

SEC. 162 DOCKS, SWIM FLOATS, BOAT LIFTS, WALKWAYS, PERSONAL WATERCRAFT LIFT/FLOATS, MOORING BUOYS AND MARKERS AT PUBLIC BODIES OF WATER WITHIN THE TOWN OF WINCHESTER.

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut that the following ordinance is hereby amended as of September 4, 2007 in its entirety as follows and replaces and supersedes all previous versions of Section 162.

1. **DEFINITIONS OF TERMS AS USED HEREIN:**

AUTHORIZED: Any activity, structure or object in, on or over a public watercourse within the Town of Winchester which is subject to regulation by the Town of Winchester for which (1) an application was made and a permit granted, or (2) there is an existing structure or object deemed authorized pursuant to Section 8 herein.

BOAT LIFT: A structure in the watercourse or attached to a dock, or shore, designed to lift a vessel out of the water and/or provide a platform for a vessel.

DOCK: A structure, other than a walkway, boat lift, personal watercraft lift/float or swim float, projecting over a watercourse which is attached or adjacent to the shore.

LITTORAL BOUNDARY: An imaginary extension of the landward property line into the water or property line perpendicular to the shoreline. When the shoreline is concave, the "cove method" will be employed to establish the littoral boundary. The "cove method" involves drawing a line, called the "base line", between points of land on either side of the concavity and then drawing a line perpendicular to the base line from the base line to the boundary between the properties at high water mark.

LITTORAL RIGHTS: Rights concerning properties abutting a watercourse, as defined by Connecticut law.

MARINA: Any area that provides for a fee items such as, but not limited to, dockage, supplies, service for vessels, and/or rentals or commercial sale of vessels (including demonstration of vessels for purposes of such rental or sale).

MARKER: Buoy (other than a mooring buoy) which has been duly authorized by the Connecticut Department of Environmental Protection, placed in the watercourse for purposes including, but not limited to, marking a restricted area, a danger to navigation, a swim area, or a sudden change in water depth.

MOORING BUOY: A buoy placed in the watercourse to which a vessel is moored.

PERSONAL WATERCRAFT LIFT/FLOAT: A device specifically designed to hold personal watercraft (jet skis).

SWIM FLOAT: A free-standing solid or inflatable platform (including objects also known as trampolines), other than a dock, walkway, personal watercraft lift/float or boat lift, attached to the bed of a watercourse by lines, cables or chains.

VESSEL: Every type of watercraft, motorized and non-motorized, other than a seaplane on water, used or capable of being used as a means of transportation on water.

WALKWAY: A structure adjacent to or attached to a boat lift for the sole purpose of providing access to the vessel stored in the boat lift.

2. **GOVERNING AUTHORITY:** The Town of Winchester Inland Wetlands and Watercourses Agency, or any other body created or designated by the Board of Selectmen, shall be the body responsible for administering this ordinance (hereinafter the "Commission").

3. **PROHIBITIONS:** No structure, whether solid or inflatable, shall be installed in, on or over a watercourse without first obtaining a permit for such installation pursuant to this ordinance, unless otherwise exempted herein.

4. **APPLICATION REQUIREMENTS:**

a. Any person proposing to conduct or cause to be conducted an activity regulated by this ordinance, shall apply for a permit on a form entitled "Town of Winchester Inland Wetlands and Watercourses Agency – Application for Dock Permit". An application shall be filed with the Commission. An application shall include an application form and any other information the Commission may reasonably require.

b. A complete application for a permit shall be in writing by the property owner or property owner's designated agent as prescribed by the Commission.

c. In carrying out the intent of this ordinance to reduce congestion around the lake shore, eliminate littoral boundary disputes among neighbors, avoid navigational hazards and impediments, and impediments to ingress and egress to the shore, the Commission shall take into consideration all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to:

- (1) size and configuration of the structure or object;
- (2) type of construction;
- (3) impact to the watercourse;
- (4) the littoral rights of adjacent properties;
- (5) amount and type of shorefront;
- (6) water depth,
- (7) effect on navigation; and
- (8) effect on ingress and egress to the shore.

The above considerations shall not limit the prohibitions set forth in this ordinance.

