

Chapter 70 DOCKS, PIERS AND BULKHEADS

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[HISTORY: Adopted by the Mayor and Council of the Borough of Mount Arlington 12-31-04 as Ord. No. 17-04. Amended in its entirety 3-29-2005 by Ord. No. 07-05. Subsequent amendments noted where applicable.]

§ 70-1. Permit required.

It shall be unlawful to construct, enlarge, repair, renovate, alter, reconstruct or demolish a dock, pier, bulkhead or similar structure without first filing an application with the Dock Inspector or the appropriate Borough Official, in writing and obtaining the required permit therefor. The application for a permit shall be submitted on a form provided by the Dock Inspector of the borough and shall include proof of all prior approvals issued by the various state and county agencies having jurisdiction. Such application shall also include a zoning permit issued by the Zoning Officer of the borough and two (2) copies of the construction plans for the proposed work.

§ 70-2. Definitions.

BULKHEAD — A retaining structure designed for shore protection.

BULKHEAD LINE — The high-water mark of ten and thirty hundredths (10.30) above the dam as recorded at the Lake Hopatcong State Park or the line established by the Bureau of Navigation, State Department of Environmental Protection, defining the lake's permanent shoreline.

CATWALK — Any structure extending transversely from the main walk.

DOCK — Any structure extending lakeward of the bulkhead line for the purpose of mooring boats or for gaining access to moored boats.

MARINA — A public, semipublic or private facility capable of berthing of mooring five (5) or more boats.

PIER — A structure built to extend from land into the water for mooring boats or to which a deck or dock or other structure may be affixed.

PIERHEAD LINE — A line running parallel with the bulkhead line and extending no more than fifty (50) feet from said bulkhead line as approved by the National Resources Council and Bureau of Navigation, State Environmental Protection, beyond which no dock, pier or marina or other structure, permanent or temporary, floating or affixed to shore or lake bottom may be located.

§ 70-3. Standards—Accepted practice.

This chapter shall be the primary guide to accepted engineering practice in respect to any material, system or method of construction specified therein.

When this chapter, or a national standard and appendices it adopts by reference are silent, a manufacturer's recommendation for the installation of any material or assembly may be considered to be acceptable engineering practice, provided, however, that a manufacturer's recommendation shall not be read to overrule this chapter or any national standard or appendix which it adopts by reference.

The Borough of Mount Arlington hereby adopts Chapters 16, 18 and 23 of the International Building Code, 2000 edition, known as the IBC/2000 as the design standards for all docks, piers, bulkheads and similar structures constructed, repaired or maintained in the borough.

§ 70-4. Design.

Design documents for all new construction, renovation or reconstruction of a dock, pier, bulkhead or similar structure shall be prepared by an architect or engineer licensed in the State of New Jersey and shall bear his or her signature and seal in accordance with state statutes. Exception: The owner of a single-family dwelling may prepare his or her plans for the construction, renovation or reconstruction of a structure used or intended to be used exclusively at the residence he or she occupies.

§ 70-5. Enforcement.

It shall be the duty of the Borough Dock Inspector to administer and enforce the provisions of this chapter.

§ 70-6. Inspection of premises.

The Dock Inspector or his designated deputies shall have the right and authority, at any reasonable hour, to enter any premises, lot or land, whether already erected or put into use or in the course of erection and putting into use, for the purpose of determining whether or not the provisions of this chapter are being complied with.

§ 70-7. Fees.

The fee for a permit to construct, enlarge, repair, renovate, alter, reconstruct or demolish a dock pier, bulkhead or similar structure shall be \$20. per each \$1,000. of estimated cost of the work. The cost of the work shall be based on prevailing costs of material and labor as furnished by the contractor of record and approved by the Dock Inspector. The minimum fee shall be \$40. There shall be no separate fee for the certification of the work, issued by the Dock Inspector upon successful completion.

§ 70-8. Violations and penalties.

For any and every violation of a provision of this chapter and upon failure to comply with a written notice or order to remove such violation within five (5) days after service of such notice or order, the owner, agent or contractor, leasee or tenant of any part of a structure, premises, lot or land involved in such violation shall be subject to a fine not exceeding \$500. per violation. Each and every day the violation continues after the owner, agent, or contractor has been notified shall be deemed a separate and distinct violation.

§ 70-9. Appeals.

Any person who is aggrieved by any ruling, action, notice, order or decision of the Dock Inspector of the Borough of Mount Arlington may file an application for a review by the Borough Engineer. The request for such review shall be filed by the tenth day after receipt of the ruling, notice, order or decision complained of. The request shall be submitted in writing and shall briefly set forth the appellant's position. It shall reference specific provisions of a statute, regulation, code or practice the applicant relies upon. A nonrefundable fee of \$250. shall be submitted with each application for a review.

The Borough Engineer, upon reviewing such application, shall render a decision in writing. He may affirm, modify or vacate the ruling, action, notice, order or decision of the Dock Inspector. Failure by the Borough Engineer to review the application and render a decision within fifteen (15) working days of receipt shall be deemed a denial of the appeal. Any party, including the Dock Inspector, may appeal the decision of the Borough Engineer to the Law Division of Superior Court within the time allowed by the rules of the court.

§ 70-10. Ice-Retardant Systems. [Added 11-9-2010 by Ord. No. 08-10]

A. Purpose. It is the intent of this section to regulate the installation and use of ice-retardant systems on all waterfront properties within the Borough of Mount Arlington for the protection of persons and property and to provide for the public health, safety and welfare of the Borough of Mount Arlington and its inhabitants.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AFFECTED AREA OF ICE — The area of the water body or ice surface disturbed by the operation of an ice-retardant system. Said disturbed or affected area includes open water, weakened ice (excessively cracked), thin ice (less than four (4) inches in depth) and area where adjacent ice is covered by a film of water.

