

CHESTER HARBOR MANAGEMENT COMMISSION

Town of Chester, Connecticut

Consultant to the Harbor Management Commission:

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Westport, Connecticut

Adopted 1994; Amended 2010

Second Printing: September 2013

FOREWORD

This document contains The Chester Harbor Management Plan (the Plan) duly approved by the State of Connecticut, adopted by the Town of Chester, and herein re-published in 2013. The Plan has been prepared by the Chester Harbor Management Commission (HMC) in accordance with municipal authority provided by the Connecticut Harbor Management Act of 1984 (Sections 22a-113k through 22a-113t of the Connecticut General Statutes) and by the Town Ordinances of the Town of Chester which establish the duties and responsibilities of the HMC.

In accordance with Section 22a-113m of the Connecticut General Statutes, the Plan was reviewed by the U.S. Army Corps of Engineers (USACE), approved by the Connecticut commissioners of Environmental Protection and Transportation, and adopted by ordinance by the Chester Town Meeting in 1994. Plan amendments to address issues concerning construction of water-access structures such as docks and piers were duly approved and adopted in 2010. In 2013, the HMC has re-published the Plan document so as to include the 2010 amendments along with updated descriptions of conditions affecting the Chester Harbor Management Area (HMA).

Included in the Plan are Town goals, policies, guidelines, and recommendations for beneficial use and conservation of the Chester HMA which includes all of the navigable waters and intertidal areas within the Town's municipal jurisdiction on the Connecticut River, Chester Creek, and Deep River Creek.

A principal purpose of the Plan is to strengthen and maintain the Town's authority for managing use and conservation of the HMA. That management is achieved through Town planning, regulatory, and other initiatives undertaken in coordination with state and federal agencies, notably the Connecticut Department of Energy and Environmental Protection (DEEP) and USACE.

Public and private activities affecting the HMA must be consistent with the Plan. The HMC is responsible for determining this consistency through a Harbor Management Consistency Review Process established in the Plan.

The Plan strengthens and maintains coordination among the different Town agencies with responsibilities affecting the HMA. It helps ensure that these agencies incorporate an awareness and understanding of harbor management concerns into their decisions, and that their actions are consistent with the Town goals, policies, guidelines, and recommendations established in the Plan.

The provisions of the Plan are consistent with and complement the provisions of the 2009 Chester Plan of Conservation and Development. Together, these two Town plans serve as the principal guides for land- and water-use on, in, and contiguous to the HMA.

Implementation of the Plan is an ongoing process that will continue to develop in response to changing conditions and circumstances. The Plan establishes a policy and decision-making framework to guide the Town's actions, including case-by-case decision-making by the HMC, as well as the actions of other agencies. The framework is flexible and requires modification over time as conditions and circumstances change. To ensure that it responds to changing conditions, the Plan contains provisions for future amendment as needed.

ACKNOWLEDGMENTS

A number of individuals contributed to preparation of The Chester Harbor Management Plan, including Town officials and residents of Chester, as well as representatives of state, federal, and regional agencies.

The Plan was prepared under the leadership of the Chester Harbor Management Commission which is the principal agency with responsibility for Plan implementation. In 2013, members of the Chester HMC are:

Joel Severance (Chairman)

Robert Bachand

James Barrington

Robert Murac

Edward Ward

Gordon VanNes (Alternate)

Harbor Master George Bartlett (Ex-Officio)

Current and former HMC members who contributed to development of the Plan and/or The Chester Harbor Management Plan 2010 Plan Addendum (2010 Plan Addendum) are: Robert Bachand; Harbor Master George Bartlett (Ex-Officio); Bruce Coderre; Harbor Master Tom Crowley (Ex-Officio); Gerald Dubey; Nate Jacobson (Alternate); Howard Kaplan; Michael Lutz; Joan Matz; Robert Murac; James Pease; James Pinno; Sandy Prisloe; Joel Severance; Edward Ward; and Whitey Wilson (Alternate).

In 2013, First Selectman Edmund Meehan provides leadership and direction for implementation of the Plan. Previous First Selectmen Bettie erreault, Martin Heft, and Thomas E. Marsh also encouraged and supported Plan implementation.

The Office of Long Island Sound Programs (OLISP) of the Connecticut Department of Environmental Protection, now the Department of Energy and Environmental Protection, provided funding assistance for the initial planning effort and, more recently, provided valuable technical assistance and support for development of the 2011 Plan Addendum through the efforts of Marcia Balint, its liaison to the HMC.

Geoffrey Steadman, consultant to the HMC, worked at the HMC's direction to prepare the Plan, the 2010 Plan Addendum, and the 2013 Plan document. All

aerial photographs in the 2013 Plan document are by Mr. Steadman from April 9, 2003 unless otherwise noted. Keith Placko and Frank Stirna III, associates of Mr. Steadman, provided computer-aided mapping assistance. Roberge Associates Coastal Engineers, LLC, of Stratford, Connecticut, consultant with Mr. Steadman to the HMC for the "Town of Chester Dock Management Study," prepared the maps of harbor management areas and planning units included in Appendix F of the 2013 Plan document.

Special thanks to the citizens of Chester who attended the HMC's public meetings and demonstrated their interest and support for effective management of the Town's waterfront and harbor resources through preparation and implementation of the Plan.

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DEFINITIONS OF TERMS

This section contains definitions of terms originally included in The Chester Harbor Management Plan adopted by the Chester Town Meeting in 1994. Some terms have been updated in 2013 only where necessary to reflect changes in agency names and programs and edited for clarity. Additional relevant terms included in The Chester Harbor Management Plan 2010 Plan Addendum have been added to this section and are noted. All definitions

are for the purpose of the Plan. It should be understood that the meaning and use of the terms included may differ in state and federal laws and regulations.

Abandoned Vessel: Any vessel, as defined by state statute, not moored, anchored or made fast to the shore, and left unattended for a period greater than 24 hours, or left upon private property without consent from the waterfront property owner for a period greater than 24 hours.

Adverse Visual Impacts: The negative impacts, described by the Office of Long Island Sound Programs in the Fact Sheet "Landscape Protection and Visual Impacts," that occur when the character, quality, or public enjoyment of a visual resource is diminished or impaired as a result of changes in the appearance of the landscape caused by developments. Those developments would include, but not be limited to, the construction of docks, floats, piers, and other water-access structures in the Chester Harbor Management Area. (Added 2010)

Aesthetic Resources: The aesthetic coastal resources described in Sec. 22a-91(5) of the Connecticut Coastal Management Act and which, pursuant to the Act, are to be protected from adverse impacts that include, but are not limited to, actions that would degrade visual quality through significant alteration of the natural features of vistas and viewpoints. (Added 2010)

Aids to Navigation: All markers on land or in the water placed for the purpose of enabling navigators in the Harbor Management Area to avoid navigation hazards and/or fix their position. Aids to navigation include federal aids placed and maintained by the U.S. Coast Guard, and "private" aids placed and maintained by all other government and private interests under permit from the Coast Guard, Corps of Engineers, and Connecticut DEEP. Private aids include any buoys, signs, and other markers identifying restricted speed areas.

Anchor: To secure a vessel temporarily to the bottom of a water body by dropping an anchor or anchors from a vessel. Also, a heavy device, fastened to a chain or line, and dropped to the bottom of a water body to hold a vessel in position, including an anchor used to secure a vessel at a mooring. Specifically excluded from this definition are engine blocks and other devices which, when used as anchors, could result in the degradation of water quality or otherwise damage coastal resources.

Carrying Capacity: A term most generally used to refer to the level of use or extent of modification an environmental or man-made system may bear without experiencing unacceptable resource deterioration or degradation.

Channel: A water area specifically designated for unobstructed movement of vessels and shown on navigation charts, and marked in-water by aids to navigation. The navigation channel in the Connecticut River is a federal navigation channel authorized by Congress and maintained by the U.S. Army Corps of Engineers.

Chester Municipal Coastal Program: The program/plan authorized by the Connecticut Coastal Management Act, and which is carried out by the Chester Planning and Zoning Commission as an element of the Town's Plan of Conservation and Development. The Municipal Coastal Program establishes Town goals and policies for guiding land use and protecting coastal resources in the Town's coastal area.

Chester Harbor Management Area (HMA): The area of jurisdiction of the Chester Harbor Management Commission as defined in the Harbor Management Plan.

Chester Harbor Management Commission (HMC): The duly appointed body of the Town of Chester with responsibilities, as set forth in the Connecticut Harbor Management Act and by Town ordinances, for preparing and carrying out the Chester Harbor Management Plan.

Chester Harbor Management Plan: A plan for the balanced use of Chester's Harbor Management Area for recreational and other purposes and for the protection of environmental resources as prepared by the Chester Harbor Management Commission, adopted at a Town Meeting, and approved by the Connecticut departments of Energy and Environmental Protection and Transportation in accordance with Sections 22a-113k through 113t of the Connecticut General Statutes and the Town ordinance establishing the Chester Harbor Management Commission.

Coastal Jurisdiction Line (CJL): The line defined by the topographical elevation of the highest predicted tide for the period beginning in 1983 and ending in 2001, calculated for each coastal municipality for the purpose of defining the regulatory jurisdiction of the Connecticut Department of Energy and Environmental Protection. Proposed work and structures waterward of the coastal jurisdiction line are subject to the DEEP's coastal regulatory authorities, including authorities regulating structures, dredging, and fill. Prior to October 1, 2012, the DEEP's regulatory jurisdiction was marked by the high tide line. (Added 2013)

Coastal Resources: Resources including coastal waters, beaches, wetlands, intertidal flats, shellfish concentration areas, developed shoreline, and other resources as defined in the Connecticut Coastal Management Act and the Chester Municipal Coastal Program.

Commercial Mooring: A mooring as defined by the Corps of Engineers for which any type of fee is charged (excepting any fee charged by the Town for a mooring permit issued by the Harbor Master), and which must be authorized by a permit from the Corps of Engineers, the Connecticut Department of Energy and Environmental Protection, and the Harbor Master. Commercial moorings include moorings offered by marinas for transient or seasonal rental, and moorings controlled by private clubs if the annual membership fee includes a club-controlled mooring.

Commercial Vessel: Any vessel, licensed or unlicensed, used or engaged for any type of commercial venture, including but not limited to the carrying of cargo and/or passengers for hire and commercial fishing.

Connecticut Coastal Management Act: The legislation contained within the State of Connecticut General Statutes, Sections 22a-90 through 22a-112, as may be amended from time to time, and which requires, in part, that municipalities review all major activities within their coastal boundaries for consistency with the policies established by the Act, and which also provides for the voluntary development of local Municipal Coastal Programs.

Connecticut Harbor Management Act: The legislation contained within the State of Connecticut General Statutes, Sections 22a-113k through 22a-113t, as may be amended from time to time, and which authorizes municipalities to establish harbor management commissions and prepare municipal harbor management plans.

Corps of Engineers: The U.S. Army Corps of Engineers (USACE) which is the principal federal agency with roles and responsibilities pertaining to harbor management in Chester. These roles and responsibilities include authority to regulate structures and work waterward of the mean high water line as well as responsibility to maintain the federal navigation channel (outside of Chester's jurisdiction) in the Connecticut River.

Cumulative Impacts: The impacts on the environment that result from the incremental impact of an action when added to other past, present, and reasonably foreseeable actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Department of Energy and Environmental Protection (DEEP): The principal state agency responsible for management of the state's natural resources. The DEEP's Office of Long Island Sound Programs (OLISP) is responsible for ensuring that activities within the state's coastal area conform with the policies of the Connecticut Coastal Management Act and Harbor Management Act. The OLISP also reviews proposed development activities and issues or denies permits for the following activities: placement of structures below the high tide line; placement of structures and filling in tidal wetlands; filling in coastal, tidal, or navigable waters; dredging for navigation and disposal of dredged material; marine mining; and construction and maintenance of non-federal channels.

Deputy Harbor Master: The Deputy Harbor Master of the Town of Chester who may be appointed by the Governor of Connecticut in accordance with the Connecticut General Statutes, and who shall carry out his or her duties under the direction of the Harbor Master.

Dockominium: A marina development and operation concept whereby the user of a boat slip or berth purchases fee simple title to the use of that slip or berth.

Dredging: The excavation of sediments and other material from aquatic areas for the purpose of maintaining adequate depths in navigation channels and berthing areas as well as for other purposes.

Encroachment: Any structure (including docks, piers, floats, pilings, moorings, and other structures) and any other work (including dredging and filling) extending into any area waterward of the coastal jurisdiction line or mean high water line without necessary Town, state, and federal approvals.

Erosion: The wearing away of the shoreline by the action of natural forces including wave action and tidal currents.

Fairway: A specific water area to be kept free of obstructions to ensure safe passage of recreational and commercial vessels to, from, through, and alongside navigation channels, mooring areas, anchorages, and berthing areas.

Filling: The act of adding or depositing material to replace an aquatic area with dry land or to change the bottom elevation of a water body.

Floating Home: Any structure constructed on a raft, barge, or hull, moored or docked, and that is used primarily for single or multiple-family habitation or that is used for the domicile of any individual(s), and therefore does not meet the Connecticut Coastal Management Act's definition of a water-dependent use.

Foreshore: The part of the shore lying between the mean high water line and the mean low water line which is ordinarily traversed by the rising and falling tides and which is held in trust by the State of Connecticut for the public interest and use.

Harbor Master: The Harbor Master for Chester appointed by the Governor of Connecticut in accordance with the Connecticut General Statutes, and who shall serve as an ex-officio member of the Chester Harbor Management Commission and have specific responsibilities for implementing the Chester Harbor Management Plan.

Hazard to Navigation: An obstruction, usually sunken, that presents sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal, or redefinition of a designated waterway to provide for navigational safety.

High Tide Line (HTL): The line or mark left upon tide flats or beaches or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. Prior to establishment of the coastal jurisdiction line, the high tide line marked the landward boundary of the Connecticut DEEP's jurisdiction for coastal regulatory purposes. The high tide line is defined by a higher elevation than the mean high water line. (Modified 2013)

Hypoxia: A condition of degraded water quality characterized by a deficiency of oxygen.

Individual-Private Mooring: A mooring belonging to an individual and authorized for use by a mooring permit issued by the Harbor Master.

Intertidal Flats: Coastal resources consisting of very gently sloping or flat areas located in the intertidal area and composed of muddy, silty, and fine sandy sediments and generally devoid of vegetation.

Live-Aboard Vessel: Any berthed, anchored or moored vessel that is used as a temporary residence, secondary to the principal water-dependent recreational or commercial use of that vessel.

Marine Facility: Any facility (including but not limited to docks, floats, piers, ramps, hoists, parking areas, concessions, and service facilities), either publicly or privately owned, intended primarily to be used by or for the service of vessels and located within the Harbor Management Area.

Mean High Water (MHW) Line: The line along the shoreline representing the average height of the maximum elevation reached by each rising tide over a nineteen-year period immediately preceding the current year. Proposed work and structures waterward of the mean high water line are subject to federal regulatory authorities carried out by the U.S. Army Corps of Engineers as well as state regulatory authorities. (State regulatory authorities also extend above the mean high water line to the coastal jurisdiction line which is defined by a higher elevation than the mean high water line.) All land and water areas waterward of the mean high water line are subject to the Public Trust Doctrine and held in trust by the State of Connecticut for public use. The mean high water line also marks the waterward boundary of the jurisdiction of the Town's planning and zoning commission. (Modified 2013)

Mean Low Water (MLW) Line: The line along the shoreline representing the average height of the minimum elevation reached by each falling tide over a nineteen-year period immediately preceding the current year.

Moor: To secure a vessel to the bottom of a waterbody by the use of mooring tackle.

Mooring: A semi-permanent anchorage installation consisting of a heavy anchor (often times of the mushroom type), chain, a mooring buoy, and other equipment so designed that, when the attachment of such equipment to the vessel is terminated, some portion of the equipment remains below the surface of the water and is not under the control of the vessel or its operator.

Mooring Area: An area designated by the Harbor Management Commission within which vessels may be moored provided a valid permit for such mooring is obtained from the Harbor Master.

Mooring Tackle: The chain, anchor, buoys, and other equipment used to moor a vessel. Specifically excluded from this definition are engine blocks and other devices which, when used as anchors, could result in the degradation of water quality or otherwise damage coastal resources.

Obstruction to Navigation: Anything that restricts, endangers, or interferes with navigation.

Public Access: Physical and/or visual access to the Harbor Management Area that is available to all members of the general public and is not limited to any particular groups or individuals.

Public Trust Doctrine: The doctrine based on the common law principle that certain lands and waters are so important to the public that private ownership or other impediments to public uses should not be permitted. Under the Public Trust Doctrine, the State of Connecticut holds title to the foreshore, open tidal waters, and submerged land under tidal waters waterward of the mean high water line as trustee for the public, and must administer the use of these lands in the public interest.

Recreational Boating Facilities: Facilities including marina and boatyard facilities providing docks, slips, moorings, and launching ramps as well as sales, repair, service, and storage services.

Riparian/Littoral Rights: The rights of an owner of land contiguous to a navigable body of water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flow of the tide, the rights are said to be littoral rights. The terms "riparian" and "littoral" are commonly used interchangeably and may be defined as principally the right of access to the water, the right of accretions and relictions, and the right to other improvements.

Scenic Values: The scenic values associated with the Chester Harbor Management Area and lower Connecticut River area and recognized in Sec. 25-102a of the Connecticut General Statutes as contributing to public enjoyment, inspiration, and scientific study and to the natural and traditional riverway scene, and which therefore should be preserved in the public interest. (Added 2010)

Slip: Berthing space for a single vessel alongside a pier, finger float, or walkway.

Special Anchorage Area: A water area designated by the Coast Guard, identified on navigation charts, and where vessels may be anchored or moored. Within such areas, vessels less than 65 feet are not required to display anchorage lights.

Sub-Tidal Area: The submerged land waterward of the mean low water line and not subject to the ebb and flow of the tide.

Tidal Wetlands: Wetlands subject to the ebb and flood of the tide and defined by state statute. All tidal wetlands mapped by the State of Connecticut, as well as unmapped wetlands, are subject to the regulatory authorities of the DEEP in accordance with Sections 22a-359 through 22a-363f (the "Structures and Dredging" statute) of the Connecticut General Statutes.

Transient Boaters: Persons traveling to the Harbor Management Area by boat and staying for a temporary period of time.

Vessel: As defined by state statute, every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water.

Visual Impacts: The changes in appearance of the landscape, described by the Office of Long Island Sound Programs in the Fact Sheet "Landscape Protection and Visual Impacts," that are caused by developments and which can be positive or negative, direct or indirect, temporary or permanent, single or cumulative, and which can vary in magnitude and significance. (Added 2010)

Water-Access Structure: Any dock, float, pier, or other structure, or combination thereof, constructed partly or wholly on, in, or contiguous to the Harbor Management Area for the purpose of temporarily or permanently docking or mooring a vessel or otherwise providing physical and/or visual access to the HMA. (Added 2010)

Water-Dependent Uses: Those uses and facilities as defined in the Connecticut Coastal Management Act that require direct access to or location in marine or tidal waters and which therefore cannot be located inland.

INTRODUCTION AND PLAN OVERVIEW

The Town of Chester, Connecticut in the lower Connecticut River Valley is about 12 miles upriver from Long Island Sound. (See Figure 1.) Chester's municipal boundaries encompass 16.8 square miles bounded on the south by the Town of Deep River; on the west by the Town of Killingworth; on the north by the Town of Haddam; and on the east by the centerline of the Connecticut River. Chester's population in 2012 was estimated to be 3,9941; its character is, and always has been, that of a small New England town strongly influenced by its location on the Connecticut River—one of the great rivers of the United States. (See photos 1 and 2.)

