

**CHAPTER 24**

**DOCK AND HARBOR USE**  
**[Amended on 3-21-1995 as L.L. #4-1995]**

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[HISTORY: Adopted by the Common Council of the City of Dunkirk 7-20-1982; amended in its entirety 2-21-1989, 12-16-1993 and 3-21-1995. Subsequent amendments noted where applicable.]

**ARTICLE I  
General Provisions**

§ 24-1. Purpose.

The Mayor and Common Council of the City of Dunkirk hereby declare the waters of the harbor and public facilities incident thereto to be irreplaceable valuable public resources which should be protected and enhanced. The Mayor and Council seek to protect and enhance these resources by means of this chapter by providing for the safety, health and comfort of persons using the waterways of shorelines thereof, establishing standards of safe operation and equipment, providing for the enforcement thereof, and providing penalties for the violation thereof.

**§ 24-2. Definitions.**

- A. The following terms, when used in this chapter, unless otherwise expressly stated or unless the context of the language or subject matter indicates that a different meaning or application was intended, shall be deemed to mean and include:

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

**BATHING BEACHES** - Areas for swimming and similar activities designated by the Common Council.

**BREAKWALL** - See Breakwater

**BREAKWATER** - A structure designated for providing protection from wind and wave action.

**CITY** - The City of Dunkirk, New York.

**COMMERCIAL FISHING** - The ongoing business of fishing for wholesale and/or retail sale of fish to the public at large, which is engaged in to produce a profit from year to year.

**DEPARTMENT** - The Department of Public Works of the City.

**DIRECTOR** - The Director of Public Works.

**DOCK** - The public Dock located at the foot of Central Avenue in the City.

**EAST INNER HARBOR** - The part of the inner harbor east of the City Dock

**EAST MIDDLE HARBOR** - All the middle harbor east of a line from the northeast corner of the City Dock northerly to the outer island breakwall (United States breakwater).

**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, floating tire breakwaters, bathing beach markers, speed zone markers, swimming or diving floats, mooring buoys, fishing buoys and ski jumps.

**GREATER DUNKIRK AREA HARBOR COMMISSION** - Volunteer group of seven (7) citizens appointed by the Mayor to advise Mayor and Common Council on matters relating to Greater Dunkirk Harbor Area.

**HARBOR** - The area being south of an imaginary line commencing with the Point Gratiot Lighthouse, running easterly to the northernmost point of Battery Park and being bounded on the south by the Lake Erie shoreline.

**HARBORMASTER** - Appointed by the Mayor and empowered to enforce the provisions of this chapter.

**INNER HARBOR** - Beginning where the east inner breakwall is connected to the lakewall at the foot of Main Street; thence westerly along the east and west inner breakwall to its westernmost point; thence northwesterly to the Niagara Mohawk Power Company thermal discharge; thence southwesterly and south along the shoreline to where it joins the lakewall; thence easterly along lakewall to point of beginning.

**MIDDLE HARBOR** - Beginning at the shore area of the outermost point of Battery Point; thence southwest along shoreline lakewall to the foot of Main Street; beginning where the east inner breakwall is connected to the lakewall at the foot of Main Street; thence westerly along the east and west inner breakwall of its westernmost point, thence northwesterly to the Niagara Mohawk Power Company thermal discharge; thence northeast and northwesterly along Niagara Mohawk Power Company property to where it joins the breakwall at the pierhead lights; thence across the channel to the outer island wall (United States breakwater), easterly along the center line of such wall to its easternmost point; thence eastward along an imaginary line to the point of beginning.

**NO-WAKE ZONE** - An area defined by the line beginning at the foot of Main Street extending westerly along the East and West Inner Breakwater structures and an imaginary line from the northwesterly point of the West Breakwater to the southeast corner of the Niagara Mohawk Power Corporation breakwall. It includes the entire area southerly and easterly of

this line to the lakefront breakwalls and the existing shoreline and a 200' radius at the end of the City Pier.

**NYSDEC** - New York State Department of Environmental Conservation.

**OUTER HARBOR** - That area being south of an imaginary line commencing with the Point Gratiot Lighthouse, running easterly to the northernmost point of Battery Park and being bounded on the south by the outer U.S. breakwater

**OPERATOR** - An individual who operates or navigates a vessel.

**OWNER** - The person actually holding title to a vessel, including a person who charters a vessel for more than thirty (30) days.