5. **PROPERTY REQUIREMENTS:** To qualify for a permit, a property must abut the watercourse or have legal access to the watercourse. The applicant shall certify to the Commission that the property has no restriction that expressly prohibits the use or activity the applicant is seeking.

6. **SURVIVAL OF AUTHORIZATION:**

a. An application pending before the Commission under this ordinance shall be deemed to have been withdrawn upon the transfer or conveyance of the property.

Section 162 - Docks, Swim Floats, Boatlifts, Walkways, Personal Watercraft Lift Floats, Mooring Buoys and Markers at Public Bodies of Water within the Town of Winchester

b. Authorization granted by the Commission under this or prior regulations for which the authorized activity has not been completed shall transfer to the new owner with the conveyance of the property for the balance of the time remaining on the existing permit.

c. A structure/object currently existing in, on or over the watercourse having been constructed or placed by permit of the Commission after May 11, 1993 to the date of this revision of Sec. 162 shall be deemed authorized.

7. **NEW STRUCTURE/OBJECT:**

a. Only authorized docks, walkways, swim floats, boat lifts, personal watercraft lift/floats, mooring buoys and markers may be installed in, on or over a watercourse. Any other structure or object shall not be allowed in, on or over the watercourse. Pursuant to Section 15-121-A5 of the Regulations of Connecticut State Agencies, before any markers may be placed, authorization from the Commissioner of Environmental Protection is required.

b. A structure or object shall not be located so as to be a navigational hazard, impede navigation or impede ingress or egress to the shore.

c. A structure or object shall not have any part of it located within ten (10) feet of the littoral boundary of an abutting property.

d. The aggregate width, as measured parallel to the shorefront, of all structures/objects together per property (including those not attached to shore) shall not exceed 50% of the property's shorefront or a maximum of 50 linear feet, whichever is less. A property having a shorefront of 250 feet or more may be allowed a maximum coverage of 70 linear feet.

e. Should an applicant not own sufficient shorefront to meet the 10 foot buffer requirement from the littoral boundary of an abutting property, the applicant may apply to the Commission for a waiver. In making the decision whether or not to grant a waiver, the Commission shall consider:

(1) All those criteria set forth in Section 4c.;

(2) Whether the waiver will be in harmony with the general purpose and intent of this ordinance; and

(3) Whether giving due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the zoning district in which it is situated, a literal enforcement of this ordinance would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured by granting a waiver.

(4) If the Commission grants a waiver it shall be noted on the permit with the reasons for such waiver and any conditions or limitations the Commission may require.

(5) The applicant must notify abutting property owners not less than fifteen (15) days before the first Commission meeting, by registered mail—return receipt, of a pending application for the exception to the ten (10) foot buffer.

f. In no event shall a permit be granted that will result in a crossing of a littoral boundary.

8. **PRE-EXISTING STRUCTURE/OBJECT:**

a. A structure/object currently existing in, on or over the watercourse that was located on Highland Lake on May 11, 1993 (the original date of this ordinance), or the date of the adoption of this ordinance for all other bodies of water, shall be deemed authorized without regard to provisions of this ordinance.

b. Notwithstanding the provisions of subsection (a), the location, configuration or dimensions of any such structure/object may not be changed without applying for and obtaining a new permit from the Commission.

c. The Inland Wetlands Agent/Enforcement Officer shall be informed of any proposed maintenance on an existing structure to determine whether the scope of such maintenance constitutes routine maintenance or requires application for a new permit.

d. If two or more properties have been merged into one property, currently existing structures which existed at the time of the property merger will be allowed to remain at their present size, configuration and location, without regard to restrictions in this ordinance.

