



**John C. Armentano**  
Partner

Direct Dial: 631.367.0719  
Direct Fax: 631.367.0788  
jcarmentano@farrellfritz.com

100 Motor Parkway  
Suite 300  
Hauppauge, NY 11788  
[www.farrellfritz.com](http://www.farrellfritz.com)

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**VIA FEDERAL EXPRESS &  
ELECTRONIC EMAIL - [abwilliams@shelterislandtown.gov](mailto:abwilliams@shelterislandtown.gov)**  
Supervisor Amber Brach-Williams  
Town Board of the Town of Shelter Island  
38 North Ferry Road  
Shelter Island, New York 11964

**Re: Application of Chad Rustan Pike 2012 Revocable Trust – 6 Bluff Avenue**

Supervisor Brach-Williams and Councilmembers:

Our firm represents the Chad Rustan Pike 2012 Revocable Trust (“Trust”), the owner of the premises known as 6 Bluff Avenue, Shelter Island, New York, and identified on the Suffolk County Tax Map as District 700, Section 5, Block 4, Lot 1 (“Premises”), in connection with its application for a permit to construct a 5’x110’ main pier leading to a 5’x27’ “L” section at seaward end, together with a 70’ splashboard system, one 2-pile dolphin, three ladders, and one bench (“Dock Application”). We submit this correspondence to address riparian rights in general, riparian zone concepts, the Town of Shelter Island Town Code (“Town Code”), navigation and safety, controlling precedent, and materials submitted in opposition to the Dock Application.

The Town Attorney determined that the previous Town Code applicable to docks applies to the Dock Application, i.e. the Town Code which existed prior to the current Town Code applicable to docks that was adopted on April 7, 2025, and made effective April 16, 2025. This correspondence explains how the Dock Application meets the standards of both versions of the Town Code.

I. Riparian Rights, Generally

The owners of land bounded by the seashore, i.e. the upland, are riparian owners and possess riparian rights (e.g. *Town of Oyster Bay v Commander Oil*, 96 NY2d 566, 571 [2001]).<sup>1</sup> Riparian owners enjoy the full panoply of rights, and are entitled to access to the water for navigation, fishing, and other such uses (*id.*). “The right of access comprehends the reasonable, safe and convenient use of the foreshore for navigation, fishing, and such other purposes as commonly belong to the riparian owner” (*Bravo v Terstiege*, 196 AD2d 473, 475 [2d Dept 1993]; see also *Town of Hempstead v Oceanside Yacht Harbor*, 38 AD2d 263, 264 [2d Dept 1972] [same]).

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<sup>1</sup> Strictly speaking, the owner of land bounded by the sea is a “littoral” owner and the owner of land bounded by a river, lake, or stream is a “riparian” owner, but the term “riparian” is commonly used to described both (*id.*).

Legally, riparian owners also have the right to make access a practical reality by building a pier or “wharfing out” (*Commander Oil*, 96 NY2d at 571), including over and upon the owner of the underwater land, or bottomland (*id.* at 572; *see also Town of Brookhaven v Smith*, 188 NY 74, 82 [1907] [“whether his title extends beyond the dry land or not, he is certainly entitled to all the rights of a riparian proprietor, whose land is bounded by a navigable [water], and among these rights are access to the navigable part of the [water] from the front of his lot, the right to make a land wharf, or pier, for his own use”]; *Oceanside Yacht Harbor*, 38 AD2d at 264 [“The defendant, as an upland owner, has a right of access to and from the channel over the plaintiffs’ foreshore”]).

Moreover, “[i]t is clear that the right includes the power to build a pier, dock, or wharf for the upland owner’s use” (e.g. *Oceanside Yacht Harbor*, 38 AD2d at 264-265; *see also Smith*, 188 NY at 75 [“The owner of upland bordering upon navigable waters has riparian rights, including the right to make, maintain and use a suitable wharf or pier for means of access to the navigable part of such waters”]).

Municipalities given special Legislative authority under N.Y. Navigation Law Section 46-a(2) to “adopt, amend and enforce local laws, rules and regulations not inconsistent with this state or the United States, with respect to the restriction and regulation of the manner of construction and location of boathouses, moorings and docks in any waters within or bounding the respective municipality to a distance of fifteen hundred feet from the shoreline,” **cannot prohibit docks** (*Carpe North, LLC v Village of North Haven*, Suffolk County Supreme Court, Index No. 7614/16, Decision and Order, So-Ordered March 16, 2020 [Hon. H. Patrick Leiss, III, J.S.C.]).

Notably the Premises are situated in District AA (Residential) and within the Near Shore and Peninsular Overlay District (“NSPOD”). District AA and the NSPOD explicitly permit docks (Code §§133-7[E][b], 133-12[F][2][a]).

## II. Riparian Zones

The right of access extends the length of an upland owner’s water frontage (*Oceanside Yacht Harbor*, 38 AD2d at 264). Each upland owner’s riparian zone runs the distance from the inshore (where the upland meets the water mark) to the furthest outshore point (point of navigability/demarcated channel) and between the established lateral boundaries (Warren’s Weed §77.39[1]). “The most oft cited general rule for fixing the lateral boundaries of a landowner’s riparian rights is to extend the lateral onshore boundaries of his property out into the navigable body of water, by which lines are perpendicular to the general course of the shoreline (*Muraca v Meyerowitz*, 13 Misc3d 348, 354-355 [Sup Ct, Nassau County 2006], citing *Zalay v Hullets Is. View Marina & Yacht Club, Inc.*, 148 AD2d 772 [3d Dept 1989]).

Establishing the lateral boundaries can often be challenging because onshore lateral boundaries and/or shorelines are not always straight, e.g. concave shorelines and the termini of bulkheaded canals often result in conflicting riparian zones. Courts reject the application of mechanical rules to establish lateral boundaries in all situations (*Muraca*, 13 Misc3d at 354). Instead, “[t]he overriding concern of the New York courts in extending lateral boundaries is to be the equitable or ratable allocation of the waterfront area. The right of access is dependent upon the frontage available to the proprietor” (*id.*; *Errico v Weinstein*, 25 Misc3d 1224(A), 2009 NY Slip Op 52284(U), \*3-4 [Sup Ct, Nassau County 2009] [“In order to balance those rights fairly, each individual landowner’s rights of direct access must be considered together with the right of access enjoyed

by the neighboring owners, none of which should be unfairly encroached upon.”)].

