for the entire water body or portion thereof according to the following criteria: within 100 feet or 150 feet from the shore; or where watercraft speed or wake constitutes a hazard to persons, property, or the natural resources; or where it has been determined that such control(s) would enhance the recreational use and enjoyment of the majority of users.

Subp. 8. **Conduct of other activities on a body of water.** Controls formulated by a governmental unit which restricts other activities (such as swimming or scuba diving) shall conform to part 6110.3200.

Subp. 9. **Emergencies.** In situations of local emergency, temporary special controls may be

enacted by a county, city, or town for a period not more than five days without the commissioner's approval. The commissioner shall be notified, however, as soon as practicable during this five-day period.

Subp. 10. **Additional evidence.** A government unit may submit additional evidence if it feels that variance from the afore-stated standards is necessary to best address a particular problem. The commissioner will review such evidence and shall grant a variance if there are circumstances peculiar to the body or bodies of water in question of such magnitude as to overshadow the goal of uniformity.

Statutory Authority: M.S. § 361.25

6110.3800 ADMINISTRATIVE PROVISIONS.

Subpart 1. **Enforcement and penalties.** Any government unit adopting ordinances pursuant to Minnesota Statutes, sections 378.32 and 459.20 shall provide for their enforcement and prescribe penalties for noncompliance. Rules established pursuant to Minnesota Statutes, section 361.26 shall be enforced by conservation officers of the Department of Natural Resources and the sheriff of each county.

Rules or ordinances shall contain a provision exempting authorized resource management, emergency, and enforcement personnel when acting in the performance of their assigned duties. They may also provide for temporary exemptions from controls through the use of permits issued by the unit of government adopting the ordinance or rule.

Subp. 2. **Commissioner's approval for proposed ordinances.** Any governmental unit formulating ordinances or desiring amendments and deletions to existing ordinances shall submit the written statement required by these rules with the proposed ordinance to the commissioner pursuant to Minnesota Statutes, section 378.32 for his approval or disapproval. Determination of approval or disapproval shall be based upon the written statement and the compatibility of the ordinance with these rules. If the proposed ordinance is disapproved by the commissioner and a satisfactory compromise cannot be established, the governmental unit may initiate a contested case hearing to settle the matter.

The commissioner shall notify the governmental unit in writing of his approval or disapproval of proposed ordinances within 120 days after receiving them pursuant to Minnesota Statutes, section 378.32. Failure to so notify shall be considered approval.

Subp. 3. **Public notice.** Any governmental unit adopting ordinances shall provide for adequate notification of the public, which shall include placement of a sign at each public watercraft launching facility outlining essential elements of such ordinances, as well as the placement of necessary buoys and signs. All such signs and buoys shall meet requirements specified in Minnesota Statutes, section 361 and parts 6110.1500 to 6110.1900.

The commissioner shall publish and update at his discretion a listing of watercraft use rules and ordinances on surface waters of the state for distribution to the public.

Statutory Authority: M.S. § 361.25

RELEVANT WATER SURFACE USE STATUTES

CHAPTER 86B

86B.201 STATE LAW AND LOCAL ORDINANCE AUTHORITY.

Subdivision 1. **Application of state law.** The provisions of this chapter and of other applicable laws of this state shall govern the operation, equipment, numbering, and all other related matters for a watercraft operated on the waters of this state, or the time when an activity regulated by this chapter may take place.

Subd. 2. **Local authority to adopt ordinance.** (a) This chapter does not limit the authority of a political subdivision of this state to adopt regulations that are not inconsistent with this chapter and the rules of the commissioner relating to the use of waters of this state that are wholly or partly within the territorial boundaries of a county or entirely within the boundaries of a city.

(b) A city of the first class of over 200,000 or the park board of the city may forbid the use of motorboats or boats with attached motors on its lakes.

Subd. 3. **Nonmotorized carry-on access.** A person may access any public waters through public land with a hand-carried nonmotorized watercraft.

HIST: 1990 c 391 art 9 s 9; 1997 c 226 s 11

86B.205 WATER SURFACE USE ORDINANCE.

Subdivision 1. **Assistance.** The commissioner shall develop and publish guidelines to assist counties adopting water surface use ordinances for waters within their jurisdiction.

