

# Memo

**To:** Honorable Mayor and City Council  
**From:** Joe Kohlmann, City Administrator  
**Date:** February 12, 2013  
**Re:** LMCD Requested Position on Bow-Fishing

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Staff received the *attached letter from the LMCD* requesting a position from the City Council on bow-fishing. The letter is looking to clarify what the LMCD's position should be on bow-fishing. Right now, State Law permits bow fishing from May 1<sup>st</sup> – last Sunday in February – anytime of day. Cities around the lake may or may not have more restrictive ordinances regulating bow-fishing. There is probably a mix of bow-fishing regulations all around the lake

The LMCD is looking for us to formally rank the following options to determine the will of developing a uniform bow-fishing ordinance; to defer inquiries to individual cities; and determine enforcement of any restrictions.

- 1) Continue to operate as we currently do; per state law and local city ordinances. Considerations to this approach-
  - a. The public will be referred directly to the member cities to receive information on local firearms, weapons, and archery ordinances (and any applicable permits). If this is chosen, LMCD will be requesting each member city to forward the contact name or department at the city to whom public inquiries should be referred.
  - b. MN DNR and Water Patrol enforcement personnel have indicated that it would be each city's responsibility to enforce its own ordinances.
- 2) Prohibit bow-fishing entirely on Lake Minnetonka.
- 3) Consider an ordinance more restrictive than State Law, but less than a total prohibition. Possibly prohibit nighttime bow-fishing or other restrictions.

## **How Tonka Bay currently addresses bow-fishing-**

The City of Tonka Bay has two ordinances that could be related to bow-fishing but do not specifically address bow-fishing. The City has a Weapons and Firearms ordinance and a Harbor and Waterway Regulations ordinance.

### **The Weapons and Firearms Ordinance states:**

780.04 Subd. 3

Except as provided in 780.04, subd. 6 no person shall have in his possession any weapon (included bow and arrow), except a firearm which is unloaded and dismantled, broken apart, or carried in a case in such a manner that it cannot be discharged.

### **Harbor and Waterway Regulation Ordinance states:**

500.02 Harbor Limits

Subd. 1 Harbor Limits The geographical and jurisdictional limits of the City in, on or over navigable waters in or adjacent to the City shall extent to the harbor limits of any adjoining municipality or other geographical unit.

Subd. 2 Primary Harbor Limit The area with three hundred feet of the water line on the shore of any lake or other body of water in or adjacent to the City shall be known as the "Primary Harbor Limit".

### **Considerations**

Our City Code does not specifically address bow-fishing. While our Weapons ordinance prohibits possession of a weapon, State Law permits bow-fishing.

If the City prohibits bow-fishing, we assume the responsibility to enforce our ordinance. Otherwise, State Law is broad enough to where not much regulation would be required for bow-fishing.

*Attached is the LMCD Letter*

*Attached is the MN Statute regulating bow-fishing*

*Attached is our Weapons and Firearms Ordinance*

*Attached is our Harbor and Waterway Regulations Ordinance*

### **Council Action Requested:**

Review and discuss the LMCD options and determine collective ranking of the options.



# LAKE MINNETONKA CONSERVATION DISTRICT

23505 SMITHTOWN ROAD, SUITE 120 • SHOREWOOD, MINNESOTA 55331 • TELEPHONE 952/745-0789 • FAX 952/745-9085  
Gregory S. Nybeck, EXECUTIVE DIRECTOR

January 25, 2013

«Adm\_Prefix» «Adm\_FirstName» «Adm\_LastName»  
City of «City»  
«Address»  
«City», MN «Zip»

Dear «Adm\_Prefix» «Adm\_LastName»:

RE: Bow-Fishing Regulations on Lake Minnetonka

The Lake Minnetonka Conservation District (LMCD) annually receives calls asking whether one can bow-fish on Lake Minnetonka. This has never been an easy question to respond to because the LMCD, Hennepin County Sheriff's Water Patrol (Water Patrol), and the Minnesota Department of Natural Resources (MN DNR) Enforcement Division are unfamiliar with individual member city ordinances and their respective city boundaries over the surface of the Lake.