9. **DOCKS:**

a. Only one dock shall be permitted per property, unless it is grandfathered under the merged properties provision 8.(d.), or unless a property has more than 150 contiguous linear feet of shorefront (see (c.) below).

b. The maximum total square footage surface area for a dock shall be 320 square feet. Maximum length of a dock shall be 40 feet extended perpendicular from the shorefront into the watercourse. Maximum width of a dock at any point into the watercourse shall be 10 feet measured parallel to the shorefront and minimum width of a dock shall be 3 feet measured parallel to the shorefront.

c. If a property has more than 150 contiguous linear feet of shorefront, application may be made for a second dock provided that it must comply with the maximum linear shorefront coverage provisions contained in Section 7.d. of this ordinance. Maximum total square footage surface area for a second dock shall be 160 square feet. Maximum length of a second dock shall be 30 feet extended perpendicular from the shorefront into the watercourse. Maximum width of a second dock at any point into the watercourse shall be 10 feet measured parallel to the shorefront. Minimum width of a second dock shall be 3 feet measured parallel to the shorefront.

d. A dock must be single story and shall not have a roof, canopy, raised platform, or deck. A dock may have certain appurtenances common to docks such as mooring hardware, bumpers, lines, railings, carpeting, benches, steps, swim ladder, diving board and slide. No part of any such appurtenance shall extend beyond the maximum dock length or width, nor within 10 feet of the littoral boundary of an abutting property. A boat lift may be attached to a dock pursuant to Section 13. A personal watercraft lift/float may be attached to a dock pursuant to Section 14.

e. A maximum of three (3) vessels shall be allowed to be berthed per property, regardless of how and where they are berthed (such as at a dock, moored at a buoy, anchored, held in a boat lift or a personal watercraft lift/float). Personal watercraft count toward the 3 vessel maximum allowed per property. This restriction shall not apply to kayaks, canoes or any other vessels which are removed from the water after use. No part of a vessel moored to a dock shall extend beyond the littoral boundary of an abutting property.

f. Docks shall be for private, non-commercial use (except for the one existing marina at Highland Lake and existing camps at other public bodies of water).

g. Reflectors shall be affixed to the ends of a dock. The street number of the property (in numerals at least 3 inches high) shall be affixed to the end of a dock so as to be visible from the watercourse.

10. **SWIM FLOATS:**

a. Only one (1) swim float shall be permitted per property, except if a second swim float is permitted pursuant to Section 10.f. below.

b. No part of a swim float shall be located more than 50 feet from the shorefront.

c. The maximum dimensions for a non-inflatable swim float are 10 feet by 10 feet. The maximum dimension for a circular inflatable swim float is 15 feet in diameter.

d. A swim float shall be single story and shall not include any appurtenance except a swim ladder.

e. A swim float shall not be attached to any other structure or object, or to the shore. A swim float shall be securely anchored to the bed of the watercourse and all cables, lines or chains attached to a swim float must be sunk into the bed of the watercourse so as not to be a navigational hazard.

f. If a property has more than 150 contiguous linear feet of shorefront, application may be made for a second swim float provided that it must comply with the maximum linear shorefront coverage provisions contained in Section 7.d. of this ordinance. Two swim floats must be located at least 30 feet apart.

g. A reflector shall be affixed to each side of a non-inflatable swim float.

h. The width of a swim float shall count toward the aggregate percentage of allowable shorefront coverage.

11. **MOORING BUOYS:**

a. Only one (1) mooring buoy shall be authorized per property, except if a property has no dock. In lieu of a dock, an applicant may apply for a second mooring buoy. If a dock is subsequently put in, the second mooring buoy must be removed.

b. A mooring buoy shall not be attached to any other structure or object or to the shore. A mooring buoy shall be securely anchored to the bed of the watercourse and all cables,

lines or chains attached to a mooring buoy must be sunk into the bed of the watercourse so as not to be a navigational hazard.

- c. A mooring buoy must be located so that no part of a vessel moored to it shall at the full swing of its mooring be more than 50 feet out from the shorefront, nor be beyond the littoral boundary of an abutting property.
- d. No more than one vessel may be moored to a buoy.
- e. The Commission shall determine the size, color, reflective quality, configuration, location and anchoring method of a mooring buoy. Standards regarding the color and shape of mooring buoys are required to comply with Subsection (a) of Section 15-121-A3 of the Regulations of Connecticut State Agencies.
- f. A mooring buoy shall not be used as a marker.
- g. The width of a mooring buoy shall count toward the aggregate percentage of allowable shorefront coverage.

