

**DRAFT**  
**Based on Land Use Recommendation #7**  
**(Recreational Docks)**

**INCORPORATED VILLAGE OF OLD FIELD**  
**BOARD OF TRUSTEES**

**PROPOSED LOCAL LAW NO. 4 OF 2009 AMENDING**  
**CHAPTER 121 OF THE CODE OF THE VILLAGE OF OLD**  
**FIELD AS IT RELATES TO DOCKS AND OTHER**  
**WATERFRONT STRUCTURES IN THE VILLAGE**

Be it enacted by the Board of Trustees of the Incorporated Village of Old Field as follows:

**Section 1. Legislative findings; intent.**

The Board of Trustees is concerned that the indiscriminate placement of docks, including structures, fixtures or mechanisms appurtenant thereto, such as boat lifts, support piles and mooring piles, in the waters off the Village coastline may impact the environmentally sensitive coastal areas and may otherwise be of danger to people walking the coastline and people and vessels using the coastal waters within the Village. The Board finds that some level of uniformity in the placement, construction, and maintenance of docks within the Village is necessary and desirable in order to properly protect both the environmentally sensitive coastal areas and the rights and interests of the Village residents and the public at large.

The Board of Trustees also finds that, because docks, including structures, fixtures or mechanisms appurtenant thereto, can be seen from adjacent properties and upon waters within the Village, they may impact the scenic and aesthetic values and the physical and visual qualities of the environment and properties within the Village. This is particularly true with respect to boats lifts and other similar structures and mechanisms which are used not only to raise, but to store, boats above the water surface. The Board of Trustees further recognizes and finds that it and other governmental authorities are obligated to preserve and protect the coastal areas and waters within the Village.

Accordingly, it is the intent of this local law to regulate the construction and maintenance of docks, including structures, fixtures or mechanisms appurtenant thereto, such as boat lifts, support piles and mooring piles, in a manner that will preserve and protect the coastal areas and waters within the Village as well as the scenic and aesthetic values and the physical and visual qualities of the environment and properties within the Village, and otherwise promote the health, safety and general welfare of the Village and its residents.

**Section 2. Definitions.**

As used in this Article, the following words or phrases shall have the following meaning:

**BOAT LIFT** - A structure or mechanism used to raise and/or store a vessel or other watercraft above the water surface.

**CATWALK** – Any stand-alone structure or an element of a structural assembly that includes stairs, a ramp, and a float, that provides access from the upland, through or across a vegetated or unvegetated tidally influenced area in Village of Old Field.

**DATUM PLANE** - The mean sea level or average height of the sea in accordance with Suffolk County Datum.

**DOCK** - Any permanent or seasonal structure extending over the water's surface designed to secure vessels and/or provide access from the shore to a body of water. The term shall include fixed docks, floating docks, catwalks, ramps, and floats, and all structures, fixtures or mechanisms appurtenant thereto, such as boat lifts, support piles and mooring piles.

**FIXED DOCK** - A dock that is generally anchored, on pilings, to the underwater land, and that allows for the flow of water beneath the decking.

**FLOAT** - Any structure, buoyant on the water surface, extending seaward affixed and secured in place to the shore, a bulkhead, a dock, or piling, whose purpose is to berth and secure vessels and provide a means of access to and from the shore. The term "float" includes a floating dock.

**MEAN HIGH WATER LINE** - The approximate average high-water level for a given water body at a given location, determined by reference to hydrological information concerning water levels or other appropriate tests.

**MOORING PILE** - A pole or post not connected or attached in any way to a dock or any structure, fixture or mechanism appurtenant thereto, which is secured to the underwater land and protruding above the water surface, the principal purpose of which is to secure a vessel.

**NAVIGABLE WATER** - Water having a depth of at least four (4) feet at mean low water as defined by Suffolk County Datum.

**SUPPORT PILE** - A pole or post, secured to underwater land and protruding above the water surface, the principal purpose of which is to secure a fixed or floating dock, ramp or float, or any structure, fixture or mechanism.