The Connecticut River and its tributary Chester Creek are dominant features of the Town and are viewed by many residents as providing Chester's most valuable scenic, cultural, and ecological resources. Chester's shoreline along the Connecticut River measures about 2.8 miles; Chester Creek flows for a distance of about 1.8 miles from near the center of Town to the river. Deep River Creek (sometimes called the Deep River) forms part of the town boundary between Chester and the Town of Deep River. Deep River Creek is also a tributary to the Connecticut River at Chester and a significant natural resource.

Much of Chester's history as well as the Town's character and quality of life are tied to the Connecticut River and Chester Creek. The coastal resources associated with the creek are generally recognized as having special natural values because of their unspoiled condition and the presence of freshwater-tidal wetlands that have particular ecological significance. The creek is considered part of the "tidelands of the Connecticut River" which were identified by the U.S. Fish and Wildlife Service in 1991 as one of 40 vital ecological systems in the Northeast United States. In 1993, the conservation organization The Nature Conservancy designated the tidelands as one of "40 Last Great Places" in

the Hemisphere. In addition, the lower Connecticut River area from the Town of Cromwell downstream to Long Island Sound, including Chester Creek, was recognized in 1994 as containing "Wetlands of International Importance" in accordance with the Convention on Wetlands of International Importance (Ramsar Convention).

Chester is one of eight towns included in the Lower Connecticut River Conservation Zone established by the Connecticut Legislature in recognition of the unique scenic, ecologic, scientific, and historic values provided by the Connecticut River and its tributaries, including Chester Creek and Deep River Creek. It is the public policy of the State of Connecticut, established in Section 25-102a of the Connecticut General Statutes, "to preserve such values and to prevent deterioration of the natural and traditional riverway scene for the enjoyment of present and future generations of Connecticut citizens."

The Connecticut River at Chester supports a variety of recreational and commercial water-dependent uses that individually and collectively add to the quality of life in not only Chester but also the entire lower Connecticut River region. The Connecticut River federal navigation channel is used by recreational vessels of all sizes and by tugs and barges, excursion boats, and other craft. Tidal waters outside of the designated channel are also used for navigation, including navigation by hand-paddled vessels such as canoes and kayaks that use the water close to the shore.

Several commercial marinas and private yacht clubs are established on both the Connecticut River and Chester Creek at Chester, providing access to navigable water for boating activities. In addition, a public deck on Chester Creek called the Town Overlook provides views of the creek and river, and a Town area provides boat launching access to the river at the foot of Parker's Point Road. Another significant water-access structure is the Chester landing of the Chester-Hadlyme ferry which links Chester with the Town of Hadlyme on the eastern shore of the Connecticut River. Water access is also provided by private docks that extend into the river from some residential properties on Chester's Connecticut River shoreline. Significant portions of that shoreline and the shoreline of Chester Creek remain in a natural state without any docks or other types of in-water structures.

Town of Chester officials and citizens recognize the importance of active Town involvement to protect Chester's coastal and waterfront resources and provide for their safe, equitable, and beneficial use. To that end, the Town Meeting (Chester's legislative body) established the Chester Harbor Management Commission (HMC) by Town Ordinance in 1990. The Chester HMC was thereby given the power and duty to plan for the most desirable use of the tidal and navigable waters of the Town, and otherwise carry out all of the powers and duties conferred on a municipal harbor management commission by the State Legislature through the legislation known as the Connecticut Harbor Management Act of 1984 (Sections. 22a-113k through 22a-113t of the Connecticut General Statutes). The Town's area of municipal jurisdiction for harbor management purposes includes the tidal waters and intertidal areas waterward of the mean high water line and within the territorial limits of the Town. This area of jurisdiction—known as the Chester Harbor Management Area (HMA)—is bounded on the north by the Chester/Haddam

boundary, on the south by the Chester/Deep River boundary in Deep River Creek, and on the east by the centerline of the Connecticut River. To the west of the Connecticut River, the HMA encompasses the intertidal area of Chester Creek upstream to the center of the Town.

In accordance with authority provided by Section 22a-113m of the Connecticut General Statutes, the HMC prepared The Chester Harbor Management Plan (the Plan) which establishes Town goals, policies, and other provisions for beneficial use of the Chester HMA for recreational, commercial, and other purposes, and for protection of the Town's natural coastal resources. The Plan was reviewed by the U.S. Army Corps of Engineers (USACE), approved by the State of Connecticut, and then adopted by the Chester Town Meeting on July 19, 1994.

The Plan complements the Town's Coastal Area Management Program, as well as the 2009 Chester Plan of Conservation and Development (POCD) and waterfront zoning regulations, by focusing on issues most pertinent to the safe, orderly, and beneficial use of the Chester HMA and protection of the HMA's natural coastal resources. The provisions of the Plan are consistent with and complement the provisions of the POCD. Together these two Town plans function as the principal guides for use and conservation of Chester's coastal waters and waterfront resources.

Following adoption of the Plan, the HMC proceeded to carry out its responsibilities for Plan implementation as set forth in the Plan. Among those responsibilities, the HMC reviews proposals for activities affecting the Chester HMA to determine the consistency of those proposals with the Plan; evaluates conditions in and affecting the HMA on an ongoing basis; and reviews the effectiveness of the Plan in response to changing conditions.

Town of Chester Dock Management Study

One harbor management issue that has been the subject of significant attention by the Harbor Management Commission since The Chester Harbor Management Plan was adopted concerns the potential impacts that may be caused by water-access structures such as docks, floats, and piers in the Chester Harbor Management Area. Those impacts may affect coastal resources and other conditions on, in, and contiguous to the Chester HMC.

To address this issue in the most proactive manner, the Chester HMC conducted a special study in 2003 known as the Town of Chester Dock Management Study. Funding for the study was provided by the Office of Long Island Sound Programs (OLISP) of the Connecticut Department of Environmental Protection (now the Department of Energy and Environmental Protection or DEEP). Principal goals of the study were to: 1) assess existing physical conditions affecting management of docks, floats, piers, and other wateraccess structures constructed in the Chester HMA for temporarily docking or mooring a vessel or otherwise providing physical and/or visual access to the HMA; 2) review the existing legal, policy, and regulatory framework for managing and regulating water-access structures; and 3) prepare recommendations to strengthen the ability of the Town to most effectively manage water-access structures in the public interest.

In the course of the Dock Management Study, the HMC conducted a Town-wide survey of public perceptions and attitudes concerning dock management. A survey form was mailed to all Chester residents and their responses clearly showed that most residents believe the Connecticut River and Chester Creek are very important determinants of the quality of life in the Town; that docks may have adverse impacts, including adverse impacts on scenic values; and that the Town should be actively involved in managing water-access structures to reduce or avoid adverse impacts.

The Final Study Report² contained a number of recommendations for managing water access structures in the HMA, including recommended harbor management provisions for inclusion in The Chester Harbor Management Plan.

² See the study final report "Town of Chester Dock Management Study" prepared for the Chester Harbor Management Commission by John C. Roberge, P.E., LLC and Geoffrey Steadman, December 2003.

Chester Harbor Management Plan

2010 Plan Addendum

Managing the Chester Harbor Management Area through implementation of The Chester Harbor Management Plan is an ongoing process that continues to evolve in response to changing conditions and circumstances. The Harbor Management Commission is responsible for conducting an ongoing examination of the effectiveness of the Plan and of conditions in the Chester HMA and for proposing amendments to the Plan as necessary.

The process for amending the Plan is set forth in Section 22a-113m of the Connecticut General Statutes. Any amendments that may be proposed by the HMC must be submitted to the U.S. Army Corps of Engineers for review, comments, and recommendations; to the Connecticut commissioners of Environmental Protection and Transportation for review and approval; and then to the Chester Town Meeting for adoption.

In 2010, the HMC completed The Chester Harbor Management Plan 2010 Plan Addendum (2010 Plan Addendum) which includes provisions for strengthening the capability of the Town to manage water-access structures in the HMA, acting in coordination with state and federal agencies and other agencies of the Town. The 2010 Plan Addendum, which includes amendments to the Plan's goals, policies, area guidelines, and roles and responsibilities for Plan implementation, was reviewed by the USACE, approved by the State of Connecticut, and adopted by the Chester Town Meeting on May 17, 2011.

Some Highlights of the 2010 Plan Addendum:

The 2010 Plan amendments are intended to address issues concerning management of water-access structures through informed and thoughtful review of individual proposals. That review is conducted at this time by the HMC and state and federal regulatory agencies on a case-by-case basis instead of through efforts to quantify or precisely predetermine the number and/or size of docks that the Chester HMA can support. To avoid the possibility of adverse impacts on navigation, coastal resources, and

scenic values, the amendments strengthened the Town's harbor management policies for limiting, to the extent feasible and practical, the number and size of water-access structures in the HMA, especially in currently undeveloped shoreline areas and areas of special ecological value.

The Plan amendments also call for providing increased and more informed local review of proposals for water-access structures; for incorporating consideration of potential impacts on aesthetic coastal resources and scenic values into the review of such proposals; and for other measures to most effectively achieve and maintain balance in the HMA between, on the one hand, the riparian/littoral property owners' rights to have reasonable access to navigable waters and, on the other, the public's rights and interests with respect to those waters.

In addition, the Plan amendments call for the Town to consider formulation of more detailed standards concerning water-access structures in the HMA at such time as additional information and new methodologies for dock management in the Lower Connecticut River region may become available, and for inclusion of those standards in the Plan. Such standards could include, but not be limited to, dimensional standards and standards for avoiding or otherwise mitigating adverse visual impacts.

The Plan amendments added detail to the Plan's already-existing provisions and further strengthened the Town's role and authority for managing the HMA in coordination with state and federal agencies, notably the Department of Energy and Environmental Protection's Office of Long Island Sound Programs and the USACE. Some notable Plan amendments reflect the current coastal permitting requirements of the DEEP OLISP, including: pre-application requirements whereby applicants for DEEP OLISP permits affecting the HMA must properly confer with the HMC prior to submitting a permit application to the DEEP OLISP; and requirements that applicants' site surveys and proposed plans must be prepared by licensed professional engineers or land surveyors.

The Plan Amendments were prepared so as not to commit the Town to any additional costs for implementing the Plan. These newer provisions of the Plan are now being implemented primarily through the HMC's review of proposed projects in accordance with the Town's existing Harbor Management Consistency Review Process established in the Plan and in Section 10 the Town's Harbor Management Ordinance.

The 2013 Chester Harbor Management Plan

In 2013 the Harbor Management Commission has re-published The Chester Harbor Management Plan to incorporate the duly approved and adopted provisions included in the 2010 Plan Addendum. The re-published document consists of the following parts, chapters, and appendices.

Part I: Background Information for the Harbor Management Plan. Part I includes three chapters. Chapter 1 describes the coastal area setting and boundaries of the Chester Harbor Management Area, waterfront land-use, and water-dependent uses and activities; Chapter 2 summarizes the agencies, laws, and programs affecting the Chester HMA; and Chapter 3 reviews

the basic harbor management issues and planning considerations addressed in the Plan, as well as harbor management issues specifically associated with water-access structures such as docks, floats, and piers in the HMA.

Part II: The Harbor Management Plan. Part II includes four chapters. Chapter 4 contains the Town's basic goals and policies to guide safe and beneficial use of the HMA and conservation of the HMA's natural coastal resources; Chapter 5 sets forth the Town's harbor management policies that specifically concern water-access structures; Chapter 6 contains guidelines and water-use plans for each of several harbor management sub-areas and planning units identified within the larger HMA; and Chapter 7 sets forth recommended roles and responsibilities for implementing the Plan, including recommendations for advancing the Plan's provisions for managing docks, floats, piers, and other water-access structures in the HMA.

Part III: Appendices. The appendices include: a) the Connecticut Harbor Management Act; b) Town of Chester Harbor Management Ordinances; c) Rules and Regulations for Mooring and Anchoring Vessels in the HMA; d) the Institutional Framework for Managing Water-Access Structures; e) aerial photos of harbor management areas and planning units; f) maps of harbor management areas and planning units; g) Landscape Protection and Visual Impacts Materials from the Office of Long Island Sound Programs and h) "Guidelines for the Placement of Fixed and Floating Structures in Waters of the U.S. Regulated by the New England District, U.S. Army Corps of Engineers."

Implementing the Harbor Management Plan

The Chester Harbor Management Plan is based on recognition that the Chester Harbor Management Area provides opportunities for beneficial use and development, subject to limitations posed by the value and sensitivity of the natural coastal resources in the Chester HMA. In the years ahead, the opportunities and limitations are expected to continue to generate conflicts between development efforts and efforts to protect the HMA's natural environment. Natural values associated with the HMA's coastal resources, including tidal and freshwater-tidal wetlands and other resources, have been lost or degraded in the past, and increasing pressures for resource use and development highlight the need for thoughtful planning and informed management to conserve the existing values.

Goals of the Plan are directed toward achieving balance between recreational and commercial use and development opportunities on the one hand, and protection of natural coastal resources and the existing character and quality of life in the Town on the other. The goals also establish the basis for the Plan's more detailed harbor management policies and area-specific guidelines and recommendations.

Harbor management policies established in the Plan apply throughout all areas of the HMA to guide implementation of the Plan. The policies address concerns related to: waterfront and harbor administration; environmental protection; boating and water use; dredging; mooring; public safety;

waterfront use and development; and water access. Area-specific guidelines and recommendations of the Plan add detail to the policies, and have been formulated for each of five identified harbor management sub-areas within the larger HMA.

Plan implementation is achieved primarily through the actions of the HMC, other Town agencies such as the Board of Selectmen and Planning and Zoning Commission, the State of Connecticut Harbor Master for Chester, relevant state and federal agencies including the DEEP OLISP and USACE, and private organizations and citizens.

Benefits of the Harbor Management Plan

There are several broad benefits that the Town of Chester realizes through The Chester Harbor Management Plan. First, the Town's role, relative to state and federal authorities, for the planning, management, and regulation of in-water and waterfront activities is strengthened.

Prior to the Chester Harbor Management Commission and the Plan, the Town's authority to address a number of important concerns affecting the Chester Harbor Management Area was relatively limited. All tidal waters, submerged lands, and intertidal areas are held in trust by the State of Connecticut for the benefit of the general public, and most all activities that take place waterward of the mean high water line are subject to the control and jurisdiction of the State of Connecticut and federal government, acting primarily through the Department of Energy and Environmental Protection's Office of Long Island Sound Programs and U.S. Army Corps of Engineers, respectively.

Through the HMC and Plan, Chester assumed an integral role in the planning, management, and regulation of in-water and waterfront activities. Establishment of such municipal involvement is an important aim of the Connecticut Harbor Management Act which authorizes municipalities to create harbor management commissions and prepare harbor management plans. The Plan establishes a basic Town role in the state and federal decisions (pertaining to permits for docks, piers, and dredging, for example) that affect waterfront development, coastal resources, and the boating and other activities that take place in the HMA. Town, state, federal, and private actions affecting the HMA are to be consistent with the Plan. This consistency requirement is a significant tool that the Town uses to ensure that state and federal actions conform to the needs and conditions of the Town of Chester.

The Plan does not replace existing state and federal programs that regulate in-water and waterfront activities. Nor does it give the HMC regulatory power to approve or deny the proposals that it reviews. The plan does, however, provide a special mechanism whereby the HMC's findings must be considered and incorporated into the relevant state and federal regulatory programs. Without the Plan, there would be no formal mechanism or overall context to define the Town's involvement in the state and federal decisions that affect the HMA. Pursuant to Section 22a-113n of the Connecticut General Statutes, a recommendation pursuant to the Plan with respect to a proposed project shall be binding on any official of the state when making regulatory decisions or undertaking or sponsoring

development affecting the HMA, unless such official shows cause why a different action should be taken.

The Plan increases coordination among the different Town agencies that carry out harbor management-related responsibilities. Described in Chapter 2, a number of Town commissions and departments in addition to the HMC have some authority or influence over the HMA and waterfront areas. Close coordination among these Town agencies is necessary to accomplish the most effective management of the HMA in the public interest. The Plan provides a guiding framework (e.g., the Town's harbor management goals, policies, and recommendations) within which the decisions of these commissions and departments are made in a coordinated and effective manner. In addition, the Plan helps ensure that awareness and understanding of harbor management concerns are incorporated into the actions of Town agencies without removing any of their existing authorities.

Another benefit of the Plan concerns the involvement of the State of Connecticut Harbor Master for Chester. The duties of the Harbor Master, who is subject to the direction and control of the Connecticut Department of Transportation, must be carried out in accordance with the Plan. Therefore the Plan provides local direction and control with regard to the Harbor Master's activities, and ensures continuity between the actions of current and future Harbor Masters. Also, the Plan ensures that all future Harbor Masters must be appointed by the Governor from a list of candidates provided by the HMC, as required by Section 15-1 of the Connecticut General Statutes.

An Ongoing Process in the Public Interest

Management of the Chester Harbor Management Area through implementation of The Chester Harbor Management Plan is an ongoing process that continues to develop in response to changing conditions and circumstances. The Harbor Management Commission works to implement the Plan while recognizing that the Plan does not identify every issue that is likely to affect the Chester HMA Area in the future, nor does it provide a definitive answer to every possible concern. The need for case-by-case decision-making remains, but the Plan provides a framework to guide this decision-making. The framework is flexible and requires modification over time as conditions change and responses to sometimes complicated harbor management issues continue to evolve. Within the policy and decision-making framework established by the Plan, the HMC acts to manage the use and conservation of the HMA in the public's interest and, where necessary, improve conditions in the HMA.

As Chester's harbor management initiatives continue to evolve in the years ahead, additional management provisions may be formulated to respond to changing circumstances. To accommodate this additional work, and to ensure that the Plan responds to changing conditions, the Plan will continue to be amended as needed. The HMC, through its regularly scheduled and special meetings, will continue to provide an ongoing forum to hear the concerns, questions, and thoughts of Town residents, waterfront property

owners, water-dependent facility operators, and others concerning the Chester HMA, waterfront, and the Plan.

NOTE: Laws and regulations affecting the Chester Harbor Management Area, including laws and regulations enforced by agencies of the State of Connecticut, are subject to change and/or re-numbering. Persons affected by or otherwise interested in laws and regulations noted in The Chester Harbor Management Plan should consult current statutes and regulations and may contact the appropriate agency for the most up-to-date information on the status of current laws and regulations.

PART ONE:

BACKGROUND INFORMATION FOR THE CHESTER HARBOR MANAGEMENT PLAN

CHAPTER 1: THE CHESTER HARBOR MANAGEMENT AREA

CHAPTER 2: THE INSTITUTIONAL FRAMEWORK FOR HARBOR MANAGEMENT

CHAPTER 3: HARBOR MANAGEMENT ISSUES AND PLANNING CONSIDERATIONS

Chapter 1: The Chester Harbor Management Area

As it flows to Long Island Sound, the lower Connecticut's network of freshwater and brackish marshes contains wetlands of international importance. Their undisturbed marshes are havens for the shortnose sturgeon, piping plover, and other rare species, offering food-rich nurseries and pathways for migratory fish and birds.

