

**NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM**

GUIDELINES FOR THE PREPARATION OF HARBOR MANAGEMENT PLANS

INTRODUCTION

NEED FOR HARBOR MANAGEMENT

Dramatic increases in the state's recreational boating fleet and other changes in the use of harbors has resulted in competition for space within and along the shores of the state's harbors and nearshore waters. Conflicts have increased between recreational boating and other recreational uses of harbors; between recreational and commercial activities; and between all uses and natural and cultural resources. These conflicts and a lack of clear authority to solve them has resulted in degraded natural and cultural characteristics of many harbors, and their ability to support a range of appropriate uses. The ability of municipalities to take advantage of potential growth in water-dependent recreation without destroying the viability of other water-dependent uses and important natural or cultural resources, has been constrained by a lack of clear municipal authority to regulate the wide range of uses and activities occurring in harbor and nearshore areas.

Despite growing problems associated with the use of harbors, municipal regulation within harbors and nearshore areas has been limited primarily to regulating vessel use, speed, anchoring, and mooring. Municipal regulation of other in-water uses and activities on underwater lands has varied by region of the state, and is different for cities, towns, and villages. For example, special state enabling legislation authorizes specific municipalities to regulate structures such as boathouses and docks. However, until recently, there had been no clear state enabling legislation authorizing all municipalities to regulate all uses and activities occurring in harbor and nearshore areas. This lack of clear enabling legislation, and overlaps in federal, state, and local government regulatory authority, severely hampered the ability of the state and local governments to comprehensively manage activities in harbor and nearshore areas, and to resolve conflicts and other issues in these intensely used and important areas.

In order to resolve these issues, Chapter 791 of the Laws of 1992 was enacted, amending Article 42 of the Executive Law (Waterfront Revitalization and Coastal Resources Act) to provide local governments with the clear authority to comprehensively manage activities in harbor and nearshore areas by developing comprehensive harbor management plans and laws to implement those plans.

BENEFITS OF A HARBOR MANAGEMENT PLAN

In coastal waters, the state and federal government have the most authority to regulate in-water activities, and most municipalities have little or no authority to regulate structures and uses of surface waters and underwater lands other than vessel uses. Harbor management plans enable local governments to address a wide range of uses in harbor and nearshore areas in full partnership with the state's Coastal Management Program. These benefits include:

- determining the status of harbor areas and developing a strategy to achieve goals for harbor areas
- technical assistance in addressing harbor management issues

- financial assistance for small-scale construction and land acquisition projects
- research, design, and other preconstruction activities that implement the harbor management plan
- addressing harbor and nearshore issues that transcend local boundaries

PREPARING THE HARBOR MANAGEMENT PLAN

Harbor management plans are to be comprehensive. They must consider regional needs and, as applicable, the competing needs of commercial shipping and recreational boating, commercial and recreational fishing and shellfishing, aquaculture, waste management, mineral extraction, dredging, public access, recreation, habitat and other natural resource protection, water quality, open space, aesthetic values, and common law riparian or littoral rights, and the public interest in underwater lands. They must cover all surface waters within or adjacent to a municipality. This includes in-water areas adjacent to open shorelines as well as actively used enclosed bays or harbors. The harbor management plan provides a rational basis for the allocation and use of space within a harbor or nearshore area. A harbor management plan and its implementation effectively zones surface water areas and underwater lands for specific uses or a range of specific uses in order to avoid conflicts or improve conditions within harbor or nearshore areas.

