

## Chapter 74

### DOCKS, PIERS, WHARVES AND MOORINGS

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[HISTORY: Adopted by the Town Board of the Town of Conesus 10-05-2004 by L.L. No. 2-2004. Amendments noted where applicable.]

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#### ARTICLE I General Provisions

##### § 74-1. Title; repealer.

This chapter shall be known and cited as the "Dock, Pier, and Moorings Law of the Town of Conesus, New York," and the former Dock, Pier and Moorings Law of the Town of Conesus, Local Law No.1 of 1995, is hereby repealed.

##### § 74-2. Compliance required.

No dock, pier, mooring, facility, hoist, boat slip, marina, public marina or private marina shall be constructed, erected, installed, enlarged, structurally altered or otherwise used unless in conformity with the provisions of this chapter.

##### § 74-3. Scope.

The provisions of this chapter shall apply to and affect the part of the Town of Conesus that borders Conesus Lake. For the purpose of these regulations, mooring, anchoring and docking facilities placed and removed seasonally along lakeshore properties shall not be considered to be preexisting nonconforming structures.

**§ 74-4. Purpose.**

The purpose of this chapter is to restrict and regulate the manner of construction and location of boathouses, moorings, piers, and docks on that portion of Conesus Lake within or bounding the Town of Conesus, pursuant to the authority granted by § 46-a of the Navigation Law.

**§ 74-5. Statutory authority; applicability.**

- A. In addition to the authority granted by Town Law § 263 (zoning) and the Municipal Home Rule Law, this chapter is adopted pursuant to:
- (1) Town Law § 130, Subdivision 17(D)b, which allows towns to restrict and regulate the anchoring and mooring of vessels in any waters within or bounding the town to a distance of 1,500 feet.
  - (2) Navigation Law § 46-a, Subdivision (2), which authorizes the Town of Conesus to regulate the manner of construction and location of boathouses, moorings and docks within or bounding the Town of Conesus to a distance of 1,500 feet.
- B. This chapter is not intended to restrict or regulate placement or operation of docks used by the State of New York, Livingston County or any municipality for public purposes.
- C. Regardless of whether a fee is charged, the casual rental of dock space which does not include launching, selling, servicing or leasing and which provides for storage and/or mooring of boats in no greater number than that permitted by § 74-10 of this chapter shall not be considered a violation of this chapter, provided that no sign or other visible indication of such rental shall be located on the parcel in question.

**§ 74-6. Interpretation.**

In the interpretation and the application of the provisions contained herein they shall be held to their ordinary sense and meaning and shall be held on the minimum requirements for the promotion of health, safety, moral and general welfare. This chapter is not intended to interfere with, abrogate or annul other rules, regulations or ordinances, provided that where this chapter imposes greater restrictions than other ordinances, rules or regulations, the provisions of this chapter shall prevail.

**§ 74-7. Word usage and definitions.**

- A. Except where specified in the following definitions, all words used in this chapter shall carry their customary meanings. Words in the masculine gender shall include the feminine. Words used in the present tense include the future, the singular number shall include the plural and the plural, the singular. The word "occupied" or "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used. The word "shall" is intended to be mandatory, and the word "may" is permissive. The word "about" shall include the words "directly across from." The word "person" includes a firm, association, organization, partnership, trust, company, corporation as well as an individual.

of the Town Law and the Town officials shall have the powers and may exercise all privileges as herein provided.

**§ 74-12. Filing of complaints.**

Wherein a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer who shall properly record such complaint and immediately investigate the report thereon.

**§ 74-13. Appeals and variances.**

- A. Adjacent upland owners who are aggrieved by the decision of the Code Enforcement Officer may appeal the decision to the Zoning Board of Appeals. Pursuant to the § 267 of Town 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. The enabling legislation granted for the adoption of this chapter contains a uniformity requirement and as such variances to this chapter are to be strictly regulated. Under no circumstances shall the number of boat slips, moorings, or structures permitted be exceeded. Dimensional criteria for the placement of berthing and mooring facilities may be varied in accordance with the applicable requirements of state statute.
- B. Any variance that is granted shall set forth by resolution the findings of fact and hardship that the Zoning Board of Appeals made in granting the variance.