The River provides us with power, transportation, and food. It is famous for its log drives and the innovative precision manufacturing that took place along its banks. It was the nation's first large river developed for transportation. Recently, its ecological value has begun to receive wider acclaim. In 1997, the Connecticut River Watershed Council donated Third Island in Deerfield, Massachusetts to formally establish the Silvio O. Conte National Fish and Wildlife Refuge. It is the only Refuge designated to protect the flora and fauna of an entire watershed and one of just a handful that has fisheries protection as a key mandate. The Connecticut is also one of only 14 presidentially-designated American Heritage Rivers in the U.S., an acknowledgment that its rich heritage, ecological importance and natural diversity have national significance.

This first chapter of The Chester Harbor Management Plan (the Plan) describes the coastal area setting of the Town and its Harbor Management Area (HMA) on the Connecticut River, Chester Creek, and Deep River Creek. Also included is a summary of the water-dependent uses and activities in the Chester HMA which is the area of the Town's municipal jurisdiction

for harbor management purposes. Defined in Section 2 of the Town's Harbor Management Ordinance (see Appendix B of the Plan), the HMA includes all navigable waters and intertidal areas waterward of the mean high water (MHW) line of the Town's shoreline, bounded on the north by the Chester/Haddam town line, on the south by the Chester/Deep River town line, and on the east by the centerline of the Connecticut River. To the west, the HMA encompasses Chester Creek and its intertidal area upstream to the center of the Town.

Coastal Area Setting

The Town of Chester owes much of its town character and quality of life to its location in the Connecticut River Valley. The Town's southern boundary is about 12 miles upriver from Long Island Sound, and its total shoreline along the west side of the Connecticut River measures about 2.8 miles. Chester Creek is another significant natural feature of the Town, flowing for a distance of about 1.8 miles from near the center of Town to the Connecticut River. Another Connecticut River tributary, Deep River Creek (sometimes called the Deep River), is also a significant natural feature and forms part of the town boundary between Chester and the Town of Deep River.

Chester was part of the original Saybrook Colony; its early growth was tied to its Connecticut River location and the abundant water power made possible by a number of steep-gradient streams flowing through the community. When first settled in 1692, the area that would later become the Town of Chester was known as the "North Quarter" of Saybrook. It was also called Pattaconk—an American Indian term for a round or wigwam-shaped hill.

Today, Chester retains much of its heritage and small-town character. Large areas of natural open space have been preserved throughout the Town, along with historic buildings and the visual and cultural characteristics that make the Town a desirable place to live and visit. The Town's coastal resources along Chester Creek, the Connecticut River, and Deep River Creek are particularly significant in terms of their scenic and ecological qualities. Several commercial marinas and private yacht clubs have been developed on the Town's shoreline, making Chester a center of recreational boating activity in the lower Connecticut River Valley.

Coastal Resources

Chester is the northernmost town within the Connecticut coastal area defined by the state legislation known as the Connecticut Coastal Management Act (see Chapter 2), and is located near the northern extent of the Connecticut River's tidal zone. The tide is a significant factor affecting the Town's natural marine environment. Mean tidal range at Chester is 2.6 feet. High tide at the mouth of Chester Creek occurs one hour and 51 minutes later than at Old Saybrook at the mouth of the river, and remains slack for 22 minutes. The river's actual area of tidal influence extends further upriver but the level of salinity needed to create a productive estuarine ecosystem does not reach much further north than Chester. The daily flushing movement of saltwater, combined with the significant freshwater inflow, creates the Town's highly valuable

and productive estuarine environment which includes freshwater-tidal wetlands. Chester Creek is considered an estuarine embayment and is tidally influenced upstream to the center of Town.

Chester Creek is the largest of several tributaries to the Connecticut River at Chester. The creek is fed by the Pattaconk Brook, which flows through the center of Town, and by the Great Brook. Deep River Creek is also a significant tributary and its centerline near the Connecticut River forms part of the Town's southern boundary with the Town of Deep River. A third and lesser tributary is the Waterhouse Brook which enters the Connecticut River through a wetland area to the north of Chester Creek.

The state water quality classification of Chester Creek is SA (the highest classification attached to tidal water bodies) up to Middlesex Avenue. West of Middlesex Avenue, Chester Creek and the Pattaconk Brook are also classified SA to the center of Town. Water quality in Chester Creek and the Pattaconk Brook improved significantly following construction of a special community sewerage.

State water quality classifications in Chester's coastal area are:
SB: "suitable for bathing, other recreational purposes, industrial cooling and shellfish harvesting for human consumption after depuration; excellent fish and wildlife habitat; good esthetic value."

SA: "suitable for all sea water uses including shellfish harvesting for direct human consumption, bathing, and other water contact sports; may be subject to absolute restrictions on the discharge of pollutants."

There is no other sanitary sewer system in Chester. Deep River Creek is classified SB, and the Connecticut River is also SB.

In addition to the tributary streams, Chester's natural coastal resources include tidal wetlands, intertidal flats, and freshwater wetlands. These resources are vital for maintaining water quality and fish and wildlife habitat and for providing other important natural functions. The location and extent of these resources were identified by the Town in the course of preparing Chester's Municipal Coastal Program. Their general locations, which have not changed since the Plan was adopted in 1994, are shown on Figure 1-1 which is presented in its original form as included in the 1994 Plan document.

Tidal wetlands are found along Chester Creek and Deep River Creek. While these wetlands are "tidal" according to the definition of tidal wetlands set forth in the state's Tidal Wetlands Act, in ecological terms they may be described as "freshwater-tidal" wetlands and as such are particularly significant. Freshwater-tidal wetlands are comparatively rare and provide vital habitat for a number of species not found in saltwater marshes. In fact, the freshwater-tidal wetlands of the lower Connecticut River (which include the freshwater-tidal wetlands in Chester) have been identified by the U.S. Fish and Wildlife Service as having regional and perhaps national ecological significance.

Chester's freshwater-tidal wetlands are areas of high nutrient and biological productivity. They provide nesting, feeding, and refuge areas

for shore birds, and serve as a nursery ground for larval and juvenile forms of many of the organisms found in the estuarine environment. In addition, the wetlands provide important functions related to maintaining and improving water quality by trapping sediment, reducing turbidity, restricting the passage of toxics and heavy metals, and generally serving as a "nutrient sink." Other wetland values are related to the absorption of flood waters, protection against shoreline erosion, provision of recreational opportunities such as fishing, hunting, and wildlife observation, and provision of scientific and educational opportunities.

Freshwater-tidal wetlands along the middle and upper sections of Chester Creek are relatively undisturbed by human activities. Wild rice is the most prominent and visually spectacular vegetation in the intertidal area along the creek but other plants are also of interest, including the rare golden club. Wildlife is abundant. Chester's intertidal areas provide important habitat for migrating songbirds and wading birds as well as many other species of birds, mammals, and aquatic marine life. Eagles can often be seen fishing along Chester's shores as the nesting population of Bald Eagles on the Connecticut River continues to recover from its formerly endangered status.

The intertidal flats found along the Chester Creek and Connecticut River shorelines provide natural values very similar to those provided by the wetlands. Freshwater wetlands are found in the upper reaches of Chester Creek and Deep River Creek beyond the limits of the tidal wetland areas. Some of the natural and cultural functions and values of the freshwater wetlands, which are also found along the Connecticut River shoreline, are similar to the functions and values of the tidal wetlands.

Much of Chester's shore area is at risk to flooding. The flood hazard zone generally coincides with the boundaries of the wetland areas along Chester Creek, the Connecticut River, and Deep River Creek. Flooding from rising water in the Connecticut River can be caused by storm surge from coastal storms and by spring freshets or unusually heavy rain events. Flooding of the Chester and Deep River creeks can also be caused by heavy rainfall that does not result in a significant rise of the river. Historically, significant damage has been caused by flooding of the Pataconk Brook and Chester Creek.

Waterfront Land-Use

Due to the extensive wetlands and intertidal areas along Chester Creek, Deep River Creek, and the Connecticut River, much of Chester's waterfront area can be classified as open space. Other areas of the waterfront are developed for marine commercial use associated with marinas and private yacht clubs. The largest area of marine commercial use is concentrated along Chester Creek, from the Connecticut River to the railroad bridge located about 3,000 feet upstream from the river. The Connecticut Department of Energy and Environmental Protection holds an easement on land between Dock Road and Ferry Road near the river for the purpose of ensuring that this land remains in perpetual agricultural use. Residential land adjoins the intertidal areas of Chester Creek and Deep River Creek; residential areas of the Town are also found along the shorelines of the Connecticut River and Deep River Creek.

A significant shoreline feature is the linear Connecticut Valley Railroad State Park property which is leased by the state to the Valley Railroad Company for operation of an excursion train along the Connecticut River from Essex to Chester. The railroad causeways over Chester Creek and Deep River Creek restrict water circulation through the creeks' wetlands.

The western terminus of the Chester-Hadlyme ferry that carries vehicles and pedestrians across the Connecticut River is located at the foot of Ferry Road.

A significant parcel of vacant land—historically used for dredged material disposal—is found just north of the mouth of Chester Creek.

Across the Connecticut River, nearby features and sites of interest include Chapman's Pond, Whalebone Creek, Gillette Castle State Park, Selden's Creek, and Selden Neck State Park located in the towns of East Haddam and Lyme. Selden Island along the Connecticut River shoreline at Lyme is described by the DEEP as the largest island in Connecticut.

Chester's waterfront zoning districts include waterfront design districts, residential districts, and a tidal wetlands district. (See Figure 1-2 which is presented in its original form as included in the 1994 Plan document.) The waterfront design district (WDD) is intended to encourage the continued operation of the existing water-dependent land uses associated with the commercial marinas and private yacht clubs. In 2013, this district encompasses waterfront land south of Dock Road, between the Connecticut River and the railroad line. The area of the Chrisholm Marina on the Connecticut River is also designated as a waterfront design district. The tidal wetlands district is intended to protect the tidal wetlands along the Chester and Deep River creeks. The remainder of the Connecticut River shoreline and land adjoining Chester and Deep River creeks is zoned for residential use.

Chester's waterfront is also located in the Connecticut River "Gateway Conservation District." This district, with its requirements to guide waterfront land-use and development in the district, was established by the state legislature to protect the scenic and environmental qualities of the lower Connecticut River. The district and its development-related requirements have been incorporated into the Town's zoning regulations.

Water-Dependent Uses and Activities

Historical information in this section was provided by the Chester Historical Society. Described in the 2009 Chester Plan of Conservation and Development, Chester Creek and the Connecticut River played significant roles in the growth and development of the Town. Chester Creek (early-on known as the Pattaconk River) was navigable as far west as the center of Town and the area was known as "Chester Cove." Throughout the 18th century and for much of the 19th century, the dominant form of transportation for commerce was waterborne transportation on the Connecticut River. The creek provided a navigable link between the center of Town and the river and was of great economic importance in the region. Chester was a port of origin for local merchants and for shipping local products. Ports of call were up and down the east coast and

in the West Indies. In addition, many vessels were "fitted-out" in Chester and local seamen shipped out from the Town, including many who served as privateers during the American Revolution.

Chester's own ship-building history is significant. There are historical references to vessels being built, probably in the Old Building Yard at the head of Chester Cove, in 1755. The earliest record, however, is of the 62-ton, 59-foot Dolphin launched in 1791. (Tonnage in the early days referred to a ship's carrying volume or capacity.) A second shipyard in the Cove, Dunks Landing, was located at the foot of East Liberty Street, and a third yard, Denison's, was located just east of Route 154 on the north shore of the creek where a foundation can still be seen at low tide. A fourth shipyard, Lords Wharf, was located on the northern bank of Chester Creek at the Connecticut River. All told, sixty one sailing vessels of recordable significance were built at Chester, ranging in size up to the Adriatic, a 289-ton, 87-foot ship launched in March, 1812. The last major vessel was the schooner Carrie H. Annis built in 1875.

By the early 1800s, a number of maritime-related manufacturing businesses were operating in Chester. Able Snow was forging ship anchors on the south stream of the Pattaconk Brook, and S.C. Silliman & Company, C.I. Griswold - Chester Manufacturing, C.E. Jennings, A.H. & J.S. Dense, and the Connecticut Valley Hardware Company were all engaged in the manufacture of ship-building hardware and tools. The single twist drill bit, which revolutionized the ship-building industry, was invented in Chester in 1815.

Construction of the Middlesex Turnpike Bridge over Chester Creek in 1816 restricted ship-building and "Cove trade" from then on. It was at this time that Chester Cove began to fill up with silt. After construction of the railroad causeway and fixed trestle over the creek in 1870, only small handpropelled vessels could reach upstream, and the lower part of the cove also began to silt-in. With the decline in the building of sailing vessels in the latter half of the 19th century, the importance of the creek in local commerce also declined.

Connecticut River steamboat traffic is another important aspect of Chester's maritime history. Steamboats traveled the river into the early 1900s, picking up and discharging passengers at the end of Railroad Avenue at the mouth of Chester Creek. The steamboat dock was located on the property where the Chester Point Marina is today. A Town Dock at the foot of Dock Road also accommodated vessels picking up and discharging passengers.

Recreational use of Chester Creek probably also dates back to the early days of Town settlement, but did not have major significance until the 1950s. Today, Chester is an important center of recreational boating activity in the lower Connecticut River Valley. In 2010, the Connecticut River Estuary Regional Planning Agency estimated that over 800 vessels were berthed, docked, moored, or stored within the Town. Chester Creek supports two commercial marinas and two private yacht clubs that provide boat slips and dock space as well as boat service facilities. Two additional commercial marinas and a third yacht club are found on the shoreline of the Connecticut River.

Chester is the northern-most location on the Connecticut River (12 miles upstream from Long Island Sound) considered by many boaters to be close enough for weekend cruises destined for the Sound. The Town attracts a number of recreational boaters from central Connecticut as well as southern Massachusetts.

Chester Creek

Chester Creek has natural channel depths of approximately six to eight feet below mean low water (MLW) in some of its lower reaches. In other locations, shoaling has reduced the navigable depths to less than five feet. The creek provides direct access to the Connecticut River for a large number of pleasure craft, mostly power boats, ranging in size up to about 40 feet in length. All of the marina facilities are downstream of the Connecticut Valley Railroad Bridge. Small craft can still navigate upstream, under the railroad and Middlesex Avenue bridges, toward the center of Town.

In 1967, a channel 75 feet wide was dredged to a depth of at least five feet below MLW from the outer end of the north jetty at the mouth of the creek to a point about 250 feet upstream. The dredged material was placed in a diked area on the north shore of the creek near the Connecticut River in a location that has been used historically by the U.S. Army Corps of Engineers (USACE) for disposal of dredged material from the Connecticut River channel.

In 1981, Town officials and the local boating community identified an urgent need to address the shoaling at the mouth of the creek. A planning study conducted for the Planning and Zoning Commission recommended that the channel be dredged to a minimum depth of six feet below MLW. Due to the current at the mouth of the creek, a channel width of 100 feet was recommended to provide sufficient maneuvering room. Upstream, a preferred minimum channel width of 60 feet (or from 4 to 5 times the beam of the largest craft using the channel) was recommended, but a navigable channel at least 50 feet wide was judged to be adequate. The Town then conducted maintenance dredging in accordance with permits obtained from the USACE and Connecticut Department of Environmental Protection.

The Chester Creek channel, although not exposed to waves of significant magnitude, experiences occasional waves generated by the wakes of vessels on the Connecticut River. Due to the angle of approach, the presence of the jetty at the mouth of the creek, and a shoal near the mouth of the creek, the vessel-generated wakes typically have little effect in the creek except near the entrance, where local boaters report that wave heights of approximately one foot are sometimes experienced.

In 2013, water-dependent uses in Chester Creek include two commercial marinas (the Castle Marina and Hays Haven Marina) and two private yacht clubs (the Springfield Yacht and Canoe Club and Pattaconk Yacht Club) that utilize dredged marina basins near the mouth of the creek. Each of the

commercial marinas maintains a boat launching ramp and charges a fee for parking and use of the ramp. In addition to the boating facilities maintained by the commercial marinas and private clubs, two private docks extend into the creek from shorefront residences between the railroad bridge and Middlesex Avenue.

Also located near the mouth of the creek is a public deck structure constructed by the Town and known as the Chester Creek Overlook. This is one of only two Town facilities providing public access to the Harbor Management Area. (The other facility is the Parker's Point boat launching area on the Connecticut River.) Several parking spaces are provided and the overlook provides visual access to the creek and Connecticut River.

Connecticut River

The Connecticut River at Chester ranges in width from about 2,500 feet at the Town's southern boundary with the Town of Deep River to about 1,000 feet where it is most narrow. Current in the river typically measures about two knots during normal flow. The Connecticut River federal navigation channel authorized by Congress and maintained by the USACE serves the larger recreational and commercial vessels that use the river. In the Chester area, the congressionally authorized depth of the federal channel is 15 feet at mean low water and its authorized width is 150 feet. As the channel generally follows the river's eastern shoreline, it is outside of the Chester Harbor Management Area. Most of the river in the vicinity of Chester is naturally deep and wide so there has been no need to establish specific channel limits except in the area sometimes referred to as the "Potash Bar Channel" along the river's eastern shoreline opposite Chester Creek. Maintenance dredging of the federal channel in this reach of the river is the responsibility of the USACE.

Historically, a secondary navigation channel followed the river's western shoreline in the area south of Chester Creek and was used by steamboats serving Chester and other shoreline communities. This western channel, known as the "Steamboat Channel," is deep enough to accommodate all but the largest boats and is today used by Connecticut River excursion vessels. Generally, the river is shallower on its western side, along the Chester shoreline.

A diverse mix of recreational boating and other water-based activities takes place on the Connecticut River in and near the Chester HMA. Water skiing, recreational fishing, canoeing, kayaking, and rowing are among the popular activities in this part of the river. Swimming also takes place along the shoreline.

In addition to excursion vessels, commercial water-dependent activities include the occasional oil barge and, in the Springtime, fishing for shad. Smaller excursion vessels travelling the lower Connecticut River sometimes use the area of the river known as the "inner channel" by the mouth of Chester Creek.

Within the Chester HMA, boat moorings are placed in two "Special Anchorage Areas" designated by the U.S. Coast Guard near the mouth of Chester Creek,

and along shorefront residential areas to the north of the Special Anchorage Areas.

Water-dependent facilities on the Connecticut River at Chester in 2013 include the Chester Point Marina near the mouth of Chester Creek; Chrisholm Marina; the Middlesex Yacht Club (the previously described Pattaconk and Springfield yacht clubs have frontage on the river but their principal boating facilities are located on Chester Creek); the Parker's Point boat launching area; and the Chester-Hadlyme ferry terminal. In addition, private docks constructed by shorefront property owners extend into the river at several locations.

The Parker's Point boat launching area at the foot of Parker's Point Road is one of the two facilities providing public access to the Chester HMA. (The Chester Creek Overlook is the other.) The launching area provides physical access to one of the most scenic parts of the Connecticut River but its use is restricted by the limited parking space available.

The Chester-Hadlyme Ferry has been in continuous operation since 1768 and is the second oldest ferry in Connecticut. Operating from the Spring through Fall with its western terminal at the foot of Ferry Road, it connects Chester with Hadlyme on the eastern shore of the Connecticut River and serves both vehicle and pedestrian traffic.

The Institutional Framework for Harbor Management

There is constituted a seven-member Harbor Management Commission of the Town of Chester which shall have the powers and duties conferred on such commissions by Sections 22a-113k through 22a-113t of the Connecticut General Statutes.