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The basic components of a harbor management plan should include the following:

Inventory: The inventory identifies and describes the existing natural and cultural resources, physical features, and uses of the surface waters and underwater lands for which the plan is being developed. The inventory should include the following, and be supplemented by maps indicating their location and extent:

- commercial, industrial, and recreational water-dependent uses (such as marinas, boat yards, transshipment facilities, swimming areas, commercial or recreational fishing or shellfishing, types of vessel activity (commercial vessel or recreational vessel traffic) and vessel anchorage or mooring areas
- water quality classifications and use standards
- wetlands and significant habitats
- the general pattern of public and private ownership of underwater lands
- historic underwater sites or structures (such as shipwrecks, historic dry docks, or archaeological sites, if any)
- underwater cables or pipelines
- existing infrastructure such as navigation channels and basins, bulkheads, docks and docking facilities, sewage treatment and vessel waste facilities, public water supplies, and roadways supporting the harbor area
- a description of adjacent existing land uses and zoning
- a description of the scenic quality of the harbor, including positive and negative features

Issues: A summary of issues of local and regional importance that should be addressed in the harbor management plan, such as:

- interferences with existing navigation channels by structures, such as docks, floats or anchored or moored vessels
- public health and safety, such as conflicts between shellfishing and vessel anchorage or mooring areas, or between the operation of vessels in or near swimming areas, and general boating congestion
- substandard water quality and a need to improve water quality for a range of desired uses, such as fishing, swimming, or year-round or seasonal shellfishing
- degraded or threatened natural areas, such as wetlands or significant coastal fish and wildlife habitats
- a need to maintain or provide harbor infrastructure such as roadways, navigation channels, bulkheads, boat ramps, docks, sewage treatment, and vessel waste pumpout facilities
- limits on public access to or use of the harbor area
- a high demand for, but a lack of, appropriate commercial vessel support facilities or sufficiently maintained navigation channel or basin depths
- problems related to dredging and dredged material disposal
- the need to protect important water-dependent uses in appropriate areas within harbors
- adverse impacts on scenic quality and visual access to the harbor

The narrative should also provide a brief description of any conflicts between existing land or water uses and existing zoning standards. Such conflicts might include:

- existing nonconforming water-dependent uses in areas appropriate for water-dependent uses, but zoned for non-water dependent uses
- intertidal wetland areas, bays or other offshore or intertidal areas that are used or zoned for residential or other inappropriate uses in these areas

Existing Authorities: A summary of the existing roles and responsibilities and existing authorities of federal, state and local agencies in the harbor area, including those of another local government which does or has the authority to regulate activities within 1,500 feet of the municipality's shore. Examples of the agencies with the greatest roles in advancing or implementing harbor management plans that should be addressed in this summary include:

- the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, U.S. Army Corps of Engineers, and the Department of Interior
- the state departments of State, Environmental Conservation, and Transportation and the offices of General Services and Parks, Recreation, and Historic Preservation
- agencies of the city, town, or village, or a county if the county regulates activities in the harbor area
- in certain towns, the trustees of the towns responsible for managing harbor or foreshore areas
- the local harbormaster, bay constables, police department or sheriff's office

Opportunities: A narrative summary of opportunities to resolve issues or advance desired projects or uses in harbor areas, such as:

- land available for water-dependent uses
- wetland restoration projects
- public access projects
- redevelopment of underutilized or deteriorated areas for projects that advance harbor management efforts

Objectives: A narrative summary of the overall objectives of the harbor management plan, that can be reflected in enforceable policies or capital/construction projects, such as:

- protecting existing or providing for new water-dependent uses such as marinas, boat yards, yacht clubs, port facilities, swimming beaches, or shellfishing
- providing necessary commercial fishing support facilities, such as vessel loading and offloading platform or dock at a specific publicly owned site
- protecting water quality by providing sufficient vessel waste pumpout and waste reception facilities to support designation of a harbor as a vessel waste no-discharge zone
- providing a balance among the various uses of a harbor, i.e., what the primary uses are in a harbor area
- indicating goals regarding public access and use of the harbor
- indicating how scenic quality can be improved

Harbor Management Plan Map: The harbor management area and the harbor use plan must be shown on a map that includes both the surface water area and adjacent uplands that are integral to the use and management of surface waters and underwater lands.

The harbor management plan map should be of sufficiently large scale to illustrate all of the information necessary. All use zones, infrastructure and special projects should be shown on the large scale harbor management plan map. A map key should explain each zone, infrastructure type and project.

