

## **The following has been excerpted from the Town of Livonia Code Book**

ARTICLE XVI Docks and Moorings [Amended 7-30-1998 by L.L. No. 6-1998; 10-4-2007 by L.L. No. 4-2007]

§ 150-150. Intent.

The intent of this article is to:

- A. Maintain a safe recreational environment near the shore of Conesus Lake.
- B. Allocate fairly the use of the Conesus Lake shore for mooring, berthing, anchoring and docking of boats.
- C. Minimize conflicts among neighboring property owners who use their shoreline for boat and other access to navigable waters of Conesus Lake.
- D. Acknowledge that all owners of property contiguous to the lakeshore of Conesus Lake shall enjoy the right of free and open access to navigable waters of Conesus Lake.

§ 150-151. Authority and applicability.

- A. In addition to the authority granted by Town Law § 263 (zoning) and the Municipal Home Rule Law, this article is adopted pursuant to:
  - (1) Town Law § 130, Subdivision 17(1)b, which allows towns to restrict and regulate the anchoring and mooring of vessels in any waters within or bounding the Town to a distance of 1,500 feet.
  - (2) Navigation Law § 46-a, Subdivision (2), which authorizes the Town of Livonia to regulate the manner of construction and location of boathouses, moorings and docks within navigable waters wholly within or bounding the Town of Livonia, such authority extending to a distance of 1,500 feet into such navigable waters.
  - (3) The above authority applies to the waters of Conesus Lake wholly within or bounding the Town of Livonia and not within any other town.
- B. This article is not intended to restrict or regulate placement or operation of docks used by the State of New York, Livingston County or any municipality for public purposes.
- C. Regardless of whether a fee is charged, the casual rental of dock space which does not include launching, selling, servicing or leasing and which provides for storage and/or mooring of boats in no greater number than that permitted by § 150-153 of this chapter shall not be considered a violation of this chapter, provided that no sign or other visible indication of such rental shall be located on the parcel in question.

§ 150-152. Definitions.

- A. The terms littoral and/or riparian lines, rights, zones, are purposely not used in this article. The Town of Livonia has defined a specific term "water rights lines." Water rights lines may be considered a type of Zoning Line used in this article for the application of rules, location of docks, mooring and site plans. Water rights lines are not property lines. Water rights lines as defined below are applied throughout this article and illustrated in the attached diagrams.
- B. As used in this section, the following terms shall have the meanings indicated:

BERTH — See boat slip.

BOAT SLIP — The area of any structure, boat hoist structure, boat station, boathouse, dock or pier or any other facility the purpose of which is storage of one boat.

DOCK — Any wharf, structure or fixed or movable platform extending out from the shore over the water, built on floats, columns, open timber, piles or similar open work supports, regardless of whether it is permanent or removable in nature.

EASEMENT/RIGHT OF WAY — The right of one person, of several persons, or of the community at large, to pass over the land of another.

HOIST — Any mechanical device the purpose of which is to raise or lift a boat out of the water for waterside storage alongside a dock or wharf.

LAKESHORE ACCESS GRANTEE — A person, persons or other entity which has the legal right, by deed, easement, or prescriptive rights, to cross over or in some fashion use the land of a lakeshore parcel owner for the purpose of access to the waters of Conesus Lake.

LAKESHORE PARCEL OWNER — The person or persons having title in fee to a parcel of land that is contiguous to and bounds the waters of Conesus Lake.

LAKESHORE PARCEL — A parcel of land contiguous to and bordering the waters of Conesus Lake.

LINEAL FEET OF LAKESHORE — The horizontal lineal distance measured in a straight line between lakeshore parcel lot lines as these lines intersect with the mean high water mark. The mean high water tie line defined in § 150-154A(2) determines lineal feet of lakeshore (See Diagram 1 Editor's Note: Said diagram is included at the end of this chapter. ).

LONG LAKE METHOD — A geometric method of adjusting water rights lines. See Diagram 3 Editor's Note: Said diagram is included at the end of this chapter. for a graphic description of this method.