1 Information in this chapter was originally included in The Chester Harbor Management Plan adopted by the Chester Town Meeting in 1994. It has been updated for inclusion in the Plan re-published in 2013. Additional information concerning the institutional framework for harbor management in Chester is included in the Plan's "Appendix D: The Institutional Framework for Dock Management."

A number of governmental entities at the Town, state, and federal levels have authorities and responsibilities that affect the Chester Harbor Management Area (HMA). In addition, the general public and waterfront property owners have important water-related rights to use the Chester HMA, and there are several regional and private organizations with interests pertaining to the HMA.

While the Chester Harbor Management Commission (HMC) has the most direct responsibilities with regard to the Chester HMA, other Town commissions, boards, and departments also have harbor management-related interests.

Chester Harbor Management Commission

In 1989, the residents of Chester at a Town Meeting adopted a Town Harbor Management Ordinance creating the seven-member Chester HMC comprised of

five regular members and two alternates. This action was taken with authority provided by the Connecticut Harbor Management Act of 1984 (Sections 22a-113k through 22a-113t of the Connecticut General Statutes). A copy of the Harbor Management Act is included as Appendix A of The Chester Harbor Management Plan (the Plan). The Harbor Management Ordinance (see Appendix B of the Plan) authorizes the HMC to carry out all of the powers, duties, and responsibilities granted to municipal harbor management commissions through the Harbor Management Act.

As specified in the Ordinance, the purpose of the HMC is to: 1) ensure the safe, proper, and responsible use of the Town's navigable waters; 2) protect the Town's marine resources and sensitive natural resource areas along its coastal waters; 3) provide greater public opportunities for water-based recreation; 4) maintain and enhance navigation facilities; and 5) allocate water-side resources in an economically sound manner.

To fulfill these responsibilities, the Ordinance specifies that the HMC should prepare and, after a public hearing, adopt a Town Harbor Management Plan. Among its other duties, the HMC is to review all proposals for dredging, filling, and constructing any structure within or contiguous to the waterfront for consistency with the Plan; assist and guide the Harbor Master in the assignment of moorings; and assist in the coordination of all public and private agencies and organizations, including state and federal agencies, that have an interest or jurisdiction within the Town's waterfront areas. The Chester Planning and Zoning Commission and all other Town boards and commissions are required to consult with the HMC on matters pertaining to the HMC's area of authority.

Other Town Agencies

Town commissions and departments listed below also have authorities and responsibilities that affect the Chester HMA.

Town Meeting: The Town Meeting is the legislative body of the Town of Chester and is responsible for approval and adoption of all Town ordinances. The Town Meeting adopted the Town's Harbor Management Ordinance to establish the HMC and authorize preparation of the Harbor Management Plan, and may adopt other ordinances affecting the Chester HMA. Any changes to the Harbor Management Ordinance must also be adopted by the Town Meeting. In addition, the Town Meeting adopted the Plan and The Chester Harbor Management Plan 2010 Plan Addendum (2010 Plan Addendum). Any future amendments to the Plan and Harbor Management Ordinance also require adoption by the Town Meeting before they may take effect.

Board of Selectmen: As the executive agency of the Town, the Board of Selectmen exercises authorities that may directly and indirectly affect actions within the Chester HMA. The Board of Selectmen appoints the members of the HMC, reviews the HMC's budget requests, and provides leadership and direction for the Town's harbor management initiatives.

Planning and Zoning Commission: The Chester Planning and Zoning Commission has authority over land use in the Town. The Planning and Zoning Commission is responsible for the Town's Zoning Regulations and 2009

Chester Plan of Conservation and Development (POCD) as well as the Town's Municipal Coastal Program which establishes Town goals and policies for guiding land use and protecting coastal resources in the Town's coastal area. The Municipal Coastal Program, authorized by the state legislation known as the Connecticut Coastal Management Act, is incorporated into the POCD. The Planning and Zoning Commission also reviews site plans for development proposals within the Town's designated coastal area. Historically, the Commission has recognized the need for maintenance dredging of Chester Creek and in 1982 received a state grant to conduct a special study of dredging needs.

Inland Wetlands/Conservation Commission: This Town commission has a dual role. As the Inland Wetlands Commission, it has regulatory jurisdiction over freshwater wetlands in the Town. As the Town's Conservation Commission, it has authority to inventory open space lands in the Town and make recommendations for the use of those lands. The Conservation Commission has been particularly interested in protecting the freshwater-tidal marshes along Chester Creek, but does not have jurisdiction over these wetlands which are mapped as state-designated tidal wetlands subject to the regulatory authority of the Connecticut Department of Energy and Environmental Protection. (DEEP)

Chester Police Department: The Police Department is responsible for law enforcement, including enforcement of Town ordinances, and can also enforce state boating laws within the Chester HMA.

Fire Department: The Town's volunteer Fire Department operates a vessel equipped with firefighting and rescue equipment that is berthed in Chester Creek during the boating season. Emergency calls received by the Deep River/Chester regional dispatch center and by the Coast Guard are forwarded to the Fire Department which is then the first agency to respond to emergency situations on the water in the Chester area. The Fire Department also has a small trailered boat that can be used to respond to emergencies. Fire department volunteers are trained for medical, rescue, fire-fighting, and emergency response services. They are also trained and prepared to provide initial response to oil spills.

Park and Recreation Commission: This Town commission has responsibility for managing Town parks and other Town-owned land used for recreational purposes, including the Chester Creek Overlook and Parker's Point boat launching area above the mean high water line. Maintenance of these two areas is the responsibility of the Town's Public Works Department.

Regional Agencies

Regional agencies with authorities and responsibilities that affect the Chester Harbor Management Area include the Lower Connecticut River Valley Council of Governments and the Connecticut River Gateway Commission.

Lower Connecticut River Valley Council of Governments

The "River COG," as this agency is known, was established in 2012 through the merger of the Connecticut River Estuary Regional Planning Agency (CRERPA) and the Midstate Regional Planning Agency. The River COG provides

planning services to its 17 member-towns, including Chester, of the sort historically provided by the two regional planning agencies. Previously, it was CRERPA's responsibility to prepare, adopt, and assist with implementation of a regional plan of development for its service area. In addition, CRERPA reviewed and advised on proposed actions (including zoning and subdivision proposals) of regional significance, and provided technical assistance, including assistance for long-range planning, preparation of land-use regulations, and review of development proposals, to Chester and other towns. With regard to the Chester HMA, CRERPA provided assistance to the Chester Harbor Management Commission for completion of the HMC's 2003 Dock Management Study.

Connecticut River Gateway Commission

The Gateway Commission, consisting of representatives from the Towns of Chester, East Haddam, Haddam, Deep River, Lyme, Old Lyme, Essex, and Old Saybrook as well as representatives from CRERPA and the Connecticut Department of Energy and Environmental Protection, was established by Section 25-102e of the Connecticut General Statutes in 1973. The Gateway Commission is charged with specific responsibilities for implementing the purposes of the Lower Connecticut River Conservation Zone, including the legislative goals to preserve the unique scenic, ecological, scientific, and historic values associated with the Connecticut River and "to prevent deterioration of the natural and traditional riverway scene for the enjoyment of present and future generations." Chester's waterfront and HMA is located within the Lower Connecticut River Conservation Zone. Standards for land use and development in the Conservation Zone developed by the Gateway Commission have been incorporated into the Town's Zoning Regulations. The Gateway Commission also pursues the purchase of land or development rights to protect the natural landscape. In addition, all actions by the towns within the Conservation Zone to revise zoning and subdivision regulations within the Conservation Zone must be approved by the Gateway Commission.

State Agencies and Officials

A number of state laws, regulations, and programs affect the Chester Harbor Management Area. The principal legislation of interest includes the Connecticut Harbor Management Act of 1984 (P.A. 84-287; Sections 22a-113k through 22a-113t of the Connecticut General Statutes) which enables municipalities to establish harbor management commissions and develop harbor management plans. (A copy of the Act is included as Appendix A of The Chester Harbor Management Plan.) The intent of the Harbor Management Act is, in important part, to increase the authority and control of local governments over matters pertaining to the use and condition of their harbors.

In accordance with Section 22a-113m of the General Statutes, any harbor management plan or plan amendments proposed by a municipality must be approved by the Connecticut commissioners of Environmental Protection and Transportation before the plan or any amendments to that plan may be adopted by the legislative body of the municipality.

Also of interest is the Connecticut Coastal Management Act of 1979 (Sections 22a-90 through 22a-112 of the General Statutes) which establishes policies for the use and conservation of coastal resources; establishes the mandatory municipal process of coastal site plan review; and authorizes preparation of municipal coastal programs, such as Chester's program which is implemented through the 2009 Chester Plan of Conservation and Development and zoning regulations.

There are numerous other state laws and regulations affecting the Chester HMA, including laws and regulations controlling the operation and speed of all vessels. Those laws and regulations are subject to change and/or renumbering. Persons affected by or otherwise interested in such laws and regulations, including the Regulations of Connecticut State Agencies concerning vessel speed and operation, should consult current statutes and regulations and may contact the appropriate agency for information on the status of current laws and regulations.

The most prominent state agencies with roles and responsibilities in the HMA are the Department of Energy and Environmental Protection and the Department of Transportation (ConnDOT). Also, the Chester Harbor Master and Deputy Harbor Master, appointed by the Governor, are state officials whose authorities are established by state statutes.

Department of Energy and Environmental Protection

Office of Long Island Sound Programs

The DEEP's Office of Long Island Sound Programs (OLISP) has significant responsibilities for implementing the Connecticut Coastal Management Act of 1979 and the Connecticut Harbor Management Act of 1984. The OLISP provides municipalities with technical assistance for harbor management and reviews proposed municipal harbor management plans and harbor management plan amendments to determine their consistency with state statutes.

The OLISP also reviews proposed development activities in the state's coastal waters and issues or denies permits for the following activities: placement of structures waterward of the coastal jurisdiction line; placement of structures in tidal wetlands; filling in tidal wetlands; filling in coastal, tidal, or navigable waters; dredging for navigation and disposal of dredged material; construction and maintenance of nonfederal channels; and placement of commercial moorings. The OLISP works closely with the U.S. Army Corps of Engineers in processing permit applications involving filling, dredging, or structures in wetlands or coastal waters. Tidal wetlands subject to the jurisdiction of the OLISP in Chester have been mapped and include the Town's freshwater-tidal wetlands. Tidal wetlands are defined in state statutes and mapped according to the presence of specific vegetation.

Other Divisions of the DEEP

Other divisions of the DEEP noted below also have authorities and responsibilities that affect the Chester HMA.

Boating Division: The Boating Division offers boating safety instruction and certifies boaters on completion of basic boating and personal watercraft operation courses. In addition, it is responsible for implementing the state's permitting programs for special marine events and for placement of all regulatory, special purpose, and navigational markers, including markers to delineate restricted speed zones and swimming areas. Pursuant to Section 15-136 of the Connecticut General Statutes, the Boating Division is responsible for reviewing local ordinances regarding the operation of vessels to determine if those ordinances are consistent with state law.

Environmental Conservation Police Division: This division, which cooperates as necessary with local police departments, the State Police, and the Coast Guard, in law enforcement and search and rescue, has responsibility for enforcing state boating laws, fish and wildlife laws, and other state laws and regulations. The division also enforces the state laws and regulations concerning recreational and commercial fishing.

Planning and Standards Division: The Planning and Standards Division adopts water quality standards and classifications for Connecticut waters (including the surface-waters of the Chester HMA), monitors and assesses the state's water quality, regulates municipal discharges, and assists municipalities in upgrading municipal sewerage facilities.

Bureau of Natural Resources: The Bureau of Natural Resources manages inland and marine fish populations for commercial and recreational fishing and is involved with restoration, management, regulation, and research concerning several important fish species and populations in Long Island Sound and the Connecticut River.

Bureau of Materials Management and Compliance Assistance: This bureau enforces the state's water pollution control laws; regulates stormwater discharges from industrial and commercial activities; conducts pollution prevention, monitoring, and enforcement inspections; and provides emergency response for oil and chemical spill incidents and releases of hazardous materials and petroleum products.

Department of Transportation

The Connecticut Department of Transportation has several authorities concerning the harbors and navigable waterways of the state, including responsibility for providing administrative support for the Connecticut Maritime Commission, established by the General Assembly to function as the primary body in the state for the development and recommendation of maritime policy to the Governor and General Assembly. Also, Harbor Masters and Deputy Harbor Masters are state officials appointed by the Governor and subject to the direction and control of the Commissioner of Transportation. They are responsible to the Commissioner for the safe and efficient operation of the harbors over which they have jurisdiction.

In addition, any harbor management plan or harbor management plan amendments proposed by a municipality must be submitted for approval to the Commissioner of Transportation (approval by the Commissioner of

Environmental Protection is also required) before they can be adopted by the municipality.

ConnDOT also has responsibilities concerning the regulation of state-licensed marine pilots; acts as the state's proponent or coordinator for dredging projects, including federal maintenance dredging projects needed to maintain maritime commerce and the viability of water-dependent facilities and activities; and owns and operates the Chester-Hadlyme Ferry with its western terminal on the Chester shoreline.

Harbor Master and Deputy Harbor Master

Both the Chester Harbor Master and Deputy Harbor Master are appointed by the Governor of Connecticut for three-year periods, serve at the pleasure of the Governor, and are responsible for the general care and supervision of the Town's navigable waterways, subject to the direction and control of the Commissioner of Transportation. The Harbor Master and Deputy Harbor Master have a number of state-established authorities affecting the Chester HMA, including authority for control of all vessels moored or anchored in the HMA, removal of derelict and abandoned vessels and structures, and other actions conducted in the interest of maintaining safe navigation.

Under Section 15-1 of the Connecticut General Statutes, harbor masters are responsible for the general care and supervision of the harbors and navigable waterways over which they have jurisdiction, and are responsible to the Commissioner of Transportation for the safe and efficient operation of such harbors and waterways. Among their powers and duties, harbor masters are empowered to enforce the provisions of the General Statutes concerning removal of abandoned and derelict vessels, including Section 15-11a and Section 15-140c.

Under Section 15-154 of the General Statutes, harbor masters are also empowered to enforce state boating laws within their jurisdiction, except that harbor masters who are not certified law enforcement officers may not enforce the "boating under the influence" laws. Since no police training is provided to Connecticut harbor masters, ConnDOT advises harbor masters who have not been certified as law enforcement officers to report violations of law to the local police department or other law enforcement authorities rather than become directly involved with arrests or confrontations with violators.

Section 15-1 of the General Statutes requires any harbor master to exercise his or her duties in a manner consistent with any harbor management plan for a harbor over which he or she has jurisdiction. This section also requires that the harbor master for any municipality with a state-approved and locally adopted harbor management plan shall be appointed by the Governor from a list of not less than three candidates provided by the municipality's harbor management commission.

Section 22a-113k of the General Statutes specifies that the harbor master or deputy harbor master for any municipality with a duly established harbor management commission shall be a nonvoting, ex-officio member of that commission.

Other State Agencies

Other state agencies with harbor management-related responsibilities affecting the Chester HMA include the Department of Motor Vehicles which administers Connecticut's boat registration law requiring all boats with motors, regardless of size, and all boats of at least 19 1/2 feet in length powered by sail alone to be registered and numbered before launching; and the Connecticut State Police which enforces state boating laws and regulations and may conduct boating patrols and respond to emergencies on the Connecticut River.

Federal Agencies

The principal federal agencies with responsibilities and authorities pertaining to the Chester Harbor Management Area are the U.S. Army Corps of Engineers and the U.S. Coast Guard. Several other federal agencies also have roles and responsibilities.

U.S. Army, Corps of Engineers

The Chester HMA is within the jurisdiction of the USACE's New England District. Prominent harbor management responsibilities of the USACE are related to: 1) the USACE's programs for regulating activities in wetlands and navigable water; and 2) the USACE's responsibilities for maintaining federal navigation projects such as the navigation channel in the Connecticut River. Also, in accordance with the Connecticut Harbor Management Act, any harbor management plan or harbor management plan revision proposed by a municipality must be submitted to the USACE for review, comments, and recommendations prior to approval and adoption.

Regarding activities subject to the USACE's regulatory programs, the USACE may issue two types of permits—individual permits and general permits. Typically, an individual permit must be obtained from the USACE for most activities that involve: a) any filling in wetlands and navigable water; b) placement of structures in navigable water; and c) dredging and disposal of dredged material. A general permit is an authorization issued for categories of activities that are judged to be substantially similar in nature and to cause only "minimal individual and cumulative adverse environmental impacts." The USACE is now implementing a Programmatic General Permit (PGP) developed jointly with the Department of Energy and Environmental Protection that applies throughout the State of CT, including the Chester HMA. The PGP eliminates the need for an individual USACE permit for: a) work or structures of minimal impact in navigable water; and b) minimal impact discharges of dredged or fill material into waters of the United States. A state permit from the DEEP is still needed, and projects with more than minimal impacts continue to require an individual permit from the USACE.

Docks, piers, pilings, bulkheads, and commercial boat moorings are all structures in navigable water that require authorization from the USACE. While the USACE has regulatory authority over "individual-private" moorings placed for private use, Connecticut harbor masters have approval authority for these moorings and no application to the USACE is required. In addition to its regulatory authorities, the USACE is also responsible

for constructing and maintaining federal navigation projects, including the federal navigation channel in the Connecticut River. The USACE is responsible for periodic maintenance dredging of the federal channel which follows the river's eastern shoreline and therefore is outside of the HMA.

U.S. Coast Guard

Coast Guard responsibilities related to harbor management include: placement and maintenance of aids to navigation; search and rescue; response to oil and hazardous materials spills; Homeland Security; enforcement of federal boating laws and regulations; control of water-based events; education for boating and navigation safety; and designation of "Special Anchorage Areas." Noted in Chapter 1, two Special Anchorage Areas have been designated by the Coast Guard in the Connecticut River in the Chester HMA. Within Special Anchorage Areas (which are identified on navigation charts) vessels less than 65 feet in length are not required to display anchorage lights. Coast Guard Sector Long Island Sound headquartered in New Haven is directly responsible for the different Coast Guard functions in the Sound and along coastal Connecticut, including the Chester HMA. The Coast Guard facility nearest the HMA is Coast Guard Station New London.

Other Federal Agencies

Other federal agencies also have roles and responsibilities affecting harbor management in Chester, including: the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service which provide comments to the USACE on the potential impacts that proposed development requiring USACE authorization may have on marine resources. In addition, the FWS has identified the freshwater tidal wetlands of the lower Connecticut River as environmental resources of regional and possibly national significance.

The U.S. Environmental Protection Agency (EPA) comments on applications submitted to the USACE for dredging and filling in navigable waters. In addition, the EPA is responsible for a number of programs for protecting and improving water quality. In this regard, the EPA is responsible for: establishing standards for discharge of municipal and industrial wastewater; providing grants for construction of municipal sewerage systems; and administering the National Pollutant Discharge Elimination System (NPDES). In Connecticut, responsibilities for administration and enforcement of the NPDES, in accordance with the provisions of the federal Clean Water Act, have been delegated to the DEEP. Following action taken by the EPA and State of Connecticut in 2007, all of Connecticut's coastal waters, including the Connecticut River and Chester HMA, are now part of a state-designated no discharge area, making it illegal for boaters to discharge sewage from their vessels anywhere in the state's portion of Long Island Sound or its tributaries.

