

Chapter 51

DOCKING AND MOORING

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[HISTORY: Adopted by the Board of Trustees of the Village of Hammondsport 9-25-2006 by L.L. No. 1-2006. Amendments noted where applicable.]

§ 51-1 HAMMONDSPORT CODE

GENERAL REFERENCES

Building construction — See Ch. 42.

Building code administration — See Ch. 43.

Flood damage prevention — See Ch. 63.

Zoning — See Ch. 122.

§ 51-1. Title. This chapter shall be known and shall be cited as the "Keuka Lake Uniform Docking and Mooring Law."

§ 51-2. Purpose. The purpose of this chapter is to regulate lakeshore docks, moorings and other structures in or on the waters of Keuka Lake. The regulations were developed in order to protect public safety, support robust lake environmental conditions, provide reasonable public visual and physical access to the lake, ensure safe recreational use, and establish fair, consistent and uniform standards.

§ 51-3. Authority.

A. Section 46-a of the New York State Navigation Law has been amended by adding Subdivision (6), giving the villages and the towns surrounding Keuka Lake the authority to enact and enforce uniform local laws to regulate the manner of construction and location of boathouses, moorings, and docks, including related accessory uses, within the waters of Keuka Lake proper, excepting its tributaries and Keuka Lake Outlet, from the mean high water level to a distance of 1,500 feet from the shoreline.

B. The provisions of this chapter do not apply to municipal or New York State-owned lakeshore parcels.

§ 51-4 DOCKING AND MOORING § 51-4

§ 51-4. Definitions.

For the purposes of this chapter the following definitions shall apply:

BERTH — See "boat slip."

BOAT — Any vessel requiring state or federal registration for use on public waters (including seaplanes).

BOAT ACCESSORY STRUCTURE — An enclosed storage structure, the purpose of which is the storage of boating-related accessories.

BOAT HOIST — Any mechanical device, the purpose of which is to raise or lift a boat out of the water for waterside storage.

BOAT HOIST STRUCTURE — A seasonal, open-sided, waterside structure containing a boat hoist.

BOATHOUSE — A permanent enclosed structure that provides direct water or rail access to Keuka Lake for boats. A boathouse has a permanent roof and one or more enclosed sides.

BOAT SLIP — The area of any structure, boat hoist structure, boat station, boathouse, dock or pier, or any other facility, the purpose of which is the storage of one boat.

BOAT STATION — A permanent, open-sided structure, constructed in the water with a mechanical device, the purpose of which is to raise or lift a boat out of the water for waterside storage. A boat station is intended as a permanent boat hoist structure and may have a roof.

DOCK — Any structure or fixed platform built on floats, columns, open timber, metal, piles, or similar openwork supports, or cantilevered structures extending to the shore, including piers and wharfs. All structural descriptions provided above that are placed on the water side of the mean high water mark shall be defined as a dock.

HEIGHT — The vertical distance measured from the mean high water level to the highest portion of a structure.

ICE BREAKER — A permanent structure, usually composed of one or more pilings, installed for the exclusive purpose of protecting mooring and docking facilities from ice damage.

LAKE SHORELINE FOOTAGE — The number of feet of lake frontage based upon the Town or Village Tax Maps.

LAKESHORE OWNER — The person or persons having a title in fee to the lakeshore parcel.

LAKESHORE PARCEL — A parcel of land bordering on the shore of Keuka Lake.

MARINA — A lakeshore business, open to the general public, whose purpose shall include sale of boats, supplies and fuel; rental of boats, marine equipment, dock and mooring space, and winter storage; service of boats and marine equipment; and provision for boat access to the lake.

MEAN HIGH AND LOW WATER MARKS — The locations where the mean low and high water levels intersect with the shoreline of the lakeshore parcel.

MEAN LOW AND HIGH WATER LEVELS — The approximate average low water level or high water level for Keuka Lake, determined by reference from survey data provided by the United States Geological Service (USGS).

According to the New York State Department of Environmental Conservation, Division of Regulatory Affairs, the mean high water level for Keuka Lake is 715.15. The mean low water level is 712.55.

MOORING — A waterside structure where vessels can be stored, including, but not limited to, dockage, boat slips, boat stations, boathouses, boat hoists, marine rail systems and buoys.

MOORING AND BERTHING FACILITY — A waterside area consisting of one or more structures, docks, mooring buoys or a combination thereof, used for the berthing or mooring of boats, yachts, or other floating craft, whether manually, mechanically, or sail powered.

MOORING BUOY — A floating object anchored to the bed of the lake, but not to the lakeshore, to which a boat could be attached for waterside storage.