12. **MARKERS:**

- a. Pursuant to Section 15-121-A5 of the Regulations of Connecticut State Agencies, before any markers may be placed, authorization from the Commission of Environmental Protection is required as well as a permit from the Commission.
- b. A marker shall not be located more than 50 feet out from the shorefront unless the permit specifies that it marks a navigational hazard (such as a rock) which exceeds the 50 foot limit.
- c. A marker shall not be placed within 10 feet of the littoral boundary of an abutting property and the measurement from the first to the last marker (including connecting lines) shall count toward the aggregate allowable shorefront coverage.
- d. Markers may be temporarily placed in connection with a special marine event such as a regatta, tournament, procession or exhibition provided that they are part of an approved Marine Event Permit issued by the DEP.

13. **BOAT LIFTS/WALKWAYS:**

- a. Only one (1) boat lift shall be allowed per property.
- b. A boat lift shall be used for the storage of only one boat, or 2 personal watercraft.
- c. A boat lift may be attached to a dock or stand alone. Except for a walkway, no extension or other structure or object may be attached to or upon a boat lift.
- d. If a boat lift is not attached to a dock, the Commission may authorize a walkway (maximum 3 feet in width) to extend at one side of boat lift solely for the purpose of accessing the stored vessel. The walkway may be attached to the boat lift or be free-standing along side of the boat lift. The walkway shall not extend beyond the boat lift.

e. A boat lift shall not have solid side walls, raised platform, deck, or a non-removable roof or canopy.

f. The width of a boat lift and walkway measured parallel to the shorefront shall count toward the aggregate percentage of allowable shorefront coverage.

14. **PERSONAL WATERCRAFT (JET SKI) LIFT/FLOATS:**

a. One personal watercraft lift/float shall be allowed per property.

b. A personal watercraft lift/float shall hold a maximum of 2 personal watercraft.

c. A personal watercraft float must be attached to a dock or a retaining wall.

d. The width of a personal watercraft float(s) measured parallel to the shorefront shall count toward the maximum linear shorefront coverage requirements (7.d) of this ordinance.

15. **PROHIBITED ANCHORING:** A vessel shall not remain on a watercourse overnight unless it is docked at an authorized dock, moored to an authorized mooring buoy, or stored in an authorized boat lift or personal watercraft lift/float.

16. **MARINAS:** Except for the one existing marina at Highland Lake, which shall be deemed authorized, no additional marinas shall be permitted. The existing marina shall require a permit from the Commission for modifications to the existing facility. This ordinance shall not apply to any municipal or state facilities.

17. **REVOCATION OF PERMIT:** Notwithstanding anything contained herein, the Commission may revoke or modify a permit for any structure or object that it deems a navigational hazard, threat to public safety, or conflicts with any state or federal regulations.

18. **VIOLATIONS AND PENALTIES:**

a. Every person, partnership or corporation, whether acting as an owner or agent who violates any of the provisions of this ordinance shall be fined \$100.00 for each such violation.

b. Each violation shall be considered a separate offense and any violation continuing more than one day shall be considered a separate offense.

c. This ordinance shall not preclude any additional enforcement action taken by any appropriate Municipal, State or Federal official conducted pursuant to any applicable ordinance, regulation and/or law of the town of Winchester and/or the State of Connecticut and/or the United States of America.

d. The hearing procedure for any citations issued for violations of this ordinance shall be the procedures as set forth in Ordinance 152 of the Town of Winchester.

e. In addition to any fines or penalties imposed herein, this ordinance may be enforced by injunctive relief in the Superior Court.

19. **SAVINGS CLAUSE**: Should any court of competent jurisdiction declare any section or clause or provision of this ordinance to be invalid, such decision shall affect only such section, clause or provision so declared invalid and shall not affect any other section, clause or provision of this ordinance.

APPROVED BY BOARD OF SELECTMEN AUGUST 5, 2002; PUBLISHED AUGUST 9, 2002; EFFECTIVE AUGUST 24, 2002; AMENDED SEPTEMBER 5, 2007; PUBLISHED IN THE REPUBLICAN-AMERICAN SEPTEMBER 7, 2007 AND EFFECTIVE SEPTEMBER 22, 2007.