Where riparian zones conflict, Courts equitably establish the respective riparian zones using one or a combination of surveying methods set forth in §274.5 of the Codes, Rules, and Regulations of the State of New York (“NYCRR”), or a modification of said methods as appropriate (*Errico*, 2009 NY Slip Op 52284(U), at \*4, citing 9 NYCRR 274.5 [discussing the perpendicular method, the long lake method, the round lake method, the colonial method, and the proportionate method, and adopting a combination of the round lake and proportionate methods]; see also *Muraca*, 13 Misc3d at 357 [modifying perpendicular method]; *Freeport Bay Mar. v Grover*, 149 AD2d 660, 662 [2d Dept 1989] [adopting proportional method]).

### III. Town of Shelter Island Code – Prior Town Code

In addition to New York caselaw, Town Code Chapter 53 sets forth the design and construction standards for private docks. On April 7, 2025, the Town Board amended Chapter 53 entirely, and provided that the previous version of the Town Code would apply where a certain condition is met: “This chapter shall apply to dock applications, other than those for which an application to the New York State Department of Environmental Conservation [(“NYSDEC”)] was submitted prior to February 13, 2024[,] which shall be subject to the regulations, and review under the standards, set forth in Chapter 53, entitled “Dock,” as of that date” (Town Code §53-2[B]). The Trust met the condition because the Trust obtained NYSDEC approval for the proposed dock on January 18, 2024.

Based upon the foregoing, the Town Attorney determined that the applicable dock design and construction standards for private docks in effect prior to the 2025 amendments (“Prior Town Code”) apply to the Dock Application.<sup>2</sup> These standards were set forth in Prior Town Code §53-11. The Dock Application satisfies all of these standards:

- A. A dock shall not be an impediment nor a menace to navigation and shall at all times provide and allow suitable and unobstructed passageway around or over such dock so that the public will have free unobstructed passage along the foreshore of Shelter Island.

*The proposed dock/pier is designed, and will be constructed, so as not to be an impediment or hazard to navigation. The proposed dock/pier extends only 100 feet out from the mean high water (“MHW”) mark, and does not extend farther out than the existing dock approximately 570 feet to the southwest (22 Prospective Avenue) and the existing dock approximately 390 feet to the northeast (Shelter Island Heights Private Beach Club, 9 Summerfield Place).*

*The proposed dock/pier provides and allows suitable and unobstructed passageway on the beach and around the ramp so that the public will have fee and unobstructed passage along the foreshore.*

- B. The location of a dock shall cross the water frontage of a lot with the same setback

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<sup>2</sup> A copy of the Town Attorney’s Memorandum to the Town Board, dated December 11, 2025, inclusive of Prior Town Code Chapter 53, is attached as Exhibit “1.”

requirements from the extremes of that water frontage as apply for the principal dwelling on that lot, but in no case less than 25 feet. The dock shall extend seaward in a direction and configuration that does not intrude on neighboring lots' equivalent rights to current or future dock location.

*The Premises are situated in District AA (Residential) and within the NSPOD. The required side yard setback for principal dwellings within District AA is 30 feet (Code §133-7[B][5][b][1]). At the MWH mark, the proposed dock/pier is setback 30 feet from the southwesterly side property boundary and 63 feet from the northeasterly side property boundary. The proposed dock/pier extends seaward in a direction and configuration that does not intrude on either neighboring lot's equivalent rights to current or future chapter compliant dock locations. Notably, the Trust owns the northeasterly adjacent parcel (discussed infra.).*

C. Length and depth of docks.

- (1) At mean low-water, a private dock may not extend into the waterway farther than the equivalent of 15% of the shortest distance at mean low-water from the shoreline where the dock is located to the opposite shoreline.

*The Premises are situated along Pipes Cove and the opposite shoreline (i.e. Town of Southold) is several thousand feet away. At mean low water, the proposed dock/pier does not extend into the waterway farther than the equivalent of 15% of the distance at mean low water from the point on the shoreline where the dock is situated to the closest point on the opposite shoreline.*

- (2) A private dock may not extend either more than 100 feet offshore from the mean high-water mark on the owner's upland property or beyond the point where mean-low water depth reaches four feet, whichever of these two conditions occurs sooner.

*Based on comments received, the proposed dock/pier currently shown as extending 100' from MHW will be reduced by approximately 16 feet, i.e. to approximately 84 feet in length, so as not to extend beyond the point where mean-low water depth reaches four feet. The Trust will submit revised plans accurately depicting said revision ("Revised Plans"). The revised proposed dock/pier will not extend more than 100 feet offshore from the shoreline at the owner's upland property at MHW or beyond the point where low water depth reaches 4 feet.*

- (3) A private dock may not extend in total linear measure of all walkways, ramps, floats, and distance to tie-off pilings more than one and one half times the specified maximum off-shore distance of the dock.

*As the Trust's Revised Plans will show, the proposed dock/pier reaches a low water depth of 4 feet at approximately 84 feet offshore from the MHW; thus, the maximum allowable offshore distance of the dock/pier as*

*measured from the shoreline of the owner's upland property at MHW is approximately 84 feet. One and one-half times the maximum allowable offshore distance is 126 feet.*

*The maximum linear distance does not extend more than 1 ½ times the maximum allowable off-shore distance.*

- (4) A commercial dock may not extend either more than 300 feet offshore from the mean high-water mark of the owner's upland property or beyond the point where the mean low-water depth reaches six feet, whichever of these two alternative conditions occurs sooner.

*Does not apply.*

D. Width of docks.

- (1) A private dock, exclusive of floats, but include walkways and ramps, shall be no wider than five feet; the deck area of floats shall be no greater than 200 square feet.

*The proposed dock/pier is not wider than 5 feet.*

- (2) A commercial dock, exclusive of floats, but include walkways and ramps, shall be no wider than 10 feet; floats shall be no wider than 12 feet.

*Does not apply.*

- E. Any waterway's illumination, whether dock-mounted or shore-mounted, shall be focused downward and shall not directly light an area more than 10 feet beyond the foreshore or the footprint of the dock. Any illumination presently in existence shall be in compliance with this subsection no later than six months after the adoption of this chapter.

*The proposed dock/pier complies with this requirement.*

- F. Private dock installations to store or convey fuel or sewage shall not be permitted.

*The proposed dock/pier complies with this requirement.*

IV. Town of Shelter Island Code – Current Town Code

If the plain language of a town code states that a land use application shall be reviewed under a prior version of the code where certain conditions are met, then the intent of the legislature will be upheld and the application will be reviewed under the prior version of the code (*Affiliated Brookhaven Civic Organizations, Inc. v Planning Bd. of Town of Brookhaven*, 209 AD3d 854, 856 [2d Dept 2022] [addressing exemption from new code for applications deemed complete prior to the effective date, upholding the application of the prior version of the code, and noting "the plain language of Local Law 23...exempted the project from the provision of Local Law 23, including

the requirements that permitted solar storage energy facilities 'only on those lands previously cleared and/or disturbed on or before January 1, 2016"').

