

CITY OF RYE
LOCAL LAW NO. 2 2018

A local law to amend Chapter 64 “Boats and Harbors” of the Code of the City of Rye by amending Chapter 64, as follows:

Be it enacted by the City Council of the City of Rye as follows:

Section 1: Chapter 64. Boats and Harbors

Article I. Boats and Docks.

§ 64-1. Excursion boats.

With the exceptions set forth in § 64-1(A), no person shall operate excursion boats within the City or operate boats regularly carrying passengers or freight, or both, without first obtaining the consent of the Council and subject to such restrictive provisions as the Council may deem advisable, except that this section shall not apply to boats or launches running to and from docks of Yacht Clubs

- A. Boat excursions for the purposes of duck hunting, kayaking, stand up paddle boarding or other similar contracted for activities shall be permitted upon issuance of a permit by the Boat Basin Supervisor.

Article II. Harbors

§ 64-2. Title, Scope and purpose.

A. This article shall be known as the “Harbor Ordinance of the City of Rye” and shall apply to all boats and moorings within City-regulated waterways, as defined in § 46-a of the Navigation Law, exempt the areas under the jurisdiction of the Westchester County Park Commission.

B. The general purpose of this article is to keep the harbor sanitary and safe, make the best use of available mooring space within the City waterways so as to accommodate more craft, avoid congestion, avoid obstruction of the channels and regulate the operation and speed of boats.

§ 64-3. Definitions.

BAY CONSTABLE - Seasonal employee as defined under Westchester County Civil Service

BOAT – Includes every kind of boat, houseboat, vessel, or floating craft, including but not limited to, jets skis, kayaks, paddle boards, and canoes.

BOAT BASIN SUPERVISOR – The administrative official appointed by the City Manager to oversee the Boat Basin daily functions.

MOORING FIELD – The Rye Harbor Mooring Field is that portion or portions of the harbor which have sufficient depth of water for the mooring of boats, and which have proper and secure permanent moorings organized in a safe separation pattern for the storage of boats. The mooring field shall not include or intrude upon any portion of the navigable channels in the harbor.

YACHT CLUB – A club organized to promote and regulate yachting and boating.

§ 64-4. Boat identification.

- A. All boats anchored or moored in Rye's waterways, including docks, shall be registered or documented in compliance with federal and state laws and in accordance with this Chapter.
- B. Identification. Vessel operators shall identify themselves and produce the vessel's registration to city, state or federal law enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of a violation of this section.

§ 64-5. Discharges from boats.

No garbage, oil, sludge, paper, refuse, debris, sewage or waste material of any kind shall be thrown, deposited or permitted to fall from any boat into any part of the City waterways, except insofar as otherwise permitted in the use of toilet facilities as provided in this article.

§ 64-6. Toilet facilities.

The owner and operator of every boatyard or marine service yard which provides berths for boats, and the owner and operator of every yacht club, marine service yard or any other property which provides, at such club, yard or property, accommodations for berthing dinghies or other tenders for boats equipped with toilets, moored or operated in City waterways, shall maintain suitable toilet facilities on shore for the accommodation of the users of said boats and shall post a sign clearly visible to the users of said boats, reading in substance as follows: "The Harbor Ordinance of the City of Rye prohibits discharging contents of toilets of boats into Milton Inner Harbor, the areas of Mamaroneck Harbor and Port Chester Harbor within the junction of the City of Rye and within 500 feet of any bathing beach, and requires that when such boats are occupied, the toilets thereof shall be rendered inoperative. The owner and person in charge of each offending boat is liable for the penalty prescribed."

§ 64-7. Living on boats.

- A. Except as hereinafter provided, no person shall live on any boat moored or docked in a marina or in waters within 500 feet of any bathing beach.
- B. No person shall live on any boat moored or docked in Milton Inner Harbor or in the areas of Mamaroneck Harbor and Port Chester Harbor within the jurisdiction of the City of Rye for more than 48 hours, during which any person living on such a boat must fully comply with § 64-5 hereof.

C. Subsection B of this section shall not apply to commercial boats while actively engaged in construction or dredging work or discharging cargo, or to boats occupied by owners and crews only while being repaired in a boatyard, provided that there is full compliance with § 64-5 hereof.

D. The use of galley stoves or other cooking or heating appliances using gasoline for fuel on boats in Milton Inner Harbor is prohibited.

§ 64-8. Noise on boats.

The operation of any radio, or television or the use of any musical instrument or other sound-making instrument or device on any boat in such a manner as to disturb the peace is prohibited, except that the transmission of audible signals that are necessary for normal navigation or for emergency purposes is permitted.

§ 64-9. Moorings and floats.