MEAN HIGH WATER (MHW) — The approximate average high water elevation for Conesus Lake. For the purpose of this article, the MHW for Conesus Lake is 818.5 feet. The elevation of 818.5 feet was verified by the State of New York, Office of General Services, in March 2007 based on hourly water level data from 1990 through 2006. The MHW for Conesus Lake referenced to the National Geodetic Vertical Datum of 1929 (NGVD29) from data recorded by the United States Geological Survey (USGS) is 819.4 feet. Under Article 15, Title 5, Environmental Conservation Law, Part 608, the Department of Environmental Conservation (DEC) will use the mean high water elevation for Conesus Lake of 819.4 for DEC applications.

MEAN HIGH WATER MARK (MHWM) — The point of intersection of a lakeshore parcel lot line with MHW of Conesus Lake.

MOORING, BERTHING, ANCHORING AND DOCKING FACILITIES — A waterside area used for the berthing, anchoring or mooring of boats or other floating craft, whether manually, mechanically or sail powered. "Mooring" refers to tying up a boat to a permanently anchored floating object. "Anchoring" involves securing a boat temporarily to the lake bottom using an anchor. "Docking" refers to tying up a boat to a structure, such as a dock, hoist or wharf, which is attached to shore or affixed to the bottom of the lake and the shore.

ROUND LAKE METHOD — A geometric method of adjusting water rights lines (also known as "pie method"). See Diagram 2 Editor's Note: Said diagram is included at the end of this chapter for a graphic description of this method.

SHARED ACCESS — When the parcel or parcels of land, not being contiguous to, or having frontage on the waters of Conesus Lake, have a right of access over a lakeshore parcel of another, thereby providing rights of access to the waters of Conesus Lake to such non-lakeshore parcel(s). Such shared access can be established by deed, easement, or prescriptive rights.

WATER RIGHTS LINES (WRL) — Water rights lines define the location of the boundaries for the placement of mooring, berthing, anchoring and docking facilities, and all other facilities subject to this article. The methods for establishing water rights lines are found in § 150-154A(1) through (5).

WAIVER — Agreement between two or more lakeshore parcel owners allowing mooring, berthing, anchoring and docking facilities placement closer to common boundary line(s) than would be permitted by the terms of this article.

WHARF — A structure of stone, concrete or timber or other material permanently built on the shore or projecting out into the lake so that boats may be secured alongside to load or unload or to be at rest.

§ 150-153. Permitted number of boats and mooring, berthing, anchoring and docking facilities.

- A. For the purpose of this regulation, the following shall not be subject to the limitations in this section: canoes, rowboats, rowing shells, kayaks, windsurfers, nonmotorized boats 14 feet and under in length and other nonmotorized boats unless they utilize mooring, berthing, anchoring and docking facilities.
- B. The number of boats permitted to be docked, moored or anchored along a single lakeshore parcel, including all easements/rights-of-way associated with such parcel, shall not exceed the following thresholds:

<b>Lineal Feet of Lakeshore</b>	<b>Number of Boats</b>
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Less than 15 feet 1 boat allowed

15 to less than 20 feet 2 boats allowed

Each additional 20 feet 1 additional boat

Example: A lakeshore parcel with 50 lineal feet of lakeshore is allowed three boats.