The Federal Emergency Management Agency is responsible for conducting studies and publishing maps to determine flood vulnerability and for providing flood insurance to the communities (including Chester) that participate in the National Flood Insurance Program. Within the National Oceanic and Atmospheric Administration: the federal Coastal Zone

Management Program which authorizes and provides funds to Connecticut's Coastal Area Management Program is administered; the National Weather Service issues weather forecasts; and the National Ocean Service conducts bathymetric surveys, prepares navigation charts, and records changes in sea level.

The General Public

The general public has a number of significant rights in the Chester Harbor Management Area. Consistent with the Public Trust Doctrine, 2 individuals and groups do not own underwater land or land subject to the ebb and flood of the tide. Under the Public Trust Doctrine, the title to tidewaters, navigable freshwaters, submerged lands beneath those waters, and the plant and animal life inhabiting those waters is held by the State of Connecticut in trust for the benefit of the general public.

2 The Public Trust Doctrine, the body of law pertaining to waters subject to the ebb and flood of the tide as well as navigable freshwaters, is based on the common law principle that certain lands and waters are so important to the public that private ownership or other impediments to these public uses should not be permitted.

The rights of the general public for use of navigable waters, including the waters of the Chester HMA, are generally classified under three major headings: 1) transportation and navigation; 2) recreational activities; and 3) commercial and consumer use of "sea products" (e.g., fishing).

Use of public waters for navigation is the central and essential public right and generally takes precedence over other rights. The public has the right to pass and re-pass on navigable waters without interference or obstruction. Where an obstruction does occur, it constitutes a public nuisance. The right of free navigation is subject to lawfully enacted restrictions (concerning the operation of vessels in the interest of public safety, for example) and includes the right to anchor.

To the extent that members of the public can gain access to navigable waters without trespassing on the adjoining uplands of riparian owners (see below) they may use navigable waters for recreational purposes, including boating, swimming, and related activities.

When discussing public rights for use of tidal and navigable waters, questions concerning the public's right of access to these waters are particularly important. Where title to the land adjoining navigable waters is in private ownership, the property owner may deny access across his or her land to the Public Trust area. Discussed in the following section, the right of access to public waters is one of the most significant rights associated with the ownership of lands bordering navigable water; possession of this right distinguishes the shorefront property owner from members of the general public. In Chester, the general public has opportunity for access to the Chester HMA through the Town-owned water access areas and right-of-ways described in Chapter 1.

Shorefront Property Owners

Certain rights – referred to as riparian or littoral rights³ – are inherent in the ownership of land bordering navigable water. One of the most significant of these rights is the right of access to navigable water. The riparian right of access to a navigable water course is distinct from the right of the general public to use that water course.

3 With regard to water rights law, water rights arise when property either abuts or contains water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flood of the tide, or is located on a lakeshore, the rights are said to be littoral rights. Despite these distinctions, the terms “riparian” and “littoral” are commonly used interchangeably. The term riparian rights are herein used to describe the rights of the owners of property adjoining the Chester HMA.

The Connecticut courts have held that the owner of upland property adjacent to navigable water has “certain exclusive yet qualified rights and privileges” in the adjoining submerged land and navigable water, including the exclusive right to build docks and piers from the upland to reach deep water, often referred to as “wharfing out.” These structures, however, must not obstruct the paramount right of navigation and must be acceptable under applicable regulatory statutes, including the statutes that protect wetlands and other natural resources. In other words, the exercise of the riparian right must not interfere with the rights of the state and the general public and with the federal interest in navigation. To the extent that state and federal activity and regulation is necessary to secure the benefits of public waters for the general public, the individual riparian right is subservient and inferior.

Described above, both the U.S. Army Corps of Engineers and Connecticut Department of Energy and Environmental Protection’s Office of Long Island Sound Programs regulate the construction of docks and piers and other activities waterward of the coastal jurisdiction line in tidal and navigable waters. The state and federal regulatory programs help to ensure that the exercise of riparian rights is consistent with the public’s interest in those waters.

A waterfront property owner cannot exclude the general public from lawful uses of the Public Trust area adjoining the owner’s property. Also, all riparian rights must be exercised with due regard for the rights of other riparian owners. The waterfront property owner cannot wharf out from the shore, for example, in a manner that encroaches on the riparian area of an abutting waterfront property owner.

Unlike the right to wharf out, a shorefront property owner does not have an exclusive right to a mooring in the waters adjacent to his or her property. Anyone else may moor a vessel in the adjacent waters subject to the permitting requirements of the USACE, Harbor Master, and the DEEP OLISP. Both the USACE and the DEEP OLISP have indicated that the riparian land owner may receive preference over other applicants for an individual-private mooring space in waters adjacent to his or her property.

Private Groups and Organizations

Several private groups and organizations also have interests with regard to the Chester Harbor Management Area and shoreline. These include neighborhood groups that may be concerned with the future use and protection of their Town's waterfront resources, as well as The Nature Conservancy (TNC) and the Chester Land Trust.

Both TNC and the Chester Land Trust are nonprofit organizations dedicated to the protection of natural areas. These organizations are concerned with the future use and protection of the marshes, including freshwater-tidal wetlands, along Chester Creek. TNC, a national organization with a CT office in Middletown, purchased eleven acres of marshland along the Creek in 1990 to ensure the future protection of this wetland as a natural area.

Harbor Management Issues and Considerations

Nonpoint source pollution is considered the number one water quality problem in the United States, and stormwater runoff is the primary contributor to nonpoint source pollution. Studies have shown that if 10 to 25% of a watershed is covered with impervious surfaces, water quality becomes adversely impacted. Precipitation either evaporates or runs off through the ground or over land into water bodies or water courses and eventually into Long Island Sound. Pollutants are introduced into stormwater runoff from such sources as failing septic systems, fertilizers, pesticides, animal waste, road and parking lot sands, slats, and hydrocarbons.

Harbor Management Issues and Planning Considerations

This chapter describes issues and considerations pertaining to use and conservation of Chester's Harbor Management Area (HMA) and waterfront. Included is a summary of the major issues and considerations addressed by the Harbor Management Commission (HMC) in the course of preparing The Chester Harbor Management Plan (the Plan). Also included are issues concerning water-access structures from The Chester Harbor Management Plan 2010 Plan Addendum (2010 Plan Addendum). All of these issues and considerations are addressed through the goals, policies, and other provisions of the Plan.

Summary of Major Issues and Considerations

A number of harbor management issues were raised by Town residents in the course of preparing The Chester Harbor Management Plan. These and other issues were considered by the Harbor Management Commission and organized, for discussion purposes, into different categories related to: boating and water use; public access to the water; public safety; environmental protection; property protection; and administration and coordination.

Boating and Water Use

The "Carrying Capacity" of Chester Creek for Boating Use: Carrying capacity is a term that refers to the amount of use or development that a particular area or resource can accommodate before unacceptable impacts on public safety, beneficial use, environmental quality, or other conditions

occur. The Chester HMC recognizes that the capacity of Chester Creek to accommodate additional boating use and water activities is not unlimited, and if the capacity is exceeded there can be negative effects on navigation and boating safety.

Dredging of Chester Creek: Resident and visiting boaters have long recognized that maintenance dredging of Chester Creek's natural channel is needed from time to time to maintain navigation safety as well as the continued viability of existing boating facilities. The most critical area for dredging has been at the mouth of the creek. While necessary to maintain ease and safety of navigation, dredging also raises the possibility of adverse environmental impacts on aquatic resources. In addition, the availability of funds for maintenance dredging is uncertain. Prior to any future maintenance dredging project, an assessment of the potential environmental impacts of dredging and dredged material disposal will be required, and it will be necessary to avoid or otherwise mitigate those potential impacts.

Other Dredging Needs: Maintenance dredging of existing boat basins must be carried out periodically by operators of the commercial marina and yacht club facilities in the Chester HMA. That dredging requires approvals issued by the U.S. Army Corps of Engineers (USACE) and Connecticut Department of Energy and Environmental Protection's Office of Long Island Sound Programs (DEEP OLISP). While the potential environmental impacts of maintenance dredging of existing berthing facilities are typically minor, dredging associated with expansion of existing marinas or development of new boating facilities may affect water quality and aquatic resources and historically has been discouraged by the DEEP OLISP.

The Future of Existing Marina Facilities: Chester's Municipal Coastal Program describes issues concerning possible loss of boating facilities over time and the need to maintain a sufficient number of boat slips in the Town. Although no major concerns with regard to the current availability of boat service facilities have been reported, many boating facilities throughout the state historically were displaced by nonwater-dependent residential and commercial development. In the future, relatively high waterfront land values and other economic conditions may affect the viability of commercial boating facilities in Chester and put pressure on the owners of commercial boating facilities to develop more intensive income-generating uses of their properties or perhaps close their businesses.

Dockominiums: During the course of preparing the Harbor Management Plan, concerns regarding the possible conversion of existing boat slips to dockominiums were expressed by some participants in the planning process. The dockominium represents a concept in marina operation and development whereby the person using a berthing space purchases fee simple title to use that space. The concept has resulted in some controversy as it has been argued that dockominiums reduce public access to the water and that the concept conflicts with the Public Trust Doctrine whereby the water and underwater land waterward of the mean high water line are held in trust for the use and benefit of the general public and cannot be sold for private use. An argument in favor of dockominiums is that they provide a

profitable waterfront use and without them, waterfront land may be converted to a non-water-dependent use.

Public Access to the Water

Balancing Riparian and Public Rights to Use Navigable Waters: Shorefront property owners have riparian rights for access to the navigable waters of the Chester HMA. Those rights sometimes can conflict with the public right to use the water and underwater land waterward of the mean high water line. Issues involving this conflict on the Connecticut River in and near Chester have been raised with respect to the appropriate distance that docks and piers can extend from shore consistent with the shorefront owner's riparian rights—and not interfere with public use of Public Trust waters. Recent and possible future proposals by commercial marinas, yacht clubs, and individual homeowners to construct docks and piers from waterfront properties have raised concerns over the potential adverse environmental impacts of those docks and piers, their possible effect on small boat navigation, the appropriate size and length to which they should be constructed, and the extent to which towns should control or limit these structures. While it is sometimes argued that riparian rights give the property owner the right to "wharf-out," it is the policy of the DEEP OLISP, as the state agency responsible for regulating water-access structures, that riparian rights provide for reasonable access to navigable waters and that "reasonable" access does not necessarily mean vessel access during all stages of the tide cycle nor access ideally suited for a boat or a particular size. (See the later section in this chapter on Issues Concerning Water-Access Structures.)

Lack of Opportunities for Public Access to the Water: Historically there has been limited opportunity for public access to the Chester HMA and waterfront. In addition to the North Quarter Park along Chester Creek, there are only two public waterfront access areas: the Parker's Point boat launching area on the Connecticut River and the Town Overlook area near the mouth of Chester Creek. The Overlook provides only visual access to the water. There is no public place to launch a canoe or small boat on Chester Creek, and no public park on the Town's Connecticut River shoreline.

The Town's Municipal Coastal Program expresses concern over the lack of Town-owned property along the Connecticut River, and describes the importance of maintaining long-term water access for public use. It is a recommendation of the 2009 Chester Plan of Conservation and Development (POCD) that the waterfront land between Dock Road and Ferry Road be designated for potential acquisition by the Town and development of a passive recreation area to ensure long-term access to the Connecticut River for the enjoyment of future generations of Chester residents.

Need for Improvements to the Parker's Point Boat Launching Area: The POCD describes a need for improved boat launching facilities to provide safe and beneficial access to the Connecticut River for small boats. The Town-owned facility at Parker's Point Road is the only public launching facility in Chester. Use of this facility is affected, however, by shallow water in the immediate area which makes boat launching and retrieval

difficult. In addition, parking, including parking for cars with trailers, is limited.

Possible Water-Dependent Use of the Vacant Land at the Mouth of Chester Creek: Privately owned land previously used for dredged material disposal just north of the mouth of the creek and south of the Springfield Yacht and Canoe Club has been suggested as the site of a water-dependent facility. Through its Municipal Coastal Program, the Town has established a policy that all new development proposals on the Town's waterfront should include designated open space areas that may be used for public access to waterfront areas. Development of this area is constrained, however, by the lack of a public road providing access to the site.

Public Safety

Obstructions to Navigation: Shoaling and other obstructions to navigation pose a risk to vessels and a public safety hazard. Historically, obstructions near the mouth of Chester Creek have been of concern to resident and visiting boaters.

Lack of Aids to Navigation in Chester Creek: Chester Creek is a relatively narrow waterway that serves the many vessels berthed at the several commercial marinas and yacht clubs located on the creek. Potential navigation hazards can result from shoaling and other obstructions. At the present time there are no functioning aids to navigation in the creek.

Speeding Vessels and Excessive Wakes in the Connecticut River: Speeding boats and excessive wakes near the shoreline or close to other vessels on the Connecticut River can pose a significant hazard affecting public safety. The wakes generated by larger boats can be a hazard to canoes and other small craft and to swimmers. In addition, excessive wakes can affect vessels using the gas docks of the Pattaconk Yacht Club and Chrisholm Marina; adversely impact boat launching at the Parker's Point launching area; and cause shoreline erosion.

Fire Prevention and Preparedness on the Waterfront: Measures for fire protection are important with regard to marina facilities that are especially vulnerable to fire hazards because of the presence of volatile fuels, wooden and fiberglass hulls, and other combustible materials.

Emergency Response and Rescue Capabilities: The need for emergency response capabilities, particularly to serve boaters and others in distress on the Connecticut River, is a significant harbor management consideration. The State Police, DEEP, and U.S. Coast Guard do not have the capability for immediate response and therefore the principal responsibility for emergency response in the Chester HMA rests with the Town's volunteer Fire Department. There will be a continuing need to ensure that the Fire Department's boat has quick and easy access to the Connecticut River.

Mooring Tackle Standards: Prior to the Harbor Management Plan, boat moorings placed in the Chester HMA were not required to be in conformance with any minimum standards for mooring tackle. There is now a Town requirement for periodic inspection and maintenance of mooring tackle.

Continued diligence for application of those requirements is needed to guard against failure of mooring tackle and resulting damages.

Preparedness for Fuel Spill Emergencies: In 2013 there are three waterfront facilities that dispense fuel to boaters in the Chester HMA. In addition, loaded fuel barges pass Chester as they travel upstream on the Connecticut River. The potential for accidental spills from these facilities and vessels highlights the need for effective procedures and requirements for guarding against and responding to fuel spill emergencies. In the event of a sizeable spill on the Connecticut River, response coordination with the DEEP's Oil and Chemical Spill Response Division could involve deployment of the Chester-Hadlyme Ferry to transport containment/cleanup equipment and personnel to the scene.

Environmental Protection

Water Quality: There have been a number of accomplishments with regard to understanding and improving water quality in the state's waterways, including the Connecticut River and Chester Creek. Nevertheless, pollution and the risk if pollution still exist and are important harbor management concerns. Bacteria and other pollutants can adversely affect fish and wildlife as well as swimming, boating, fishing, and other recreational activities, and can reduce the enjoyment of those who use Chester Creek and the Connecticut River for both in-water and waterfront activities.

Sources of pollution in the Chester HMA may be categorized as "point" and "nonpoint" sources. Potential "point" sources are easily identified and include discharges from storm drains that empty into the HMA. There is also the risk of fuel spills from marina fuel stations and individual vessels. Other potential point sources include discharges of treated and untreated sewage from vessel holding tanks, even though such discharge would be illegal in the Long Island Sound no-discharge area (which includes the HMA) approved by the U.S. Environmental Protection Agency. In the HMA, vessel waste pump-out facilities are provided at the Chrisholm and Hayes Haven marinas. In addition, the Chester HMC operates a pump-out vessel serving boaters in the Chester area.

Unlike point sources of pollution, nonpoint source (NPS) pollution does not originate from a specific identifiable source and, because of its nonspecific nature, is more difficult to regulate and control. Types of NPS pollution include stormwater runoff from roads, parking lots, and open spaces, and seepage from poorly functioning septic systems. As precipitation runs off pavement and land to the nearest catch basin or waterway draining to the HMA, it may gather oil, bacteria, sediment, and other substances that eventually enter the water.

With regard to all existing and potential sources of point and nonpoint sources of pollution, there is concern that seemingly minor sources may, when added together over time, have a significant cumulative impact on water quality in the HMA.

Conservation of Wetlands: The ecological values of the wetlands along Chester Creek and other parts of the Town's waterfront are well recognized by Town residents. Of particular significance are the previously described

"freshwater-tidal" wetlands. The Town's wetlands, however, are potentially subject to degradation caused by pollution and by in-water and waterfront development activities. Historically, wetlands in Chester have been lost through dredging or filling for marina development. Despite awareness of wetlands values and the existence of governmental regulatory programs to protect wetlands, Town officials recognize that unless these resources are actively managed and protected, they may gradually diminish in quality and quantity over the years. Of particular concern with regard to potential impacts on wetlands are the cumulative impacts that can result from individually minor but collectively significant actions taking place over a period of time.

Protection of Fish and Wildlife Habitat: The possible loss of fish and wildlife habitat as a result of cumulative development impacts, water pollution, human disturbances, and other conditions is of concern to many Town residents. The resources that provide this habitat, particularly the intertidal and sub-tidal areas, provide other important natural values as well. If these resources are degraded for fish and wildlife habitat, the overall quality of Chester's waterfront areas will be affected. Also, the fish and wildlife habitat provides important recreational and scenic values that are important to the existing character and quality of life in the Town.

The "Carrying Capacity" of Natural Resources for Water-Related Use and Development: Due to the value of wetlands and other natural resources in the Chester Creek area and the extent of marina development in the creek, there is concern with regard to the "carrying capacity" of the creek's natural environment. That is, its capacity to accommodate additional in-water use and waterfront development without unacceptable adverse impacts on environmental resources and quality. Potential environmental impacts associated with boating facility development may be caused by: 1) the boating facilities themselves (impacts from the construction, maintenance, and operation of docks, piers, launching ramps, support facilities, and services); and 2) the boating uses and activities made possible by the facilities (noise, wake, and other impacts associated with boating operations).

Property Protection

Shoreline Erosion: Shoreline erosion along Chester Creek and the Connecticut River is a natural, ongoing process that can be accelerated by wakes from passing vessels. Wetlands and sandy shoreline areas are particularly vulnerable to wave action resulting from passing boats. While shore protection measures may be needed in certain locations to protect existing development along the shoreline, those measures can also have adverse impacts and therefore need to be carefully planned and constructed. Shore protection structures such as seawalls and bulkheads also require regular maintenance or else their deterioration may adversely affect coastal resources.

Noise Pollution: Noise pollution is a nuisance impact that can be associated with waterfront activities and adversely affect the quality of life in shorefront residential areas. In the course of preparation

of the Plan, some Town residents expressed concern over excessive noise emanating from cruise boats, personal watercraft, and high-powered speed boats on the Connecticut River, and reported that excessive noise from parties on moored boats have affected waterfront areas.

Damage to Moored Vessels and Docking Facilities: Damage to vessels moored in the Special Anchorage Areas and offshore of residential shorefront areas can result from failure of mooring tackle as well as excessive wakes. In addition, boat wakes can damage floats, pilings, and docking facilities along the shoreline.

Impacts of Docks and Piers on Waterfront Character: The possibility of future proposals to construct docks and piers from waterfront properties have raised concerns over potential environmental impacts and the appropriate size and length to which docks and piers should be constructed. Concern has been expressed over the possible negative effects that a proliferation of individual docks could have on adjacent properties and on scenic qualities. The environmental and visual impact of individual docks and piers on shorefront properties may be relatively minor but the cumulative impacts may be much more significant. (See the later section in this chapter on Issues Concerning Water-Access Structures.)

