

WESTLAKE LAKE MANAGEMENT ASSOCIATION

Revocation of Lake Use Rights for Nonpayment of Assessments and Fees and Boat Lien Policy

Adopted February 18, 2025

Purpose:

This policy outlines the procedures for revoking Westlake Lake use rights for nonpayment of Westlake Lake Management Association (“WLMA”) assessments, boat fees, and dock fees, and for proceeding with enforcing boat liens.

Note: Boat fees include fees for sailboats, kayaks and all watercrafts.

1. Revocation of Lake Use Rights

Under WLMA’s Tenth Certificate of Amendment of the Westlake Lake Recreational Area Restrictions (“CC&Rs”) and WLMA’s Rules and Regulations, WLMA is authorized to revoke Westlake Lake rights for nonpayment of Assessments, boat fees, and dock fees. All assessments, boat fees, and dock fees are subject to WLMA’s Delinquent Assessment Collection Policy.

Upon nonpayment of assessments, boat fees, and/or dock fees, WLMA will send delinquent members a reminder notice that they have outstanding balances on their accounts. Should assessments, boat fees, and/or docks fees remain unpaid after the reminder notice is sent, the delinquent member who received a reminder notice will have an option to provide a written request for a hearing before the Executive Committee to provide an explanation to the EC for consideration before revoking Westlake Lake use rights for the delinquent member. Any revocation of Westlake Lake use rights will remain until all outstanding assessments, boat fees, and/or dock fees are paid in full.

2. Enforcement of Revocation of Lake Use Rights

WLMA, upon revoking Westlake Lake use rights for any delinquent member, will be empowered to exercise any remedies under WLMA’s governing documents and applicable law, including legal and equitable remedies, to enforce any revocation of Westlake Lake use rights. WLMA’s management shall be directed to prevent any members designated as having Westlake Lake use rights revoked from accessing or using Westlake Lake as set forth herein.

Boat Lien Procedures and Guidelines

1. Scope

The Boat Lien Procedures and Guidelines outlines the procedures for enforcing a boat lien in accordance with California law, including the California Harbor and Navigation Code. This section of the policy ensures that all steps taken are consistent with the law, including notification and enforcement process.

The Boat Lien Procedures and Guidelines applies to all vessels (including sailboats and kayaks) moored, stored, or serviced within Westlake Lake that may be subject to a lien for non-payment of fees or charges related to moorage, storage, repairs, or other services provided, in accordance with WLMA's governing documents.

Note: A boat lien can be pursued by WLMA for any delinquent payment of annual WLMA lake fees, including dock fees or boat fees. That is, if the boat fee is paid but dock fees are delinquent, WLMA has the option to proceed with a boat lien for such payment of such other lake fees. In addition, WLMA has the right to pursue other legal remedies for payment including, but not limited to, a lien on the home of the member pursuant to WLMA's collections policy.

2. Legal Framework

The lien enforcement procedures are based on the provisions established by California Harbor and Navigation Code, Sections 500 through 509, and include the following:

- **Section 500:** Provides the legal basis for lien rights on vessels for unpaid services, including moorage, storage, and repair.
- **Section 501:** Specifies the right of lienholders to enforce their lien through sale of the vessel after proper notice and waiting periods.
- **Section 502:** Details the process of filing a lien and requirements for lien notices.
- **Section 503:** Outlines the requirements for the lien sale process, including public notice and conditions of sale.
- **Section 504-509:** Describes additional procedures for lien enforcement, including public sale procedures, dispute resolution, and exceptions.

3. Procedures for Enforcing a Boat Lien

Step 1: Creation of Lien

A lien is created on any vessel where fees charged by WLMA remain unpaid, including, but not limited to, assessments and related costs, boat permit fees, private dock permit fees, dock boat slip fees, or group dock permit fees. WLMA, as a lienholder, may exercise its rights under the California Harbor and Navigation Code and retain possession of the

boat as security for the payment of fees and services, in accordance with Article 8, Section 8.2(b)(iii) of WLMA's CC&Rs.

Step 2: Notification of Lien

Once a lien has been created, the lienholder, WLMA, must notify the boat owner in writing. This notification should include:

- A description of the vessel (make, model, and registration number).
- A detailed statement of the charges due.
- A demand for payment within thirty (30) days of the demand letter.
- WLMA's intent to sell the vessel if payment is not received.

This notice must be sent by **certified mail** to the last known address of the boat owner.

Step 3: Filing a Lien and Holding Lien Sale

If the boat owner fails to pay the charges within the specified period stated in the demand for payment, WLMA may file a claim of lien with the California Department of Motor Vehicles (DMV). The following procedures will outline how lien sales will proceed for vessels valued at \$1,500.00 or less, and then for vessels valued at more than \$1500.00.

Vessels Valued at Less Than \$1,500.00.

1. WLMA shall file an Information Request from Registration Records (INF 1126) form with the DMV to obtain all last known names and addresses of owners of record of the vessel.
2. WLMA shall then send by mail, return receipt requested, to the registered and legal owners of record, and any other interested parties the following:
 - a. A completed Notice of Pending Lien Sale for Vessels or Vessel/Trailers Valued at \$1,500 or Less (BOAT 156) (PDF).
 - b. A return envelope preaddressed to DMV.
3. WLMA shall, at the same time, send the DMV a completed BOAT 156 form and a fair market value statement obtained from a licensed yacht and shipbroker verifying that the vessel value or vessel/trailer is under \$1,500.
4. WLMA shall set the lien sale date no less than 35 days but no more than 60 days from sending the BOAT 156 form to the DMV.
5. The vessel must be available for inspection at a location easily accessible to the public at least one hour before the sale and at the place of sale at the specified time and date.
6. WLMA will hold the sale of the vessel in a commercially reasonable manner, and will not allow sealed bids. (CH&NC §506).