**STATE** - The State of New York, its departments and agencies.

**VESSEL** - Any floating craft:

- (1) All vessels shall belong to either a commercial or pleasure class:
  - (a) **COMMERCIAL VESSEL** - Every vessel which is used or operated for commercial or charter purposes.
  - (b) **CHARTER VESSEL** - Any vessels carrying passengers for hire.
  - (c) **PLEASURE VESSEL** - Every vessel not within the classification of commercial vessel.
  - (d) **PERSONAL WATER CRAFT** - A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.
- (2) Except where allowable by law, any vessels owned and operated by the State of New York or any department of the United States Government are excluded from the application of this chapter.

**WATERSKIING** - Towing a person on water skis, surfboard or similar devices.

**WEST INNER HARBOR** - That part of the inner harbor west of the City Dock.

**WEST MIDDLE HARBOR** - All the middle harbor west of a line from the northeast corner of the City Dock, northerly to the outer island breakwall (United States breakwater).

**WHARF** - Any structure built or maintained for the purpose of providing a berthing place for vessels, excluding the City Dock.

## ARTICLE II Dock Use

### § 24-3. Dock regulations.

- A.
  - (1) Pleasure vessels shall have the right to tie up on the side of the Dock, as directed by the Harbormaster and pursuant to the supervision of the Harbormaster.
  - (2) Such pleasure vessels may be allowed to maximum tie-up time of three (3) hours before a fee is imposed.
  - (3) The fee charged for any pleasure vessel tying up for more than the three-hour limit shall be as follows:

- (a) Ten Dollars (\$10.00) for the balance of a twenty-four hour period, which period shall be deemed to have commenced at the time such vessel first tied up.
  - (b) An additional Ten Dollars (\$10.00) for each twenty-four hour period or fraction thereof; however, no tie-up period shall exceed seventy-two (72) hours, except at the discretion of the Harbormaster, or due to a bona fide emergency situation as determined by the Harbormaster.
- B.
  - (1) Commercial vessels shall tie up on the side of the Dock under the direction/supervisions of the Harbormaster.
  - (2) Unless such commercial vessels are taking refuge in the harbor area, no such vessel shall be allowed to tie without a proper permit.
- C.
  - (1) A commercial vessel permit shall be available on a seasonal basis for a fee, which fee shall include the right to hook into and use the City's electrical power.
  - (2) The seasonal fee for a commercial vessel permit shall thereafter be set each year by the Dunkirk Common Council.
  - (3) If for any year the Common Council shall not specifically establish a fee for such a permit, then such permit fee for any such year shall be the same fee as charged in the year immediately prior to such year.
  - (4) Permits for such vessels shall be available at the City Clerk's office during the normal business hours.
  - (5) No such permit shall be issued without proof of liability insurance in an amount deemed sufficient by the Department of Law and a current vessel registration certificate.
  - (6) Short-term commercial use of the Dock, other than by seasonal permit, shall be allowed only by authorization of the Harbormaster and on such terms and conditions as the Harbormaster may impose for the specific short-term use as necessary to safeguard the Dock and the general health, safety and welfare of the public

- D. All vessels which tie up shall use proper Coast Guard tie-up procedures and shall be equipped according to Coast Guard regulations.
- E. The vehicle speed limit on the Dock shall be five (5) miles per hour.
- F. (1) Parking on the Dock shall only be allowed in those areas designated by stripes for such parking.
- (2) In the event that there are no stripes, or that such stripes are not distinguishable, the parking shall be restricted to center aisle of the Dock on a twelve-month basis.
- (3) The only vehicle permitted to park or stand on the Dock between the hours of midnight and 6:00 a.m. shall be official vehicles, vehicles of active fisherman, and vehicles of persons launching, retrieving or gaining proper access to a vessel.
- (4) Vehicles shall not park or stand, except where specifically authorized.
- (5) The following are prohibited on the Dock and designated parking areas for launch vehicles and vessel trailers:
- (a) Overnight camping.
- (b) Excessive noise, including but not limited to, any excessive volume of music from radios, stereos, and tape players.
- (c) Parking or standing vehicles, or placing objects, in a manner that prevents the full utilization or parking and recreational areas for parking and recreation by all.
- (d) Motor homes.
- (6) Designated parking for launch vehicles and vessel trailers extends from Lake Shore Drive East along the western boundary of the Chadwick Bay Marina to the intersection of the Dock and lakefront breakwall, and bounded on the west by Central Avenue, and those spaces north of the traffic island, as designated.
- G. Littering on the Dock shall be a violation.