In an effort to streamline public communication and provide documented guidance to both the Water Patrol and MN DNR enforcement personnel, the LMCD Board of Directors has been working to determine whether it is feasible to have a single bow-fishing ordinance, with consistent lake-wide regulations, for Lake Minnetonka. Your support, consideration, and input in furthering this discussion are important to us. Therefore, we are requesting your collective city council's ranking on the following three options and documentation on your respective ordinance(s).

## OPTIONS

1. Continue to operate as we currently do; per state law (see next page) and local city ordinances.

If this is the option the LMCD were to proceed with, please consider the following:

- a) The public will be referred directly to the member cities to receive information on local firearms, weapons, and archery ordinances (as well as whether a permit is required).

Should this option be chosen, the LMCD will be requesting each member city to forward the contact name or department at the city to whom public inquiries should be referred.

- b) MN DNR and Water Patrol enforcement personnel have indicated that it would be each city's responsibility to enforce its own ordinance(s).

2. Prohibit bow-fishing entirely on Lake Minnetonka.

3. Consider an ordinance more restrictive than state law, but less than a total prohibition.

- Prohibit nighttime bow-fishing; or
- Other?

«Adm\_Prefix» «Adm\_FirstName» «Adm\_LastName»

January 25, 2013

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### **SUMMARY OF STATE LAW**

Bow-fishing in the State of Minnesota is allowed per Minnesota Statutes 97C.376 (see attached). However, bow-fishing is subject to a number of restrictions. Some of these restrictions include:

- **Duration of Season**- May 1<sup>st</sup> through the last Sunday in February.
- **Possession of Bow and Arrows**- A person may possess bows and arrows on or within 100 feet of the waters (subject to local ordinances). A person must take reasonable measures to retrieve arrows and wounded fish.
- **Prohibition on Returning Rough Fish to Waters** – Rough fish taken by bow-fishing shall not be returned to the water and rough fish may not be left on the bank of any water of the state.
- **Nighttime Restrictions**- Additional nighttime restrictions (defined as sunrise to sunset) include:
  - The total noise level shall not exceed 65 decibels (“A” scale at a distance of 50 feet); and
  - A person shall not discharge an arrow while fishing within 150 feet of an occupied structure (such as a house) or within 300 feet from a campsite.

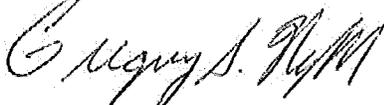
### **WHAT'S NEXT**

The LMCD is working towards bringing closure on this matter, in consultation with the LMCD member cities. Further discussion is planned at the March 13, 2013 Regular LMCD Board Meeting. Therefore, we are seeking feedback from each city council, by March 1<sup>st</sup>, on the following questions:

- Does your city have an ordinance that prohibits or regulates bow-fishing on Lake Minnetonka?
- What is your collective city council's ranking on the three options detailed above?
- If your city prefers the third option, what additional restrictions would you like the Board to consider in an ordinance?

As always, please feel free to call with any questions or comments you may have. I can be reached at (952) 745-0789 or [gnybeck@lmcd.org](mailto:gnybeck@lmcd.org).

Sincerely,



Gregory S. Nybeck  
Executive Director  
Lake Minnetonka Conservation District

cc: Mayor, City of «City»  
LMCD Board Member, City of «City»

**97C.376 BOW FISHING.**

Subdivision 1. **Season.** The bow fishing season for residents and nonresidents is from May 1 to the last Sunday in February at any time of the day.