- C. One dock is allowed for lineal feet of lakeshore up to 50 feet. One additional dock is allowed for each additional 50 feet of lineal feet of lakeshore, or any part thereof, so long as each dock can be placed in compliance with the requirements of this article.
- D. Special regulations for existing subdivisions and shared access:
- (1) This provision applies when more than one lot in existence on the effective date of Article XVI has shared access to the waters of Conesus Lake via a single lakeshore parcel: the number of boats permitted to be moored, berthed, docked or anchored within the water rights lines of a lakeshore parcel may exceed the number stated in Subsection B of this section, provided that in no case shall the number of boats exceed one boat (beyond the number permitted to the lakeshore parcel for its use) for each lot that has legal right to access the shore of Conesus Lake by virtue of shared access, so long as said right predates the effective date of Article XVI. This provision is not intended to and shall not be construed to imply any greater or lesser rights to a lakeshore access grantee than such lakeshore access grantee has by way of its underlying legal entitlement, whether by easement, deed, or prescriptive right.
  - (2) This provision applies when more than one lot in existence on the effective date of Article XVI has shared access to the waters of Conesus Lake via a single lakeshore parcel and is allowed by its underlying legal entitlement to place a dock within the water rights lines of a lakeshore parcel. The number of docks may exceed the number stated in Subsection C of this section, provided that in no case shall the number of docks exceed one dock (beyond the number permitted to the lakeshore parcel for its use) for each lot that has legal right to access the shore of Conesus Lake by virtue of shared access and has legal and specific right to place a dock, so long as said right predates the effective date of Article XVI. Docking facilities shall be placed so that all boats secured to such facility are contained within the water rights lines of the lakeshore parcel and that no mooring, berthing, anchoring or docking facility of the shared access shall be located within 10 feet of any water rights line. Where the lineal frontage of the easement is such that the ten-foot setback from the water rights lines cannot be met, the dock is to be placed as far from the water rights line as the shared access will permit. This provision is not intended to and shall not be construed to imply any greater or lesser rights to a lakeshore access grantee than such lakeshore access grantee has by way of its underlying legal entitlement, whether by easement, deed, or prescriptive right.

E. This provision is not intended to prevent certain specified users from boat mooring, berthing, docking, anchoring or dock placement which has been historically performed on a continual annual basis and which has had the acquiescence of adjoining owners for a period of at least 20 years predating the effective date of this article. These specified users are: Camp Stella Maris (4395 East Lake Road), Pine Tree Mobile Home Park (East Lake Road), Sunny Shores Campground (5118 East Lake Road), Culver Manor Mobile Home Park (4425 East Lake Road). Ely, Boller and Milard Avenue Neighborhood Park Association, and Wilkins Tract Association Docking.

§ 150-154. Placement of mooring, berthing, anchoring and docking facilities.

- A. For the purpose of this section, mooring, berthing, anchoring and docking facilities shall be placed within the water rights lines of a lakeshore parcel so as not to interfere with the lakeshore usage of adjacent lakeshore parcels. Water rights lines are determined using the following method (See Diagram 1 Editor's Note: Said diagram is included at the end of this chapter. ):
- (1) Determine the mean high water mark for the lakeshore parcel and the two adjoining lakeshore parcels (four points).
  - (2) Draw lines connecting the mean high water marks. These lines are called "mean high water tie lines."
  - (3) Where two mean high water tie lines meet, measure the angle formed by the tie lines on the water side.
  - (4) Bisect (divide by 2) the waterside angle from step 3. The line running from the MHWMM through the bisected angle point will establish the location of the water rights line.
    - (a The water rights lines for lakeshore parcels Tax #92.78-1-14-12; 92.78-1-14.2 and ) 91.78-1-15 shall be drawn from the mean high water mark, for these parcels, parallel to the Town of Livonia/Town of Conesus Town line. This provision prevents the water rights lines and the resulting placement of docks from extending into the Town of Conesus.
  - (5) Where water rights lines are less than 200 feet long at the point of intersection with each other, the method described in Subsection A(1) through (4) must be modified to provide that all water rights lines are at least 200 feet long at the point of intersection.
  - (6) Lakeshore parcels located in lake recesses or coves, or at the head or foot of the lake, shall use the round lake method (also known as "pie method," Diagram 2 Editor's Note: Said diagram is included at the end of this chapter. ) to adjust water rights lines as follows:
    - (a When lakeshore parcels are located at the head or foot of the lake, the radius point shall ) be located on the center thread of the lake, at a distance from the lakeshore equal to the radius of a circle most closely circumscribing the lakeshore, providing adjusted water rights lines that extend to at least 200 feet. The radius point may have to be moved to achieve the two-hundred-foot water rights line.
    - (b When lakeshore parcels are located in lake recesses or coves, the radius point shall be ) located at an approximate distance from the lakeshore equal to the radius of a circle most closely circumscribing the approximate lakeshore, providing adjusted water rights lines extend to at least 200 feet. The radius point may have to be moved to achieve the two-hundred-foot water rights line.