- H. (1) It shall be a violation to throw any object off the Dock, except that fishing tackle may be coast off the Dock in the normal course of fishing procedures.
- (2) Emergency lifesaving equipment shall be exempted from the provisions of this subsection.
- I. It shall be a violation to store any material on the Dock unless such storage is part of a commercial use for which a commercial permit has been previously obtained.

**§ 24-4. Additional safety requirements for common carriers of passengers.**

In addition to or supplementing other safety rules and regulation herein recited or referenced, the following rules shall apply in the case of common carriers of passengers with respect to operations, properties or areas under the jurisdiction of the City:

- A. Vessels shall be securely moored with adequate lines in place before embarking or discharging passengers.
- B. Vessels shall have ramps and gangways meeting Coast Guard safety requirements for embarking or disembarking passengers between vessel and Dock, together with personnel to give assistance as required.
- C. Vessels shall have proper dock and navigation lighting during hours of darkness or twilight.
- D. The landing place shall have a life ring available for emergency use in addition to life rings on any vessel.

**ARTICLE III  
Harbor Area**

**§ 24-5. General regulations.**

- A. (1) The speed limit in the middle and inner harbor shall be five (5) miles per hours, except in designated waterskiing areas.
- (2) Persons shall not create a wake in a no-wake zone.
- B. Swimming off the Dock, the inner or outer breakwalls and the western shoreline lakewall is prohibited, except in those areas so designated as swimming areas by the City of Dunkirk.
- C. Bicycles shall not be permitted on the breakwalls or footbridge which connects the easterly breakwall to North Main Street.
- D. Trolling shall be prohibited within a distance one hundred (100) feet from any point of the City Dock.
- E. Waterskiing is permitted in the east middle harbor, subject to the following restrictions:
  - (1) Tow vessels and tows shall remain not less than 200 feet from the pier and breakwall.

- (2) All vessels and tows shall remain not less than 500 feet from the swimming areas.
- F. Duck hunting/waterfowl hunting will be allowed in the middle harbor north of the navigation channel and a parallel line 1,000 feet along the outer U.S. breakwall and outer harbor within the regulations of the United States Fish and Wildlife Service and NYSDEC.
- G. Duck hunting/waterfowl hunting is prohibited in the marked navigation channels.
- H. No person shall operate any vessels within five hundred (500) feet of any shore or beach which is clearly marked by signs, buoys or some other distinguished device as a bathing or swimming area.
- I. (1) No person shall moor, tie to or anchor any vessel in any recognized passageway or channel nor to any channel marker or buoy or otherwise interfere with the full use of such passageways or channels by others, nor shall any person moor a vessel to a private dock or pier without permission.
- (2) No vessel shall be moored or anchored at the site of any construction work or construction, repair or dredging equipment
- (3) No vessel shall be moored or anchored in the riparian rights area of the City without permission from the Common Council.
- J. No person shall use an inflatable mattress, inner tube or similar water toy in any area where vessels are permitted to operate.
- K. Any vessel or barge, whether loaded or empty, which carries, has carried or is designated for the carriage of flammable volatile or explosive materials, except for its own fuel, shall not be docked or moored at any dock or mooring area owned by the City, until written permission has been secured from the Harbormaster and shall be thereafter docked or moored strictly in accordance with the terms of such permission
- L. (1) Commercial bait fishing will be allowed by a permit issued by the City Clerk.
- (2) Application for a commercial bait fishing permit shall be made between November 1, and January 31.

- (3) Permit will expire at the end of the year that it is issued.
- (4) Permit fee shall be set forth in Chapter 31 of the Dunkirk City Code.
- (5) Application is subject to approval by Harbor Commission, Harbormaster and Common Council.
- (6) Permit is revocable at any time by Dunkirk Police Department or Harbormaster for any poor bait fishing practices, or violation of NYSDEC regulations.
- (7) Bait fishing will be limited to two (2) permitholders at any one time.
- (8) The Harbor Commission reserves the right to control the amount of bait taken by a permitholder.

**ARTICLE IV**  
**Administration and Enforcement**

**§ 24-6. Forfeiture of licenses and permits.**

- (1) Any person violating any provision of this chapter or any rule, regulation or order issued hereunder shall be deemed to forfeit his/her license, special commercial permit or dockage permits as the case may be.
- (2) Any person submitting a false statement on any application shall also forfeit his/her license or permit.
- (3) No refund or any fee shall be made if a license or permit is forfeited.

**§ 24-7. Responsibility for damage.**

- (1) If any vessel causes any damage or the Dock and/or any wharf, breakwater, navigation aid or floating object in the harbor, the owner and/or the occupants of such vessel shall be responsible for any such damage.
- (2) The City Attorney is hereby authorized to utilize any remedies available under the law to ensure that such owner and/or occupant of such vessel is held liable for any such damage.