Administration and Coordination

Town Input in Federal and State Permitting Decisions: Prior to the Harbor Management Commission and The Chester Harbor Management Plan, the Town was not utilizing the full range of municipal authority available to address a number of significant issues affecting the Chester HMA, and the Town had relatively little input in state and federal permitting decisions. Principal authority for regulation of in-water structures and activities such as dredging, filling, and dock and pier construction rests primarily with the state and federal government and in particular with the DEEP, OLISP and the USACE. Town agencies were able to provide comments with respect to state and federal decisions that affect waterfront development, environmental resources, and the waterdependent activities that take place in the HMA. Prior to the Plan, however, there was no Town authority for the planning, management, and regulation of in-water and waterfront activities subject to state and federal jurisdiction. An important aim of the Connecticut Harbor Management Act is to create that authority for municipalities with duly approved and adopted harbor management plans. In large part for this reason, the Chester Town Meeting adopted the Town Ordinance creating the Chester HMC in 1989.

Role of the Harbor Master: The Chester Harbor Master is responsible for the general care and supervision of the navigable waters within the jurisdiction of the Town; is appointed by the Governor of Connecticut for a three-year period; derives his authority from the Connecticut General Statutes; and is subject to the direction and control of the Connecticut Commissioner of Transportation. In addition, pursuant to the General Statutes and the Town's Harbor Management Ordinance, the Harbor Master is an ex-officio member of the Chester HMC. Without the Plan there would be no formal requirement for the Harbor Master to work closely with or coordinate his activities with Town agencies. That requirement, established by the Plan, applies to the actions of all future harbor masters as well.

An important purpose of the Connecticut Harbor Management Act is to provide local direction and control with regard to harbor master activities and to ensure continuity between the actions of current and future harbor masters in each municipality. While the Chester Harbor Master is a state official appointed by the Governor, the Connecticut General Statutes direct the Harbor Master to work in conjunction with the HMC and in a manner consistent with the Plan. In addition, to increase local direction with regard to harbor master activities, Section 15-1 of the General Statutes specifies that the harbor master for any municipality with an approved and adopted harbor management plan must be appointed by the Governor from a list of not less than three candidates provided by that municipality's harbor management commission.

Administration of Mooring Locations: Section 22a-113n of the General Statutes enables municipalities to designate boat mooring and anchoring areas. In the Chester HMA, mooring locations have been established in the two Special Anchorage Areas in the Connecticut River. The Chester HMC recognizes the need for the Town to carefully administer mooring locations to ensure that the space available is used safely and that mooring locations are managed in a fair and equitable manner. Through the Plan, the HMC has formally designated mooring locations in the HMA, and a Town Ordinance specifying requirements for the use of those locations has been adopted by the Town Meeting. These requirements must be followed by the Harbor Master when issuing permits for the use of all mooring locations in the HMA. An annual mooring permit fee has been adopted by the Town Meeting. That fee may be used only for the maintenance and improvement of the HMA for the public and for necessary expenses related to the function of the HMC and Harbor Master.

Harbor Management Costs: Questions concerning the costs that might be associated with implementing the Harbor Management Plan and how funds may be obtained to pay for harbor improvement projects were addressed by the Chester HMC in the course of preparing the Plan. Many of the Town's goals, objectives, and policies for harbor management included in the Plan are pursued through the functions of the HMC and other Town agencies in the course of reviewing proposed projects for consistency with the Plan, without significant cost. Some initiatives for harbor management and improvement, however, do require additional public and/or private expenditures from time to time. The Plan does not commit the Town to future expenditures, but instead provides a basis for implementing specific projects should funds be available to do so.

The Plan also provides for a dedicated funding mechanism to cover the costs of waterfront and harbor improvement projects for the public. Section 22a-113s of the General Statutes authorizes the HMC to receive and expend funds specifically for harbor management purposes. This statute also authorized the Town to charge a fee for mooring permits and other activities within the scope of the Plan, provided those fees are used exclusively for harbor improvements in the public interest.

Unauthorized Work in Wetlands and Navigable Waters: It is recognized by the Chester HMC that some filling of wetlands and construction of in-water structures previously occurred in the Chester HMA without the required environmental review and state and federal approvals. These sorts of

violations are of concern for a number of reasons, and it is further recognized by the HMC that significant environmental impacts can result from individually minor but collectively significant actions taking place over a period of time.

Issues Concerning Water-Access Structures²

2 Information in this section is from The Chester Harbor Management Plan 2010 Plan Addendum.

3 With regard to water rights law, water rights arise when property either abuts or contains water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flood of the tide, or is located on a lakeshore, the rights are said to be littoral rights. Despite these distinctions, the terms "riparian" and "littoral" are commonly used interchangeably. The term riparian rights is herein used to describe the rights of the owners of property adjoining the Chester HMA on the Connecticut River, Chester Creek, and Deep River Creek, although it is recognized that the water courses of the HMA are subject to the ebb and flood of the tide.

4 The waters of the Chester HMA are public waters; the general public has important rights to use these waters for navigation, recreation, and other purposes in accordance with the Public Trust Doctrine—the body of law pertaining to waters subject to the ebb and flood of the tide as well as navigable freshwaters. Under the Public Trust Doctrine, the title to tidewaters, navigable freshwaters, submerged lands beneath those waters, and the plant and animal life inhabiting those waters is held by the State of Connecticut in trust for the benefit of the general public. (See Chapter 2 and Appendix D of the Plan.)

Some harbor management issues that have been the subject of significant attention by the Harbor Management Commission since The Chester Harbor Management Plan was adopted concern the potential impacts that may be caused by water-access structures such as docks, floats, and piers in the Chester Harbor Management Area. Those impacts may affect coastal resources and other conditions on, in, and contiguous to the Chester HMA. This issue is of interest not only in Chester but in all of Connecticut's coastal towns.

Throughout the coastal area of Connecticut, proposals by waterfront homeowners, marina operators, and others to build water-access structures have, in some instances, resulted in significant conflicts. On the one hand, there is the riparian/littoral right³ of the waterfront property owner to have access to navigable water; on the other hand, there are the rights of the general public for use of Public Trust waters, including most prominently the right of navigation. There is also the public interest in protecting natural coastal resources.⁴ These conflicts have raised complex questions regarding cumulative impacts, the carrying capacity of coastal resources, and the extent of municipal authority to control or limit water-access structures in Connecticut harbors and navigable waterways.

While docks, floats, and piers may provide access to navigable waters for boating, fishing, and other beneficial purposes, it is clear that such structures, unless properly planned and controlled, may cause significant adverse impacts on: 1) public navigation; 2) wetlands, intertidal flats, wildlife, and other coastal resources, including aesthetic resources; and 3) the scenic values and natural character of shoreline areas.

As with dredging or filling of aquatic areas and the use of structural measures for shore protection, the adverse environmental impacts of individual docks, floats, piers, and other water-access structures may be relatively minor but the cumulative impacts, over time, may be much more significant. In addition, where navigation channels, fairways, and anchorage basins have been established, care must be taken to ensure that nearby water-access structures do not interfere with the safe and beneficial use of those navigation areas.

The HMC recognizes that efforts to address issues concerning water-access structures are, to a large extent, challenging exercises to assess resource carrying capacity—in other words, exercises to determine the capacity of a specific water body to accommodate docks, floats, and piers without unacceptable resource deterioration or public safety impacts.

All of these issues have been the subject of much public discussion with respect to proposals for constructing docks in the lower reaches of the Connecticut River, including two significant proposals by residential property owners in the HMA that were considered by the Town in 2003. That discussion raised questions about the respective roles of local, state, and federal authorities for regulating docks; about how to determine the appropriate balance between public rights for use of navigable waters and riparian rights for access to those waters; about the criteria applied by regulatory agencies when making decisions on applications for permits to construct water-access structures; and about other matters affecting management of these structures.

All water-access structures must be authorized in some manner by the Connecticut Department of Energy and Environmental Protection's Office of Long Island Sound Programs and the U.S. Army Corps of Engineers in accordance with state and federal regulatory programs. (See Chapter 2 and Appendix D of the Plan.)

In Connecticut, harbor management commissions also have a significant role in the state and federal regulatory processes with respect to docks, floats, and piers. A fundamental part of municipal harbor management programs involves the harbor management commission's review of proposed activities for consistency with the locally adopted harbor management plan. Included in this review are applications to the DEEP OLISP for Permits, Certificates of Permission, and General Permits to build docks, piers, and bulkheads and to conduct dredging and other work in each town's navigable waters.

An important legislative purpose of the Connecticut Harbor Management Act—the state law that

gives municipalities authority to establish harbor management commissions and prepare harbor management plans—is to increase local involvement and authority in matters pertaining to a municipality's navigable waters. The Harbor Management Act, however, does not provide municipalities with the authority to regulate docks, floats, and piers. That authority rests with the DEEP OLISP and USACE in accordance with other state and federal laws.

Municipal harbor management commissions have historically reviewed applications submitted to the DEEP OLISP and USACE for the authorizations needed to build water-access structures, and have provided comments to the DEEP OLISP and USACE regarding the consistency of those applications with the municipality's harbor management plan. Although the commissions do not have regulatory authority over water-access structures, Section 22a-113n(b) of the Connecticut General Statutes specifies that any recommendation pursuant to a harbor management plan shall be binding on any official of the state when making regulatory decisions, unless such official shows cause why a different action should be taken. Accordingly, the municipal harbor management commission can have a significant role in regulatory decisions through its comments and recommendations to the DEEP OLISP.

Coastal permitting requirements of the DEEP OLISP instituted in 2008 are intended to expedite the permitting process and increase the role of the municipal harbor management commission in that process. In those towns where a harbor management commission has been established, all applicants for DEEP OLISP permits must now properly confer with that commission prior to submitting a permit application to the DEEP OLISP. (See Appendix D of the Plan.)

Pursuant to the Harbor Management Consistency Review Process established by the Plan and by Section 10 of the Town's Harbor Management Ordinance, the HMC reviews applications for docks, floats, and piers for consistency with the Plan, and may provide recommendations to the DEEP OLISP and USACE with respect to those applications. The Plan addresses a variety of issues, including issues concerning the navigation, resource protection, and boating access described in the preceding sections of this chapter, and contains a number of policies that may be applied by the HMC to the case-by-case review of proposals for docks, floats, and piers in the HMA.

Among the relevant policies of the Plan (see Chapters 4 and 5) are the policies intended to ensure that: the concept of resource carrying capacity will be considered; cumulative impacts will be addressed; new or extended docks and piers are consistent with the USACE's guidelines for fixed and floating structures; in-water structures are set back an appropriate distance from channels, fairways, and anchorage basins; and efforts are made to balance riparian rights for access to navigable water with public rights for use of that water and with the public interest in protecting coastal resources. In this regard, the Plan is similar to all other municipal harbor management plans approved by the State of CT and adopted locally. Those plans address dock management issues through policies applied on a case by case basis instead of through specific, predetermined standards that may limit dock locations and/or dimensions. When considering Plan amendments in 2010 to address the potential impacts of water-access structures in the HMA, the HMC recognized there are

different views concerning the appropriate way to address the potential impacts of docks, floats, and piers and to otherwise address carrying capacity issues in aquatic and waterfront environments. Based on research conducted by the HMC (see the 2003 "Town of Chester Dock Management Study"), the most common and generally preferred approach is a policy-based approach whereby specific policies, such as the policies included in the Plan, are applied on a case-by-case basis in the thoughtful review of individual development proposals. This policy-based approach to carrying capacity assessment is distinguished from the "predetermined" approach that would be based on a predetermination of the limits of dock development in specific areas.⁵

5 The literature on this matter identifies a number of difficulties associated with establishing predetermined limits for dock construction. These difficulties include: 1) there is currently no standard, generally accepted methodology for precisely establishing predetermined development limits in aquatic and waterfront areas; 2) methodologies that have been applied in some locations are generally not sufficiently developed to allow adequate projections of future facility development while taking into consideration cumulative impacts, the effects of potential mitigation measures, and other factors affecting resource carrying capacity; 3) available methodologies are generally expensive to develop and apply; 4) identification of limits with respect to cumulative impacts and carrying capacity is subject to misuse through the application of those limits for exclusionary purposes, or by implying a threshold to be filled to capacity, or by implying an unwarranted precision of analysis given the limited capabilities of current methodologies; and 5) given the limitations of existing methodologies, setting specific limits for future development is not easily defensible and is subject to criticism by proponents as well as opponents of individual project proposals.

A significant consideration affecting the Town's efforts to address dock management issues is the finding of the Connecticut General Assembly, expressed through Section 25-102a of the General Statutes, that the lower Connecticut River and the towns abutting the river, including the Town of Chester, possess unique scenic, ecological, scientific, and historic value contributing to public enjoyment, inspiration, and scientific study. Further, the General Assembly has found it is in the public interest to preserve such values and to prevent deterioration of the natural and traditional riverway scene for the enjoyment of present and future generations of Connecticut citizens. To advance these purposes the General Assembly has established the Lower Connecticut River Conservation Zone which includes the HMA. Such Legislative provisions for the preservation of scenic quality have not been established for coastal Connecticut towns outside of the lower Connecticut River region.

PART TWO: THE HARBOR MANAGEMENT PLAN

CHAPTER 4: TOWN GOALS AND POLICIES FOR HARBOR MANAGEMENT

CHAPTER 5: HARBOR MANAGEMENT POLICIES FOR WATER-ACCESS STRUCTURES

CHAPTER 6: AREA GUIDELINES AND WATER-USE PLANS

CHAPTER 7: RESPONSIBILITIES FOR PLAN IMPLEMENTATION

Town Goals and Policies For Harbor Management

The [harbor management] plan shall identify existing and potential harbor problems, establish goals and make recommendations for the use, development and preservation of the harbor. Such recommendations shall identify officials responsible for enforcement of the plan and propose ordinances to implement the plan. This chapter sets forth the Town of Chester's harbor management goals and policies for guiding the beneficial use and conservation of the Chester Harbor Management Area (HMA). These provisions of The Chester Harbor Management Plan (the Plan) complement, and are consistent with, the Town's conservation and development provisions set forth in the 2009 Chester Plan of Conservation and Development (POCD).

Town Goals for Harbor Management¹

1 The Town's goals for harbor management include goals originally included in The Chester Harbor Management Plan adopted by the Chester Town Meeting in 1994, with amendments included in The Chester Harbor Management Plan 2010 Plan Addendum.

The Chester Harbor Management Plan establishes nine broad goals for harbor management. These Town goals are basic and general guidelines for managing use and conservation of the Chester Harbor Management Area. The goals are directed toward achieving "balance" in the Chester HMA—balance between safe and beneficial use of the area for recreational and other purposes on the one hand, and protection of natural coastal resources and the existing quality of life in the Town on the other. The goals, numbered below for reference purposes and not to denote priority, establish the framework for the more detailed harbor management policies that follow.

GOAL 1: TO STRENGTHEN THE ROLE OF THE TOWN OF CHESTER IN THE PLANNING, MANAGEMENT, AND REGULATION OF WATER AND WATERFRONT ACTIVITIES IN THE HARBOR MANAGEMENT AREA.

GOAL 2: TO MAINTAIN A DIVERSITY OF WATER-DEPENDENT FACILITIES AND USES THAT INDIVIDUALLY AND COLLECTIVELY ENHANCE THE QUALITY OF THE WATERFRONT AND HARBOR ENVIRONMENT AND THE OVERALL QUALITY OF LIFE IN THE TOWN.
[Modified 2010]

GOAL 3: TO PLAN FOR AND REGULATE IN-WATER AND WATERFRONT USE AND DEVELOPMENT, INCLUDING, BUT NOT LIMITED TO, WATER-ACCESS STRUCTURES, IN A

MANNER CONSISTENT WITH THE CAPABILITIES OF THE NATURAL ENVIRONMENT TO SUPPORT THIS USE AND DEVELOPMENT. [Modified 2010]

GOAL 4: TO PROTECT AND, WHERE POSSIBLE, IMPROVE THE QUALITY OF THE NATURAL AND CULTURAL RESOURCES, INCLUDING, BUT NOT LIMITED TO, AESTHETIC COASTAL RESOURCES, IN THE HMA. [Modified 2010]

GOAL 5: TO PLAN FOR AND REGULATE BOATING AND OTHER WATER USES TO ASSURE SAFE, ORDERLY, AND EQUITABLE USE OF THE HMA AND TO PROVIDE FOR THE CONTINUED PUBLIC HEALTH, SAFETY, AND WELFARE. [Modified 2010]

GOAL 6: TO PROVIDE SAFE AND ENJOYABLE LONG-TERM OPPORTUNITIES FOR PUBLIC ACCESS TO THE HARBOR MANAGEMENT AREA FOR ACTIVE AND PASSIVE RECREATIONAL USES. [Modified 2010]

GOAL 7: TO PRESERVE THE EXISTING CHARACTER, MARITIME HERITAGE, AND BENEFICIAL QUALITY OF LIFE IN THE TOWN'S WATERFRONT AREAS.

GOAL 8: TO AVOID ADVERSE VISUAL IMPACTS THAT MAY BE CAUSED BY DEVELOPMENT ON, IN, OR CONTIGUOUS TO THE HMA AND THAT MAY AFFECT THE CHARACTER, QUALITY, OR PUBLIC ENJOYMENT OF THE HMA. [Added 2010]

GOAL 9: TO ENCOURAGE PUBLIC SUPPORT, EDUCATION, AND PARTICIPATION FOR MANAGING BENEFICIAL USE AND CONSERVATION OF THE HMA. [Added 2010]

Harbor Management Policies

The following policies are established to guide the Chester Harbor Management Commission (HMC) and other Town, state, and federal agencies when making decisions affecting the Chester Harbor Management Area. Upon adoption of The Chester Harbor Management Plan, these became official policies of the Town of Chester, intended to guide the actions and decisions of all Town residents, commissions, and departments. The policies have been grouped into eight categories: 1) waterfront and harbor administration policies; 2) environmental protection policies; 3) boating and water-use policies; 4) dredging policies; 5) mooring policies; 6) public safety policies; 7) waterfront land-use and development policies; and 8) water access policies. The policies are not tied to specific geographic areas but are intended to guide apply throughout the Chester HMA. (Area-specific guidelines are contained in Chapter 6 of the Plan.) The policies, numbered for reference purposes and not to denote priority, are consistent with and are intended to complement the policies established by Chester's Municipal Coastal Program. More specific Town policies concerning water-access structures in the HMA are set forth in Chapter 5 of the Plan.

1.0 Waterfront and Harbor Administration Policies

1.1 Chester's Harbor Management Area and the Harbor Management Commission's area of jurisdiction should include the tidal waters and intertidal areas below the mean high water line and within the territorial limits of the Town. This area of jurisdiction is bounded on the north by the Chester/Haddam boundary, on the south by the Chester/Deep River boundary, and on the east by the centerline of the Connecticut River. The

Chester HMA includes the intertidal area of Chester Creek and the Pattaconk Brook to the center of Town and the intertidal area along the Chester side of the Deep River.

1.2 As needed, the Town should adopt appropriate additions to the Town Ordinances, including necessary regulations for implementing and enforcing the goals, policies, and guidelines contained in the Harbor Management Plan.

1.3 Through implementation of the Harbor Management Plan and Town Ordinances, the Town should exercise its authority to manage and regulate activities in the HMA to the maximum extent practicable.