Out of an abundance of caution, the Trust also demonstrates how the Dock Application satisfies all standards under the new/current Town Code §53-8 (see *Rocky Point Drive-In, L.P. v Town of Brookhaven*, 21 NY3d 729, 736 [2013] [noting that, generally, "in land use cases, the law in effect when the application is decided applies"]).

- A. A dock shall not be designed or constructed so as to be an impediment or a hazard to navigation and shall at all times provide and allow suitable and unobstructed passageway around or over such dock so that the public will have free unobstructed passage along the foreshore of Shelter Island. No more than one private dock shall be attached or connected to any parcel of upland.

*The proposed dock/pier is designed, and will be constructed, so as not to be an impediment or hazard to navigation. The proposed dock/pier extends only 100 feet out from the mean high water ("MHW") mark, and does not extend farther out than the existing dock approximately 570 feet to the southwest (22 Prospective Avenue) and the existing dock approximately 390 feet to the northeast (Shelter Island Heights Private Beach Club, 9 Summerfield Place).*

*The proposed dock/pier provides and allows suitable and unobstructed passageway on the beach and around the ramp so that the public will have free and unobstructed passage along the foreshore.*

*The Trust does not have an existing dock and the proposed dock/pier shall be the only dock/pier at the premises.*

- B. The intersection of a dock with the mean high-water mark shall meet the same setback requirements as apply for the principal dwelling on that lot, but in no case less than 25 feet from any adjacent lot. The dock shall extend seaward in a direction and configuration that does not intrude on neighboring lots' equivalent rights to current or future chapter compliant dock locations.

*The Premises are situated in District AA (Residential) and within the NSPOD. The required side yard setback for principal dwellings within District AA is 30 feet (Code §133-7[B][5][b][1]). At the MWH mark, the proposed dock/pier is setback 30 feet from the southwesterly side property boundary and 63 feet from the northeasterly side property boundary. The proposed dock/pier extends seaward in a direction and configuration that does not intrude on either neighboring lot's equivalent rights to current or future chapter compliant dock locations. Notably, the Trust owns the northeasterly adjacent parcel (discussed infra.).*

- C. Length and depth of docks.

- (1) At mean low water, a private dock may not extend into the waterway farther than the equivalent of 15% of the distance at mean low water from the point on the shoreline where the dock is located to the closest point on the

opposite shoreline. Measurements are to be taken at the point where the proposed dock intersects the shoreline and over a 90 degree arc with the proposed dock at the center of the arc. A channel with a minimum width of 40 feet and a minimum depth of 2 1/2 feet at mean low water shall be maintained between the terminus of the proposed dock and any existing dock or future chapter compliant dock located, or potentially located, on the opposite shoreline.

*The Premises are situated along Pipes Cove and the opposite shoreline (i.e. Town of Southold) is several thousand feet away. At mean low water, the proposed dock/pier does not extend into the waterway farther than the equivalent of 15% of the distance at mean low water from the point on the shoreline where the dock is situated to the closest point on the opposite shoreline.*

(2) A private dock may not:

(a) If fixed, terminate at a point where the mean low water depth is less than 2 1/2 feet; if a float is used, no portion of the float shall be in mean low water that is less than 2 1/2 feet deep.

*The proposed dock/pier terminates at a point where the mean low water depth is more than 2 ½ feet.*

(b) Extend either more than 100 feet offshore from the shoreline at the owner's upland property at mean high water or beyond the point where low water depth reaches four feet, whichever of these two conditions occurs sooner.

*Based on comments received, the proposed dock/pier currently shown as extending 100' from MHW will be reduced by approximately 16 feet, i.e. to approximately 84 feet in length, so as not to extend beyond the point where mean-low water depth reaches four feet. The Trust will submit the Revised Plans accurately depicting said revision. The revised proposed dock/pier will not extend more than 100 feet offshore from the shoreline at the owner's upland property at MHW or beyond the point where low water depth reaches 4 feet.*

(3) A private dock may not extend in total linear measure of all fixed portions of the dock, walkways, ramps, floats and distance to tie-off pilings or dolphins more than 1 1/2 times the specified maximum allowable off-shore distance of the dock as measured from the shoreline at the owner's upland property at mean high water.

*As the Trust's Revised Plans will show, the proposed dock/pier reaches a low water depth of 4 feet at approximately 84 feet offshore from the MHW; thus, the maximum allowable offshore distance of the dock/pier as*

*measured from the shoreline of the owner's upland property at MHW is approximately 84 feet. One and one-half times the maximum allowable offshore distance is 126 feet.*

*The maximum linear distance does not extend more than 1 ½ times the maximum allowable off-shore distance.*

- (4) Pier line exception. In the event a proposed private dock does not meet the requirements of § [53-8C\(2\)\(a\)](#) at a point 100 feet from the shoreline at the applicant's property at mean high water and the pier line adjacent to the applicant's property is greater than 100 feet, then the proposed dock may be extended as far as the pier line in order to meet the required depth of 2 1/2 feet at mean low water.

*Does not apply.*

- (5) A commercial dock may not:

- (a) Terminate at a point where mean low water depth is less than 2 1/2 feet.

*Does not apply.*

- (b) Extend either more than 100 feet offshore from the shoreline of the owner's upland property at mean high water, or beyond the point where the depth at mean low water reaches six feet, whichever of these two alternative conditions occurs sooner.

*Does not apply.*

- (6) Length exception: along the outside shoreline, at locations not previously developed by a dock, in the event a proposed dock does not reach a depth of four feet at mean low water at a point 100 feet from the shoreline of applicant's property at mean high water, then the dock length may be extended to 125 feet, if such extension increases the depth at mean low water to at least four feet.

*Does not apply.*

D. Width of docks.

- (1) A private dock, exclusive of floats, but including walkways and ramps, shall be no wider than five feet except where any portion of the dock, walkways or ramps pass over rooted vegetation, in which case the width shall be limited to four feet of open grating deck material; the deck area of floats shall be no greater than 200 square feet.

*The proposed dock/pier is not wider than 5 feet.*

- (2) A commercial dock, exclusive of floats, but including walkways and ramps, shall be no wider than eight feet; floats shall be no wider than eight feet.

*Does not apply.*

- E. Any waterway illumination, whether dock-mounted or shore-mounted, shall be focused downward and shall not directly light an area more than 10 feet beyond the foreshore or the footprint of the dock.