(c) The long lake method is not used in this regulation to determine water rights lines. In rare and unusual circumstances, the long lake method may be used to adjust water rights lines until water rights lines extend to 200 feet at the point of intersection. In the long lake method, a line perpendicular to the center thread line of the lake is drawn to the high water mark on the lakeshore parcel lot line (the same initial point of the water rights line). The water rights line is then adjusted toward the perpendicular line until the water rights line extends to 200 feet in length at the point of intersection (see Diagram 3 Editor's Note: Said diagram is included at the end of this chapter. ).

(7) It is each lakeshore parcel owner's responsibility to accurately determine water rights lines. However, if a complaint is filed with the Town of Livonia Building and Zoning Office concerning the infringement of water rights lines (for example, encroachment of docks or mooring of boats in violation of this article), it is the responsibility of the complainant to satisfactorily prove the location of the complainant's water rights lines to support the complaint. Acceptable proof would be a survey prepared by a New York State Registered Surveyor licensed according to the New York State Education Law, the cost of which being the responsibility of the complainant.

(8) The Town of Livonia Building and Zoning Office is not responsible to determine in any way the location of water rights lines, nor are they responsible for the cost of such determination. The Code Enforcement Officer shall require appropriate documentation including surveys (when necessary) to determine and verify water rights lines.

B. Mooring, berthing, anchoring and docking facilities shall be placed so that all boats secured to such facilities are contained within the water rights line of the lakeshore parcel. No mooring, berthing, anchoring or docking facility shall be located within five feet of any water rights line.

C. No boat shall be moored, berthed, docked or anchored within five feet of any water rights line.

D. Notwithstanding Subsections B and C above, when a lakeshore parcel contains less than 21 lineal feet of lakeshore frontage, all mooring, berthing, anchoring and docking facilities shall be centered between the water rights lines. In circumstances where if a dock is centered between the water rights lines but moored boats secured to such facilities would not be contained within the water rights lines of the lakeshore parcel, then Subsections D(1) through (3) will apply.

(1) Lakeshore parcels with more than 16 feet but less than 21 feet of lineal lakeshore frontage may place the dock along either water rights line of the lakeshore parcel, to contain the mooring of boats of up to an eight-foot beam or the placement of hoists within the water rights lines. However, the property owner will maintain a five-foot setback to the water rights line opposite the placement of the dock. This single-side setback provision is intended to maintain open water passage to the lakeshore between parcels of similar size using this provision. A sign shall clearly show docking is permitted only within the water rights line of the lakeshore parcel (in this case, on the one side of the dock only).