**§ 74-14. Enforcement.**

The primary responsibility for enforcement and administration of this chapter is vested with the Town Code Enforcement Officer (CEO) or designee. Clearly stated, the CEO, or his designee, shall have complete authority for the investigation and enforcement of the chapter on the waters of Conesus Lake wherein the Town of Conesus shall have vested jurisdiction and regulated as such by this chapter.



B. As used in this chapter, the following terms shall have the meanings indicated.

**AIDS TO NAVIGATION** — Buoys, beacons or the fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

**BERTH** — A waterside storage area adjoining the lakeshore, any structure, boat hoist structure, boat station, boathouse, dock or pier, the purpose for which is the storage of a boat, yacht, or any floating craft.

**BOAT** — Any vessel, floating craft, or personalized watercraft which utilizes a berthing, hoisting, or mooring facility. Canoes, small boats, or personal watercraft which is contained in a berthing, hoisting, or mooring facility shall be subject to the boat slip regulations of this chapter.

**BOAT SLIP** — A waterside storage area, the purpose for which is the storage of a boat, yacht, or any floating craft.

**BOW** — The front section of any water vessel.

**BREAKWATER** — A structure located within the shoreline of a body of water for the purpose of providing protection from wind and wave action.

**COMMERCIAL PROPERTY** — Any site that houses, moors, launches, stores or sells one or more boats not registered to the owner, lessee or licensee of the property by which such boats are assessed for a fee and creates either water or land traffic.

**COVE** — A small, sheltered inlet, creek, or bay. A recess in the shore.

**DOCK** — Any structure or fixed platform built on floats, columns, open timber, piles, or similar open-work supports, or cantilevered structures anchored to the shore, including piers and wharves, and designed to provide access from the shore to Conesus Lake for swimming, boating, or other recreational or commercial uses and shall also include accessorial uses including but not limited to boat slips and berths. All structural description provided above which are placed on the waterside of the mean high-water mark shall be defined as a "dock."

**FLOATING OBJECTS** — Any anchored marker or platform floating on the surface of the water other than aids to navigation and shall include but not be limited to bathing beach markers, speed zone markers, information markers, swimming or diving floats, mooring buoys, fishing buoys and ski jumps.

**GRAY WATER** — Wastewater generated by water using fixtures other than toilets, including but not limited to baths, sinks and laundry facilities used on residential vessels.

**HOIST** — Any mechanical device whose purpose it is to raise or lift a boat out of the water for waterside storage.

**MARINA** — A site adjacent to a body of water which is used for the launching, storage or docking of boats. Facilities which can handle only one or two boats are not considered marinas.

- (1) **PRIVATE MARINA** — A marina capable of handling three or more boats which is owned and operated by a person, corporation or association and whose use is not extended to the general public. This is only allowed on commercial property.
- (2) **PUBLIC MARINA** — A marina capable of handling three or more boats which is owned and operated by either a person, corporation, public organization or a municipal body and whose use is extended to the general public either on a paying or nonpaying basis. This is only allowed on commercial property.

**MOORING 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 or other floating craft, whether manually, mechanically or sail powered.

**OPERATOR** — An individual who operates or navigates a pleasure vessel.

**OWNER** — The person actually holding title to a vessel, except a public vessel chartered unmanned for a period of more than 30 consecutive days, in which case "owner" shall include the person chartering the vessel.

**PERSON** — An individual, partnership, corporation or association.

**PORT** — The left-hand side, facing the bow of the vessel.

**RIGHT-OF-WAY** — An interest in real property or servitude imposed by law or contract giving one party the right to use or passage over another party's real property, including such rights by deed, lease or prescription. Dock installation is not considered a part of a right-of-way unless it is stipulated in a legal instrument.

**STARBOARD** — The right-hand side, facing the bow of the vessel.

**§ 74-8. Dock, mooring facility and hoist spacing.**

- A. Docks, piers, mooring facilities, hoists, and boat slips shall be centered between the side lot lines on either side of the established property lines. For the purpose of this section, lot line extensions shall be determined by projecting the parcel boundaries lakeward at the angle at which they meet the mean low-water mark; provided, however, that in no case shall a lot line extension be used in a manner which will prevent reasonable access to the navigable waters of Conesus Lake for any shoreline property. Docks shall stay equal distance from each property line as extended out into the lake.
- B. The number of docks, piers, mooring facilities shall be limited to one per each 50 feet or less of shoreline.
- C. The number of docks, piers, mooring facilities shall be limited to two per each 75 feet of shoreline per preexisting, nonconforming, current functioning noncommercial or commercial property, such as the existing two marinas, and the existing restaurant. When

two docks are present on a property, all parts of either dock, hoist or mooring device must be no less than 20 feet from the side lot line as it is extended into the lake.

