

City of Plattsburgh Harbor Management Law—Draft January 10, 2023

City of Plattsburgh, NY

Local Law ___ 23__ Harbor Management—

Code of the City of Plattsburgh, Chapter 177. Harbor Management

§ 177-1. Title.

This chapter shall be entitled "Harbor Management." It shall be entered in the City of Plattsburgh Code of Ordinances as Chapter ___.

§ 177-2. Authority, intent and purpose.

A. This chapter is enacted under the authority of the Municipal Home Rule Law of New York State, the Waterfront Revitalization of Coastal Areas and Inland Waterways Act,[1] and applicable sections of the New York State Navigation Law.

[1] Editor's Note: See Art. 42 of the Executive Law.

B. The intent of this chapter is to regulate the speed, use, operation, anchoring, and mooring of vessels, and the use of waters within the jurisdiction of the City of Plattsburgh in a manner to protect and promote the public health, safety and general welfare.

§ 177-3. Applicability.

A. This chapter shall apply to all waters within the jurisdiction of the City of Plattsburgh as follows: the waters of Lake Champlain that are within a distance of 1,500 feet from the City's shoreline along the lake, including the Saranac River from the confluence with the Lake Champlain upstream to the municipal boundary. These waters shall be known as the "City of Plattsburgh Harbor Management Area."

§ 177-4 Definitions and word usage.

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED VESSEL

Any vessel not moored, anchored or made fast to the shore and left unattended for a period greater than 24 hours, or left upon private property adjacent to the Harbor Management Area without consent of the property owner, for a period greater than 24 hours.

AIDS TO NAVIGATION

All markers on land or in the water placed for the purpose of enabling navigators in the Harbor Management Area to avoid navigation hazards, regulatory markers and/or fix their position.

ANCHORAGE

Any water area designated for anchoring or mooring.

BEACH

All public beaches (of all jurisdictions), private membership club beaches, and private homeowners' association beaches, as depicted on the Harbor Management Chart.

BOATHOUSE

Any building or similar superstructure that has direct access to a body of navigable water and is used only for the storage and sheltering of watercraft and associated equipment and does not have plumbing or sanitary facilities.

BOAT STORAGE, COMMERCIAL

A place, site or structure used to park, house or store on any one lot, more than three vessels, excepting canoes, rowboats, kayaks or other boats less than 18 feet in length for private gain within a marina. This use shall not include "storage, commercial" as defined in this chapter.

BOAT STORAGE, PRIVATE

A place, site or structure used to park, house or store on any one lot, three or fewer vessels, excepting canoes, rowboats and kayaks.

BULKHEAD

Any structure, except a building, positioned parallel to the shoreline, the primary function of which is to retain soil or any other material from eroding into a waterway or to protect the land from wave damage

CHANNEL

Federal, state or locally designated water areas specifically reserved for unobstructed movement of vessels.

COMMON COUNCIL

The Common Council of the City of Plattsburgh.

CORPORATION COUNSEL

The Corporation Counsel of the City of Plattsburgh

DOCK AND PIER

Any dock, wharf, pier, structure or fixed platform extending out over the water built on floats, columns, open timber, piles or similar open-work structures.

DOCK AND MOORING AREA

Sections of the Harbor Management Area where groups of docks and moorings may be permitted.

EMERGENCY

A state of imminent or proximate danger to life or property.

FAIRWAY

Any designated and/or maintained water area reserved for unobstructed movement of vessels, including an area at least 25 feet in width adjacent to both sides of the Federal Navigation Channel.

FEDERAL NAVIGATION CHANNEL

A designated navigation channel authorized by an act of congress, specifically reserved for the unobstructed movement of vessels and which is marked in water by aids to navigation maintained by the United States Coast Guard.

FLOATING HOME

Any structure constructed on a raft, barge, hull or other platform and moored or docked in the Harbor Management Area and used primarily for single or multiple-family habitation or as the domicile of any individual(s).

HARBOR MANAGEMENT AREA

The area encompassing all waters along the Lake Champlain shoreline as shown in the map outlining the Waterfront Revitalization Area within the jurisdiction of the City of Plattsburgh including the Saranac River at its confluence with Lake Champlain upstream 1,500 feet, and the waters of Lake Champlain that are within a distance of 1,500 feet from the City's shoreline.

HARBOR MANAGEMENT CHART

A map of surface waters that may be prepared and adopted by the Common Council to facilitate administration of the Harbor Management Law.

HARBOR MANAGEMENT LAW

This chapter of the City of Plattsburgh establishing rules and regulations for the use and enjoyment of the waters of the City of Plattsburgh Harbor Management Area and the lands immediately adjacent to the Harbor Management Area.