*The proposed dock/pier complies with this requirement.*

- F. Private dock installations to store or convey fuel or sewage are prohibited.

*The proposed dock/pier complies with this requirement.*

- G. Splashboards are discouraged but may be allowed if after review and consideration of the criteria set forth under § [53-17](#) of this chapter, the Town Board determines they are suitable.

*Noted. In the Trust's submissions/testimony in support of the Dock Application, the Trust's experts concluded, based on scientific and experiential evidence, that the proposed splashboards will not have a negative impact on the environmental or the littoral drift. These conclusions are further supported by the Sapan Dock (discussed infra.), which has shown that the proposed splashboards will not have any negative impacts on the environmental or the littoral drift.*

- H. Chocking or blocking of floats is prohibited in areas where depth is less than 2 1/2 feet at mean low water.

*Noted.*

- I. Boatlifts at private docks are prohibited.

*The Dock Application does not propose any boatlift.*

V. Navigation and Safety

The proposed dock/pier does not pose any danger to navigation or safety. The proposed dock/pier complies with the Code's requirements. The proposed dock/pier will be shorter than the existing dock at 22 Prospect Avenue and the existing dock at the Shelter Island Heights Private Beach Club, 9 Summerfield Place. The proposed dock/pier will be situated well within the side yard setbacks of the lateral boundaries (extended from land), and approximately 570 feet east of the existing dock at 22 Prospect Avenue and 390 feet west of the existing dock at the Shelter Island Heights Private Beach Club, 9 Summerfield Place.

The shoreline is relatively straight, so the riparian zones of neighboring properties will not conflict if the southwesterly adjacent upland owner (i.e. 8 Bluff Avenue, SCTM District 700, Section 5,

Block 4, Lot 2) ever seeks to wharf-out (construct a dock). The Trust owns the northeasterly adjacent parcel (i.e. 4 Bluff Avenue, SCTM District 700, Section 5, Block 2, Lot 6, which has an additional 50 feet of water frontage.

VI. Controlling Precedent- Sapan Dock

It is respectfully submitted that the Board should follow the precedent set forth in its 2023 approval of the Sapan dock, located south of 6 Bluff Avenue, for a nearly identical dock design.

Moreover, the New York Court of Appeals has repeatedly held:

*A decision of an administrative agency which neither adheres to its own prior precedent nor indicates its reasons for reaching a different result on essentially the same facts is arbitrary and capricious' (Matter of Tall Trees Constr. Corp. v. Zoning Bd. of Appeals of Town of Huntington, 97 N.Y.2d 86, 93, [2001][emphasis added]).*

VII. Opposition Materials

The materials submitted in opposition to the Dock Application misrepresent the law and mischaracterize the conditions in the area.

First, the opposition materials claim that a riparian owner cannot build a dock when the structure interferes with the usage and property values of others and creates environmental harm. As noted above, riparian rights include the right to make access to navigable water a practical reality by constructing a dock/pier and wharfing-out. The proposed dock/pier will not interfere with the use of other properties. The opposition provides no evidence of how the proposed dock/pier will impact surrounding property value or how the proposed dock/pier creates environmental harm.

Second, the opposition incorrectly claims that municipalities can prohibit docks. As noted above, the right to construct a dock/pier may be reasonably regulated, but not prohibited. The opposition relies on *Akeson v Incorporated Vil. of Asharoken* (2019 NY Slip Op 52162(U), Sup Ct, Nassau County 2019), but the Village of Asharoken's code is vastly different from the Town Code here, and the Court held that the Village Board "appropriately applied the rules and regulations imposed by the Village Code" (*id.* at 6). Here, the Dock Application meets the Town Code's requirements.

Third, the opposition also relies on *Klotz v Horn* (558 NE2d 1096, Indiana 1990), an Indiana case, which is from a foreign jurisdiction and has no precedential value. Moreover, *Klotz* did not address dock prohibitions, but rather "whether a conveyance of an easement appurtenant by warranty deed that expressly grants 'access to Eagle Lake' contemplates the right of the easement holder to build, maintain and use a pier at the lake end of the easement on the servient parcel" (*id.* at 1096), and remitted the matter for an interpretation of the easement's intent (*id.* at 1100).

Fourth, the opposition incorrectly claims that the dock is 100 feet from the Height's beach club swimming area and the beach club's existing dock. The existing dock/pier at the beach club is almost 400 feet east of where the Trust proposes constructing its dock/pier at the Premises. The swimming area is a seasonally cordoned-off area extending approximately 75 feet southwesterly from the beach club's dock/pier. The distance from the swimming area to the edge of the club's southwesterly property line is approximately 210 feet, and it is another approximately 105 feet to

the Trust's proposed dock/pier. The Trust's proposed dock/pier, and the vessels utilizing it, will not pose a danger to the swimmers at the beach club.

Notably, the beach club is adjacent to the North Ferry Company terminal (to the northeast). Commercial ferries operate in close proximity to the swimming area – and closer to the beach club and swimming area than the Trust's proposed dock/pier. The opposition raised no safety incidents with respect to ferry navigation.

Moreover, the Trust's proposed pier/dock will not result in any additional vessels utilizing the area, i.e. the proposed pier/dock will not create additional boat traffic. The same number of boats will utilize the area as did previously.

Based on the foregoing and the materials and testimony proffered, the Trust respectfully requests that the Board grant the Dock Application.

Respectfully submitted,

/s/John C. Armentano  
John C. Armentano

cc: Thomas Crouch, Town Attorney, via email [tcrouch@shelterislandtown.gov](mailto:tcrouch@shelterislandtown.gov) /  
[tcrouch@whalenfiler.com](mailto:tcrouch@whalenfiler.com)  
Amber Wilson, Town Clerk, via email [awilson@shelterislandtown.gov](mailto:awilson@shelterislandtown.gov)

# EXHIBIT “1”

## Memorandum

To: Shelter Island Town Board  
From: Town Attorney  
Re: Pike Dock Application  
Date: 12/11/2025

On December 1, 2025, during the Pike Dock Application public hearing, the Town Board asked for my opinion on whether the current Chapter 53 of the Town Code (“the new dock code”) applies to the instant application, or whether the Chapter 53 of the Town Code published December 2020 applies (“the old dock code”), attached to this memorandum as Exhibit “A”.

The Town Board adopted the new dock code on April 7, 2025, with an effective date of April 16, 2025. Under current Town Code § 53-2(B), if the application was submitted to the New York State Department of Environmental Conservation prior to February 13, 2024, then the old dock code applies. Here, the applicant obtained NYSDEC approval on January 18, 2024. Therefore, the Town Board should apply the old dock code attached as Exhibit “A” to its review of this application.