Subd. 2. **Surface use ordinances.** (a) A county board may, by ordinance, regulate the surface use of bodies of water located entirely or partially within the county and not located entirely within the boundary of a single city or lake conservation district established by law.

(b) If a body of water is located within more than one county, a surface use ordinance is not effective until adopted by the county boards of all the counties where the body of water lies under section 471.59 or placed into effect by order of the commissioner under subdivision 9.

(c) With the authorization of an affected city or lake conservation district, a county board may assume and exercise the powers in subdivisions 2 to 5 with respect to bodies of water lying entirely within that city or lake conservation district. The regulation by the county of the surface use of a portion of a body of water located within the boundary of a city must be consistent with any city regulation existing on May 25, 1973, of the surface use of that portion of the body of water. After January 1, 1975, the ordinance must be consistent with the provisions of this chapter and rules of the commissioner under this chapter.

Subd. 3. **Prior ordinances invalid without approval.** A surface use zoning ordinance adopted under subdivisions 2 to 5 by a local governmental unit after May 25, 1973, is invalid unless it is approved by the commissioner.

Subd. 4. **Approval of ordinances.** A proposed surface use zoning ordinance must be submitted to the commissioner for review and approval before adoption. The commissioner must approve or disapprove the proposed ordinance within 120 days after receiving it. If the commissioner disapproves the proposed ordinance, the commissioner must return it to the local governmental unit with a written statement of the reasons for disapproval.

Subd. 5. **County regulatory authority.** A county board may:

(1) regulate and police public beaches, public docks, and other public facilities for access to a body of water, except:

(i) regulations are subject to subdivision 6;

(ii) a county board may not regulate state accesses; and

(iii) a municipality may by ordinance preempt the county from exercising power under this

subdivision within its jurisdiction;

(2) regulate the construction, configuration, size, location, and maintenance of commercial marinas and their related facilities including parking areas and sanitary facilities in a manner consistent with other state laws and the rules of the commissioner of natural resources, the pollution control agency, and the commissioner of health, and with the applicable municipal building codes and zoning ordinances where the marinas are located;

(3) regulate the construction, installation, and maintenance of permanent and temporary docks and moorings in a manner consistent with state and federal law, permits required under chapter 103G, and sections 86B.111 and 86B.115;

(4) except as provided in subdivision 6, regulate the type and size of watercraft allowed to use the body of water and set access fees;

(5) subject to subdivision 6, limit the types and horsepower of motors used on the body of water;

(6) limit the use of the body of water at various times and the use of various parts of the body of water;

(7) regulate the speed of watercraft on the body of water and the conduct of other activities on the body of water to secure the safety of the public and the most general public use; and

(8) contract with other law enforcement agencies to police the body of water and its shore.

Subd. 6. Public access restrictions. The county board must allow the same types and sizes of watercraft and horsepower of motors to access and enter the lake or water body as are generally allowed to be operated on the lake or water body. Special use exceptions that are not dependent on lakeshore or property ownership may be granted by permit.

Subd. 7. County acquisition of public access. A county board may acquire by purchase, gift, or devise land for public access to a lake or stream and may improve the land as a park or playground if the land is less than ten acres and is contiguous to the meander line of a navigable lake or stream wholly or partly within the county and not entirely within the corporate limits of a city.

Subd. 8. Advisory assistance. The county board may invite any municipal council or town board or the soil and water conservation district board of supervisors or watershed district board of managers to designate a representative to advise and consult with the county board on water use regulation and improvement.

Subd. 9. Watercraft use rules for local waters. (a) On request of a county, city, or town, the commissioner may, after determining it to be in the public interest, establish rules relating to the use of watercraft on waters of this state that border upon or are within, in whole or in part, the territorial boundaries of the governmental unit.

(b) The rules shall be established in the manner provided by sections 14.02 to 14.62, but may not be submitted to the attorney general nor filed with the secretary of state until first approved by resolutions of the county boards of a majority of the counties affected by the proposed rules.

(c) The rules may restrict:

(1) the type and size of watercraft and size of motor that may use the waters affected by the rule;

(2) the areas of water that may be used by watercraft;

(3) the speed of watercraft;

(4) the times permitted for use of watercraft; or

(5) the minimum distance between watercraft.