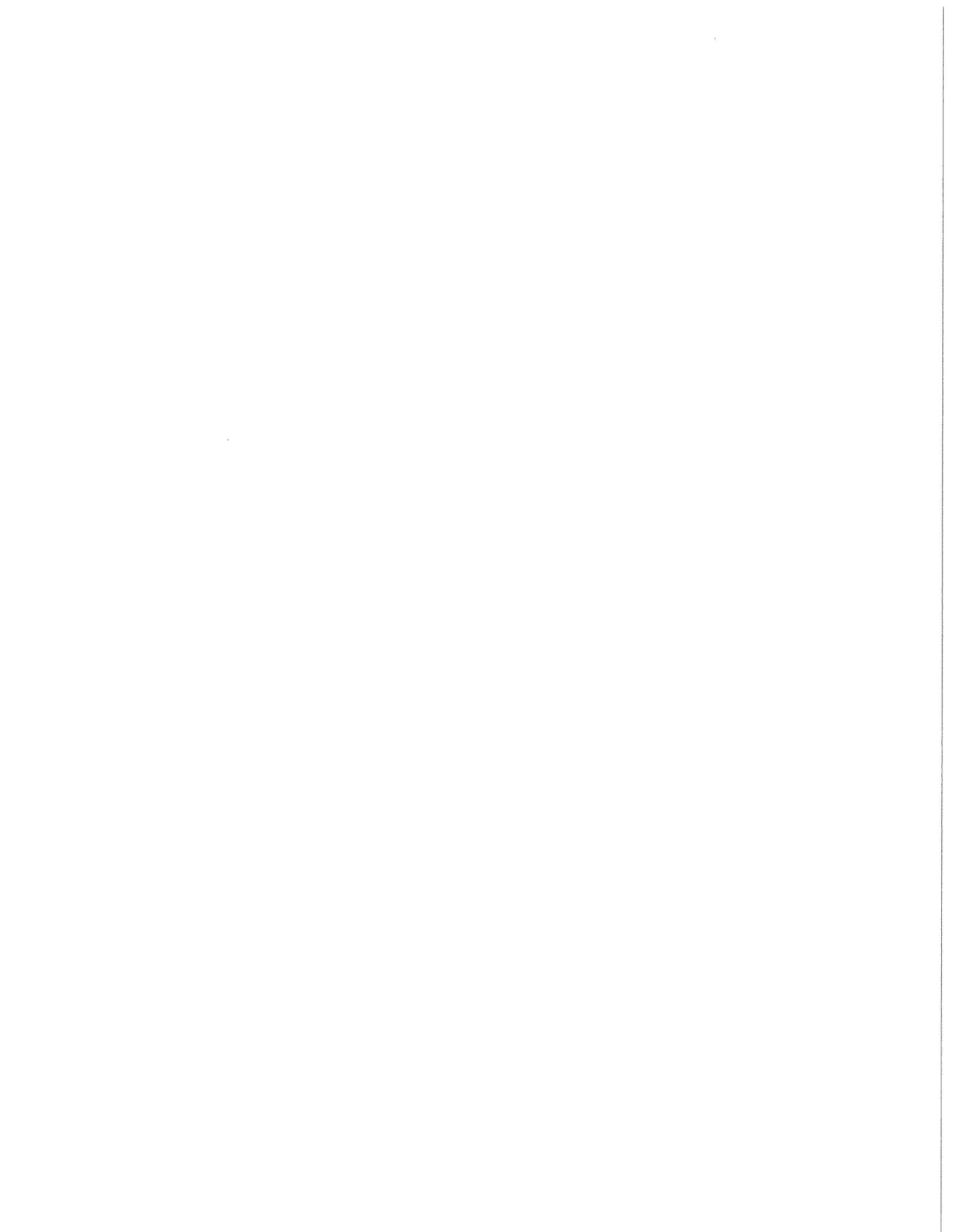
Subd. 2. **Possession of bows and arrows.** A person may possess bows and arrows for the purposes of bow fishing on or within 100 feet of waters at any time from May 1 to the last Sunday in February, subject to local ordinances. A person must take reasonable measures to retrieve arrows and wounded fish.