Thomas R. Crouch, Esq.  
Town Attorney

## Chapter 53

### DOCKS

#### ARTICLE I General Provisions

- § 53-1. Title.
- § 53-2. Applicability.
- § 53-3. Statutory authority.
- § 53-4. Enforcement.
- § 53-5. Definitions.

#### ARTICLE II Town-Owned Docks, Piers and Wharves

- § 53-6. Legislative findings.
- § 53-7. Permit required.
- § 53-8. Additional regulations.

#### ARTICLE III Commercial and Private Docks

- § 53-9. Permit application.
- § 53-9.1. Permit issuance and terms.
- § 53-9.2. Limitations on fresh water docks.
- § 53-10. Fees.

- § 53-11. Design and construction of private and commercial docks.
- § 53-12. Existing docks.
- § 53-13. Responsibilities.
- § 53-14. Regulations regarding living or residing on boats at docks.
- § 53-14.1. Storing and securing seasonal floating docks.
- § 53-15. Waivers.

#### ARTICLE IV Other Water Control Structures

- § 53-16. Permit required.
- § 53-17. Additional permit provisions.
- § 53-17.1. Limitations on water control devices on freshwater bodies.

#### ARTICLE V Additional Provisions

- § 53-18. Coordination with wetlands provisions.
- § 53-19. Power of Town Board to impose restrictions.
- § 53-20. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Shelter Island 10-2-2020 by L.L. No. 7-2020.<sup>1</sup> Amendments noted where applicable.]

#### GENERAL REFERENCES

Boats — See Ch. 40.  
Moorings — See Ch. 90.

Waterways — See Ch. 128.

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1. Editor's Note: This local law also superseded former Ch. 53, Docks, adopted 5-18-1999 by L.L. No. 4-1999, as amended.

ARTICLE I  
General Provisions

**§ 53-1. Title.**

This chapter shall be known as the "Town of Shelter Island Dock Local Law."

**§ 53-2. Applicability.**

This chapter shall regulate the use of Town-owned docks, piers, wharves and bulkheads; the size and placement of commercial and private docks; the size and placement of other water control structures; and the removal of materials from lands under water. The Town Board of the Town of Shelter Island deems it in the public interest to regulate the use, size and placement of docks and other structures in order to optimize the use of Town-owned underwater lands by the general public for recreational and shellfishing purposes while at the same time recognizing the riparian rights of upland owners.

**§ 53-3. Statutory authority.**

This chapter is adopted as a local law pursuant to the authority of the Municipal Home Rule Law and the New York State Constitution.

**§ 53-4. Enforcement.**

The Dock Inspector, shall be a member of the building department of the Town of Shelter Island, and is hereby authorized and directed to enforce the provisions of this chapter.

**§ 53-5. Definitions.**

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

**BOAT or VESSEL** — Any floating object capable of being used as a means of transportation in water and including any airplane capable of landing on water.

**BOATYARD** — A commercial facility for maintenance, construction and/or repair of any type of watercraft with or without provision of supplies, storage, fueling or the retail sale of boats, motors and marine equipment.

**CHANNEL** — Water areas specifically reserved for unobstructed movement of vessels which may be marked by navigational aids permitted by the United States Coast Guard and/or the State of New York and/or the Town of Shelter Island.

**COMMERCIAL DOCK** — A dock utilized for commercial purposes. Under this chapter, such dock shall be located in "B" Zone or be part of an existing commercial boatyard/marina.

**COMMERCIAL VESSEL** — A boat or vessel from which the owner obtains a significant portion of his income and/or which is registered as a commercial/passenger vessel either with New York State or the United States Coast Guard.

**DOCK** — Any structure whether floating and/or fixed designed to accommodate a boat, such structure being attached at least on one end to the upland and elsewhere to the underwater lands below the mean high-water mark, and including accessories to said structure, such as floats, dolphins, pilings, anchors and anchor lines, ramps, ladders, lifts and hoists. A permit for a dock shall run with ownership of the land.

**DOCK INSPECTOR** — The duly appointed Building Inspector of the Town of Shelter Island.

**FORESHORE** — The passageway around the perimeter of Shelter Island between the mean high- and mean low-water marks.

**OWNER(S)** — The person(s) or entity(ies) in whose name the upland to which the dock is connected is/are recorded in the office of the Suffolk County Clerk.

**PERMITTEE** — The owner to whom a dock permit has been issued.

**PLEASURE VESSEL** — All boats or vessels other than government, commercial and institutional.

**PRIVATE DOCK** — A dock utilized by the owner or occupant for pleasure vessels and/or recreational purposes.

**RESIDENT** — Includes all domiciliaries who have actually and consistently resided within the Town of Shelter Island for a period of not less than six months immediately preceding their application for a permit hereunder and/or owners of real property situate in the Town of Shelter Island.

**RIPARIAN RIGHTS** — The entitlement of the owner of upland property fronting on a body of water to reasonable access to and use of such water.

**SHORELINE** — The interface of waterway and upland, at specified location and tidal condition.

**TOWN DOCK** — A dock or pier owned or managed by the Town.

**TOWN WATERS** — All waters and land below the mean high-water mark over which the Town of Shelter Island has jurisdiction.

**WATER CONTROL STRUCTURE** — Is a structure, including but not limited to, bulkheads, groins or jetties intended to manage the impact of water upon the adjacent land.

**WATER FRONTAGE** — The line along the mean high-water mark which defines the interface between a lot and the waterway.

## ARTICLE II

### Town-Owned Docks, Piers and Wharves

#### § 53-6. Legislative findings.

It is hereby determined that the existing docks, piers and wharves of the Town of Shelter Island located at Congdon's Creek at the easterly terminus of Congdon Road and at Dering Harbor at the easterly terminus of Bridge Street in the Town of Shelter Island are hereby

established as self-supporting improvements, pursuant to § 141 of the Town Law of the State of New York.

**§ 53-7. Permit required.**

No person shall moor or secure a boat at the docks, piers and wharves located either at Congdon's Creek or at Dering Harbor without first obtaining a permit from the Town Clerk, except as hereinafter provided. Said permits shall include a sticker, which must be displayed on the authorized boat adjacent to the displayed registration number.