Within the jurisdictional area provided by § 46-a of the Navigation Law and § 64-2 of this chapter, the following restrictions apply:

A. No boat shall be moored within the lines of any channel.

B. No person shall anchor or moor a vessel or float in a mooring area without first obtaining an annual mooring permit from the Boat Basin Supervisor. Such permit shall be applied for on forms available at the Boat Basin and shall be accompanied by an application fee, current inspection certificate, and proof of insurance as shall be fixed from time to time by resolution of the City Council. The person shall file annually with the Boat Basin a local address of an authorized agent for legal service of process, in order to have a local contact in case of an emergency or violation of this chapter. Upon receipt of a properly prepared application, the Boat Basin Supervisor shall determine if the application is complete and, if so, shall process the application. No application shall be deemed complete until the permit fee is paid. No permit shall be issued if the person has any unpaid dues or fees from prior years. Any neighborhood association, Yacht Club, or other entity administering the moorings of its membership which has a regular and comprehensive mooring administration and annual maintenance program shall submit a list of the moorings which require a permit on an annual basis. Such list shall also include either the name of the boat or the registration number as well as the GPS coordinates of all moorings. The annual submission shall include the quantity of moorings in the program, payment of the permit fee for that quantity of moorings and a certification to the Boat Basin Supervisor that each mooring within the program has been properly and safely maintained in accordance with the provisions of Sec. 64-9(F). The annual submission shall also include the name, local address, cell phone number and email address of two authorized agents for emergency contact and legal service of process for the moorings on the list.

C. An annual mooring permit, which contains the name of the authorized mooring location in the City of Rye, shall be valid for a period of one year, commencing April 1 of each year and terminating on December 1 of the same year. The number must be

- permanently affixed to said raft and/or float. The Boat Basin Supervisor may promulgate regulations governing rafts and floats, subject to the approval of the State Commissioner of Parks, Recreations and Historic Preservation and the City Council.
- D. No boat shall be moored in such a manner as to interfere with the use of a preexisting mooring. The right to use a mooring space shall be based on a first-come first-served basis. A neighborhood association, Yacht Club or other entity administering the moorings of its membership may maintain lists identifying its owners and shall file copies of this information with the Boat Basin.
 - E. A mooring location shall be occupied only by the vessel or float assigned to the location, unless written consent is granted by the Boat Basin Supervisor to use the mooring for another vessel or float. Neighborhood associations, Yacht Clubs or other entities which maintain a comprehensive mooring program may assign locations within their Mooring Field to particular boats and may move boats as needed for safety. The vessel which is assigned a location or granted written consent shall be fully registered, and all registration and current contact information shall be provided to the Boat Basin Supervisor.
 - F. Moorings top rigs must be hauled and serviced each year. A winter stick shall be used during winter and a clearly visible float or buoy shall be used at all other times in accordance with the Uniform State Waterway Marking System. Failure to use a winter stick will result in a denial of a mooring permit for the following season. A permanent mooring shall be raised at least once every three years for inspection, at the owner's expense. The Boat Basin Supervisor may accept a written statement from the manager of a Yacht Club or other entity's mooring maintenance program or from a contractor certifying that he/she has inspected the mooring and that it is in safe condition. The inspection certificate shall be dated and signed by the person who has done the inspection and shall certify that the mooring anchor, all ground tackle, including lines, shackles, swivels and chains, are in safe condition.
 - G. Unsafe moorings or abandoned moorings, which represent a hazard to navigation, may be removed at the direction of the Boat Basin Supervisor or the Rye Police Department. If directions given by the Boat Basin Supervisor with respect to the removal of unauthorized moorings or changes in location are not carried out within seven days after notice from the Boat Basin Supervisor or the Rye Police Department in person, or by the posting of the order in a visible location in a waterproof envelope on the mooring device, or by regular and certified mail, if a mailing address is known, the Boat Basin Supervisor may cause such moorings to be removed and temporarily stored at the owner's expense.
 - H. After removal of any vessel or mooring device as provided in this article, the Boat Basin Supervisor may store or cause such vessel or mooring device to be stored in a suitable place at the expense of the owner. Removal of vessels and moorings shall be removed by a third party contractor for the City. Such owner may redeem the same upon payment of all City fines and fees to the City and of all expenses owed to the

person with whom such property is stored.

- I. A mooring buoy shall be constructed of Styrofoam, plastic, metal or other material and be spherical, conical or cylindrical in shape and no less than six (6) inches or more than twenty four (24) inches in diameter. The portion above the waters shall be no less than six (6) inches or more than twenty four (24) inches, exclusive of whips or staffs. Each buoy shall be painted white except portions which are painted with anti-fouling paint. The mooring permit number shall be clearly marked on the mooring buoy and shall be of bold, clear numeral, four inches in height, of a contrasting color, or engraved into buoys, clearly visible. Each permanent mooring buoy anchor shall be of mushroom type only.

§ 64-10. Notice of removal and sale at auction.