HARBOR MANAGER

That person appointed annually by the Mayor with the consent of the Common Council who has full and primary responsibility and authority for implementing and enforcing all provisions of this chapter.

LITTER

Any bottles, glass, cans, scrap metal, junk, paper, garbage, rubbish, trash or similar refuse or human-generated or human-deposited debris.

MARINA

Any waterfront facility which provides accommodation services for vessels by engaging in any of the following: (1) the sale of marine products or services; (2) the sale, lease, rental, or charter of vessels of any type; (3) the sale, lease, rental or any other provision of storage, wharf space, or mooring for vessels not registered to the riparian property owner's immediate family, the owner or lessee of the property, members of the lessee's immediate families, or an overnight guest on said property.

MAYOR

The Mayor of the City of Plattsburgh.

MOORING

The attachment of or to attach a vessel to a pier or dock or other structure or the attachment of or to attach a vessel to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator. The term "mooring" shall also include the placing of a boat at anchor for more than 12 hours consecutively.

PERSONS

Individuals, corporations, societies, associations, and partnerships using the facilities and areas within the Harbor Management Area.

PUMP-OUT FACILITY

A facility for pumping sewage from vessel holding tanks and other devices and containing those wastes before proper disposal into the City of Plattsburgh sewage system.

STATE

The State of New York.

SUPERSTRUCTURE

A structure built as a vertical extension on top of a lower structure such as boathouse which is a storage building for boats built on top of cribs or piles.

STORAGE, COMMERCIAL

A business for hire in which a warehouseman, as defined in Section 7-102 of the Uniform Commercial Code of New York State, takes possession of goods and is responsible for the care and control of the stored goods. Goods stored for hire shall be completely enclosed within a building and may include boats, motorcycles, jet skis, or similar recreational vehicles. "Storage, commercial" shall be differentiated from "self-service storage facility" in that commercial storage involves the conscious creation of a bailment between the bailor and bailee, as defined in the Uniform Commercial Code of New York State.

TRANSIENT BOATERS

Persons traveling into the Harbor Management Area by boat and staying for a temporary period of time.

UNDERWAY

The condition of a vessel not at anchor and not made fast to the shore or ground.

VESSEL

Every floating device used or capable of being used as a means of transportation on water.

B. Word usage. "Shall" is mandatory; "May" is permissive.

§ 177-5 Severability; conflicts.

A. Invalidity of provisions. Should any provision of this chapter be held invalid or inoperative, the remainder shall continue in full force and effect.

B. Conflict with other laws. In any case where a provision of this chapter is found to be in conflict with any other local provision, the article setting the higher standard in promoting the general public welfare shall be used.

§ 177-6 Building permit required; exemptions; non-transferability.

Except as otherwise provided in this chapter, no person shall place, locate, construct, maintain, expand or use any dock, pier, boathouse, structure or mooring buoy in any waters within the Harbor Management Area without a building permit issued in accordance with this chapter, the City of Plattsburgh Zoning Ordinance, and any other applicable local laws. Failure to comply with this section is a violation of this chapter. These permits are not transferable.

§ 177-7 Office of Harbor Manager.

A. Establishment. The office of the Harbor Manager may be established by the Mayor with the consent of the Common Council. If established, the Mayor, with the consent of the Common Council shall appoint a Harbor Manager on an annual basis. If no Harbor Manager has been appointed at the time of the adoption of this law, the Building Inspector shall serve as the public officer authorized to administer and enforce the provisions of this chapter.

B. Powers and duties. It shall be the duty of the Harbor Manager, or other public officer of the City duly appointed, to enforce the provisions of this chapter. The Harbor Manager or the Harbor Manager's designee, or other public officer of the City so appointed, shall:

(1) Examine all applications for all permits and issue permits only for construction and uses therein in accordance with the requirements of this chapter and all other laws, rules and regulations of the City applicable at the time of application.

(2) Create a dock and mooring permit system to control the placement of docks and moorings in the harbor.

(3) Establish a permanent management system for harbor activities, operations and implementation actions consistent with the provisions of the City's Local Waterfront Revitalization Program and Harbor Management Plan.

§ 177-8 Permit applications and procedures.