BULKHEAD LINE — The high-water mark of 10.30 feet above the dam as recorded at Lake Hopatcong State Park or the line established by the Bureau of Navigation, State Department of Environmental Protection, defining the lake's permanent shoreline.

ICE-RETARDANT SYSTEM — A mechanical device(s) or a series of mechanical devices designed to retard or prevent the formation of ice in or around lakefront structures. Said devices utilize as their mode of operation one or more of the following mechanisms: pumped air, artificial water turbulence or the addition of heat to the water body.

NORMAL OPERATING CONDITIONS — The average winter conditions to be utilized in the design or operation of an ice-retardant system and to be utilized in gauging compliance with the terms of this section. Said "normal operating conditions" is defined as an average of four (4) or more inches of ice on the applicable water body. Such term excludes any time period characterized by unseasonably warm temperature (average daily temperature above forty (40) degrees Fahrenheit for three (3) or more consecutive days) or rainfall (greater than one-half (1/2) inch of rainfall per day) and the three (3) days immediately thereafter. In any enforcement action under the terms of this section, the burden is on the operator of the ice-retardant system to establish that normal operating conditions were not existent on the date of the alleged violation.

OWNER or OPERATOR — The owner of record of a tract of land according to the tax rolls of the Borough of Mount Arlington or any person occupying said premises or utilizing the property.

PERSON — Any individual, association of individuals, corporation or partnership.

PIERHEAD LINE — A line running parallel to the bulkhead line and extending not more than fifty (50) feet from said bulkhead line, as approved by the Natural Resources Council and Bureau of Navigation, State Department of Environmental Protection, beyond which no dock, pier or marina or other structure, permanent or temporary, floating or affixed to shore or lake bottom, may be located.

PROTECTED STRUCTURE — Any lakefront or within-lake structure which the ice-retardant system is designed to protect. Such protected structures include but are not limited to docks, piers, bulkheads, catwalks, seawalls and boathouses.

C. Authorized use; compliance required.

- (1) Utilization of ice-retardant systems is hereby authorized within the municipal limits of the Borough of Mount Arlington from December 1 of each year through April 1 of the following year.
- (2) No person shall operate an ice-retardant system within the municipal limits of the Borough of Mount Arlington unless said operation is in conformance with this section.

D. Operational requirements.

- (1) All ice-retardant systems shall be marked with an appropriate sign placed along the shore or on the protected structure specifying "Danger, Thin Ice." Such sign shall be a minimum of two feet by three (2 x 3) feet in size and shall feature letters of a minimum height of three (3) inches and colors in such a way as to be clearly visible on the ice from a distance of one hundred (100) feet.
- (2) Under normal operation conditions, the affected area of ice created by the ice-retardant system shall not extend outward more than twenty-five (25) feet from the shoreline, or to the outer edge of the protected structure, whichever is less.
- (3) Under normal operation conditions, the affected area of ice created by the ice-retardant system shall not extend horizontally more than twenty-five (25) feet or to the owner's property line, whichever is less, measured along the shoreline, from the protected structure.
- (4) Unless the ice-retardant system has been designed and approved in accordance with Subsection F. of this section, no system shall be designed or operated in such a way as to prevent ingress or egress to any portion of the water

body or to foreclose the formation of ice across a channel.

- E. Waiver of requirements. The Mayor and Council may, by resolution, waive the requirements of this section in situations of hardship or exceptional public necessity. "Exceptional public necessity" shall include but not limited to a necessity to maintain an open channel of water for ferry service or access to island lakefront homes. In considering such an application, the Mayor and Council may refer the application to the Lake Hopatcong Commission for comment. In adopting the resolution, the Mayor and Council shall specify requirements as to markings and lighting. Such requirements can include but are not limited to requiring buoys to be placed in the frozen water body to clearly mark the approach, requiring nighttime illumination or flashing light to indicate that open water is present, limiting the size of the affected ice area to the minimal necessary for the use and/or publishing public notice of the condition to specify minimal levels of insurance requirements.
- F. Enforcement; violations and penalties.
- (1) The Construction Official is hereby designated as the enforcement officer under the terms of this chapter. All complaints received by any municipal agency concerning the operation of ice-retardant systems shall be referred to the Construction Official. Upon receipt of a complaint, the Construction Official shall investigate within five (5) days and, if the complaint is found justified, notify the owner and operator of the terms of this section and require compliance within an additional five (5) days. The Construction Official may reduce the time period for compliance when the interest of public safety so requires. If the owner or operator of the system fails to undertake the corrections within the specified time frame, the Construction Official may cause a summons to be issued in the Joint Municipal Court of Dover to enforce the requirements of this section.
- (2) A violation of the terms of this section, including the operational requirements, shall be punishable by a fine not to exceed \$100. for the first offense, \$200. for the second offense and \$400. for the third and subsequent offenses. Each day that a violation of this section continues may be deemed to be a separate offense.
- G. Liability. Compliance and/or noncompliance with the requirements of this section shall not preclude any civil action for damages arising from injuries incurred through the operation of an ice-retardant system.
- H. Construal of provisions. Nothing in this section shall be construed as repealing any provision of any other municipal ordinance. In the event that any regulation provided above shall vary from the same or a similar regulation of any other municipal ordinance, the more restrictive provision of such ordinance shall be deemed to control.

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