It shall be the duty of the Boat Basin Supervisor to ascertain, to the extent possible, the last record owner and lienholder, if any, of the vessel or mooring and to notify such owner and lienholder, if any, by regular and certified mail, informing them of the removal and storage of such vessel or mooring and of the amount which will be required to redeem the same; the amount of unpaid summonses, if any, which must be paid at the time of redemption of the vessel or mooring; that title to such vessel shall vest in the City of Rye; and that such vessel may be sold at public auction or otherwise disposed at the direction of the Boat Basin Supervisor if not redeemed within thirty (30) days of such notice.

§ 64-11. Hazards to navigation.

Any boat, raft or float which becomes a menace to navigation or unseaworthy or sinks, grounds or otherwise becomes disabled shall be removed by the owner or person in charge thereof upon order of the Police Department of the City of Rye, including Bay Constables, Boat Basin Supervisor and any other official authorized pursuant to § 64-15 below. If such boat is not removed within five days after an order to do so, it may be removed by or at the discretion of the enforcement authorities at the expense of the owner or person in charge of said boat. Such removed boats shall be disposed of in accordance with federal, state and City rules and regulations.

§ 64-12. Speed limit.

No motor-drive boat shall be operated at a speed exceeding five statute miles per hour, except for boats and vessels operated by police, emergency officials or federal enforcement officials in the line of duty or under emergency circumstances. In addition, no vessel shall be operated by any persons within such limits so as to make dangerous wakes that have the potential to cause injury to persons on another vessel or to cause damage to another vessel, structure or shoreline.

§ 64-13. Observance of navigation laws.

All provisions of the Navigation Law of the State of New York, all laws enacted by the Congress of the United States and all rules and regulations of the United States Coast Guard governing navigable or inland waters of the United States, insofar as they are applicable to the City waterways, are hereby made applicable to same.

§ 64-14. Power to adopt rules.

The Boat Basin Commission of the City of Rye shall have the power to adopt rules and regulations governing the use of the City of Rye marina, subject to the approval of the City Council.

§ 64-15. Enforcing authority.

The enforcing authority of this article shall be the Police Department of the City of Rye or duly authorized personnel, including Bay Constables and any other official authorized to issue summonses and appearance tickets pursuant to Article 150 of the New York State Criminal Procedure Law.

§ 64-16. Penalties for offenses.

A. Any person, firm, association or corporation violating any of the foregoing provisions of this chapter shall be guilty of an offense and may, upon conviction, be punished by a fine not exceeding \$250 or imprisonment not exceeding 15 days, or both, for each and every day in violation.

(1) In addition, any person who has been convicted of a violation of this Chapter herein shall have any current permits revoked and may not be permitted to apply for or to receive permits for two years.

B. Appeals. The City Manager shall be empowered to hear and decide appeals from and review any order, requirement, decision or determination made by the Boat Basin Supervisor with respect to the issuance or revocation of a mooring permit.

(1) Request for hearing. Upon the denial of a permit by the Boat Basin Supervisor in connection with the issuance of a mooring permit or upon issuance of a notice of revocation of any such permit, the aggrieved applicant may, within 10 days after receiving written notice from the Boat Basin Supervisor, file an appeal, in writing, in the office of the City Manager requesting a review of any such determination. The City Manager shall hear and decide such appeals and may reverse or affirm, wholly or partly, or may modify the determination appealed from and/or make such determination and order which, in his or her opinion, should be made under the circumstances.

(2) Hearing. Upon receipt of a request for a hearing as provided above, the City Manager shall set a time and place for a hearing. Such hearing shall commence no later than thirty (30) days after the date on which the request was filed, unless an extension of said time period is agreed upon by both the City Manager and the aggrieved party. Failure by the City Manager to commence said hearing within the above-specified time period shall not be deemed to constitute approval of such request if good and sufficient reason exists.

(3) Conduct of hearing. The applicant or his/her representative shall be given an opportunity to show cause why such decision by the Boat Basin Supervisor

should be modified or withdrawn. The burden of proof in this regard shall be upon said applicant or his/her representative, who shall be required to demonstrate by a fair preponderance of the evidence that the Boat Basin Supervisor's decision should be withdrawn or modified.

- (4) Findings. Upon consideration of the evidence presented, the City Manager shall sustain, modify or revoke the Boat Basin Supervisor's decision.

§ 64-17. Disclaimer of responsibility for City.

The City assumes no responsibility for the safety of any vessel at the Boat Basin and shall not be responsible for loss or damage or injury to persons or property due to wind, waves, theft, collision, chafing, vandalism, fire, ice, low water levels, or any other cause. The City shall not be liable for any damage to the vessel occurring before, during or after a severe storm, hurricane, or other emergency, for service performed, or for the failure to provide services. In addition, the City shall not be responsible for any damages incurred from the removal, towing, hauling or storage of the vessel, mooring or any other equipment.

Section 2: Severability.

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

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.