A. Form and content of application. In any instance in which a permit is required by this chapter, an applicant shall submit an application on a form prescribed by the Harbor Manager, Building Inspector or other public officer of the so appointed. The application is hereby submitted with a fee as set forth in the City of Plattsburgh fee schedule,^[1] accompanied by a plot plan drawn to scale, adequately dimensioned, showing the location of all existing docks, piers, boathouses, structures, mooring buoys, aids to navigation, abandoned vessels, anchorage areas, navigation channels or fairways. The applicant shall provide such other information as the Harbor Manager may require, including but not limited to filings with or permits from federal, state, City or county authorities, description of the manner of construction and installation, the materials to be used, evidence of ownership or possessory right, by easement, license, right-of-way or other, regarding the abutting shoreline and grant or leases pursuant to Article 6 of the Public Lands Law of the State of New York, regarding lands under water.

[1] Editor's Note: The fee schedule is on file in the City offices.

B. Issuance of permit. If the proposed activity conforms to all requirements of this chapter and does not impair navigational safety or unreasonably restrict public or private access to, on and within navigable waters within the Harbor Management Area, the Harbor Manager, Building Inspector or other public officer of the City so appointed, shall issue a permit for a one-year period commencing upon approval of the permit.

C. City Docks and Piers.

(1) Scheduling. The scheduling of all tour boat berthing and departure times, dock usage and tourism-related events shall be through the Office of the Mayor or the Harbor Manager if so appointed. Such scheduling will be on first-come, first-served basis.

(2) No person shall cause any barge, boat, ship or other vessel to be made fast to any public dock or to be made fast to any ship or vessel lying at such dock without first obtaining a permit pursuant to this section.

(3) The Common Council may establish fees, insurance and other requirements to permit docking of commercial vessels and temporary docking of transient vessels at city-owned/operated docks and piers and use of any related docking, mooring and kayak/canoe storage facility and shall include such fee and insurance requirements, if any, in the fee schedule.

§ 177-9 Vessel operation.

A. Dangerous operation prohibited. No person shall operate any vessel in any manner that unreasonably interferes with the free and proper use of the Harbor Management Area or any property on, in or contiguous to the Harbor Management Area, or which endangers the users of the Harbor Management Area.

B. Identification.

(1) No person shall operate or permit the operation of a vessel within the Harbor Management Area unless such vessel is required by law to be registered and numbered and bears a current validation sticker in accordance with the provisions of the New York State Vehicle and Traffic Law, if so required.

(2) Every person operating a registered vessel shall, upon demand of any peace officer, federal officer or other person having authority to enforce the provisions of this chapter, produce the certificate of registration for inspection. Failure to produce the certificate of registration shall not be an offense, but shall be presumptive evidence of operating a vessel which is not registered as required by the New York State Vehicle and Traffic Law.

C. Vessel speed and restricted speed areas.

(1) Every operator of a vessel shall at all times navigate the same in a careful and prudent manner in such a way as not to unreasonably interfere with the free and proper use of the navigable waters of the Harbor Management Area or unreasonably endanger any vessel or person. Reckless operation is prohibited as is operation under the influence of alcohol or any controlled substances.

(2) No person shall operate a vessel within the Harbor Management Area at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(3) No person shall operate a vessel within the Harbor Management Area at such a speed as to cause a dangerous wake. The operator of a vessel shall be held responsible for any damage caused by such wake.

(4) No person shall operate a vessel within a Dock and Mooring Area at a speed in excess of five miles per hour or at a speed that will cause a dangerous wake, whichever is the lesser speed.

D. Mufflers. No person shall operate a power vessel without having the exhaust from the engine run through a muffling device, so constructed and used as to muffle the noise from the exhaust in a reasonable manner.

E. Vessel enforcement authority.

(1) The City of Plattsburgh Police Department, the State Police, the Clinton County Sheriff's Department, and any other police or peace officer, as defined in the New York State Criminal Procedure Law, shall have the authority to enforce waterborne traffic in any part of the Harbor Management Area by use of authorized regulatory markers, signals, orders or directions at any time when deemed necessary in the interest of the safety of persons and vessels or other property.

(2) No person shall moor or anchor any vessel so as to interfere with the free and unobstructed use of any channel, fairway, or berthing space in the Harbor Management Area.

F. Anchoring in Federal Navigation Channel prohibited. No person shall anchor any vessel in the Federal Navigation Channel, except in cases of emergencies.

G. Fishing. No person shall fish in the Harbor Management Area in such a manner so as to impede navigation. Vessel-based fishing in a manner that provides a hazard or inconvenience to navigation is prohibited.

§ 177-10 Sanitation.

