

CHAPTER 180—H.F.No. 2994

An act relating to natural resources; allowing for the replacement and repair of boat storage structures on public waters; amending Minnesota Statutes 2005 Supplement, section 103G.245, subdivision 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2005 Supplement, section 103G.245, subdivision 4, is amended to read:

Subd. 4. **Structures in or adjacent to public waters.** (a) The following definitions apply to this subdivision:

(1) "boathouse" means a structure or watercraft that is moored by spuds, cables, ropes, anchors, or chains that may be intended for habitation and has walls, a roof, and either an open well for boats or a floor from wall to wall and does not include watercraft that are designed and operated as motorboats; ~~and~~

(2) "motorboat" means a watercraft that is designed for and is capable of navigation on the water and that has an adequately sized external or internal mechanical propulsion system for the type of watercraft; and

(3) "boat storage structure" means a structure that is used for storing boats or float planes.

~~(b) The commissioner, subject to the approval of the county board, may grant and prescribe terms and conditions for granting public waters work permits to establish, construct, maintain, and control wharves, docks, piers, levees, breakwaters, basins, canals, and hangars in or adjacent to public waters of the state, except within the corporate limits of a municipality.~~

~~(c) (b)~~ Boathouses and boat storage structures are prohibited on public waters of Minnesota, except as allowed by ~~paragraph (d)~~ paragraphs (c) to (f).

~~(d) (c)~~ The commissioner may issue a public waters work permit for boathouses, when approved by the local governmental unit and:

(1) only in areas of historic use for the structures, as determined by the commissioner, and where the boathouse was in existence on public waters prior to January 1, 1997; or

(2) where the boathouse serves as a public service structure within a permitted commercial marina.

~~(e) (d)~~ A boathouse in existence on public waters prior to January 1, 1997, may be repaired or replaced, provided that the repairs or replacement are consistent with the permit issued by the commissioner under paragraph ~~(d)~~ (c).

(e) The commissioner may issue a public waters work permit for the repair or replacement of boat storage structures when:

(1) approved by the local governmental unit;

(2) the boat storage structure was in existence prior to 1979 and is currently used for boat storage;

(3) the boat storage structure is not habitable and is not connected to a sewage system;

(4) the local government unit has had the opportunity to review the boat storage structure application and has not provided written comments opposing the application;

(5) the total area of boat storage structures on the applicant's property and on public waters adjacent to the applicant's property is not increased;

(6) the height of boat storage structures is not increased more than one foot, unless boat storage structures are consolidated and the same pitch roof results in an increased height; and

(7) the public waters work permit with the specific dimensions and location of the boat storage structure is recorded in the real estate records of the office of the county recorder or registrar of title in the county in which the applicant's property is located.

(f) A boat storage structure may be repaired, replaced, or consolidated, provided that the repairs, replacement, or consolidation are consistent with the permit issued by the commissioner under paragraph (e). The repair or replacement of a boat storage structure may include:

(1) the replacement of the foundation of the boat storage structure, provided that the material below the ordinary high water mark is not toxic to aquatic life; and

(2) the consolidation of multiple boat storage structures.

(g) Notwithstanding sections 103F.201 to 103F.221, and rules adopted under those sections, the local zoning authority may approve a boat storage structure that is at or above the ordinary high water level to replace a boat storage structure that is at or below the ordinary high water level of a public water if the boat storage structure was in existence prior to 1979. The replacement boat storage structure may not exceed the total area of the boat storage structure being replaced. A boat storage structure that is replaced under this paragraph must be removed prior to building the replacement structure.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor April 18, 2006

Signed by the governor April 20, 2006, 3:50 p.m.