

CITY OF DEEPHAVEN
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CHAPTER 9. CITY WATERCRAFT SPACES

SECTION 900 CITY WATERCRAFT SPACES

900.01 Definitions. For purposes of this Section, the following terms will have the meanings ascribed to them in this Section:

Subd. 1. "Watercraft" means any motorboat, sailboat, rowboat, canoe or other water conveyance of any type that is in operation condition, capable of use, to be placed at a watercraft space. For example, a motorboat with an inoperable engine or a sailboat with its mast not erected would not be considered to be in operating condition capable of use.

Subd. 2. "Public Shoreland" means any land abutting on the shore of a lake or other water course, which land is owned, leased or otherwise under the operation or proprietary control of the City.

Subd. 3. "Watercraft Space" or "space" means any dock, buoy, slide, canoe rack, shore space or other facility for watercraft, owned, operated or controlled by the City.

Subd. 4. "Waiting List" means the list of applicants for permits for watercraft space, as compiled by the City according to this Section.

Subd. 5. "Boating Season" means the period from April 1 to November 1 of a given year in regard to all docks, buoys and shore spaces owned, operated or controlled by the City and the period from April 1 to November 15 of a given year in regard to all slides and canoe racks owned, operated or controlled by the City. The City's St. Louis Bay ramp will be closed during the period from June 1 through Labor Day because of its proximity to a swimming beach.

Subd. 6. "Permittee" means the person to whom a permit has been issued according to this Section.

Subd. 7. "Auxiliary Watercraft" means a small watercraft or dinghy used to travel between the lakeshore and a buoy at which a larger watercraft is moored.

Subd. 8. "Owner of Watercraft or Aircraft" "Owner" as applied to watercraft and aircraft, means a person who holds legal title to a watercraft or aircraft is the subject of a lease or conditional sales contract with right of possession vested in the lessee or conditional vendee, then the lessee or conditional vendee will be deemed the owner.

Subd. 9. "Property Owner" means the fee owner of land in the City or the beneficial owner of land in the City, who resides on the property from May 15th to October 1st, whose interest is primarily one of possession and enjoyment in contemplation of ownership. The term includes purchasers under a contract for deed.

Subd. 10. "Lease" Apart from the provisions for joint leasing between Deephaven residents as described Section 900.07, Subd. 1 (a), the term "lease" as recited by Section 900.01, Subd. 8, shall be defined as a written contractual relationship between a Deephaven resident and a third party that is registered with the Secretary of State to sell or lease watercraft in its ordinary course of business. The lease should not provide for any use by the lessor beyond reasonable inspection, maintenance and recovery.

Subd. 11. "Boat Length" of a watercraft at a dock slip means the horizontal measurement from the foremost to the aftermost points of the watercraft, including all equipment and attachments in their normal operating positions, shall not exceed twenty-six (26) feet and must be in compliance with all Lake Minnetonka Conservation District regulations pertaining to boat length as it pertains to Deephaven's municipal dock licenses.

900.02 Construction of Docks, Etc. No person may construct, install or erect any wharf, boathouse, dock, buoy, canoe rack or other facility for watercraft mooring or storage upon any public shoreland, except with prior written consent of the City.

900.03 Aircraft. No person or agency — except public safety related as approved by the Deephaven Police Chief — may keep, operate or park any aircraft within the City or on any waters within the City or within the harbor limits of the City, except within a private garage.

900.04 Launching and Removal. No person may launch a watercraft or remove it from the water, over, across or upon public shoreland if the watercraft requires or utilizes a trailer or similar conveyance for transportation over land, except at the times and places designated by the Council and except upon payment of such fees as may be established from time to time by the Council.

900.05 Mooring of Watercraft. No person may moor, place or store any watercraft at any City space or at any road, street or railroad bridge or abutment, without first securing a permit as provided in this Section. A permit for the keeping of a watercraft at a City buoy will authorize the permittee to moor an auxiliary watercraft to the buoy at times when the primary watercraft is not moored to the buoy. All watercraft and auxiliary watercraft kept at a City space must be licensed by the State and must have the State license number displayed on the watercraft as required by law.

900.06 Permits. Permits issued under this Section will authorize an owner of the watercraft to whom the permit is issued to keep a specified watercraft at a specified space for the specified boating season as provided in this Section. In addition, a permit for a buoy will authorize the mooring of one auxiliary watercraft to the buoy at times when the primary watercraft is not moored to the buoy.

Subd. 1. Classes of Permits. The City will issue two classes of permits for City Space: Class A permits for docks, buoys and shore space, and Class B permits for slides, canoe racks and other watercraft space. The permits will authorize only the following watercraft at the following City spaces:

Class A Permits.