A. Littering and discharge of pollutants prohibited. No person shall place, throw, deposit or discharge or cause to be placed, thrown, deposited or discharged into the Harbor Management Area any litter or other materials, including but not limited to any refuse or waste matter, sewage, petroleum products or by-

products, paint, varnish, dead animals, fish parts or debris of any kind which renders the waters unsightly, noxious, unwholesome, or otherwise detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

B. Marine toilets. No person shall operate a marine toilet at any time so as to cause or permit to pass or be discharged into the Harbor Management Area any untreated sewage or other waste matter or contaminant of any kind pursuant to § 33-c of the New York State Navigation Law.

C. Responsibility for sanitation of facilities. The owner, lessee, agent, manager or person in charge of a marine facility or water area shall at all times maintain the premises under his/her charge in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials.

D. Marine facility sanitation requirements.

(1) The owner or other person vested with the possession, management and control of a marine facility shall provide and maintain a sufficient number of trash receptacles for the deposit of litter at locations convenient to vessel users of such marine facilities. A maximum spacing of 100 feet between receptacles shall be maintained on all piers and docks. Failure to comply with this provision is a violation of this chapter.

(2) The owner or other person vested with the possession, management and control of a marine facility shall maintain suitable toilet facilities on shore for the accommodation of vessel users who are patrons of their marine facility. Failure to comply with this provision is a violation of this chapter.

(3) The owner or other person vested with the possession, management and control of a marine facility shall post a sign, clearly visible to vessel owners and operators, that states: "The Navigation Law of the State of New York provides strict penalties for the discharge of sewage in the waters of New York State. The local laws of the City of Plattsburgh prohibit the discharge of litter, sewage, and refuse within the Plattsburgh Harbor Management Area." Failure to comply with this provision is a violation of this chapter.

(4) Any sewage pump-out facility required as a condition of City, state or federal approval of a marine facility in the Harbor Management Area shall be maintained in proper working order and available for use as specified in City, state or federal permits. Failure to comply with this provision is a violation of this chapter.

§ 177-11 Removal of abandoned or derelict vessels and structures.

A. Abandoned vessels and structures prohibited. No person shall abandon, sink or place a vessel, mooring or other structure within the Harbor Management Area where it may constitute a danger to navigation or to the safety of persons or property, or where it may prevent optimum use of the area.

B. Removal of abandoned vessels and structures.

(1) Any vessel or other structure abandoned or sunk or so placed may be removed or relocated at the direction of the Harbor Manager if corrective action is not taken by the owner, if known, within seven days after notification, or, if not known, after notice has been posted for that period on the vessel or object.

(2) Nothing herein contained shall prevent the Harbor Manager from taking measures with or without notice, if, in its judgment, such measures are necessary in order to provide for the safety of persons or property. The expense of such removal or relocation and any liability from injury to person or property incurred thereby shall be the responsibility of the owner.

§ 177-12 Living aboard vessels.

A. Regulation of floating homes. In order to provide for adequate access for vessels, for the safety of persons and property, for the protection of environmental quality, and for the optimum use of the Harbor Management Area, the Common Council or its designated agent(s) may regulate the use of floating homes in the Harbor Management Area.

B. Living aboard vessels permitted on temporary basis.

(1) Sleeping aboard vessels on a temporary basis is allowed as a secondary use to the vessel's principal commercial or recreational uses, provided that the vessel is berthed at a marine facility and where consistent with all City, state and federal requirements concerning anchoring, lighting, taxation and other pertinent concerns, and provided that land-based support facilities and utilities, including sewage disposal facilities, are available.

(2) Sleeping aboard vessels moored or anchored within the Plattsburgh Harbor Management Area on a temporary basis, not to exceed two weeks, is allowed as a secondary use to the vessel's principal commercial or recreational uses where consistent with all City, state, and federal requirements concerning anchoring, lighting, taxation and other pertinent concerns. For purposes here, the term "moored" shall only refer to vessels that are attached to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

(3) During the period April 15 to November 30, a vessel may be occupied as temporary living quarters as described above, provided that the vessel is of a type typically used for recreational boating and is suitable for general navigation on Lake Champlain under its own propulsion at any time during the period April 15 to November 30 and that the vessel shall be moored or docked in a marina that has access to the lake for that boat, excluding periods of hazardous boating conditions and that the vessel is equipped with a Type III Marina Sanitation Device, and the vessel is in good operational condition, and has that the vessel has access to a vessel waste pump facility.

§ 177-13 Berthing, mooring and anchoring of vessels.

A. Owner responsibility for secure berthing, mooring and anchoring. The owner of any vessel berthed, moored or anchored within the Harbor Management Area shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent the vessel from breaking away.