Subd. 3. **Nighttime restrictions on motors.** From sunset to sunrise, a person bow fishing with the assistance of a gasoline-powered motor must use a four-stroke engine powered generator. The noise limits for total noise while bow fishing from sunset to sunrise shall not exceed a noise level of 65 decibels on the A scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances as specified by the commissioner in a pass-by test or 67 decibels on the A scale measured at idle in a stationary test at least four feet above the water and at least four feet behind the transom of the motorboat being tested. The noise levels under section 86B.321 apply to persons traveling to and from bow fishing sites from sunset to sunrise.

Subd. 4. **Nighttime structure and campground setback requirements.** A person shall not discharge an arrow while bow fishing within 150 feet of an occupied structure or within 300 feet of a campsite from sunset to sunrise.

Subd. 5. **Prohibition on returning rough fish to waters.** Rough fish taken by bow fishing shall not be returned to the water and rough fish may not be left on the banks of any water of the state.

**History:** 2009 c 176 art 2 s 62



**SECTION 780  
WEAPONS AND FIREARMS**

**780.01      PURPOSE**

The purpose of this section is to closely regulate and control the use of weapons and firearms.

Subd. 1      Adoption by Reference

The City of Tonka Bay hereby adopts by reference Minnesota Statutes Section 624.714 concerning carrying of concealed weapons without a permit.

**780.02      PERMIT TO DISCHARGE FIREARMS**

Any person who shall fire or discharge any firearm as defined therein, within the City without having in his immediate possession a firearm permit issued by the City Council, shall be guilty of a misdemeanor.

**780.03      DEFINITIONS**

Subd. 1      Firearm

For the purpose of this Section, a firearm shall be defined as any gun, rifle, pistol, carbon dioxide propellant gun or rifle, pellet gun or rifle, hand-pump BB gun or any other weapon propelling a missile by gun powder explosive or compressed gas.

Subd. 2      Weapon

For the purposes of this section weapon shall include but not be limited to:

- a. firearms
- b. bow and arrow
- c. sling shot or wrist-rocket
- d. dagger, dirk, stiletto, switchblade knife, spring blade knife or any knife the blade of which can be opened by gravity or a flick of the wrist.
- e. blackjack, sandclub, sap, pipe club or bludgeon
- f. artificial or metal knuckles
- g. Molotov Cocktail or grenade
- h. Throwing Stars or other throwing devices with cutting or pointed edges
- i. chain clubs, nun chucks or any other flail
- j. spears, lances
- k. CS<sub>2</sub>, tear gas or any other lachrymating, asphyxiating, incapacitating or deleterious gas or gasses, liquids or chemicals.

Subd. 3      Firearms Dealer

For the purposes of this section a "Firearms dealer" means any person, firm, or corporation regularly engaged in the business of selling, trading, repairing, or modifying firearms or ammunition at wholesale or retail within the City of Tonka Bay, whether as the principal business of such person, firm or corporation, or in addition thereto, and said firearms dealer is duly authorized to operate his business by operation of state law.

Subd. 4 Police

"Police Officer", "Police Force", "Police", shall include all duly licensed peace officers of the United States, all peace officers, part-time peace officers duly licensed by the State of Minnesota pursuant to Minnesota Statutes Chapter 626, who are employed by the state or any political subdivision of the state.

**780.04 ACTIVITY PROHIBITED**

Subd. 1 Aiming weapon or firearm towards any human being

No person shall aim any weapon whether loaded or not at or toward any human being, nor shall any person threaten or assault any human being with any weapon, nor shall any person discharge any firearm, gun or other weapon or throw or project any deadly missile in any place where there is any human being to be endangered even though no injury actually results.

Subd. 2 Discharge of Firearm

No person shall fire or discharge any firearm within the city except as provided for in 780.02, 780.04 subd. 6.

Subd. 3 Possession

Except as provided in 780.04, subd. 6 no person shall have in his possession any weapon, except a firearm which is unloaded and dismantled, broken apart, or carried in a case in such a manner that it cannot be discharged.

Subd. 4 Minors not to use firearms

No minor under the age of 18 years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent, guardian or competent supervision, any firearms, air guns, sling shots, bows and arrows, ammunition or other weapons of any kind for hunting or target practice or any other purpose.