1.4 All Town actions affecting the HMA should be undertaken in the most coordinated manner possible. The actions of the HMC should be coordinated with the actions of other Town commissions and departments with authorities related to the HMA, including the actions of Town commissions with authority for environmental protection and land use planning and regulation.

1.5 All Town ordinances and regulations applying to the HMA and all state and federal laws and regulations affecting the HMA should be strictly enforced by responsible authorities.

1.6 To the extent necessary and practicable, the Town should coordinate waterfront and harbor management activities with the adjoining municipalities of Deep River, Haddam, East Haddam, and Lyme.

1.7 All activities of the Chester Harbor Master should be consistent with the adopted Harbor Management Plan and Town Ordinances. The Harbor Master should work cooperatively with the HMC to implement the Plan.

1.8 All proposed activities that would affect the HMA should be reviewed for consistency with the Harbor Management Plan and approved by the relevant government authorities only when, and if, the proposed activity is judged to be consistent with the Plan.

1.9 Adequate funds should be allocated to properly manage the HMA. All monies collected from any fees within the scope of the Harbor Management Plan should be deposited in a Town Harbor Management Fund and should be allocated specifically for harbor management purposes.

1.10 The Harbor Management Plan and related Town Ordinances should be reviewed annually and amended as needed to respond to changing circumstances and conditions in the HMA.

2.0 Environmental Protection Policies

2.1 Development activities impacting the Chester HMA should be balanced with the need to protect and maintain natural coastal resources. Existing and future development should cause only minimal disruption to natural resource systems and values. Appropriate measures, including "booming" adjacent waterways where necessary, should be applied to protect water quality during construction activities.

2.2 The design and review of development proposals in or adjacent to the HMA should take into consideration cumulative impacts on environmental resources, and the "carrying capacity" of those resources to support development with only minimal disruption of the natural environment and existing scenic quality.

2.3 New or expanded uses and development that are inconsistent with the capacity of the natural and man-made environment to support such uses and development should be avoided.

2.4 Future waterfront uses and development should be directed away from fragile and sensitive natural resource areas.

2.5 The ecological values of intertidal resources such as wetlands and intertidal flats should be protected, including values related to fish and wildlife habitat, nutrient productivity, water quality functions, and flood hazard buffer.

2.6 To the extent possible, degraded intertidal areas, including previously filled areas, and other resources should be restored or enhanced.

2.7 Actions should not be permitted that would contribute in any significant way to the degradation of water quality in the HMA.

2.8 All appropriate efforts, including implementation and enforcement of applicable Town, state, and federal regulations, should be undertaken to maintain and improve water quality in the HMA.

a. Efforts to improve water quality should include reduction or elimination of non-point sources of pollution (including storm-water runoff), improvement of waste treatment facilities, reduction or elimination of pollution resulting from boating activities, and reduction or elimination of all other human activities that unnecessarily introduce sediment or debris into the Town's water courses.

b. The Town should establish and maintain a strong program of water quality monitoring in the HMA.

c. A sewage pump-out facility for vessel holding tanks should be established in the HMA and adequate restroom facilities for marina users and transient boaters should be provided by the owners/operators of commercial marina facilities.

d. Marine sanitation devices shall not be discharged into the HMA.

2.9 Important historic and cultural resources in and near the HMA should be identified and protected from negative impacts that might be caused by in-water or waterfront development activities.

2.10 The Town should support the development and maintenance of necessary facilities and equipment to ensure prompt and effective response to fuel spills by the Chester Fire Department, in coordination with the Department

of Energy and Environmental Protection and its Oil and Chemical Spill Response Division, and the U.S. Coast Guard. The Chester-Hadlyme Ferry should continue to be available for deployment to transport containment/clean-up equipment and personnel in response to sizeable fuel spills on the Connecticut River.

2.11 Areas of severe hypoxia (de-oxygenated water) should be identified and appropriate actions taken to improve the water quality in those areas. The construction of new "dead-end" marina basins should be avoided to reduce the potential for hypoxic conditions.

3.0 Boating and Water Use Policies

3.1 The Town should encourage and support the continued operation of commercial marinas and private yacht clubs. Town planning and zoning requirements should protect and promote these water-dependent facilities.

3.2 No structures (including docks, piers, floats, pilings, and moorings) or any other work (e.g., dredging or filling) should take place below the high tide line without necessary Town, state or federal authorization. All unauthorized structures and other work in the Chester HMA should be considered as "encroachments" into navigable waters and corrected or eliminated.

3.3 Where necessary, specific water areas to be kept free of obstructions should be designated as navigation fairways to ensure safe passage of vessels to, from, through, and alongside channels, mooring areas, anchorages, and berthing areas. Navigation fairways should be of an appropriate width to ensure ease and safety of navigation.

3.4 All piers, docks, bulkheads, pilings, moorings, and other structures in the HMA should be set back from the boundaries of navigation fairways, channels, mooring areas and anchorages a sufficient distance to ensure that these structures and any vessels docked or anchored at these structures, do not interfere with ease and safety of navigation.

3.5 To reduce potential adverse impacts on navigation, the construction of new or extended docks and piers should be reviewed for consistency with guidelines established by the U.S. Army Corps of Engineers for the placement of fixed and floating structures in navigable waters. In the absence of compelling reasons to the contrary, including the need to protect valuable coastal resources, new or extended docks and piers should be consistent with the Corps of Engineers' Guidelines. (See "Guidelines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States Regulated by the U.S. Army Corps of Engineers," July 1996.)

3.6 The use of berthed, anchored, or moored vessels as short-term, seasonal, or permanent residences in the HMA should be prohibited where shore-side services for sewerage, potable water, and parking are not available.

3.7 Aids to navigation in the HMA, including beacons, buoys, and signs, should be adequate for marking channels, fairways, mooring areas, and anchorages as well as navigation hazards, restricted speed areas, and other conditions affecting ease and safety of navigation.

3.8 No "private" (nonfederal) aids to navigation should be placed without approval from the HMC and necessary permits from the U.S. Coast Guard, Corps of Engineers, and Connecticut Department of Energy and Environmental Protection.

3.9 Any conversion to a dockminium marine facility, either as the principal use of a waterfront site or as a secondary use to another, nonwater-dependent site use, should incorporate water access facilities for the general public.

3.10 The enhancement of existing Town boating facilities and the establishment of new public boating facilities should be encouraged, as needed, to provide appropriate facilities and opportunities for water access.

3.11 Adequate anchorage, dockage and related facilities, including shore access facilities, should be provided for transient boaters.

3.12 All water uses and activities in the HMA should be carried out in a manner that does not infringe on the riparian rights of waterfront property owners.

3.13 Water uses and activities in the HMA should not have significant adverse impacts on coastal resources, scenic quality, and Public Trust uses of the land and water resources below the mean high water line.

4.0 Dredging Policies

4.1 Dredging in the Chester HMA should be carefully planned and carried out in a manner that provides for the continued viability of boating facilities, ease and safety of navigation, and minimal disruption of natural systems and values.

4.2 Dredging in the HMA should be restricted or prohibited during specific times of the year as necessary to protect migrating and/or spawning fish species.

4.3 Future maintenance dredging of channels, berthing areas and other boating activity areas should be carried out by local interests in the timeliest manner necessary to ensure safe and efficient navigation.

4.4 Priority areas for dredging should include existing marina basins and facilities and the Chester Creek navigation channel.

5.0 Mooring Policies

5.1 The location and placement of all moorings in the Chester HMA should be carefully planned and regulated in a manner that provides for efficient and equitable distribution of individual, private and commercial moorings,

including commercial rental moorings, transient moorings, and moorings for the members of private yacht clubs.

5.2 The users of all current and future moorings in the HMA should receive a permit from the Chester Harbor Master, and all moorings should be placed and maintained in accordance with standardized procedures established by the HMC and Harbor Master.

5.3 Determination of the number and location of moorings in the HMA should be based on consideration of:

- a) water depths and bottom conditions;
- b) current flow;
- c) the availability of suitable on-land access areas to serve the moorings;
- d) the need to maintain appropriate set-backs from navigation channels and fairways; and
- e) the need to achieve the most efficient use of limited mooring space without adversely affecting navigation safety or environmental resources.

5.4 Moorings located in designated mooring areas should be placed in accordance with specific mooring plans designed to provide safe and efficient mooring of vessels and to maximize mooring area capacity.

5.5 To the extent possible, priority for mooring allocations should be assigned to shorefront property owners who apply for moorings offshore of their property.

5.6 No commercial mooring (as defined by the Corps of Engineers and Connecticut Department of Energy and Environmental Protection) should be placed in the HMA without necessary permits from the Corps of Engineers and the State of Connecticut, in addition to a permit from the Harbor Master.

5.7 All mooring tackle used in the HMA should meet minimum mooring tackle guidelines and be subject to periodic inspection to ensure that it is maintained in adequate condition.

5.8 To the extent feasible, the placement of mooring tackle should be timed so as to avoid interference with seasonal shad fishing activities in the Connecticut River.

5.9 Any plans to increase the size of Connecticut River mooring fields or provide additional mooring fields should take into consideration the effect of those plans on commercial shad fishing activities. Any potential adverse impacts on commercial shad fishing activities should be avoided or minimized.

6.0 Public Safety Policies

6.1 All appropriate efforts, including implementation and enforcement of applicable Town, state, and federal regulations, should be undertaken to maintain and improve boating safety in and near the Chester HMA.

6.2 Within designated areas in the HMA, vessel speed should be limited to 6 miles per hour or to a speed that will not cause a wake, whichever is the lesser speed. Any person operating a vessel within the HMA at such a speed as to cause a wake should be held responsible for any damage caused by this wake.

6.3 The operation of all personal watercraft (including "jet skis" and similar craft) in the HMA should be in accordance with all applicable boating laws and regulations and should not result in undue noise or other nuisance and public safety impacts.

6.4 All derelict, abandoned, or deteriorated vessels and structures presenting a hazard or inconvenience to persons, property, or navigation should be removed from the HMA as quickly as permissible under applicable laws and regulations or be subject to a fine.

6.5 Existing and possible future conflicts affecting the use of channels, fairways, mooring areas, and anchorages in the HMA should be reduced or eliminated.

6.6 Anchoring of vessels in the HMA should not cause adverse impacts, including nuisance impacts, on adjacently moored vessels, and undue disturbance of other users of the HMA and neighboring waterfront residents.

6.7 The Town should support the development and maintenance of necessary waterfront facilities to maintain and enhance emergency response and rescue capabilities. Emergency response and rescue activities should be coordinated to the maximum extent possible with the adjoining municipalities and with state and federal agencies.

6.8 All existing and future marinas and waterfront facilities should provide for appropriate fire prevention and preparedness as required by the Fire Marshall. Standards and guidelines contained in the Connecticut Fire Safety Code should be incorporated in the design and construction of all marinas and waterfront facilities.

7.0 Waterfront Use and Development Policies

7.1 All public and private waterfront development proposals affecting the Chester HMA should be carefully planned and reviewed for consistency with the Harbor Management Plan.

7.2 The planning and regulation of waterfront development should be guided by the recognition that the HMA is an environmentally sensitive area and that the capacity of waterfront resources to support growth and development is limited.

7.3 The potential impacts of waterfront development proposals on future water uses, activities, and vessel congestion should be an important

consideration in the design of future waterfront development proposals and in the review of these proposals for consistency with the Harbor Management Plan.

7.4 The Town should support and encourage the continued operation of water-dependent land uses on waterfront sites.

7.5 The Town should support appropriate new, expanded, or enhanced water-dependent uses and development that will not exceed the carrying capacity of waterfront resources.

7.6 Filling of wetlands and other areas below the high tide line to allow new waterfront development should not be permitted.

7.7 The use of nonstructural measures to address flood and erosion problems should be encouraged and used wherever feasible except in those instances where structural measures (e.g., groins, revetments, seawalls) are necessary to protect existing inhabited structures, roads, utilities, or water-dependent facilities.

7.8 No building, pier, dock, seawall, or other waterfront structure in the HMA should be allowed to deteriorate to the point that it poses a hazard or inconvenience to navigation or causes an adverse impact on coastal resources. Owners of any waterfront structure that is allowed to deteriorate to that point [extent] should be subject to a fine.

7.9 Any existing deteriorated piers, docks, or shore protection structures should be repaired or replaced where such deterioration is contributing to under-utilization of the waterfront, causing adverse impacts on coastal resources, or creating a public health or safety hazard.

7.10 Waterfront property owners should exercise their riparian rights in a manner that does not have a significant adverse impact on coastal resources, visual quality, Public Trust uses, and other public values associated with the land and water resources below the mean high water line.

7.11 In-water and waterfront activities should not cause nuisance impacts – including, but not limited to, noise, litter, and wave impacts – on waterfront residential areas.

7.12 The planning and review of new waterfront development proposals should take into consideration the possible impacts on the existing character and quality of life in waterfront areas. Potential adverse impacts on waterfront residential areas should be minimized or eliminated.

7.13 Proposals for new or extended docks and piers should, in accordance with Section 26-166 of the Connecticut General Statutes, be reviewed for their effect on the Spring shad run in Chester Creek and on commercial shad fishing activities on the Connecticut River. Any potential adverse impacts on the shad run or commercial shad fishing activities should be avoided or minimized.

8.0 Water-Access Policies

8.1 The Town should promote and support the provision of facilities and opportunities for public access, including physical and/or visual access, to the Chester HMA.

8.2 The Town should promote and support the provision of public access to the HMA through existing Town-owned lands, water access right-of-ways, and other areas. The Town should pursue any opportunities that may arise in the future to provide for increased water access, including public acquisition of waterfront land for active and/or passive recreational use.

8.3 When considering opportunities for public access to the HMA, concerns pertaining to security, maintenance, public safety, visual quality, and the rights of shorefront property owners should be adequately addressed.

8.4 Opportunities for providing public access to the water through Town-owned waterfront areas should be fully utilized. Existing Town-owned waterfront areas should be properly maintained and improved/enhanced in a manner consistent with the capabilities of these areas to support public use.

8.5 Consistent with the Public Trust Doctrine, and subject to the riparian rights of upland property owners, the public right of free navigation and use of the land and water resources below the mean high water line should not be impaired.

Harbor Management Policies for Water-Access Structures

It is found that the lower Connecticut River and the towns abutting the river possess unique scenic, ecological, scientific, and historic value contributing to public enjoyment, inspiration, and scientific study, that it is in the public interest... to preserve such values and to prevent deterioration of the natural and traditional riverway scene for the enjoyment of present and future generations... from Section 25-102a of the Connecticut General Statutes

Harbor Management Policies for Water-Access Structures

The policies set forth in this chapter were first included in The Chester Harbor Management Plan 2010 Addendum and thereby established as policies of the Chester Harbor Management Plan. For the purpose of these policies, the term "water-access structure" shall mean any dock, float, pier, or other structure, or combination thereof, constructed partly or wholly on, in, or contiguous to the Chester Harbor Management Area for the purpose of temporarily or permanently docking or mooring a vessel or otherwise providing physical and/or visual access to the Chester HMA.

The harbor management policies set forth in this chapter of The Chester Harbor Management Plan (the Plan) pertain to the planning, construction, use, and maintenance of docks, floats, piers, and other water-access structures² in the Chester Harbor Management Area (HMA). These policies supplement the Town's harbor management policies contained in Chapter 4 of the Plan, and are established to guide decisions affecting the use and conservation of the Chester HMA as those decisions are made by the Chester Harbor Management Commission (HMC) and other agencies, including, but not

limited to, other agencies of the Town and the Connecticut Department of Energy and Environmental Protection's Office of Long Island Sound Programs (DEEP OLISP).

1.0 Planning, Design, and Review of Water-Access Structures: Any and all public and private docks, floats, piers, and other structures to provide access to the Chester HMA for boating and other beneficial purposes must conform with all applicable Town, state, and federal laws, regulations, and ordinances, including, but not limited to, the Zoning, Subdivision, Building Code, and Harbor Management regulations and ordinances of the Town of Chester, and be consistent with the Plan. All proposals for water-access structures should be carefully planned, designed, and reviewed to avoid any potentially significant adverse impacts that would otherwise affect beneficial uses and conditions on, in, or contiguous to the HMA, including any adverse impacts on public navigation, coastal resources, and the existing natural and traditional scenic character of the Town's shoreline.

1.1 Review by the Harbor Management Commission: All applications submitted to state and/or federal agencies for authorization to place temporary or permanent water access structures in the Chester HMA and conduct other work affecting the real property on, in, or contiguous to the HMA, including, but not limited to a) applications to the DEEP OLISP for individual permits and Certificates of Permission, b) General Permit registration forms for "4/40 docks" submitted to the DEEP OLISP, and c) applications submitted to the U.S. Army Corps of Engineers (USACE) for individual permits and other authorizations, should be reviewed by the Chester HMC for consistency with the policies and other provisions of the Plan. With regard to applications submitted to or prepared by federal agencies such as the USACE, it is recognized that the Connecticut General Statutes and the Regulations of Connecticut State Agencies do not establish requirements concerning the review of such applications by the HMC, and that recommendations of the Plan are not binding on federal agency decisions. (See no. 1.7 below.) Such review shall be conducted in accordance with the Harbor Management Consistency Review Process established by the Plan. The results of the HMC's consistency review, including findings and recommendations of the HMC pursuant to the Plan, should be transmitted by the HMC to the appropriate state and/or federal agency prior to any final decision by that agency. Such transmittal shall be in accordance with all applicable laws, regulations, ordinances, and other duly established requirements. (See 1.4.) In conducting its review, the HMC may hold a duly noticed public meeting to hear comments on the application, including comments provided by the applicant and other interested parties.

1.2 Applicant's responsibility to provide information: In the course of the Chester HMC's review of an application for consistency with the Plan, it should be the responsibility of the applicant to provide sufficient information to enable the HMC to evaluate the proposed project for consistency with the Plan, including, but not limited to, information to demonstrate: 1) the need for the proposed project; and 2) that the proposed project will: a) not unreasonably interfere with public navigation, including navigation by hand-paddled craft such as canoes and kayaks; b) not have a significant adverse impact on coastal resources (see

no. 2 below); and c) not unreasonably interfere with the natural and traditional scenic quality of the Chester HMA nor with public views of the HMA and shoreline. The information required from the applicant should be reasonable in scope and commensurate with the scale of the proposed project and the proposed project's potential positive and/or negative impacts. (See 1.4.)

1.3 Preparation of application plans and surveys: The Chester HMC recommends that application plans and surveys for specific types of water-access projects be prepared by licensed professional engineers and land surveyors in accordance with all duly established application requirements. (See 1.4.)

1.4 Compliance with DEEP OLISP requirements: It is the responsibility of all applicants for DEEP OLISP permits and other DEEP OLISP authorizations to comply with all duly established application requirements, including, but not limited to, any requirements for submitting project plans and other information to the Chester HMC, and otherwise properly conferring with the HMC prior to, and/or subsequent to, submitting an application to the DEEP OLISP. Project plans and other information submitted by the applicant to the HMC must be deemed by the HMC to be sufficiently accurate, complete, and otherwise adequate for the purpose of the HMC's review of that information. (See 1.2.)

1.5 Consideration of enforcement actions: When reviewing a proposed project for consistency with the Plan, the Chester HMC should consider if there is any enforcement action pending with Town, state, or federal agencies for violations of environmental laws or other laws at the site of the proposed project and/or otherwise associated with the proposed project. The HMC may defer its review of a proposed project involving a pending enforcement action until such time as that action has been concluded. The HMC should provide recommendations to appropriate Town, state, or federal agencies concerning the elimination of any unauthorized structures or other work in the Chester HMA. Elimination of any unauthorized structures or other work in the HMA should be in accordance with all applicable provisions of the Plan.