Many municipal boundaries, especially on the north shore of Long Island and in the Great Lakes region, extend offshore for several miles. It is not necessary to show large expanses of offshore open water areas on the large scale harbor management plan map; however, all of the surface waters within a municipality or within 1,500 feet from a municipality whose corporate limits end at the shore should be shown on a map that supplements the large scale harbor management plan map. The large scale, detailed harbor management plan map will usually only be necessary for nearshore areas such as harbors, bays, and rivers, or small lakes or embayments within lakes.

Geographical Extent of Harbor Management Areas

In order to adequately represent the geographical extent of a municipality's harbor management plan on a harbor management plan map, the map must show existing watershed municipal boundaries as well as any extraterritorial area in which the state has delegated regulatory authority to the municipality. This may occur under circumstances where a municipality's boundary coincides with the shore or is less than 1,500 feet from shore. (See figures 1-5).

Section 922 of the Executive Law enables cities, towns, and villages to regulate all structures in, on, or above surface waters and all uses of surface waters and underwater lands within a city, town or village's municipal limits, or, where a city, town, or village's municipal limits end at the shoreline, to 1,500 feet from shore, whichever distance from shore is greater. Thus, whether or not a municipality has already obtained some extraterritorial jurisdiction, where a municipality's corporate limits end at the shoreline or is less than 1,500 feet from the shore, the map should indicate the offshore 1,500 feet extraterritorial limit.

Harbor Use or Water Use Zones

The harbor management plan map is a graphic depiction of the types of uses allowed and in which harbor areas the uses are not allowed. A harbor management plan map is similar to a zoning map, and needs to be supported by a single law or ordinance or a group of special purpose laws or ordinances, just as a zoning map is implemented by a zoning law or ordinance. Laws or ordinances and descriptions of capital or physical projects provide a narrative translation of what the map shows, and makes the map "work" by regulation.

The map should depict areas representing surface waters and underwater lands that will be designated for certain uses, such as:

- existing or proposed navigation channels, fairways, or accessways over the water's surface
- open water areas
- mooring or anchorage areas
- special use zones, e.g. areas set aside for or periodically designated for water skiing, races, or other special events
- buffer areas between water surface uses
- swimming areas
- harbor or pierhead lines, and bulkhead lines
- perimeter permit areas
- major structures such as groins, jetties, seawalls, bulkheads, and piers
- sensitive habitat or shellfishing areas
- marinas
- upland areas adjacent to the water body where water-dependent uses are proposed

The map should also depict important proposed public improvements, such as public docks or vessel waste disposal facilities, launching ramps, parking areas, etc.

Techniques to Implement the Harbor Management Plan: The harbor management plan must identify appropriate techniques to address issues described in the summary of issues and to implement the harbor management plan and map. These techniques may include:

Local Laws or Ordinances

The adoption of local laws or ordinances that implement the harbor management plan map by regulating vessels, structures, and uses within the harbor management area, such as:

- the use, operation, speed, and anchoring and mooring, and other uses of or activities associated with vessels
- the siting and construction of docks, piers, bulkheads or other in-water structures
- activities allowed or prohibited in sensitive area such as highly productive wetlands and significant habitats, or in areas, such as swimming areas, where public safety is of concern
- dredging and dredged material disposal, mining, or excavating or subsurface material
- swimming, SCUBA diving or other primary contact in-water recreational activities
- adopting new or amending the text of zoning laws or ordinances where appropriate to favor water-dependent uses, or to allow limited water-enhanced or non-water-dependent uses that support water-dependent uses

These local laws or ordinances should provide the narrative description of areas and allowable or prohibited uses shown on the harbor management plan map, and should include standards for these uses. In effect, these laws are much like the text of a traditional zoning law or ordinance that provides the narrative text and standards to implement a standard zoning map.