Subd. 5 Carrying of firearms by persons under the influence of alcohol or Drugs

No person within the corporate limits of the City who is under the influence of an alcoholic beverage or a narcotic drug shall carry any firearm as defined herein. Any violation of this subdivision shall be a misdemeanor.

Subd. 6 Exceptions

The provisions of 780.04, subd. 1, 2 and 3 shall not apply to the following:

- a. Peace officers. Officers or members of the police force or members of the civil defense of the city, nor to any other peace officers of any political subdivision of the state, nor shall it apply to peace officers of the State of Minnesota or the United States.
- b. Possession in home. The possession of a weapon within the home of a person.
- c. Self defense. The discharge of a weapon in the lawful defense of a person or property.
- d. Ranges. The discharge of a weapon at a range or
- e. Possession; Firearms Dealer. The possession of a firearm or bow and arrow by a duly licensed Firearms Dealer.

**780.05      APPLICATION FOR A FIREARM PERMIT**

Application for a firearm permit shall be in writing addressed to the City Council and shall state the reason for requesting such permit, the period for which such permit is desired, the type of firearm to be discharged and such other information which may be deemed necessary by the City Council to pass upon the application. Such permit shall be in writing and shall be issued by the City Clerk on direction from the City Council. Permits shall be usable only by the person to whom issued and shall be valid for a maximum of three months.

Subd. 1      Revocation

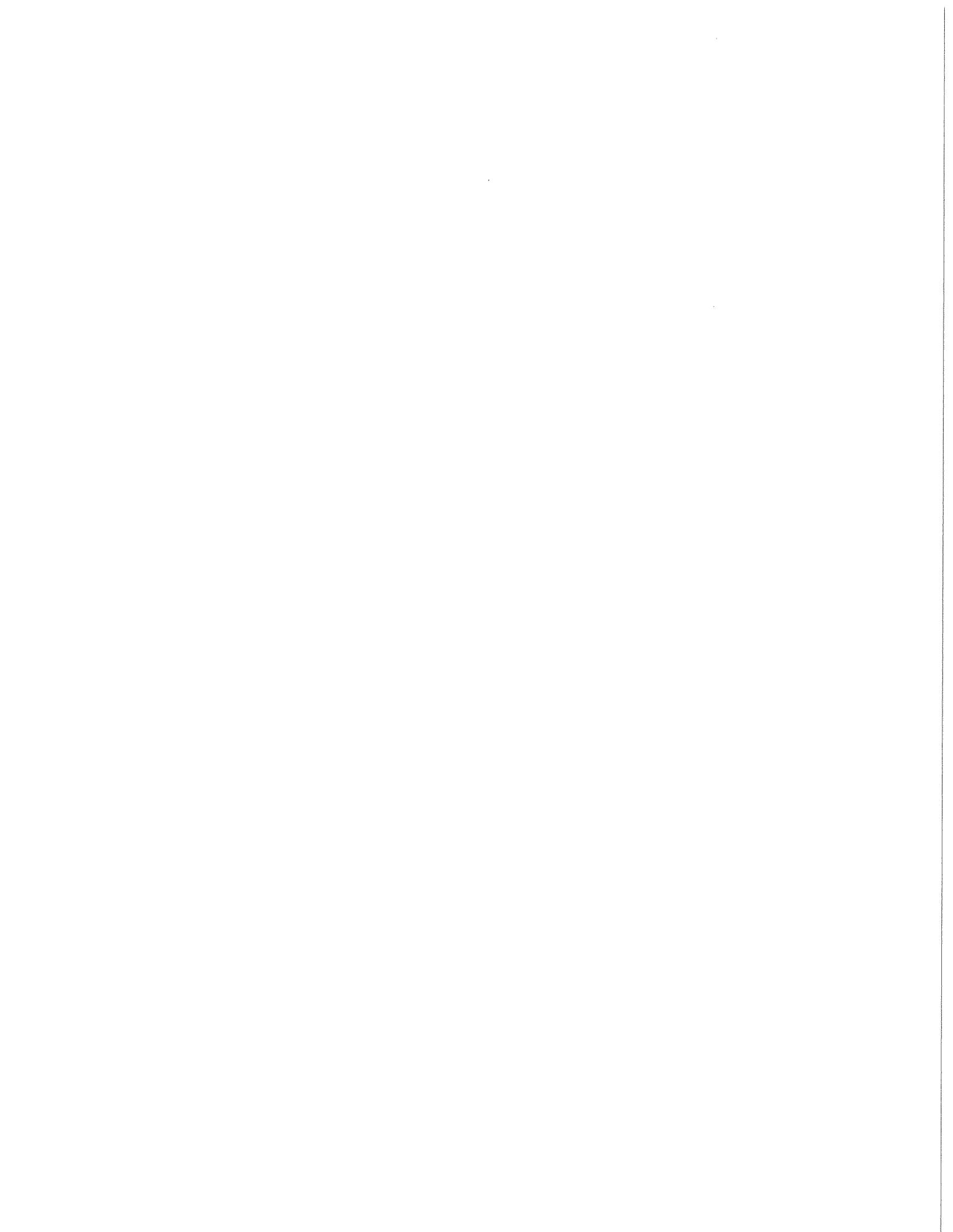
The City Council may at any time revoke any firearm permit if the Council deems any hazard to safety exists by reason of the permit.