- (a) Buoys may be used only by watercraft at least 16 feet in length and not more than 25 feet in length.
- (b) Docks may be used only by power boats at least 16 feet in length and not more than 26 feet in length which are no more than 8 feet, 6 inches in width. Sailboats, canoes and watercraft without motors are not permitted on City docks.
- (c) Shore space may be used only by boats at least 16 feet in length and not more than 34 feet in length which are no wider than the width of the shore space and any dock allow. No dock on a shore space may exceed 40 feet in length.
- (d) Permits for docks shall be limited to ten consecutive years for all new permits beginning with the 2008 Boating Season.

Class B Permits.

- (a) Slides and street-end slides may be used only by motorized boats or jet skis of not more than 16 feet in length and 5 feet, 4 inches in width. No boat may be kept at a slide unless it is of a size and weight that permits the owner to pull the boat from the water manually. Canoes, Kayaks, rowing shells and other boats of similar design shall not be permitted on a slide or street-end slide.
- (b) Canoe racks may be used only for canoes, kayaks, paddleboards, and for small boats such as rowing shells, sailboards used for windsurfing and the so-called "sunfish" or "laser" boats so long as the watercraft does not exceed the width of the rack and does not interfere with the use of the rack for other permitted watercraft.

Subd. 2. Requirements for Permit.

- (a) Property Owners, as defined in Section 900.01, Subd. 9, will have first priority for permits issued under this Section. Persons who are not property owners will be entitled to a permit for a type of space only if a space is available after issuance of permits to all property owners who have requested a permit for that type of space. If an owner of a residential dwelling unit rented to a tenant has not applied for a permit, the tenant may apply for the permit and may be treated as the property owner for purposes of this Section. If more than one person owns a lot or parcel of land in the City, the first property owner to apply for the permit will be considered as the sole property owner for purposes of this Section.
- (b) No person will be issued more than one permit for the boating season, with the exception of Class A buoy permit holders, who may also be eligible to be issued one additional Class B permit.
- (c) Applications for a new permit or renewal of an existing permit for a boating season must be received in writing by the City or postmarked on or before November 15 of the preceding year, or on or before November 30 if the applicant also pays a late fee equal to 50% of the normal fee. On or before October 1 of each year, the City will give written notice to all persons issued permits for that year that they may renew their permits for the following year. The notice will state that the permit must be renewed on or before November 15, or on or before November 30 if a late fee is paid equal to 50% of the

normal fee. A permit will be issued or renewed only if the required information form and the permit fee are received or postmarked on or before November 15, or if the information form, the permit fee and the 50% late fee are received or postmarked on or before November 30. Applications which are not received or postmarked on or before November 30 will not be accepted. If the amount of a dock fee cannot be determined before the required payment date, a minimum deposit must be made on the basis of an estimated normal fee, plus any late fee.

- (d) A permit will be issued only to a person who is an owner of a watercraft for the keeping of only that watercraft at a designated space, except that a permit for a buoy will in addition authorize the mooring of an auxiliary watercraft to the buoy at times when the primary watercraft is not moored to the buoy.
- (e) The information to be filed with the City in connection with a permit will be on a form provided by the City and will include the name of the person to whom the permit will be issued, the name of each owner of the watercraft, the address of land in the City owned by each such person, the address of each such person's residence, a description of the watercraft for which the permit will be issued, including its dimensions and State registration number, a description of the space requested, and such additional information as the City may from time to time require. If the description of the watercraft and its State registration number are not known or available on the date the permit is issued, such information will be filed with the City before using the space. The information form also will include a written statement by the person to whom the permit will be issued that such person is a bona fide owner of the watercraft and that the ownership was not acquired for the purpose of qualifying the watercraft for use of the space as required by this Section.
- (f) No new permit will be issued, and no existing permit will be considered renewed, until the City has received payment of the required fee as set forth in Section 405.05.
- (g) A permit will not be considered valid unless the permittee enters into an annual lease agreement with the City.

Subd. 3. Waiting Lists.

- (a) Applicants for permits will be added to the appropriate waiting list or lists according to the order in which their written applications are received by the City. The City will maintain separate waiting lists for the following types of space: (1) buoys, (2) docks, (3) shorespace, (4) slides, (5) canoe racks, and (6) other watercraft space. A person may apply for any or all of the different types of watercraft space, but no person will be included on any one waiting list more than once.
- (b) Each applicant will be charged a one-time administrative fee to have his or her name on a waiting list. An administrative fee will be charged for each separate waiting list. The amount of the fee is provided in Section 405, Fees.

Subd. 4. Retaining Mooring Space.