Procedural Actions

Procedural actions that change how activities in harbor areas are managed, that create special districts, or establish responsibilities to manage activities in harbor areas, such as:

- Harbor Improvement Districts - establishing harbor improvement districts pursuant to Section 190 of the Town Law to provide a funding mechanism for public projects and physical improvements in and adjacent to the harbor area, such as: water quality improvement projects; studies; construction and maintenance of public launching ramps, docks, vessel waste pumpout and waste reception facilities; land acquisition; and dredging
- Management - appointing a harbor manager to administer the plan, or providing a harbor master or other person with the training and authority necessary to administer the plan; designating the harbor responsibilities of existing officials and boards
- Enforcement - appointing a harbor master or bay constables to enforce the plan's regulations, or improving the ability of a harbor master, bay constables, sheriff's office or police department to enforce the plan
- Education - providing information to recreational boaters and other users of the harbor area, such as tourists, regarding harbor safety and public health, maritime history, uses of the harbor area, natural resources, or other information that increases public awareness of harbor issue.

Studies and Research

Special studies, design projects, or research necessary to advance or refine a harbor management plan or a component of it, such as:

- detailed studies of the extent of grants, leases or easements of underwater lands, in order to determine the extent of public and private rights in and to underwater lands where information is not readily available or sufficiently detailed to be included in a harbor management plan
- water quality, pollutant transport, or sedimentation studies

- needs assessment, design or other specific assessments relating to commercial fishing facilities, recreational fishing facilities, or public access projects
- conceptual or detailed design studies of harbor infrastructure needs such as docks, drainage, and water quality improvements, etc.
- design of landscaping and other treatments which would improve the scenic quality of the harbor area

Capital Projects

Capital improvement or construction projects that are necessary to maintain or improve uses or conditions within a harbor area, such as:

- providing public commercial or recreational fishing docks, public docking facilities, or vessel waste pumpout and disposal facilities, and the maintenance of public navigation channels
- dredging and dredged material disposal
- improvements to street drains to treat runoff and improve water quality in harbor areas
- public access walkways, improved lighting, viewing points
- other harbor infrastructure improvement projects

Other Implementation Actions Necessary

Actions by federal and state agencies are often necessary in order to fully implement and advance projects in harbor areas. These actions may include approving anchorage and mooring areas prior to designation, designating vessel waste no-discharge zones, dredging or maintaining major navigation channels and basins, constructing or maintaining breakwaters, funding certain studies, or providing technical assistance. These necessary actions should be described in the harbor management plan.

TERMS AND DEFINITIONS

The following is a general guide to the definitions of some of the terms used in these guidelines, and except for the terms "comprehensive harbor management plan," "harbor management plan," and "water-dependent use" are not legal definitions or definitions found in any overriding federal or state statutes. Many of these terms and definitions may be changed or used differently in harbor management plans and their implementing legislation.

Comprehensive Harbor Management Plan - a plan to address the problems of conflict, congestion and competition for space in the use of harbors, surface waters and underwater lands of the state within a city, town or village or bounding a city, town or village to a distance of fifteen hundred feet from shore.

Harbor or Pierhead Line - a line designated by the local legislative body of a city, town or village, or the state or federal government or an agency of the state or federal government, represented on a harbor management plan map, that is the waterward limit of any in-water structure such as docks, piers, gangways, ramps, groins, jetties or any other structure projecting from the shoreline.

Bulkhead Line - a line designated and represented in the same manner as a harbor or pierhead line, but representing the waterward limit of any bulkhead, seawall, fill material, revetment, or similar structure.

Harbor Management Area - all surface waters and underwater lands lying within a city, town or village and, where the municipal limits of a city, town or village end at the water's edge, all surface waters and underwater lands within 1,500 feet of the shore of a city, town or village.

Perimeter Area - a boundary of a docking facility, mooring area or other in-water use area consisting of a series of connected imaginary lines on a plan or map, drawn generally perpendicular and parallel to the shore, that encompasses all related structures or uses such as docks, bulkheads, breakwaters, pilings, floats, piers, platforms, moorings, or swimming or boating areas, that function to create a facility or area for specific uses.

Water-dependent Use - an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

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