**780.06      CONFISCATION OF WEAPONS**

Any weapon or weapons duly adjudged by a court to have been worn or carried, possessed, or used by any person in violation of this section may be confiscated by the city or its duly authorized agents or representatives.

**780.07      PENALTY**

Any person who violates provisions of this section shall be deemed guilty of a misdemeanor.



**CHAPTER V. HARBOR AND WATERWAY REGULATIONS**  
**SECTION 500**  
**HARBOR LIMITS AND PUBLIC NUISANCES THEREIN**

**500.01      INCORPORATION OF THE LAKE MINNETONKA CONSERVATION DISTRICT CODE OF ORDINANCES**

The Lake Minnetonka Conservation District Code of Ordinances (hereinafter referred to as LMCD) is hereby incorporated by reference. Where the Tonka Bay Code of Ordinances imposes a more stringent regulation than state law rule or regulation, or more stringent regulations than those set out in LMCD Code it is the intent of the City Council that the provisions of the Tonka Bay Code prevail to the extent permitted by law. Those regulations established in the most recently amended LMCD Code shall control.

**500.02      HARBOR LIMITS**

Subd. 1      Harbor Limits

The geographical and jurisdictional limits of the City in, on and over navigable waters in or adjacent to the City shall extent to the harbor limits of any adjoining municipality or other geographical unit.

Subd. 2      Primary Harbor Limit

The area with three hundred (300) feet of the water line on the shore of any lake or other body of water in or adjacent to the City shall be known as the "Primary Harbor Limit".

Subd. 3      Secondary Harbor Limit

The area extending from three hundred (300) feet of the water line on the shore of any lake or other body of water in or adjacent to the City and the harbor limits of any adjoining municipality or other governmental unit shall be known as the "Secondary Harbor Limit".

Subd. 4      Jurisdictional Limit

The harbor limits of the City of Tonka Bay do not extend beyond a point halfway between the shores of the body of water over which Tonka Bay has jurisdiction and the shore of the body of water located in another government unit.

Subd. 5      Map

The geographical and jurisdictional limits of the respective harbor limits will be illustrated on a map attached hereto known as "Appendix A".

Subd. 6      Conflict

Where there is any conflict between the harbor limits as defined in this section and harbor limits established by the LMCD code, those harbor limits established by the LMCD code shall apply.