- (2) For lakeshore parcels of less than 16 feet of lineal lakeshore frontage, all setback requirements are removed, provided moored boats be secured so they are contained within the water rights lines of the lakeshore parcel. Lakeshore parcels of less than 16 feet of lineal lakeshore frontage may place the dock along either water rights line, provided a sign shall clearly show docking is permitted only within the water rights line of the lakeshore parcel (in this case, on the one side of the dock only).
  - (3) For lakeshore parcels where converging water rights lines are reduced to 21 feet apart and the dock is not centered, a five-foot setback will be maintained from the water rights lines opposite the placement of the dock. Where converging water rights lines are reduced to 16 feet, all setback requirements are removed, provided moored boats be secured so they are contained within the water rights lines of the lakeshore parcel. A sign shall clearly show docking is permitted only within the water rights line of the lakeshore parcel (in this case, on the one side of the dock only).
- E. Notwithstanding Subsections B and C above, mooring, berthing, anchoring and docking facilities serving a shared access shall be located in accordance with § 150-153D(2).
- F. When two adjoining lakeshore parcel owners agree to consolidate the allowed number of mooring, berthing, anchoring and docking facilities for both parcels into one, such consolidation is permitted with the following limitations:
- (1) The total square footage of the consolidated mooring, berthing, anchoring and docking facilities shall not exceed 1080 square feet.
  - (2) The consolidated mooring, berthing, anchoring and docking facilities shall conform to all other provisions of this article.
  - (3) When applying for mooring, berthing, anchoring and docking facilities consolidation under this provision, the participating adjoining lakeshore parcel owners extinguish all rights and claims to a second or third dock during the period of such consolidation.
  - (4) A site plan with appropriate documents shall be submitted to the Building and Zoning Office as an application for consolidation of mooring, berthing, anchoring and docking facilities. The adjacent lakeshore parcel owners shall include an affidavit with the site plan application that they acknowledge that all claims and rights to additional mooring, berthing, anchoring and docking facilities are extinguished for the duration of such consolidation.
  - (5) The site plan for the consolidated mooring, berthing, anchoring and docking facilities shall remain in effect until either party withdraws from the agreement by providing written notice to the Building and Zoning Office and the adjoining lakeshore parcel owner participating in the consolidation. Upon such notice, the site plan and consolidation cease to exist and the two lakeshore parcels will be governed by the provisions of this entire article.
  - (6) When either or both lakeshore parcels change ownership, the new owners have the option of withdrawing from the consolidation according to Subsection F(5) above or continuing with the approved consolidation. If the consolidation will continue under new ownership, the new owner shall request in writing to the Building and Zoning Office an update of the names of the lakeshore parcel owners in the consolidation.
- G. Waiver of setback requirements.

- (1) Multiple lakeshore parcel owners may apply for a waiver which may allow placement of mooring, berthing, anchoring and docking facilities that do not satisfy the setback requirements for such facilities by submitting an application for site plan depicting all included lakeshore parcels.
- (2) If an acceptable application is provided, the lakeshore parcel owners included in the site plan will not be limited to construction or placement of mooring, berthing, anchoring and docking facilities within their respective water rights lines, as set out in § 150-154A(1) through (5).
- (3) Any waiver shall not be considered a variance and shall not convey any rights that run with the land or that are transferable.
- (4) A waiver shall apply only to interior water rights lines and setback requirements for the lakeshore parcels included in the site plan.
- (5) The two outside water rights lines of the lakeshore parcels included in the site plan shall be determined as set out in § 150-154A(1) through (5).
- (6) Acceptable methods to determine water rights lines interior to the site plan include the round lake method (pie method; see Diagram 2 Editor's Note: Said diagram is included at the end of this chapter. ), the long lake method (see Diagram 3 Editor's Note: Said diagram is included at the end of this chapter. ), or any method acceptable to all participants in the site plan.
- (7) The site plan may not in any way impede navigation, exclude the public from lawful use of navigable water, or impact the water rights lines of the adjoining nonparticipating lakeshore parcel owners.
- (8) The site plan application package will be submitted to the Code Enforcement Officer for review by the Town of Livonia Joint Planning Board and shall contain:
  - (a) A site plan prepared by a New York State registered surveyor licensed in accordance with New York State Education Law.
  - (b) The site plan shall be drawn to scale and include a description of existing and proposed mooring, berthing, anchoring and docking facilities, showing at a minimum the names, addresses, lakeshore parcel boundaries, Tax Map numbers and lineal feet of lakeshore for each included lakeshore parcel. The site plan shall also show names, addresses, parcel boundaries and Tax Map numbers of adjacent lakeshore parcel owners not participating in the site plan application.
  - (c) The site plan shall depict water rights lines, water depth at the end of each dock, proposed setbacks and configuration of all mooring, berthing, anchoring and docking facilities.
  - (d) If the site plan includes any consolidation of mooring, berthing, anchoring and docking facilities, then it shall list the names of cooperating lakeshore parcel owners and designate which lakeshore parcel owners are extinguishing their rights and claims to placement of their own individual mooring, berthing, anchoring and docking facilities; provisions of § 150-154F will apply.