(d) When establishing rules, the commissioner shall consider the physical characteristics of the waters affected, their historical uses, shoreland uses and classification, and other features unique to the waters affected by the rules.

(e) The commissioner shall inform the users of the waters of the rules affecting them at least two weeks before the effective date of the rules by distributing copies of the rules and by posting of the public accesses of the waters. The failure of the commissioner to comply with this paragraph does not affect the validity of the rules or a conviction for violation of the rules.

(f) The cost of publishing rules and of marking and posting waters under this subdivision shall be paid by the counties affected by the rules, as apportioned by the commissioner.

(g) Regulations or ordinances relating to the use of waters of this state enacted by a local governmental unit before January 1, 1972, shall continue in effect until repealed by the local

governmental unit or superseded by a rule of the commissioner adopted under this subdivision.

History: 1990 c 391 art 9 s 10

86B.211 WATER SAFETY RULES.

The commissioner shall adopt rules that relate to:

- (1) the application for, form, and numbering of watercraft licenses;
- (2) the size, form, reflectorized material, and display of watercraft license numbers, which must comply with the requirements of the federal watercraft numbering system;
- (3) placement and regulation of docks, piers, buoys, mooring or marking devices, and other structures in the waters of this state;
- (4) rules of the road for watercraft navigation;
- (5) standards for equipment used in the towing of persons on water skis, aquaplanes, surfboards, saucers, and other devices;
- (6) standards for lights, signals, fire extinguishers, bilge ventilation, and lifesaving equipment;
- (7) standards of safe load and power capacity;
- (8) accounting, procedural, and reporting requirements for county sheriff;
- (9) designation of swimming or bathing areas;
- (10) standards of safety for watercraft offered for rent, lease, or hire;
- (11) the use of surface waters of this state by watercraft as provided and in accordance with section 86B.205, subdivision 9, paragraphs (c) and (d), including:
 - (i) standards and criteria for resolving conflicts in the use of water surfaces by watercraft;
 - (ii) procedures for dealing with problems involving more than one local governmental unit;
 - (iii) procedures for local enforcement; and
 - (iv) procedures for enforcing the restrictions in section 86B.205, subdivision 9, paragraph (c); and
- (12) other rules determined by the commissioner to be necessary to implement the provisions of this chapter.

HIST: 1990 c 391 art 9 s 11; 1991 c 259 s 10

STATUTES ON LAKE IMPROVEMENT DISTRICTS

103B.551 BOARD OF DIRECTORS.

Subdivision 1. **Membership.** After a lake improvement district is established, the county board, joint county authority, or commissioner that established the district shall appoint persons to serve as an initial board of directors for the district. Subsequent board members must be elected by persons owning

property in the district at the annual meeting of the district. The number, qualifications, terms of office, and method of election, removal, and filling of vacancies of directors shall be as provided in the order creating the board of directors. The initial and all subsequent boards of directors must include persons owning property within the district, and a majority of the directors must be residents of the district.

Subd. 2. **Compensation.** The directors shall serve with compensation as determined by the property owners at the annual meeting and may be reimbursed for their actual expenses necessarily incurred in the performance of their duties in the manner provided for county employees.

Subd. 3. **Powers.** County boards, joint county authorities, statutory and home rule cities, and towns may, by order, delegate the powers in this section to the board of directors of a district to be exercised within the district. Programs and services undertaken must be consistent with the statewide water and related land resources plan prepared by the commissioner of natural resources and with regional water and related land resources plans. A body of water may not be improved by using authority granted under this section unless the public has access to some portion of the shoreline. County boards, joint county authorities, statutory and home rule cities, and towns may delegate their authority to a district board of directors to:

- (1) acquire by gift or purchase an existing dam or control works that affects the level of waters in the district;
- (2) construct and operate water control structures that are approved by the commissioner of natural resources under section 103G.245;
- (3) undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 103G.245;
- (4) acquire property, equipment, or other facilities, by gift or purchase to improve navigation;
- (5) contract with a board of managers of a watershed district within the lake improvement district or the board of supervisors of a soil and water conservation district within the district for improvements under chapters 103C and 103D;
- (6) undertake research to determine the condition and development of the body of water and the water entering it and to transmit the results of the studies to the pollution control agency and other interested authorities;
- (7) develop and implement a comprehensive plan to eliminate water pollution;
- (8) conduct a program of water improvement and conservation;
- (9) construct a water, sewer, or water and sewer system in the manner provided by section 444.075 or other applicable laws;
- (10) receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs;
- (11) make cooperative agreements with the United States or state government or other counties or cities to effectuate water and related land resource programs;
- (12) maintain public beaches, public docks, and other public facilities for access to the body of water;