**RAMP** - A structure used to gain access from a bulkhead, dock, or platform to a float. The term "ramp" shall include a "floating ramp."

### **Section 3. Applicability.**

This Chapter shall apply to all areas of the waters within the jurisdiction of the Incorporated Village of Old Field.

**Section 4. Special permit required.**

- A. No dock shall be constructed, erected, enlarged, installed, altered, reconstructed or maintained on any waterfront property or in or upon any body of water adjacent thereto unless the applicant first obtains a special permit from the Board of Trustees and a building permit from the Village Clerk.
1. No special use permit shall be granted by the Board of Trustees unless it shall determine that the construction and use of the dock:
- (a) Will not impair navigation;
  - (b) Will not unduly interfere with the public use of waterways for swimming, boating, fishing, shellfishing, waterskiing, and the like;
  - (c) Will not unduly interfere with passage by the public along public beaches or the foreshore;
  - (d) Will not significantly impair the use or value of waterfront property adjacent to or near the dock;
  - (e) Will not cause degradation of surface water quality;
  - (f) Will have a significant adverse impact on marine and terrestrial vegetation or wildlife;
  - (g) Will not create excessive turbidity resulting from suspension and resuspension of organic and inorganic materials.
  - (h) Will not unduly restrict tidal flow or water circulation; and
  - (i) Will not have a significant adverse impact on views from public lands or roadways.
- B. No special permit or building permit shall be issued until after the applicant has demonstrated, to the satisfaction of the Board of Trustees that the applicant has obtained all necessary approvals and permits from all other applicable governmental agencies.
- C. No special permit or building permit shall be required for the performance of ordinary repairs.

**Section 5. Fees, costs and deposits; security.**

- A. Filing fees. A fee of \$\_\_\_ shall be required for any application for a special permit to construct a dock.

B. Costs.

1. Applicants for a special permit to construct a dock shall be liable for and shall pay to the Village the following costs which may be incurred by the Village in processing the application:
  - (a) Advertising.
  - (b) Stenographic minutes of meetings and hearings.
  - (c) Engineering costs.
  - (d) Inspection costs.
  - (e) Legal fees.
  - (f) Recording fees.
  - (g) Planning, sound, traffic, environmental or other specialized studies.
  - (h) Any other costs attributable to the application.
2. The foregoing costs shall be consistent with the costs for the services then prevailing in the community

C. Deposits.

1. In addition to the fees required in Subsection A hereof, an applicant for a special permit to construct a dock shall deposit a sum of \$2,000 with the Village Clerk, which amount shall be used to defray the costs listed in Subsection B hereof which are actually and necessarily incurred by the Village in processing the application.
2. Expenses incurred pursuant to this Subsection B shall be deducted from the deposit as incurred. If actual expenses exceed the deposit, the applicant is responsible for payment. To the extent that expenses exceed the deposit on hand, the applicant shall pay the balance due and make an additional deposit as deemed necessary by the Board of Trustees before the application will be processed any further. However, the maximum reimbursement to the Village shall not exceed \$5,000. No public hearing will be held, no decision will be rendered and no permits shall be issued until all outstanding payments of expenses are received by the Village. After filing of the final decision, all unexpended funds of the deposit shall be refunded.

- D. Security. Whenever the Board of Trustees approves an application for a special permit to construct a dock, it may require the posting of a bond or letter of credit (in a form approved by the Village Attorney) or a cash deposit in such amount determined sufficient to guarantee final completion of the approved project.

**Section 6. Pre-existing structures.**

Existing docks shall be exempt from the requirements of this local law.

**Section 7. Jurisdiction.**

A. The Board of Trustees shall have jurisdiction over all applications for special permits issued pursuant to this Chapter.

B. The Board of Zoning Appeals shall also have jurisdiction to consider applications for variances from the requirements of this Chapter.

**Section 8. Application process for special permit; filing fees and deposits.**

A. A request for a permit for the construction or reconstruction of a structure pursuant to this Chapter shall be made in writing on forms provided by the Village Clerk and shall be accompanied by the required fees and deposits, as set forth herein.