- (e) The site plan shall be accompanied by a certification that all owners, lessees, occupants, easement holders, non-lakeshore access grantees, and any other persons or entities with a legal or beneficial interest in any existing or proposed mooring, berthing, anchoring and docking facilities related to the site plan have been notified of the application.
- (f) The limitations of this Article XVI are applicable to all parties who have a property interest in lakeshore parcels included in the site plan. Failure to notify any party with a property interest covered in the site plan may nullify any rights granted as a result of the site plan application and process.
- (g) The Town of Livonia Joint Planning Board review will be in accordance with the site plan review procedures of Article XIV.
- (h) The site plan shall remain in effect until any one or more of the participants withdraw by providing written notice to the Building and Zoning Office and the participating lakeshore parcel owners. At the time of withdrawal, the site plan ceases to exist. The lakeshore parcels that were participating in the site plan will then be subject to and governed by the provisions of this entire article.
- (i) When any lakeshore parcel in the site plan changes ownership, the new owner has the option of withdrawing from the site plan according to Subsection G(8)(h) above or continue in the site plan. If the site plan will continue under new ownership, the new owner is responsible to request in writing to the Building and Zoning Office an update of the names of the parcel owners in the site plan.

H. For the purpose of these regulations, mooring, berthing, anchoring and docking facilities placed and removed seasonally along lakeshore parcels shall not be considered to be preexisting nonconforming structures, as regulated in Article VIII, § 150-69 of this chapter.

§ 150-155. Grandfathering, vested rights and previous permits.

- A. This Article XVI entitled "Docks and Moorings" shall entirely replace any and all prior versions of the Docks and Moorings Law of the Town of Livonia.
- B. Due to the seasonal nature and usage of mooring, berthing, anchoring and docking facilities in and around the waters of Conesus Lake, it is specifically intended that such mooring, berthing, anchoring and docking facilities located within the waters of Conesus Lake and the territorial limit of the Town of Livonia shall not be considered permanent structures.
- C. Due to their temporary nature, mooring, berthing, anchoring and docking facilities shall not carry with them any rights that vest in the property owner with regard to placement, length or configuration. Placement, length, configuration and/or other elements relating to mooring, berthing, anchoring and docking facilities shall be determined pursuant to the provisions of this article and applicable New York State and Federal Law.
- D. All conditional and/or special use permits granted prior to the effective date of this article or under any prior version of the Docks and Moorings Law are deemed to be null and void and of no effect at law after the effective date of this article.

§ 150-156. Appeals and variances.

- A. Lakeshore parcel owners aggrieved by the decision of the Code Enforcement Officer may appeal the decision to the Livonia Joint Zoning Board of Appeals pursuant to § 267-a of the Town Law.

The Livonia Joint Zoning Board of Appeals may grant a variance to the provisions of this article. Dimensional criteria for the placement of mooring, berthing, anchoring and docking facilities may be varied in accordance with the applicable requirements of New York State Statute. Under no circumstances shall a variance be granted that permits the number of mooring, berthing, anchoring and docking facilities or boats to exceed that which is allowed under this article.

§ 150-157. Mooring, berthing, anchoring and docking violations.

Any mooring, berthing, anchoring and docking facilities placed in violation of this article shall be removed upon direction of the Code Enforcement Officer whether or not an appeal or application for site plan is pending.

§ 150-158. Penalties for offenses.

A violation of this article is an offense punishable by a fine not exceeding \$500 or imprisonment for a period not to exceed 15 days, or both a fine and imprisonment. Each week's continued violation shall constitute a separate additional violation as provided in § 268 of the Town Law, and the Town Officials shall have the powers and may exercise all privileges as herein provided.

§ 150-159. Filing of complaints.

Wherein a violation of this article occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer who shall properly record such complaint and immediately investigate the report thereon. See also § 150-154A(7) and (8) for complaint documentation and complainant's responsibility.

§ 150-160. Severability.

If any portion of this article and/or any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article and amendments made hereto shall not be affected and shall remain in full force and effect.