**A. Congdon's Creek dock, pier and wharves.**

- (1) A dock permit may be issued for any type of boat with a minimum length of 12 feet.
- (2) Any such permit shall be valid for a term ending March 31 of each year. During the transition to this annual renewal date, permits shall be issued for varying periods all to terminate March 31, 2012.
- (3) No slip shall hold more than one boat which shall be no longer than 35 feet length overall. The beam of the boat shall be less than the distance between the standoff piles for the slip for which the permit is issued.
- (4) Each applicant for a permit or permit renewal for a slip shall provide the Town Clerk with the applicant's name, proof of residency, proof of his ownership of boat, description of boat, number and name of boat and proof of proper registration. A current photo of the boat must be submitted with the initial permit application. Any permittee must own the same boat at the time the permit is issued within 60 days thereafter.
- (5) Initial and renewal permits may be obtained directly from the Town Clerk upon submission of proof satisfactory to the Town Clerk that said permittee is a resident of the Town of Shelter Island and owns the same boat as described on the permit. If such permittee wants to berth a different boat, he must provide the Town Clerk with proof of his ownership of such boat, a description of the boat, its name and registration number and proof of proper registration of boat. Slips not renewed by April 1, 2012, and every year thereafter, including mail renewals postmarked after April 1, shall be assigned by the Town Clerk to the next applicant on the wait list.
- (6) The Town Board from time to time may establish, on its own motion, the fees for docking and mooring of boats and for the wait list.
- (7) No person shall moor or secure a boat at the end of the dock more than two consecutive hours, nor shall any boat so secured or moored exceed 30 feet in length. A dock permit shall not be required in this event.
- (8) In the event that there are more applications than available spaces, a wait list will be established to determine the awarding of permits. A person must meet residency requirements to be placed on the wait list and supply their name and

contact information. A person on the waiting list who qualifies for a sublet may remain on the waiting list for a slip assignment.

- (9) A permittee who is unable to have his/her boat in slip from July 1 through September 30 (high season) must notify the Town Clerk by June 1. The Town Clerk will offer the slip for a high season sublet to the next interested applicant on the wait list. If the applicant accepts, all the information for a new permit application must be submitted, and the permit fee paid to the Town Clerk for that high season period, and the Town Clerk will issue a permit for occupancy during that high season. The original permittee may only do a high season sublet twice during his slip tenancy.
- (10) Off-season sublet: October 1 through June 30. A permittee may allow another person to use his slip from October 1 through June 30 provided he notifies the Town Clerk, and the sublessee submits all the information for a new permit application and pays the permit fee to the Town Clerk for that off-season period, and the Town Clerk will issue a permit for occupancy during that off-season.
- (11) If permittee dies, the permit for that slip may be transferred only to a surviving spouse, providing they meet all requirements of this chapter.
- (12) All permittees, including sublessees, shall comply with the provisions of this chapter. Upon a second violation of this chapter, the permit may be revoked after a noticed hearing before the Waterways Committee.

**B. Dering Harbor dock, pier and wharves.**

- (1) A dock permit may be issued for the west side of the dock for a period of nine months, extending from September 15 through the following June 15. The use of the west side of the dock shall be limited to resident commercial vessels.
- (2) Applications for a permit for resident commercial vessels shall be made no later than September 16 of each year. In the event that there are more applications than available spaces, a lottery will be held to determine the awarding of permits. If there are more spaces than applications, the Town Board reserves the right to continue to accept additional applications for spaces remaining. Otherwise, the use of the west side of the dock shall be in accordance with Subsection B(5) herein.
- (3) Each applicant shall provide the Town Clerk with his name, Shelter Island address, proof of his ownership of boat, description of boat, number and name of boat and proof of proper registration.
- (4) During the period from June 15 to September 15 of each year, no person shall moor or secure a boat for more than two consecutive hours. A dock permit shall not be required in this event.
- (5) During the period from September 16 to June 14 of each year, a boat may be moored or secured for no more than 10 consecutive days on one occasion during such period, provided that the Town Clerk has been notified, in writing, of the same.

- (6) The Town Board from time to time may establish, on its own motion, the fees for docking or mooring of boats.

**§ 53-8. Additional regulations.**

- A. No person shall live or reside on a boat docked, secured or moored at any Town-owned dock, pier, wharf, bulkhead or similar facility within the Town.
- B. No person shall moor or secure a boat for more than two consecutive hours at the Town-owned bulkhead at Grace's Lane in Dickerson Creek, except that during designated scallop season, a resident with a shellfish permit issued by the Town of Shelter Island may use the floating dock or bulkhead for purposes relating to the taking of scallops only; provided, however, that any such boat shall not exceed 25 feet in length and must be moored or secured parallel to the floating dock or bulkhead.
- C. No person shall moor or secure a boat on the end or east face of the Town-owned dock at Daniel Lord Road. The west face along the launching ramp is for active launching, hauling, loading, and unloading of boats only and has a ten-minute docking limit.
- D. Acceptance of a permit under this chapter shall constitute an agreement that the permit holder will hold the Town of Shelter Island and its authorized representatives completely blameless for any liability in connection with the mooring or securing of his boat, nor is the Town responsible for loss, damage or theft of boats and/or other contents or to any other private property.
- E. The Town Board reserves the right to enact additional rules and regulations with respect to mooring or securing boats at docks, piers, wharves, bulkheads or similar facilities owned by the Town of Shelter Island. Any permit hereafter issued shall be issued subject to the permittee conforming to any rules and regulations now in force and effect or that thereafter may be adopted by resolution of the Town Board.

**ARTICLE III**

**Commercial and Private Docks**

**§ 53-9. Permit application.**

- A. A permit shall be required for the construction, alteration or modification of a dock. A permit shall not be required for the repair of a dock, except in any of the following circumstances:
- (1) When the total cost for such repair of an existing dock exceeds \$10,000.
  - (2) When the repair is other than in kind and in place.
  - (3) When no previous permit has been issued for the construction of a dock.
  - (4) When less than 30% of the original structure remains in a structurally sound condition.
  - (5) Extension of utilities (including water, electric, cable and telephone) to a dock requires a building permit issued by the Town Building Department.