**§ 24-8. Abandoned vessels.**

- (1) Any vessel left in the harbor area unattended or unclaimed for more than three (3) days shall be considered abandoned, including vessels on land or in the water.

- (2) The Harbormaster may direct that any such abandoned vessel be retrieved and stored in such a place so as not to constitute a danger or obstruction to the public's health, safety or welfare.
- (3) The owner(s) of such vessel(s) shall be liable for all moving, relocation, storage and any other costs related to above action by the Harbormaster.
- (4) The City and any of its authorized representatives shall not be liable or responsible in any manner or degree for above-mentioned action by the Harbormaster.

**ARTICLE V**  
**Small Vessel Launch**

**§ 24-9. Applicability.**

All provisions of this chapter shall apply with equal force and effect to the small vessels launch located on the west side of the Dock, with the exception of any and all provisions relating to the tie-up by vessels to the small vessel launch, which is hereby expressly prohibited.

**§ 24-10. Fees and collection procedure.**

Fees and collection procedures shall be as follows:

- A. Small vessel launching is governed by a set of rules and regulations as a responsibility of each individual boater to adhere to these rules and regulations. Copies may be obtained at vessel launching sites during normal business hours.
- B. Launch fees for residents and nonresidents and season passes shall be established by the Common Council, on recommendations by the Harbor Commission. If for any year the Common Council shall not specifically establish a fee, the fee shall be the same fee as charged in the year immediately prior to such year.
- C. Collection of the fees shall be conducted by representatives designated by the Mayor and Common Council.

**ARTICLE VI**  
**Miscellaneous Provisions**

**§ 24-11. Disclaimer of liability.**

- A. The City shall not be responsible for damage or vandalism to any vehicle or vessels utilizing the Dock and/or harbor facilities.
- B. The City shall not be responsible for any property stolen from any such vehicle or vessels using such facilities.

**§ 24-12. Construal.**

Use of the facilities by any person shall be deemed constructive knowledge of the provisions of this chapter.

**ARTICLE VII**  
**Penalties**

**§ 24-13. Penalties for offenses.**

Any person found guilty of violations of any of the provisions of these regulations legally promulgated hereunder, upon prosecution before the City of Dunkirk, shall be sentenced to pay a fine of not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00), together with cost of prosecution, or, in default of payment of same, to undergo imprisonment not to exceed ninety (90) days.

**ARTICLE VIII**  
**Greater Dunkirk Area Harbor Commission**

**§ 24-14. Purpose.**

The Greater Dunkirk Area Harbor Commission shall have the following functions:

- A. To act as an advisory committee to the Dunkirk Common Council specifically in relation to all of the lakefront area in the City of Dunkirk
- B. The Harbor Commission will act in an advisory capacity to help coordinate state, county and local government efforts; make recommendations in developing this area; identify potential problems; and recommend solutions.
- C. To review and make recommendations to the Harbormaster concerning his duties. To consider applications referred pursuant to Chapter 79 of the Dunkirk City Zoning Code. The Harbor Commission must review said applications and comment by means of an advisory opinion, in writing, to the Common Council within thirty (30) days. Failure to do so shall be deemed a waiver of said right of review and comment for said application.
- D. To recommend laws, ordinances, rules and regulations necessary to carry out the functions of the Harbor Commission which will protect and enhance the lakefront resources by providing for the safety, health and comfort of persons using the waterways and shorelines, establishing standards of safe operation and equipment, and providing for enforcement and penalties for violations.

**§ 24-15. Membership.**

The Harbor Commission shall consist of seven (7) members, said members to be appointed by the Mayor pursuant to the Dunkirk City Charter. The seven (7) initial members will be appointed as follows: three (3) board members to a term of three (3) years, three (3) board members to a term of two (2) years and one (1) board member to a term of one (1) year. The Harbormaster shall be an ex-officio member of the Commission whose one (1) year appointment is made by the Mayor. The Chairperson is appointed by the Mayor until the term of that appointed Chairperson expires. In the event of a vacancy occurring in an unexpired term, the Mayor shall appoint a new member to the Commission to complete the existing term.

**§ 24-16. Constitution and By-Laws.**

The Constitution and By-Laws of the Harbor Commission shall be approved by a two-thirds vote of the entire membership and shall be submitted to the Common Council for approval. Any amendments to the Constitution and By-Laws shall also require a two-thirds vote of the entire membership and shall be submitted to the Common Council for approval.