B. The application shall be executed and filed by the owner of improved residential property immediately abutting the mean high water mark at the place where the dock is proposed to be constructed or reconstructed.

C. The application shall be accompanied by a complete set of plans and specifications prepared by a registered professional engineer licensed by the State of New York. The location of the proposed structure shall be clearly indicated on the plans. The location of any docks and/or floats on adjoining properties shall also be shown on site plan drawn to scale. Underwater soundings in the area of the proposed dock and float shall be undertaken and shown on the plans.

D. The application shall be accompanied by a Full Environmental Assessment Form.

**Section 9. Compliance with SEQRA.**

A. The State Environmental Quality Review Act (SEQRA) and Chapter 76 of the Village Code entitled "Environmental Quality Review" shall be adhered to in the issuance of all permits.

B. Any structure covered by this Chapter shall be automatically classified as a "Type I action" as that term is defined in SEQRA (See Part 617 of Title 6 NYCRR).

**Section 10. Compliance with the federal, state and local laws, rules, and regulations.**

It shall be Applicant's sole responsibility to fully comply with the requirements of all governmental agencies having regulatory jurisdiction, including but not limited to the New York State Department of Environmental Conservation and the United States Army Corps of Engineers. That is, no provision of this Chapter shall relieve a person from complying with the provisions of any applicable federal, state or local laws, rules, or regulations which may be in addition to the requirements, rules and regulations set forth herein.

**Section 11. Standards and regulations.**

No dock shall be constructed, erected, enlarged, installed, altered or reconstructed, unless it shall comply with the following standards and regulations:

- A. There shall be only one dock per improved building lot. There shall be only one float per improved building lot. Either or both shall be used exclusively for recreational, non-commercial purposes and shall be considered accessory structures to the principal dwelling *and shall be included in the calculation of combined coverage of a lot, as if they were located on the ground and within the footprint. [Don't know if you want this language in here]*
- B. Adjacent waterfront property owners may share a dock that is on one of their properties. However, the owner of the property from which the dock extends shall be responsible to the Village of Old Field for all obligations under this chapter.
- C. A dock may be used only by the owner of the property on which it is located and by the owner of an adjacent waterfront property, if the dock is approved by the Board of Trustees for use as a shared dock, who both shall be deemed dock owners. A dock may be used by a guest of a dock owner for no more than seven (7) days in any calendar year.
- D. The improved building lot from which a dock shall extend shall have a minimum of seventy-five (75) feet of shoreline frontage.
- E. A dock or float shall be setback from a side property line or its seaward extension a distance equal to one-third of the shoreline frontage of the improved building lot or thirty (30) feet, whichever is greater.
- F. The maximum overall length of a dock shall not exceed a length greater than required to reach a water depth of \_\_\_\_ (\_\_) feet at mean high tide or \_\_\_\_\_hundred (\_00) feet measured from the mean high water line to the seaward terminus of a dock, whichever is less, subject to the rights of the public, if any, for the use of underwater lands to obtain natural resources and use of waterways for navigation, recreation and swimming. Notwithstanding the above, the seaward terminus of a dock shall not extend to within a distance of fifty (50)

feet of any federally or locally designated channel, vessel accessway, fairway or anchorage.