- B. Applications for permits may be made by the owner or the agent of that owner utilizing standard forms available from the office of the Town Clerk.
- C. Each application for a new dock shall be accompanied by the following:
- (1) A certified survey of the owner's property on which the proposed dock is to be located, indicating the zoning district and showing property lines, exact location of the proposed dock and other structures, any unusual natural features on the property and adjacent waters and depths to the nearest foot at ten-foot intervals to the end of the dock, measured at mean low water.
  - (2) An accurately dimensioned scale drawing of the proposed dock in plan and elevation format showing the structural design details of the dock, including the location and type of services and utilities (including water, electric, cable and telephone).
  - (3) Specifications for the construction materials to be used.
  - (4) Any copies of applications and permits related to other agencies as may be required.
  - (5) A statement signed by the owner that the materials and design of the dock will meet all pertinent federal, state, county and Town regulations.
  - (6) A statement signed by the owner that acceptance of a permit shall constitute an agreement that the permittee:
    - (a) Will indemnify and hold the Town of Shelter Island and its authorized representatives harmless from any liability in connection with any property damage or bodily injury that may occur as a result of the issuance of a permit hereunder, nor is the Town responsible for the loss, damage or theft to boats and/or their contents; and
    - (b) Consents to the entry on the property by the Dock Inspector or other authorized representative of the Town in order to make such inspections as the Town may deem necessary to ensure compliance with the terms and conditions of the permit.
  - (7) The following proof of insurance in force:
    - (a) From the owner, a certificate of insurance for at least \$300,000 liability on the location and operations covered by said permit; and
    - (b) From the contractor performing the operations covered by said permit, an owner's/contractor's policy issued in favor of the Town of Shelter Island for the liability limits of at least \$500,000 covering operations of the contractor pursuant to said permit.
  - (8) The requisite fee to be determined by the Town Board.
  - (9) Any other information which the Town Board may deem necessary.
- D. In addition to the above, it shall be a prerequisite for a complete application that the offshore location for the proposed dock be clearly delineated by a minimum of four

stakes and that additional stakes be placed at the property boundaries nearest the dock. The location of these stakes should correspond exactly to the configuration of the proposed dock on the scale drawing accompanying the permit application.

**§ 53-9.1. Permit issuance and terms.**

- A. All applications for permits shall be subject to a public hearing, except that applications to repair, replace or reconstruct any devices or structures included in this article shall be granted or denied by the Town Board without a public hearing. In making its determination, the Town Board shall consider the recommendations of the Waterways Committee of the Town Board.
- B. The validity of any permit issued shall be conditioned on the issuance of permits from other governmental or municipal authorities as may be required.
- C. A permit will expire 12 months from the date of issuance. A permit may be extended by resolution of the Town Board for an additional period of one year without a public hearing, provided that the request for same is submitted no later than the expiration date.
- D. Acceptance of a permit shall constitute an agreement that it shall be the owner's responsibility to endure proper usage of the structure at all times, to maintain the structure in conformance with these regulations and in the interests of public safety and protection of the waterways and not to obstruct any rights of the public as may exist to use the underwater lands.
- E. Acceptance of a permit shall also constitute an agreement that the owner shall hold the Town of Shelter Island and its authorized representatives completely blameless for any liability in connection with property or bodily damage that may arise from the issuance of this permit.
- F. No dock construction may be commenced under the permit until the Building Department is notified by the dock contractor of the date construction will commence.
- G. No certificate of compliance certifying satisfactory completion of a new dock, or other dock improvement designated by the Town Board, shall be issued until a survey showing the as-built location is submitted to the Building Department.
- H. In addition to any other rights conferred, a permit shall convey a nonexclusive right to use public bottom land owned by the Town of Shelter Island upon which any legally permitted dock is located.

**§ 53-9.2. Limitations on fresh water docks.**

- A. No fixed dock, float or ramp, platform or other structure shall be constructed upon any body of fresh water owned by the Town of Shelter Island and no permit shall be issued for any such construction.
- B. Preexisting nonpermitted and nonconforming structures existing as of June 30, 2020, are exempt from the standards set forth in § 53-9.2A of this chapter subject to the following:

- (1) They may be repaired or replaced in kind and in place; or
- (2) They may be altered, modified, or repaired where after review, is determined by the Town Board that any changes significantly lessen the preexisting nonconformity; or
- (3) Any structure, deteriorating, damaged, or destroyed by any cause, including an act of God where 30% or more of the original structure is usable and shall be permitted to remain so long as the repairs are in kind or in place or are determined by the Town Board to significantly lessen the preexisting nonconformity.

#### **§ 53-10. Fees.**

- A. Permit fees for the construction, alteration, modification or repair of a dock shall be established by resolution of the Town Board.
- B. Permit fees for work on commercial docks shall not be more than twice that charged for private dock permit fees.

#### **§ 53-11. Design and construction of private and commercial docks.**

- A. A dock shall not be an impediment nor a menace to navigation and shall at all times provide and allow suitable and unobstructed passageway around or over such dock so that the public will have free unobstructed passage along the foreshore of Shelter Island.
- B. The location of a dock shall cross the water frontage of a lot with the same setback requirements from the extremes of that water frontage as apply for the principal dwelling on that lot, but in no case less than 25 feet. The dock shall extend seaward in a direction and configuration that does not intrude on neighboring lots' equivalent rights to current or future dock location.
- C. Length and depth of docks.
  - (1) At mean low-water, a private dock may not extend into the waterway farther than the equivalent of 15% of the shortest distance at mean low-water from the shoreline where the dock is located to the opposite shoreline.
  - (2) A private dock may not extend either more than 100 feet offshore from the mean high-water mark on the owner's upland property or beyond the point where mean low-water depth reaches four feet, whichever of these two conditions occurs sooner.
  - (3) A private dock may not extend in total linear measure of all walkways, ramps, floats and distance to tie-off pilings more than one and one half times the specified maximum off-shore distance of the dock.
  - (4) A commercial dock may not extend either more than 300 feet offshore from the mean high-water mark of the owner's upland property or beyond the point where

the mean low-water depth reaches six feet, whichever of these two alternative conditions occurs sooner.

**D. Width of docks.**

- (1) A private dock, exclusive of floats, but including walkways and ramps, shall be no wider than five feet; the deck area of floats shall be no greater than 200 square feet.
- (2) A commercial dock, exclusive of floats, but including walkways and ramps, shall be no wider than 10 feet; floats shall be no wider than 12 feet.

**E.** Any waterway's illumination, whether dock-mounted or shore-mounted, shall be focused downward and shall not directly light an area more than 10 feet beyond the foreshore or the footprint of the dock. Any illumination presently in existence shall be in compliance with this subsection no later than six months after the adoption of this chapter.

**F.** Private dock installations to store or convey fuel or sewage shall not be permitted.

**§ 53-12. Existing docks.**

The following are exempt from the standards set forth in § 53-11 of this chapter:

- A.** Any dock in existence prior to the adoption of this chapter that is maintained in kind and in place; or
- B.** Any alteration, modification, or repair to a preexisting nonconforming dock which, after review, is determined by the Town Board to significantly lessen the preexisting nonconformity; or
- C.** Any repairs of a dock, deteriorating, damaged, or destroyed by any cause, including an act of God where 30% or more of the original structure is usable and shall remain so long as the repairs are in kind or in place or are determined by the Town Board to significantly lessen the preexisting nonconformity.