OTHER LAND USES CATEGORY — All types of land uses on the lakeshore except those land uses specified in the residential land use category. This includes, but is not limited to, marinas, yacht clubs, camps, and restaurants.

PERMANENT — The type of construction for any dock, boathouse, boat station, or boat accessory structure that is fixed to the bed of the lake and not intended to be removed during the winter months.

PERSONAL WATERCRAFT — A vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and which is designed to be operated by a person sitting on, standing on or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

PIER or WHARF — Any structure extending out into or over the water built upon fill.

PRIVATE CLUB — A membership-only nonresidential lakeshore facility, not associated with a unique multiple-residence upland property or properties, whose purpose is to provide social facilities for members and guests. It may include docking and mooring facilities for member- and club-owned boats.

RESIDENTIAL LAND USE CATEGORY — All land uses on the lakeshore parcel that are normally classified as a place of dwelling, including, but not limited to, single-family, multi-family, and boarding houses, apartments, bed-and-breakfasts, townhouses and condominium units, time-shares, homeowner associations and multiresidence upland lakeshore parcels.

SEASONAL — The type of construction for any dock or boat hoist structure that is intended to be removed during the winter months.

TIE LINE — The straight line extending between the two shoreline boundaries of a lakeshore property at the mean high water mark.

VESSEL — A floating means of conveyance.

WATER RIGHTS LINES — Imaginary lines that extend into the lake in order to establish the riparian rights of adjoining lakeside properties. Water rights lines determine the boundaries for the placement of berthing and mooring facilities, as well as all other facilities subject to this chapter. The method for establishing water rights lines is found in § 51-5C.

WATERSIDE — The lakeside of the mean high water mark.

WATERSIDE STRUCTURE — Any waterside man-made structure whose profile is visible above the surface of the water and is affixed in some way to the shore or the lake bottom to hold its position.

YACHT CLUB — A membership-only lakeshore facility not associated with a unique upland property or properties whose purpose is to promote, educate and regulate yachting and boating, as well as provide social facilities for members. The club facility may include docking and mooring facilities for member- and club-owned pleasure boats, limited marine supplies for member use, and clubhouse facilities for the use of members and guests.

§ 51-5 DOCKING AND MOORING

§ 51-5. General regulations for placement and configuration of mooring and berthing facilities.

A. Placement of mooring and berthing facilities adjacent to a lakeshore parcel shall be determined by the category into which this parcel falls as defined in this chapter.

B. The provisions of this chapter apply to the lakeshore owner based upon the amount of lake shoreline footage for each lakeshore parcel.

C. Water rights lines.

(1) Berthing and mooring facilities shall be placed within the water rights line of the parcel so as not to interfere with the waterside usage of adjacent parcels. Water rights lines are determined using the following method (See Figure 1.1):

(a) Determine the four points where the mean high water mark intersects the property lines of the parcel and the two adjoining lakeshore parcels.

(b) Connect the points of intersection with straight lines. These lines are called "mean high water tie lines."

(c) Where two mean high water tie lines meet, measure the angle on the waterside.

(d) Bisect (or divide by two) that waterside angle measurement. The bisecting line, projected out over the waterside, is the water rights line.

(2) It is the owner's responsibility to determine water rights lines. Where the water rights lines for a lakeshore property are less than 200 feet long at the point of intersection, the methods described in Subsection C(1)(a) through (d) must, if possible, be modified in order that each parcel's water rights lines are at least 200 feet long at their point of intersection (if any).

D. No permanent waterside structure, except ice breakers, shall be located closer than 10 feet in the residential land use category and 20 feet in the "other land uses" category, to any water rights line of a parcel. Ice breakers shall be placed in such a manner that they will be contained within the water rights line of the parcel. Any seasonal waterside structure or vessel moored to it shall be contained within the water rights line of the parcel.

E. Mooring buoys shall be placed in such a manner that each moored vessel shall avoid contact with any other moored vessel or structure. At no time may a moored vessel, or part thereof, extend outside the limits of any water rights line of a parcel.

F. One boat hoist structure is permitted for each boat slip or registered boat mooring permitted under the regulations contained in the residential land use category. A roof is permitted; however, the sides shall not be enclosed in any manner. Construction of a second-floor level inside the boat hoist, or of a second-floor sundeck, is not permitted.

G. A boat station shall not exceed a height of 15 feet above the mean high water level, and the sides shall not be enclosed in any manner. Construction of a second-floor level inside the boat station, or of a second-floor sundeck, is not permitted. A roof is permitted but it must not have a pitch greater than a 3/12. No boat station may be used as a dwelling, sleeping, lodging or boarding place. Within the residential land use category, any boat station is limited to a maximum of two boat mooring spaces.