- G. A dock or float shall be made of wood or other suitable material approved by the Board of Trustees. Planking shall be spaced with one-half inch gaps. No solid decks shall be permitted. Any wood timbers or pilings used in the construction of the dock or float that are treated with preservatives must be approved by the Village Engineer prior to use.
- H. A dock shall be no wider than four (4) feet at any point, except that the float portion may be no wider than ten (10) feet. A float shall be located to the seaward end of a dock and shall be no larger than three hundred (200) square feet in total area.
- I. A dock and any associated pilings must be configured in such a manner so that the dock does not provide more than \_\_\_\_ (\_\_) vessel berths, except that a dock approved by the Board of Trustees for use as a shared dock may no more than \_\_\_\_ (\_\_) vessel berths.
- J. A dock shall not be permitted in areas of high vessel traffic or vessel congestion where there is a likelihood that the dock will jeopardize public safety or create a public nuisance.
- K. A dock shall be designed and sited so as to minimize habitat fragmentation, loss of habitat, and to minimize interference with public access to recreational and other resources.
- L. A dock shall be designed and sited so as to not unreasonably impede, obstruct or interfere with public access to public lands or surface waters or the public use of or passage along the foreshore.
- M. Since docks on adjacent properties are likely to have cumulative adverse impacts on marine wildlife and vegetation, and a greater adverse visual impact on the waterways in which they are located, the design, construction and location of docks shall be evaluated to minimize cumulative impacts caused by multiple docks extending into the same waterway.
- N. The introduction of pilings into underwater lands or intertidal or supratidal areas shall be done in such a time and manner as to minimize:
  - (1) Impact to marine and terrestrial wildlife and vegetation.
  - (2) Turbidity resulting from suspension and resuspension of organic and inorganic materials.

- O. A float may be oriented either in line with the dock or in an "L" or "T" configuration. No float shall rest on any underwater lands during ebb or mean low water or on any intertidal, tidal or subtidal vegetation.
- P. The decking of the dock shall be elevated at least four (4) feet but not be more than eight (8) feet above mean high water. The decking of a float shall not be more than eighteen (18) inches above the calm, wave-free water level.
- Q. In areas of high traffic, congestion, multiple uses of the water surface, or where needed to protect public safety, a dock and its associated floats and pilings shall be required to have adequate lighting and markings shall be of a type which will not be confused with navigation lighting and shall meet U.S. Coast Guard standards. Lighting on or around docks must be constructed, installed and shielded so that it is directed and shines in a downward direction and away from all adjacent properties. Lighting that is not required for safety must be turned off when the dock is not in use.
- R. A short ramp or stairway leading from a pile or structurally supported landing is permissible if it is necessary to provide access from above a seawall, cliff or other elevation. The landing shall not be greater than eight (8) feet wide and eight (8) feet long and shall be built as close as possible to the cliff, wall or other elevation.
- S. No dock shall be approved if, in the judgment of the Board of Trustees, it would jeopardize public safety or create a public nuisance, or unreasonably impede, obstruct or interfere with navigation, or the rights of adjoining property owners or the public use of or passage along the foreshore or the waterway, or significantly damage the environment.

**Section 12. Authority to impose conditions.**

The Board of Trustees may impose reasonable conditions and restrictions as are directly related to and incidental to the construction or installation and proposed use of a dock and structures, fixtures or mechanisms appurtenant thereto. Such conditions shall be consistent with the spirit and intent of this local law, and shall be imposed for the purpose of minimizing any adverse impact a dock and structures, fixtures or mechanisms appurtenant thereto, may have on the surrounding area.

**Section 13. Maintenance of structures.**

A. An owner, who shall erect, cause to be erected or maintain any dock pursuant to this Article shall keep such dock in good repair and condition at all times so that it will not become a menace to navigation, to persons using the same, or to the environment. In addition, the owner shall at all times ensure that the dock is maintained in a structurally sound manner such that it will not present a physical danger or threat of harm to persons or property.

**Section 14. Permit length and renewal.**

- A. A special permit issued pursuant to this Chapter shall be valid for five (5) years from the date of issuance.
- B. A permit shall expire unless prior to its expiration an application for renewal together with the applicable fees and deposits has been submitted to the Village Clerk.

**Section 15. Penalties for offenses.**

A. A violation of this local law is hereby declared to be an offense punishable by a fine not exceeding five hundred (\$500.) dollars or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate, additional violation.

B. In addition to an action to recover the fines or penalties as provided in Subsection (A) hereof, the village may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of, or to enforce any provision of, this local law.

**Section 16. Severability.**

If any section or provision of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the section or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 17. Effective date.**

This local law shall take effect immediately upon its filing with the Secretary of State.

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