(13) provide and finance a government service of the county or statutory or home rule city that is not provided throughout the county or, if the government service is provided, the service is at an increased level within the district; and

(14) regulate water surface use as provided in sections 86B.205, 103G.605, and 103G.621.

HIST: 1990 c 391 art 2 s 40; 1996 c 385 art 2 s 7; 2000 c 396 s 3

PARK DISTRICT STATUTES

398.08 GENERAL POWERS.

Park districts shall have all the rights, powers, privileges and immunities of a municipal corporation at common law and they shall be subject to the duties of a municipal corporation at common law. Except as otherwise limited in this chapter they shall have perpetual succession, may sue and be sued, may use a corporate seal, may acquire by lease, purchase, gift, condemnation or otherwise such real and personal property as the purposes of the board may require and may hold, manage, control, sell, convey, lease or otherwise dispose of such property or its interests therein. The board shall have full authority to exercise all the powers of the district, to make all necessary or desirable contracts, to procure public liability and other insurance protection as may be necessary or desirable, to hire and employ help and assistance as its needs require, to exercise the power of eminent domain, to enact ordinances and to declare that the violation thereof shall be a penal offense and to prescribe the penalties, thereof, not to exceed a fine of \$100, or imprisonment in a statutory city or county jail for a period of not more than 90 days, or both, and in either case the cost of prosecution may be added to the penalties imposed. The board shall have full power and authority to acquire and establish parks and to operate, maintain, protect, improve and preserve a park system and to conduct a recreational program in its parks.

History: 1955 c 806 s 8; 1973 c 123 art 5 s 7

398.09 SPECIFIC POWERS (*Subd. (a) only*).

Park district boards in addition to the foregoing general powers shall have these specific powers:

(a) The power to regulate by ordinance the use of the waters of any lake lying wholly within a park established under this chapter and the use of any lake shore which is within a park established under this chapter and the waterfront immediately abutting such lake shore for not to exceed 300 feet therefrom, by all persons, including persons boating, swimming, fishing, skating or otherwise, in, upon or about said lake, lake shore and abutting waterfront, subject to regulation by the state of Minnesota.

See MN Stats. for remainder of section

History: 1955 c 806 s 9; 1957 c 160 s 1; 1973 c 123 art 5 s 7; 1984 c 654 art 2 s 127; 1986 c 444; 2001 c 44 s 4

STATUTES REGARDING CITIES AND TOWNS

459.20 AUTHORITY OVER PUBLIC WATERS.

The governing body of any home rule charter or statutory city or town in the state has, with respect to any body of water situated wholly within its boundaries, all the powers to improve and regulate the use of such body of water subject to section 86B.205, subdivision 6, as are conferred on county boards by sections 86B.205 and 103F.801, and to establish and administer lake improvement districts under sections 103B.501 to 103B.581. With respect to any body of water situated wholly within the contiguous

boundaries of two or more home rule charter or statutory cities or towns or any combination thereof, the city councils and town boards may, under the provisions of section 471.59, jointly exercise such powers to improve and regulate the use of the body of water subject to section 103F.751, as are conferred on county boards by sections 86B.205 and 103F.801, and to establish and administer lake improvement districts as provided under sections 103B.501 to 103B.581, provided that no home rule charter or statutory city or town may establish and administer a lake improvement district or exercise any of the powers granted in this section if a lake improvement district covering the same territory has been created by a county board under sections 103B.501 to 103B.581. References in sections 86B.205, 103B.501 to 103B.581, and 103F.801 to the county board shall be construed to refer to the governing body of a home rule charter or statutory city or the board of supervisors of a town.

History: 1973 c 123 art 5 s 7; 1973 c 702 s 24; 1975 c 311 s 1; 1978 c 726 s 17; 1986 c 439 s 5; 1986 c 443 s 16,17; 1990 c 391 art 8 s 46