H. Only docks, boat hoist structures, boat stations, and other specified mooring and berthing facilities are permitted on the waterside of the mean high water mark. Boathouses, boat accessory structures, or any other types of structures not specifically permitted in this document are not permitted on the waterside of the mean high water mark.

I. Compliance with the State Environmental Quality Review Act² shall be required for any site plan approval granted under the regulations contained in this chapter.

J. All construction activities are subject to state and federal review by the following agencies as applicable and as required by law; the New York State Department of Environmental Conservation; the New York State Office of Parks, Recreation and Historic Preservation; the New York State Office of General Services; and the United States Army Corps of Engineers. Article 6, § 75, of the Public Lands Law establishes the terms and conditions for the conveyance of the state's interest on state-owned underwater land. It is the responsibility of the lakeshore owner to obtain any and all state and federal permits as may be required.

(1) All construction is subject to state and federal laws, including the New York State Navigation Law. Section 32-c of said law makes it a misdemeanor to build any structure that interferes with the free and safe navigation of the navigable waters of this state.

(2) The villages and towns may require that an application shall be submitted for review to the New York State Office of Parks, Recreation and Historic Preservation or other applicable state agency if the requested docking or mooring facility presents navigation issues.

K. All site plan approvals required by this chapter and all variance applications shall be subject to the provisions of the appropriate town and village laws.

L. As municipal- and New York State-owned lakeshore parcels are not regulated by this chapter, the lakeshore municipalities and New York State are free to regulate docks and moorings on their own lakefront according to their needs. Municipally owned piers and wharfs providing public access are permitted, and the municipal owner may provide regulations for their use.

M. The lake shoreline footage determines the permitted number of docks and the number of moorings for boats. This includes boats attached to docks, boat hoists or stations, mooring buoys or boathouses. The number of docks and moorings permitted is specified in § 51-6.

§ 51-6. Specific regulations for placement and configuration of mooring and berthing facilities for land use categories.

A. The lake shoreline footage determines the permitted number of docks and lakeside moorings for boats requiring state or federal registration and is subject to the setback requirements and water rights line limitations in § 51-5D.

(1) Residential land uses.

(a) Facilities per parcel:

[1] Zero feet to 99.99 feet: four moorings for boats, one dock.

[2] One hundred feet to 199.99 feet: six moorings for boats, two docks.

[3] For those lakeshore parcels that exceed 199.99 feet: three additional moorings for boats are permitted for each 100 feet of lakeshore and one additional dock is permitted for each additional 100 feet of lakeshore.

(b) Residential dock construction shall not exceed the following maximum dimensional criteria: Each permitted dock shall not exceed a total of 720 square feet, including walkways. For the purposes of this section, width is measured parallel to the mean high water mark; length is measured perpendicular to the mean high water mark. The open water space of boat hoist structures, or boat stations, is not included in the calculation of dock area. If none of the permitted docks on a parcel exceed 300 squarefeet, one additional dock, over and above those specified in Subsection

A(1), less than 300 square feet, shall be permitted.

[1] No part of the dock, or associated structures and equipment, shall extend beyond a line which is 65 feet from the mean high water mark.

[2] If a water depth of at least three feet is not attained at a point extending directly out into the lake a distance of 65 feet from the mean high water mark when the lake level is 712.55 feet above sea level, the dock may be extended to a point where this depth is achieved, providing this length does not violate the New York State Navigation Law.

[3] The use of fingers, such as T- or L-shaped appendages, is permitted in any configuration from the main walkway of the dock to form boat slip spaces.

(c) In categories where two or more docks are permitted, the docks shall be separated by at least 10 feet.

(d) In categories where two or more docks are permitted, the consolidation of two docks into one dock is permitted. The total square footage of the consolidated dock shall not exceed 1,200 square feet. The consolidated dock shall conform to all other provisions of this chapter. When applying for dock consolidation under this provision, the lakeshore owner relinquishes all rights and claims to erect a second dock. The lakeshore owner shall record with the Town or Village Clerk that any claim to erect an additional dock is waived.

(e) Seasonal docks do not have setback requirements but must fit within water rights lines, together with any boats moored to them. Seasonal docks do not require permits but are included in the number of allowable docks and moorings for boats.

Preexisting seasonal docks are not further regulated in this chapter.

(f) Limitations on the number of moorings for boats do not apply to boats moored on the upland side of the high water mark, nor do they apply to short-term moorings for visitors.

(2) Other land uses.

(a) Marinas and yacht clubs.