**§ 53-13. Responsibilities.**

- A.** Acceptance of a permit shall constitute an agreement that it shall be the owner's responsibility to ensure proper usage of the dock at all times, to maintain the dock and all appurtenances and equipment in conformance with these regulations and in the interests of public safety and protection of the waterways and to not obstruct the right of the public to pass along the foreshore between the mean high- and low-water marks.
- B.** Acceptance of a permit shall also constitute an agreement that the owner will hold the Town of Shelter Island and its authorized representatives completely blameless for any liability in connection with property or bodily damage that may arise from the issuance of this permit.
- C.** Should the Dock Inspector determine that a dock has become a threat to life or property or a menace to navigation, he shall immediately notify the Town Board. Upon receipt

of such notice, the Town Board shall direct the Dock Inspector to notify the owner of his findings regarding the condition of the dock by certified and regular mail and by posting such notification upon the owner's property of his findings regarding the condition of the dock. In the event that the owner does not remove or repair the dock within the time required by the Dock Inspector, the owner shall be notified by certified and regular mail that the Town will make any necessary repairs to render the dock safe at the owner's expense. Should the dock require removal, the owner shall be notified by certified and regular mail of the Town's intention to make an application to the Supreme Court, Suffolk County, for an order determining the dock to be a threat to life or property or a menace to navigation and directing that it be removed by the Town with all expenses incurred in this proceeding and the removal to be borne by the owner.

**§ 53-14. Regulations regarding living or residing on boats at docks.**

- A. No person shall live or reside for more than one week on a boat berthed at a private dock.
- B. Any person who shall live or reside for more than 48 hours on a boat with a head (bathroom) at a private dock must maintain a written log indicating a pump out at least once per week and have such log as well as written documentation (such as a receipt from the pump out facility) available for inspection by the dock inspector or bay constable upon request.
- C. No person shall live or reside on a boat at a commercial dock for any length of time without the expressed permission of the dock or marina owner and comply with all marina's policies regarding pump-outs and discharge, and all relevant laws and regulations.
- D. Any vessel equipped with a head docked within the waters of the Town of Shelter Island shall maintain their Y valve in a closed and secured position and make the equipment available for inspection by the dock inspector or bay constable.

**§ 53-14.1. Storing and securing seasonal floating docks.**

- A. Any floating docks and ramps may not rest on or be stored in any vegetated tidal wetland.
- B. Floats that remain in the water when not in use must be properly secured and remain in the area designated in § 53-11A and B and not otherwise violate any provision of this chapter.

**§ 53-15. Waivers.**

The Town Board shall have the authority to modify or waive, subject to any appropriate conditions, any provision(s) of this chapter as in its judgment is not requisite to the interests of the public health, safety and general welfare, except where such waiver would be contrary to other ordinances or state law. A request for such waiver may be initiated by written request to the Town Board accompanied by documentation that fully explains and supports

the reasons for the request. Additional information may be sought from the applicant at the discretion of the Town Board.

**ARTICLE IV**  
**Other Water Control Structures**

**§ 53-16. Permit required.**

No person shall construct, repair, replace or reconstruct or place any bulkhead, pile, float, building, pier, wharf, jetty, groin, dolphin, dike, dam or other water control device or other structure, any part of which is embedded in or attached to land above or below water, in or on any Town waters, Town lands under water, foreshore or state or county lands under water within the geographical limits of the Town, nor shall any person remove or move any sand, gravel or other material from such lands in the Town of Shelter Island without first obtaining a permit from the Shelter Island Town Board. The provisions of this section do not apply to the installation, repair or replacement of moorings or stake, mooring and pulley systems, the regulations for which appear in Chapter 90 of this Town Code.

**§ 53-17. Additional permit provisions.**

- A. Any water control structure in existence prior to the adoption of the chapter that is maintained in kind and in place; or
- B. Any alteration, modification, or repair to a preexisting nonconforming water control structure which, after review, is determined by the Town Board to lessen the preexisting nonconformity; or
- C. Any repairs of a water control structure, deteriorating, damaged, or destroyed by any cause, including an act of God where 30% or more of the original structure is usable and shall remain so long as the repairs are in kind or in place or are determined by the Town Board to lessen the preexisting nonconformity.

**§ 53-17.1. Limitations on water control devices on freshwater bodies.**

- A. No water control structure shall be constructed upon any body of freshwater owned by the Town of Shelter Island and no permit shall be issued for any such construction.
- B. Preexisting nonpermitted and nonconforming structures existing as of June 30, 2020, are exempt from the standards set forth in § 53-17.1A of this chapter subject to the following:
  - (1) They may be repaired or replaced in kind and in place; or
  - (2) They may be altered, modified, or repaired where after review, is determined by the Town Board that any changes significantly lessen the preexisting nonconformity; or
  - (3) Any structure, deteriorating, damaged, or destroyed by any cause, including an act of God where 30% or more of the original structure is usable and shall be

permitted to remain so long as the repairs are in kind or in place or are determined by the Town Board to significantly lessen the preexisting nonconformity.

**ARTICLE V**  
**Additional Provisions**

**§ 53-18. Coordination with wetlands provisions.**

- A. In addition to the requirement of this chapter, any dock or other water-control structure requiring construction, dredging, filling or alteration in, on or over a wetland or within a regulated area as defined in Chapter 129 shall apply for a permit under Chapter 129.
- B. In the event of a conflict between any provision of Chapter 53 (Docks) and Chapter 129 (Wetlands), the provisions of Chapter 129 shall apply.

**§ 53-19. Power of Town Board to impose restrictions.**

In issuing a permit under this chapter, the Town Board may impose such reasonable conditions and restrictions as will prevent the obstruction or interference with navigation, the public use of Town waters or lands under Town waters or shall be in furtherance of the public interest.

**§ 53-20. Penalties for offenses.**

- A. An offense against the provisions of this chapter shall constitute a violation under the Penal Law and shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.
- B. A second offense against the provisions of this chapter within one year after a prior offense shall constitute a violation under the Penal Law and shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 15 days, or both.
- C. A third or subsequent offense against the provisions of this chapter within one year of the initial offense shall constitute a misdemeanor under the Penal Law and shall be punishable by a fine of not more than \$1,000 or by imprisonment for not more than 15 days, or both.
- D. Any violation of this chapter that is not corrected within 30 days of receipt of a notice of violation shall may be charged as a separate and distinct violation.
- E. The Town may require removal of any dock or other structure constructed in violation of this chapter.