- (a) On or before October 1 of each year, the City will give written notice to all persons with actual mooring space and unless they confirm their desire to remain on the mooring space on or before November 15 their name will be dropped from the list.

Each waiting list and the list of current holders of permits will be posted by City Hall.

900.07 Use of Watercraft Space.

Subd. 1. Rights not Assignable. No person may keep a watercraft in a City space without a valid permit issued under this Section. No person may keep at such space a watercraft other than the one specified in the information form filed with the City, except that an auxiliary watercraft may be kept at a buoy as provided in this Section. No person may assign or sublet any rights under a permit or allow his space to be used by any other watercraft space except as provided in Subsection (a) below.

- (a) Property owners, as defined in Section 900.01, Subd. 9, who have obtained a permit for a dock, shore space, buoy or a slide, are permitted to sublease their space during the boating season to any Deephaven resident who is currently on the waiting list for the same class permit. Residents that currently hold a permit for a Class A permit are not eligible to sublease a second Class A permit. The subleasing of a space is limited to no more than four individuals per Boating Season. The permit holder shall be considered by the City as the principal leaseholder. The principal leaseholder and individual lessors will be required to submit all required information to the City and must collectively adhere to the conditions of the annual lease and this section of the City Code. The principal leaseholder must moor his or her boat at the assigned watercraft space for a minimum of sixty (60) days and is responsible for establishing the schedule of use above and beyond the sixty (60) day period for him or herself and each lessor. The principal leaseholder may charge each lessor a daily fee that cannot exceed 1/214 of the total annual lease fee charged by the City.
- (b) Watercraft moored in a watercraft space may be shared or jointly owned so long as both or all watercraft owners meet the definition of Property Owner in Section 900.01, Subd. 9.

Subd. 2. Use Required.

- (a) A watercraft space for which a permit has been issued must be used a minimum of 90 days for the keeping or mooring of a watercraft. The City may refuse to renew the permit for failure to use a watercraft space for this length of time. If the permit is not renewed, the permit holder may appeal to the Council for reconsideration of that decision.
- (b) A watercraft space for which a permit has been issued must be used for the keeping of a watercraft prior to June 1st of the boating season for which the permit was issued. The City may revoke the permit for failure to use a watercraft space prior to June 1st. If the permit is revoked, the permit holder may appeal to the Council for reconsideration of the revocation.
- (c) As set forth in paragraphs (a) and (b) of this subdivision, a permit holder may

appeal to the City Council for reconsideration of City staff's decision to not renew the permit in subsection (a) or to revoke the permit in subsection (b). Any such appeal must be filed in writing with the Clerk within 10 days of the date of mailing the notice. The appeal must specify all reasons for objecting to the decision and any mitigating circumstances or facts relating to the failure to use the space for at least 90 days or for failure to use the space prior to June 1st. The Council will hear the appeal at a regular meeting and will consider any written or oral information presented by the permittee and the City staff. After consideration of such information, the Council will affirm or reverse the City staff's decision to not renew the permit or to revoke the permit. If the Council decides to reinstate the permit, the condition of reinstatement shall be a penalty payable to the City of Deephaven in an amount equal to fifty percent (50%) of the normal permit fee.

Subd. 3. Use During Boating Season Only. A space may be used only during the boating season, as defined in Section 900.01, Subd. 5.

900.08 Waiver of Permit.

- (a) A person entitled to a new permit may waive the right to such permit within seven (7) days of notification by providing written notice to the City prior to the boating season for which the permit is to be issued. The City shall then offer that permit to the next person with the highest priority on the waiting list for that type of space. A person who waives the right to a new permit shall retain their same priority on the waiting list until entitled to a new permit.
- (b) No person will be allowed the opportunity to waive the right to a new permit more than once. Any person waiving the right to a new permit a second time shall be removed from the waiting list for that type of space. The individual may reapply to the waiting list subject to payment of the fee specified under Section 405 of the City Code.

900.09 Revocation. The City may revoke a permit for any violation of the provisions of this Section or for failure of the permit holder to use a space during a boating season. A permit also may be revoked for violation of the City's ordinances establishing harbor limits and prohibiting nuisances in the harbor limits.

900.10 Tags. Whenever any watercraft or airplane without an operator is found in violation of this Code, the police officer or other authorized person finding it will take its registration number and any other information which may identify the permittee or owner and affix conspicuously to the watercraft or airplane a written notice specifying the violation and the date, time and place of any required appearance. The occupancy of any City space, or the operation or use of a watercraft or airplane, in violation of this Section is prima facie evidence that the watercraft or airplane was at the time of the violation moored, controlled, operated and used by the permittee for a watercraft for which a permit has been issued, or by the owner of an airplane or watercraft for which a permit has not been issued.