Vessels Valued at More Than \$1,500.00.

1. WLMA shall submit an Application for Lien Sale Authorization and Lienholder's Certification Vessel or Vessel/Trailer Over \$1,500 (BOAT 152) form and the nonrefundable filing fee to:

Department of Motor Vehicles
Lien Sale Section, MS D143
P.O. Box 932317
Sacramento, CA 94232-3170

The REG 152 must contain the vessel's make, hull identification number (HIN), and state of registration. If it does not have either a California CF number or a HIN, a Vessel Verification (BOAT 111) form completed by a licensed vessel verifier or a law enforcement officer must be submitted with the request.

2. WLMA will proceed with scheduling the lien sale once it receives authorization from the DMV.
3. At least 10 days, but not more than 30 days, prior to the sale date (not counting the day of sale) WLMA will give notice of the sale by advertising once in a newspaper of general circulation in Ventura County or LA County, wherever the vessel is located.
4. WLMA shall mail a Notice of Pending Lien Sale for Vessels or Vessel/Trailers Valued at Over \$1,500 (BOAT 166) form 20 days prior to the sale (not counting the sale date) with a return receipt requested, to the registered and legal owners of record (if registered in California), any other interested parties, and DMV.
5. The vessel must be available for inspection at a location easily accessible to the public at least one hour before the sale and at the place of sale at the specified time and date.
6. WLMA will hold the sale of the vessel in a commercially reasonable manner, and will not allow sealed bids. (CH&NC §506).

Step 4: Sale of Vessel

If the debt remains unpaid after the notice period, WLMA is authorized to sell the boat at public auction. The auction must be conducted in a commercially reasonable manner.

- WLMA must apply the proceeds from the sale first to cover the lien amount and any associated costs (such as advertising, handling, and legal fees).
- If the sale proceeds exceed the lien amount, the surplus must be returned to the boat owner or their legal representative.
- If the sale does not cover the lien amount, WLMA may pursue additional legal action to recover the unpaid balance, in accordance with its governing documents.
- The buyer must be provided with an *ABCs of California Boating* booklet.
- If the vessel is motorized, WLMA must issue one set of Vessel Carbon Monoxide Warning Stickers with the companion brochure and advise the customer to affix the stickers to the vessel.

Step 5: Distribution of Proceeds

The proceeds from the sale must be distributed in the following order:

1. Payment to WLMA of any outstanding lien amount (including interest, costs, and fees).
2. Payment of any outstanding fees owed to government agencies (such as DMV registration fees).
3. Any remaining funds should be paid to the boat owner or their legal representative.

Step 6: Reporting to DMV

WLMA must report the sale of the vessel to the California Department of Motor Vehicles (DMV) within **ten (10) days of the sale**. WLMA must hold the vessel for a ten (10) day redemption period, in which the vessel owner may redeem the vessel owner by paying the amount of the lien, all costs and expenses of the lien, and interest on the sum at the legal rate from the date thereof until repayment (CH&NC §506.5).

Within fifteen (15) days of the vessel sale, WLMA must submit any excess fees per the order of distribution outlined in Step 5 with a copy of form BOAT 156 to the DMV Lien Sale Unit for vessels valued at \$1,500.00 or less.

Within fifteen (15) days of the vessel sale, WLMA must submit any excess fees per the order of distribution outlined in Step 5 with a copy of form BOAT 178 to the DMV Lien Sale Unit for vessels valued at more than \$1,500.00.

For vessels valued at \$1,500.00 or less, the following must be submitted to the DMV:

- An Application for Registration Number, Certificate of Ownership, and Certificate of Number for Undocumented Vessel (BOAT 101) form. The purchase price and date of purchase must be shown.
- A Certification of Lien Sale for Vessel or Vessels With Trailers Valued at \$1,500 or Less (BOAT 177) form completed by the lienholder or agent.
- The certified or bulk mail receipts.
- The DMV printout of the vessel record.
- Any bill(s) of sale needed to complete the chain of ownership.
- Any fees that are due.

For vessels valued at more than \$1,500.00, the following must be submitted to the DMV:

- An Application for Registration Number, Certificate of Ownership, and Certificate of Number for Undocumented Vessel (BOAT 101) form.
- A BOAT 178 completed by the lienholder or agent.
- Postal receipts attached to the BOAT 178 (bulk mail receipts are acceptable).
- An authorization letter from DMV, certified copy of the court judgment issued in favor of the lienholder, or release of interest from the declarant (opposer).

- Any bill(s) of sale needed to complete the chain of ownership.

4. Vessel Owner Opposing Lien Sale

The vessel owner has the right to file a Declaration of Opposition that is signed and delivered to the DMV within fifteen (15) days of the notice of lien sale being sent by WLMA. If the DMV sends a denial letter to WLMA to hold the lien sale, WLMA may oppose the denial letter by doing the following:

- WLMA may file an action in court within twenty (20) days of the date of the notice of denial from the DMV and receives a judgment in favor of its rights to hold the lien sale.
- WLMA receives a release of interest from the vessel owner.

If WLMA attempts service on the vessel owner of a lawsuit to obtain a judgment to hold the lien sale after the vessel owner files a Declaration of Opposition with the DMV at the address on the Declaration of Opposition, and service remains unclaimed, then the DMV will authorize WLMA to hold the lien sale.

5. Record-Keeping

WLMA must maintain complete and accurate records of all notices, correspondence, and actions taken related to the lien. These records must be retained for at least **two years** following the sale of the vessel.

6. Compliance with the Law

WLMA will comply with all applicable federal, state, and local laws regarding lien enforcement, including the California Harbor and Navigation Code.