[1] The minimum lake shoreline footage required for a marina or yacht club is 200 feet. From 200 feet to 249.99 feet, moorings for up to 75 boats are permitted. For those lakeshore parcels that exceed 249.99 feet, up to 20 additional moorings are permitted for each additional 50 feet of lakefront.

[2] The mooring and berthing facilities shall require site plan approval by the Planning Board in accordance with the provisions contained in § 51-7.

(b) Restaurants.

[1] The minimum lake shoreline footage required for docks and moorings for a restaurant is 100 feet. From 100 feet to 149.99 feet, up to 20 moorings are permitted; from 150 feet to 199.99 feet, up to 30 moorings are permitted. For those lakeshore parcels that exceed 199.99 feet, up to 10 additional moorings are permitted for each additional 50 feet of lakeshore.

[2] The mooring and berthing facilities shall require site plan approval by the Planning Board in accordance with the provisions contained in § 51-7.

[3] The permitted number of boat slips allowed for this land use activity is intended for use by the customers of the establishment on a short-term basis for dining and entertainment purposes.

(c) Hotels, motels, camps, resorts and private clubs.

[1] The minimum number of feet of lake shoreline footage required for docks and moorings is 100 feet. From 100 to 149.99 feet, up to 10 moorings are permitted; from 150 feet to 199.99 feet, up to 15 moorings are permitted. For those lakeshore parcels that exceed 199.99 feet, up to five additional moorings are permitted for each additional 50 feet of lakeshore.

[2] The mooring and berthing facilities shall require site plan approval by the Planning Board in accordance with § 51-7.

B. Limitations in this section shall be determined by the current lake shoreline footage of the lakeshore parcel, regardless of how property interests in the lakeshore parcel may be divided among the owners, lessees, occupants, easement holders, or any other persons or entities with a legal or beneficial interest in any existing or proposed berthing and mooring facility.

§ 51-7. Permit requirements; application procedures.

A. In accordance with the provisions of § 274-a of the Town

Law and § 7-725-a(1) of the Village Law, the towns and villages shall have the total responsibility for conducting all reviews required by this chapter.

B. The villages and towns may require the owner to provide appropriate documentation for the application, including surveys when necessary to determine water rights lines.

C. Site plan approval shall be required for "other land use categories" by the local Planning Board, and building permits are required in accordance with the provisions of this section. Only the lakeshore owner or his authorized agents may submit applications.

D. Building permits are required for the placement or construction of permanent docks and berthing facilities within the residential land use category. A lakeshore owner shall apply to the Code Enforcement Officer for review of the proposed berthing and mooring facilities in compliance with the provisions of this chapter and must obtain his written approval prior to the start of construction.

E. The application form for all land use categories shall include certification that all owners, lessees, occupants, easement holders, and any other persons or entities with a legal or beneficial interest in any existing or proposed mooring and berthing facility related to this property have been notified of this application. The limitations of this chapter are applicable to all parties who have a property interest in the parcel. The applicant is advised that failure to notify any party possessing a property interest in the parcel may affect any relief granted as a result of this application and process.

F. Site plan approval by the local Planning Board and a building permit are required for the placement of all berthing and mooring facilities within the "other land uses" category. A development approved under the "other land uses" category that involves the seasonal placement of docks, or other mooring and berthing facilities, does not need to be approved each season, provided that compliance with the original approval, and any conditions placed thereon are continued.

(1) An application for site plan approval shall be submitted to the Code Enforcement Officer for review by the Planning Board and shall contain:

(a) For special situations, towns and villages may require a site plan prepared by a New York State registered architect, landscape architect, engineer, or surveyor in accordance with the New York State Education Law.

(b) A site plan shall be drawn to scale and shall contain a description of the existing and proposed berthing and mooring facilities, showing at a minimum: name, address, parcel boundaries, Tax Map number of the lakeshore parcel; the lake shoreline footage; the water rights lines; the mean high water tie line; the depth of the lakeshore bottom; and the proposed setbacks.

(2) The site plan approval requirements of this local law may be integrated with the Site Plan Approval and submission requirements contained in the Zoning Law of the Town and any permit applications required therein.

(3) Mooring buoys over 100 feet from the waterside of the mean high water mark require a special anchorage permit from New York State.

§ 51-8. Supplemental review criteria for site plan approval.

A. The respective town and village Planning Boards shall use the following standards to determine the appropriateness of any and all proposed construction of mooring and berthing facilities for shoreline protection:

(1) The construction of such facilities shall be undertaken in such a way so as not to impair the water quality, cause harm to fish or fish spawning grounds, cause problems of erosion or sedimentation, create hazards for navigation, or otherwise threaten the public health or safety.