B. Owner responsibility for damage. Each person anchoring or mooring a vessel in the Harbor Management Area shall be responsible for any damage to that vessel, or to any other vessel or any other property, caused by that vessel. The City of Plattsburgh assumes no liability for personal injury or property damage that may result from the use of unsafe or otherwise inadequate anchoring or mooring tackle and assumes no risk on account of accident, fire, theft, vandalism or acts of God related to the anchoring or mooring of vessels in the Harbor Management Area.

C. Temporary anchoring permitted. Temporary anchoring of vessels for less than 8 hours is permitted provided such anchoring does not interfere with any established navigation channel, mooring or docking area or other vessel moored or docked.

D. Locations for moorings and permit required. No person shall place or utilize a mooring without first securing a permit as set forth herein. No person shall moor any vessel except in designated areas as shown in the harbor management plan as dock and mooring areas unless the vessel is secured to a dock or at a mooring accessory to a waterfront residential use. (One such mooring is allowed per property that directly abuts the waterfront or abuts the railroad that runs along the waterfront.) No person shall place a

mooring or anchor outside of the designated mooring location and no vessel moored or anchored, at full swing of its mooring or anchor line shall be within 75 feet of any Federal Navigation Channel, or within 25 feet of any City- or state-designated channel, fairway, or within 75 feet from any dock or other marine facility within the Harbor Management Area.

E. Locations for docks and permit required. No person shall install any berth or dock without first securing a permit as set forth herein. No person shall berth or dock any vessel, whether to mooring tackle or a pier or dock, in such a manner that it lies within the lines of any channel, swimming area, buffer area, turning basin or within 50 feet of a channel marker or in a manner that interferes with the full use of a channel, except in cases of emergency.

F. Regulation of docks and moorings. In order to provide for adequate access for vessels, for the safety of persons and property, for the protection of environmental quality, and for the optimum use of the Harbor Management Area, the Common Council or its designated agent(s) may regulate the placement of all docks and moorings in the Harbor Management Area in accordance with rules and procedures adopted by the Board and as set forth herein.

G. Non-Publicly Owned/Operated Docks and Other In-Water Structures:

(1) No person shall construct or expand any structure including but not limited to docks, piers, wharves, boat lifts, breakwaters, or jetties, without obtaining a permit in compliance with the City Code.

(2) Permits shall only be issued to a person with a riparian property interest.

(3) Issuance of permits shall take into account safety, day and night navigation, effects on natural resources, cultural resources and water quality, public use of the water, and compliance with the City's Local Waterfront Revitalization Program.

(4) Docks accessory to a riparian residential use are limited to 100 feet in length or 8 feet of water depth, whichever is less, and 8 feet in width.

(5) No dock or other structure may be constructed within 15 feet of a line that defines the area of riparian rights of a neighboring property, which line shall be determined in accord with commonly established conventions and practices for such determinations.

(6) No structures shall be placed upon a dock that are not necessary for vessel access and safety.

(7) No dock or other structure shall extend into a fairway, channel, anchorage area, mooring area, as determined by the Harbor Manager.

(8) A permit is not required for repairs to an existing dock, if such repairs do not include repair or replacement of underwater structures and do not alter the dock's size or shape.

§ 177-14 Penalties for offenses.

A. A person who violates any of the provisions of or who fails to comply with any conditions imposed by this chapter shall have committed a violation, punishable by a fine not exceeding \$350 for a conviction of a first offense and punishable by a fine of \$700 for a conviction of a second or subsequent offense occurring within a period of five years. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

B. The Common Council, Harbormaster or any peace officer, are empowered to enforce the provisions of this Local Law. Every person in charge of a vessel shall at all times obey the lawful orders of the Harbor Master or peace officer.

C. All appeals of decisions made by the Harbormaster shall be reviewed by the Common Council which shall be responsible for issuing a final determination.

D. The Harbormaster shall be recused from the review of any application which represents a conflict of interest and shall turn over any application as necessary and appropriate for ruling by the Common Council

E. The Common Council shall have the final authority to enforce all provisions of the Harbor Management Law. The Corporation Counsel may be authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter.

F. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

G. Liability. Persons using the waters within the limits of the Harbor Management Area shall assume all risk of personal injury and loss or damage to their property. The City of Plattsburgh assumes no risk on account of accident, fire, theft, vandalism or acts of God.

§ 177-15 Effect.

This chapter shall take effect immediately upon its adoption by the Common Council, approval by the New York State Secretary of State pursuant to Article 42 of the New York State Executive Law and its filing with the New York State Department of State in accordance with the provisions of the Municipal Home Rule Law.