- D. Grandfather clauses shall not apply given that docks/piers/mooring facilities, slips and hoists are temporary structures.
- E. Residential dock construction shall not exceed the following maximum dimensional criteria. Each permitted dock shall not exceed a total of 400 square feet, including walkways; the main body of the dock shall not exceed a maximum width of six feet as measured parallel to the shoreline; and a maximum length of 60 feet as measured from the mean high-water mark or a length as necessary to obtain five feet of water depth as measured from the mean low water level. The use of fingers, T- or L-shaped docks is permitted in any configuration from the main body of the dock, within the maximum square footage allowed. Those docks that are extended to obtain five feet of water depth may not exceed a length that is a hazard to safe navigation, or 150 feet, whichever is the shortest distance. All fingers, hoists and mooring devices must be no less than 15 feet from the side lot line as extended into the lake.
- F. Docks, hoists and mooring devices on lake access lots less than 35 feet wide must stay within the two side lot lines as extended into the lake. All dock configurations, hoists and mooring devices on such lots shall be placed in such a manner as to accomplish this containment.
- G. In categories where two or more docks are permitted, it is prohibited to combine the docks into one larger dock. The docks shall be sufficiently separated so as to provide safe access from all sides.
- H. Conditional use permits shall be granted by the Zoning Board of Appeals. A conditional use permit, once issued, shall be effective for three seasons, in whole or in part. A season shall be any part of a period from May 1 through September 30.

**§ 74-9. Design requirements; permits.**

- A. Dock, pier, slip, and/or mooring facility design shall be either single-straight, single T-shape, single L-shape, single F-shape, provided the design stays within the extended property lines and does not interfere with neighboring navigational rights.
- B. More than four boats per private residential property unit shall require a conditional use permit.
- C. A marina shall obtain a conditional use permit.
- D. Mooring buoys shall be anchored or tied so that the moored boat shall conform to § 74-8A.

**ARTICLE II  
Conditional Use Permits**

**§ 74-10. Requirement; toilet facilities required.**

- A. A conditional use permit is required in order to place or construct docks, piers, slips, hoists or mooring facilities capable of accommodating a concentration of boats off a single lot. For the purpose of this regulation, a "concentration of boats" shall mean a number of boats exceeding the thresholds shown on the table below, which are moored at a single lakeshore parcel.

<b>Lake Frontage*</b>	<b>Number of Boats Permitted</b>
15 feet or less	1
15 feet to 20 feet	2
One boat for each 20 feet of frontage, up to a maximum of 60 feet	3
More than 60 feet	4

**NOTES:**

\* Lake frontage shall be measured along the mean low-water mark.

- B. A legal instrument allowing for the placement of a dock for a right-of-way shall follow § 74-10A.
- C. Owners of lots along coves or other irregularly shaped lots who are restricted as to placement of their facilities because of lot lines intersecting before they extend 1,500 feet offshore may apply for a conditional use permit for mooring, anchoring or docking facilities from the Zoning Board of Appeals. The provisions of Article II, § 74-10, Subsection D, shall not apply.
- D. Any recipient of a conditional use permit shall have and provide 24 hour access to toilet facilities that are functioning and available for use. If lack of, inability to function, or readily use, is found to exist at any time during the season (from May 1 through September 30), the conditional use permit shall be nullified immediately and all allowed special conditionals stopped immediately. This is in keeping with the purposes and guidelines of the Conesus Lake Watershed Management goals.

**ARTICLE III  
Administration and Enforcement**

**§ 74-11. Penalties for offenses.**

A violation of this chapter is an offense punishable by a fine not exceeding \$500 or imprisonment for a period of not to exceed 15 days, or both a fine and imprisonment. Each week's continued violation shall constitute a separate additional violation as provided in § 268