(2) Such facilities shall be constructed only of materials which are stable and which will have no adverse effects on water quality.

(3) The amount of any grading, filling, earth moving, and disturbance of land above the mean high water mark during the construction of such facilities shall be minimized.

(4) When deemed appropriate, mooring and berthing facilities within the other land uses category shall provide adequate and approved pumping facilities for waste disposal therefrom.

§ 51-9 DOCKING AND MOORING

§ 51-9. Nonconforming mooring and berthing facilities, structures, and uses.

A. For the purpose of this chapter, any lawful water-dependent permanent structure existing at the-time of the effective date of this chapter, or having already received preliminary or final site plan approval by a municipality, which shall be made nonconforming by the passage of this chapter, may be continued, except as otherwise provided by Article 6, § 75, of the Public Lands Law.

B. Upon the effective date of this chapter, no existing nonconforming building, structure or use shall be enlarged, extended, reconstructed, substituted, or structurally altered, except when required to do so by law or order:

(1) Any nonconforming building or structure damaged by natural disaster, fire or vandalism may be restored, reconstructed or used as before, provided that the dimensions of such use, building or structure shall not exceed the dimensions which existed prior to such damage, and that it be completed within 18 months of such happening.

(2) A nonconforming mooring and berthing facility or other structure may be made to be in conformance. The replacement oftemporary mooring and berthing facilities with permanent mooring and berthing facilities shall comply with the regulations of this chapter.

(3) When nonconformity is changed in accordance with the provisions hereof, the use of the building or structure shall not thereafter be changed again, except in accordance with the regulations of this chapter.

(4) Normal maintenance and repairs and incidental alteration of a building or structure containing a nonconformity are permitted, provided that such does not extend the area or volume of space occupied by the nonconformity. Piers or wharfs may require limited expansion for repair or reconstruction based upon NYSDEC standards.

(5) Each town or village may require any lakeside structure which is determined to be unsound or unsafe, from a public safety standpoint, to be removed.

(6) Manufactured home parks (containing homes on leased land), restaurants, marinas, yacht clubs and all other lakeshore use categories included in § 51-6A(2) existing at the time of the adoption of this chapter can maintain no more than the currently permitted number of seasonal and permanent docks and slips pursuant to their New York State license in effect at the time of the adoption of this chapter or the number specified in § 51-6A(2), whichever is the greater number.

(7) Dock placement for easement situations existing prior to adoption of this chapter, shall be allowed to continue in order to place seasonal docks in a manner consistent with the terms and history of the shoreline easement.

C. After the effective date of this chapter, the burden of proof of conformance/nonconformance is the responsibility of the lakeshore property owner.

§ 51-10. Appeals; variances.

A. Lakeshore owners aggrieved by the decision of the Code Enforcement Officer may appeal the decision to the Zoning Board of Appeals, pursuant to § 267-a of the Town Law or § 7-712-a of the Village Law or other applicable requirements specified by New York State statute or case law. The Zoning Board of Appeals may grant a variance to the provisions of this chapter. Dimensional criteria for the placement of berthing and mooring facilities may be varied in accordance with the applicable requirements of state statutes.

B. Any variance that is granted or denied by the Zoning Board of Appeals shall set forth in its decision the findings of fact made in its granting the variance.

§ 51-11. Amendments.

A. Amendment procedures for this chapter are contained in § 46-a, Subdivision (6)b of the New York State Navigation Law. Amendments can only be made by unanimous adoption of a local law by the municipalities, after proper public hearing and environmental review. Such amendments shall become effective only upon approval by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation and upon their subsequent filing with the New York State Secretary of State.

B. Amendments can be initiated by a resolution of five of the eight municipalities, thus establishing the need for a process by all eight municipalities to address the issues in the resolutions. Adoption of any amendments must be done with approval by all of the lakeshore municipalities.

§ 51-12. Fees.

Each Town/Village Board may, by resolution, establish appropriate fees for the review and processing of the permits under this chapter.

§ 51-13. Penalties for offenses.

Violations of this chapter shall be remedied according to the violation and penalty section of the Village/Town Zoning Code and consistent with § 268 of the Town Law and § 20-2006 of the Village Law. In addition, state laws may apply, including the New York State Navigation Law.

§ 51-14. When effective.

This chapter shall take effect upon its adoption by each of the respective lakeshore municipalities as provided by law, upon approval by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation, and 10 days after its filing with the New York Secretary of State.

DOCKING AND MOORING

51 Attachment 2:1 10 - 30 - 2007

51 Attachment 2

Village of Hammondsport

Figure 2 [§ 51-6A(1)(b)]

See § 51-6A(1)(b)