**500.03      NUISANCES PROHIBITED**

Subd. 1      Nuisances Prohibited

No person shall commit or maintain a public nuisance in or upon the water of any lake or other body of water within the jurisdiction of the City; nor shall any person let, permit, or any other person to use any boat, dock, craft or structure or portion thereof, knowing or having reason to know that it is intended to be used to commit or maintain

any public nuisance. No person shall willfully prevent, hinder, oppose or obstruct a public official in the performance of his duty in carrying out the provisions of this ordinance, or in removing or abating a public nuisance.

**500.04        NUISANCES DEFINED**

Subd. 1        Nuisances Defined

A public nuisance is a crime, punishable as a misdemeanor, and consists of unlawfully doing an act or omitting to perform a duty, which act or omission shall:

- (a) Injure or endanger the safety, health or comfort of the public; or,
- (b) Offend public decency; or,
- (c) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for use or passage, a body of water within the harbor limits of the City.

**500.05        SPECIFIC PUBLIC NUISANCE DEFINED**

The term "Public Nuisance" shall be deemed to include the following:

Subd. 1        Anything declared to be a public nuisance by an ordinance of the City of Tonka Bay.

Subd. 2        The depositing of refuse, waste or other deleterious, poisonous, noxious, or injurious substance within the harbor limits of the city.

Subd. 3        The depositing of sewage within the primary harbor limits of the city.

Subd. 4        The erection or maintenance of any dock or structure which interferes with, obstructs, or tends to obstruct or render dangerous for use the waters within the primary harbor limits of the City.

Subd. 5        The failure to equip and operate a boat, vessel or watercraft in accordance with the provisions of Minnesota Statutes Chapter 361, as amended, which statutes are incorporated and made a part of this code by reference. Provided, however, that any additional requirements as established by the LMCD Code shall be met by all owners and operators of watercraft within the harbor limits.

Subd. 6        The failure to tow or to operate a watercraft towing one or more persons behind a watercraft on water skis, aqua plane, surfboard, saucer, or similar device; except in compliance with regulations as established by the LMCD Code.

Subd. 7        The towing of any person(s) into or through a marked channel connecting two bodies of water.

Subd. 8        The overtaking and/or passing of any craft in a channel or narrow passage by the operator of any motorboat, speedboat, or of any other vessel under power, so as to endanger other craft; and all craft shall proceed through all channels and narrow passages of water at safe speeds, otherwise the operator thereof shall be deemed to have committed a public nuisance.

Subd. 9        The failure to equip and maintain lights, and to have such lights lighted when the boat or vessel is operating within the harbor limits of the City at night.

Subd. 10       Obstructing or interfering with passage of a boat or vessel through a channel or narrow water passageway.

Subd. 11       Operating a boat or vessel in a careless or reckless manner in or about a public swimming beach.

Subd. 12       Swimming in a channel, or jumping or diving from a channel bridge.

Subd. 13 Operating a watercraft, automobile, vehicles or power propelled device on the open water, or upon an ice covered body of water, in such a manner as to endanger life, limb or property.

Subd. 14 No person or corporation shall install, operate, maintain or use a machine, mechanism, device or substance to prevent or restrict the normal formation of ice or to hasten the melting of ice on public waters within the harbor limits of the City of Tonka Bay without a permit. Application for the issuance of said permit shall be made to the City Council and said permit shall be granted upon the following conditions:

- (a) that any open water shall not extend closer than eight (8) feet to the property lines of the applicant as extended into the water;
- (b) snow fencing shall be erected and maintained in an upright condition by means of suitable stakes or posts and said fencing shall surround the entire de-iced area completely; the fencing shall not extend beyond the property lines of the applicant as extended into the water;
- (c) reflective material or flashing lights shall be placed at suitable locations and intervals on the outside of the fencing to warn vehicles and persons in the area;
- (d) the area for which the permit shall be granted shall be completely cleaned up of all fencing posts, stakes, boards, wiring, fencing material etc. all of which shall be removed entirely no later than April 1st of each year;
- (e) that if the conditions of this subdivision are violated, the City Council may revoke the permit upon five (5) days' notice in writing to the applicant.
- (f) that the applicant comply with the provisions of Section 3.12 of the LMCD Code.