1.6 Consideration of proposed type of use: When reviewing applications for wateraccess structures in the Chester HMA, the Chester HMC will take into consideration the type of proposed use of the structures, including public or private use and commercial or residential use. Presuming that any significant adverse impacts on coastal resources and/or public rights and interests are avoided, construction of water-access structures for public use and/or to serve more than a single residential property are generally preferred over structures that would serve only private uses and/or a single residential property.

1.7 Findings and recommendations of the HMC: Findings and recommendations of the Chester HMC concerning applications submitted to state and/or federal agencies for authorization to place temporary or permanent water-access structures in the Chester HMA and/or conduct other work in or affecting the HMA should be carefully considered by those agencies, including, but not limited to: a) the HMC's findings concerning the consistency of the proposed activities with the Plan and any other

applicable Town requirements; and b) the HMC's recommendations, pursuant to the Plan and/or the Connecticut Coastal Management Act (CCMA), for any special terms and conditions to avoid or otherwise mitigate any significant adverse impacts that would otherwise be associated with construction, use, and maintenance of approved projects. Such recommendations should be consistent with the Plan and/or the CCMA. Pursuant to Section 22a-113n of the Connecticut General Statutes, a recommendation of the Plan with respect to a proposed project shall be binding on any official of the state when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken. With regard to applications submitted to or prepared by federal agencies such as the USACE and reviewed by the HMC, it is recognized that recommendations of the Plan are not binding on federal agency decisions.

1.8 Corps of Engineers' Guidelines: To reduce potential adverse impacts on navigation resulting from the construction of water-access structures in the Chester HMA, design guidelines established by the USACE for the placement of fixed and floating structures in navigable water should be considered by the Chester HMC in its review of proposed water-access structures. In the absence of compelling reasons to the contrary, including, but not limited to, the need to a) protect valuable coastal resources, including, but not limited to, aesthetic resources, b) avoid undue interference with public navigation, including navigation by hand-paddled craft such as canoes and kayaks, and c) avoid significant adverse impacts on the natural and traditional scenic values of the HMA and public views of the HMA and shoreline, new water-access structures should be consistent with the USACE guidelines. (See "Guidelines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States Regulated by the New England District U.S. Army Corps of Engineers," July 1996 included in Appendix H of the Plan.)

For the purpose of these harbor management policies, the term "scenic values" shall mean the scenic values associated with the Chester HMA and lower Connecticut River area and recognized in Section 25- 102a of the Connecticut General Statutes as contributing to public enjoyment, inspiration, and scientific study and to the natural and traditional riverway scene, and which therefore should be preserved in the public interest.

For the purpose of these harbor management policies, the term "aesthetic resources" shall mean the aesthetic coastal resources described in the Connecticut Coastal Management Act and which, pursuant to the CCMA, are to be protected from adverse impacts that include, but are not limited to, actions that would degrade visual quality through significant alteration of the natural features of vistas and view points.

2.0 Avoidance of adverse impacts: Construction, use, and maintenance of docks, floats, piers, and other structures to reach navigable water in the Chester HMA should not have any significant adverse impact on: coastal resources, including, but not limited to, aesthetic resources; public navigation, including navigation by hand-paddled vessels such as canoes and kayaks; and natural and traditional scenic values (see no. 3). Existing and potential adverse impacts on coastal resources, public

navigation, and natural and traditional scenic values should be reduced and/or avoided through all feasible means, including, but not limited to, application of professional design and siting measures; maintenance or removal of derelict, abandoned, or deteriorated structures affecting the real property on, in, or contiguous to the HMA; and avoidance of water-access structures in undisturbed shoreline areas with significant natural resource value, including scenic value.

2.1 Minimal length and mass: To avoid adverse impacts on public navigation, coastal resources, and natural and traditional scenic values, the length and mass of all docks, floats, piers, and other water-access structures to reach navigable water in the Chester HMA should be minimized to the extent reasonable and practical.

Approved water-access structures should be of the minimal length and mass necessary to provide reasonable access to navigable water. For the purpose of this policy it is recognized that reasonable access to navigable water does not necessarily mean access during all stages of the tide cycle nor access ideally suited for a vessel of particular length and draft. Unless there are compelling reasons to the contrary, fixed structures are not to be placed waterward of the mean low water (MLW) line.

2.2 Case-by-case review: Applications submitted to state and/or federal agencies for authorization to place temporary or permanent water-access structures in the Chester HMA and/or conduct other work in or affecting the HMA should be evaluated on a case-by-case basis by the Chester HMC in the course of the Town's Harbor Management Consistency Review Process. In the course of that case-by-case evaluation, the HMC should consider the precise and appropriate extent to which approvable water-access structures should extend waterward to provide reasonable access to navigable water. The HMC's case-by-case evaluation should take into consideration pertinent conditions including, but not limited to: the existing condition and configuration of the shore including distance from the Mean High Water (MHW) line to MLW; the riparian right of the waterfront property owner for reasonable access to navigable water; traditional and existing uses of the HMA in the vicinity of the proposal; the presence of sensitive coastal resources including but not limited to tidal and freshwater/tidal wetlands, intertidal flats, submerged aquatic vegetation, and aesthetic resources; opportunities for public views of the shore and HMA in the vicinity of the proposal; the extent to which the structure would be visible from public roads and other locations; and the length, mass, and scale of any existing water-access structures in the vicinity of the proposed location.

2.3 Seasonal removal: Where necessary to avoid potential damage to intertidal resources and other coastal resources and to property that may be caused by normal and abnormal conditions, including, but not limited to, flood, ice, and other potentially hazardous conditions, duly authorized water-access ramps and floats should be removed from their duly permitted locations on a seasonal basis and stored in suitable and appropriate locations clearly outside the boundaries of any tidal wetlands.

2.4 Minimal visual intrusion: All duly authorized structures should be of a scale, appearance, and material consistent with the existing natural and traditional scenic values and aesthetic resources of the Chester shoreline and should be designed to avoid or minimize adverse visual impacts on the natural and traditional character of the shoreline
5. (See no. 3.)

5 For the purpose of these harbor management policies, the term "adverse visual impacts" shall mean the negative impacts that occur when the character, quality, or public enjoyment of a visual resource is diminished or impaired as a result of changes in the appearance of the landscape caused by developments. Those developments would include, but not be limited to, the construction of docks, floats, piers, and other water-access structures in the Chester HMA.

2.4.1 Boat lifts minimized: Consistent with the Town's interest in maintaining the natural and traditional character of the Town and the scenic values of the Chester shoreline, any structures for the purpose of lifting or hoisting vessels out of the water may be discouraged to the extent such structures would significantly increase the mass and adverse visual impacts of water-access structures and/or allow for the use of larger vessels than would otherwise be accommodated in the area of the particular structure. No structure for lifting or hoisting a vessel out of the water should be approved that would allow a vessel to be hoisted or lifted such that the waterline of that vessel would be high-

er than the deck of the pier to which the hoisting or lifting structure is attached.

2.5 Protecting intertidal flats: For the purpose of avoiding acute and cumulative impacts on the ecological resources and values provided by intertidal flats in the Chester HMA, no proposal for a water-access structure should be approved that would allow any floating dock to rest directly on any intertidal flat in the HMA during normal tide cycles. Approved water-access structures should utilize float "stops" or other such devices to relieve some or all of the pressure that would be generated by the full weight of the float resting on the bottom.

2.6 Extension of existing structures discouraged: Any proposals for extension of the authorized length and/or mass of existing, duly permitted water-access structures are generally discouraged unless such extension is shown to be necessary for the purpose of avoiding adverse impacts on coastal resources or for the purpose of providing other demonstrated public benefits. In the absence of compelling reasons to the contrary, including avoidance of adverse impacts on coastal resources and scenic values and the provision of other public benefits, any proposals for extension of existing water-access structures will be reviewed unfavorably by the Chester HMC in the Harbor Management Consistency Review Process.

2.7 Rafting of vessels discouraged: Vessels should not be rafted side to side at any float or other berthing arrangement in the Chester HMA in a manner that causes a hazard or obstruction to normal navigation in the HMA. Rafting should be prohibited in certain sections of the HMA (such as the Lower Chester Creek Management Area) where such prohibition is necessary to avoid any encroachments within the boundaries of designated and/or normally used navigation fairways and/or channels.

2.8 Public water areas: When reviewing proposals for water-access structures in the linear waterways of the Chester HMA, consideration should be given to design guidelines prepared by the USACE to maintain a reasonable area of public water free of obstructions at all times. (See 1.8.) For the purpose of maintaining at least 50% of the waterway width as open water, no structure, including any vessel attached to that structure, should extend from the shoreline for a distance of more than 25% of the waterway width at MLW. In all instances, the length of approvable structures should be minimized to the extent reasonable and practical. (See 2.1.) Extension of an approvable structure from the shoreline for a distance less than 25% of the waterway width at MLW is preferred and such lesser distance may be required in order to provide an appropriate "set-back" from the boundaries of designated and normally used navigation channels and fairways in the HMA. (See no. 4.)

3.0 Protecting and enhancing aesthetic resources and scenic values: It is recognized that the aesthetic resources and the natural and traditional scenic values of the Chester HMA contribute significantly to community character and quality of life in Chester. Accord-

ingly, the aesthetic resources and scenic quality, including scenic vistas, associated with the HMA should be protected and, to the extent feasible, enhanced.

3.1 Design and review of development proposals: Design and review of development proposals affecting the Chester HMA, including proposals for water-access structures, should take into consideration potential acute and cumulative impacts on aesthetic resources and scenic values and the capacity of the natural and built environment to support the proposed development without the occurrence of significantly adverse visual impacts.

3.2 Case-by-case review: Determination of potential impacts on aesthetic resources and scenic values that would be caused by new development affecting the Chester HMA should be carried out through the case-by-case review of individual development proposals by the Chester HMC, acting in coordination with other Town, state, and federal agencies.

3.3 Consideration of public views: When considering potential impacts on aesthetic resources and scenic values that would be caused by new development affecting the Chester HMA, consideration should be given to the potential adverse impacts on public observation, enjoyment, and appreciation of the HMA and shoreline from public waterfront areas, including public roads, and from the surface water of the HMA.

3.4 Minimizing visual intrusion: Existing and potential adverse visual impacts should be reduced and/or avoided through all feasible means, including, but not limited to, application of professional design and siting measures; maintenance or removal of derelict, abandoned, or deteriorated structures affecting the real property on, in, or contiguous

to the Chester HMA; and avoidance of water-access structures in undisturbed shoreline areas with significant natural resource value, including scenic value.

3.5 Avoiding illegal dumping: All applicable laws and regulations should be applied to avoid illegal dumping of trash and other debris in and near the Chester HMA. Violators should be pursued and prosecuted to the fullest extent of the law.

4.0 "Set-back" distances: All docks, floats, piers, and other water-access structures should be set back a sufficient distance from the boundaries of designated and normally used navigation channels and fairways in the Chester HMA and from any mooring areas, anchoring areas, and navigation fairways that may be designated by the Chester HMC in the HMA. This "set-back" distance should be of sufficient length to ensure that the in-water structures and any vessels docked at such structures do not unreasonably interfere with navigation or with beneficial use of designated mooring and anchoring areas.

Appropriate "set-back" distances may be determined on a case-by-case basis by the HMC based on a review of existing conditions in the HMA and along the shoreline.

5.0 Establishment of harbor management areas and planning units: For the purpose of planning for the most desirable use of the Chester HMA for recreational, commercial, and other purposes, the Chester HMC may identify discrete "harbor management areas and planning units" within the bounds of the HMA. Designation of such units, for inclusion in the Plan, should be based on the HMC's review of existing shoreline conditions, natural features, current and potential water and waterfront uses, harbor management issues, and any other pertinent considerations. The HMC may formulate recommendations, including guidelines and recommendations for the planning, design, and review of proposed docks, floats, piers, and other water-access structures in each identified area and unit. It is recognized that proposals for construction of water-access structures may be subject to special restrictions and/or review criteria in one or more harbor management area or units in the HMA due to the presence of fragile and sensitive coastal resources, natural and traditional scenic values, and public navigation in those management units. Further, it is recognized that reasonable access to the HMA in particularly valuable and sensitive coastal resource areas, including, but not limited to, aesthetic resource areas, should be achieved through non-structural means. (See Chapter 6 of the Plan.)

6.0 Shared use: Presuming that any significant adverse impacts on coastal resources, natural and traditional scenic values, and public navigation are avoided, construction of docks, floats, piers, and other water-access structures by groups of waterfront property owners for shared use is generally preferred to the construction of single and separate structures for use by individual owners.

7.0 Water access from proposed subdivisions: For the purpose of minimizing the number, length, and mass of water-access structures in the Chester HMA, it is recommended that access to the HMA from lots in any subdivision of property contiguous to the HMA

should be by means of one commonly used float, dock, pier, or other water-access structure.

8.0 Inspection: All docks, floats, piers, and other water-access structures are subject to inspection by a duly authorized representative of the appropriate permitting agency, including, but not limited to, representatives of the DEEP OLISP and the Town of Chester Building Department, to ensure conformance with, and continuing adherence to, any terms and conditions associated with the approvals of such structures. (See no. 1.7 above.) Any issues concerning conformance with, and continuing adherence to, any terms and conditions associated with the approvals of such structures may be brought to the attention of the appropriate permitting agency by the Chester HMC. Recommendations concerning the perceived need for inspections of water-access structures also may be brought to the attention of the appropriate permitting agency by the HMC.

9.0 "As built" surveys: To avoid potential adverse impacts on coastal resources, natural and traditional scenic values, and public navigation resulting from the construction of any new water-access structures in the Chester HMA and to ensure compliance with any conditions included in the state and/or federal authorizations for such structures, the permittee should be required, as a condition of authorization, to provide an "as-built" survey or other documenta-

tion following completion of the authorized construction. In those instances where the DEEP OLISP requires the permittee to provide an "as-built" survey, a copy of such survey should be provided to the Chester HMC.

10.0 Maintenance: No float, dock, pier, or other in-water structure providing reasonable access to navigable water should be allowed to deteriorate to the point that a hazard or inconvenience to navigation or condition adversely affecting public safety, coastal resources (including, but not limited to aesthetic resources), and/or natural and traditional scenic values may result. All water-access structures authorized by state and/or federal authorities in the Chester HMA shall be maintained in accordance with the maintenance conditions specified in those permits. Any observed deterioration of a state- or federally authorized water-access structure affecting or potentially affecting navigation, public safety, coastal resources, and/or natural and traditional scenic values in the HMA may be brought to the attention of the appropriate state and/or federal agency by the HMC for appropriate corrective actions, including, but not limited to, directives from the DEEP OLISP to apply for any state and federal authorizations that may be required. All available remedies may be considered to achieve removal or repair of any abandoned structure or any structure deteriorated to the extent that navigation and/or environmental quality in the HMA are adversely affected to any significant extent.

10.1 Repair of damaged structures: Repair of damaged, duly authorized water-access structures should not cause or result in any significant adverse impacts on navigation, public safety, coastal resources, and/or natural and traditional scenic values in the Chester HMA nor result in any increase in the originally permitted length and mass of the structures. Pursuant to DEEP OLISP requirements, including, but not limited to, requirements pursuant to Sections 22a-28 through 22a-35 and Sections 22a-359

through 22a-363f, inclusive, of the Connecticut General Statutes, repair of damage to a duly authorized water-access structure involving replacement in any one year of more than 25% of the permitted pilings shall require a new authorization from the DEEP OLISP and the application for that authorization shall be subject to review by the Chester HMC in accordance with these policies and other relevant provisions of the Plan.

11.0 Requirements for riparian access: In the absence of compelling reasons to the contrary, clearly demonstrated to the satisfaction of the DEEP OLISP, permits and other authorizations for the placement of docks, floats, piers, and other water-access structures in the Chester HMA may be granted only to those applicants who, by virtue of a real property ownership interest in the affected property, possess the riparian right to place such structures. This policy should not be construed as limiting the authority of the Harbor Master to allow the placement of boat moorings consistent with all other applicable laws, regulations, and ordinances and with the provisions of the Plan.

12.0 Avoiding conflicts between riparian rights and public rights: Riparian rights associated with the ownership of waterfront property, including the right of reasonable access to navigable water, should be exercised in a manner that does not unreasonably interfere with

the public's right of free navigation or with the public interest in protecting coastal resources and the natural and traditional scenic values associated with the Connecticut River and its tributaries and tidelands at Chester.

13.0 Avoiding conflicts between riparian owners: Waterfront property owners should exercise their riparian rights in a manner that does not interfere with the riparian rights of other waterfront property owners. To avoid conflicts between riparian owners, consideration should be given to the USACE's Guidelines when planning and reviewing water-access structures potentially affecting adjoining properties. (See "Guidelines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States Regulated by the New England District U.S. Army Corps of Engineers," July 1996.) (See 1.8.)

Area Guidelines and

Water-Use Plans

Chester is a "coastal town" regulated under the federal and state coastal management acts. The coastal boundary is a band of land running along the Connecticut River. By State Statutes, coastal site plan reviews are required for most development within the boundary area. Chester also has a Harbor Management Commission, authorized under State Statutes to manage the waters of the Town below high tide, including plans for waterfront use and marina operations. A Harbor Management Plan was adopted by the Town in 1994 and is currently being updated with the identification of separate dock management units within the Harbor Management Area (HMA), special consideration of visual access, and preservation of currently undeveloped areas.

From 2009 Chester Plan of Conservation and Development

TOWN OF CHESTER

HARBOR MANAGEMENT PLAN

SEPTEMBER 2013

Area Guidelines and Water-Use Plans¹

1 The Area Guidelines and Water Use Plans set forth in this chapter include the provisions from Part Two of the 1994 Town of Chester Harbor Management Plan as well as the provisions included in Chapter 4 of The Chester Harbor Management Plan 2010 Addendum.

Within the overall boundaries of the Chester Harbor Management Area (HMA), five "management areas" (also called harbor management "sub-areas") are identified based on natural features, current and potential uses, and harbor management considerations. The five management areas are: 1) Chester Creek Lower Section); 2) Chester Creek Middle Section); 3) Chester Creek Upper Section); 4) Connecticut River; and 5) Deep River Creek. For the purpose of The Chester Harbor Management Plan, (the Plan) the Connecticut River management area is further divided into eight shoreline planning units.

The management guidelines for each of these areas add more specificity to the Town's harbor management goals and policies, and should be considered, along with the other provisions of the Plan, by the Chester Harbor Management Commission (HMC) and other agencies when reviewing proposals affecting the Chester HMA or otherwise making decisions affecting the HMA. The application of some of the guidelines is illustrated on Figure 6-1. Figure 6-2 illustrates a conceptual plan for placement of moorings in the Special Anchorage Areas in the Connecticut River. The order in which the management areas and guidelines for each management area are presented is not meant to imply priority. Aerial photos of the management areas and planning units are provided in Appendix E; folded maps of the management areas and planning units showing waterfront property boundaries from the Town of Chester Assessor's maps are included in Appendix F.

Lower Chester Creek Management Area

The Lower Chester Creek area includes that part of the creek and its shoreline properties reaching upstream from the mouth of the creek at the Connecticut River to the railroad bridge, a distance of about 3,000 feet. (See photos E-1 and E-2 in Appendix E and sheet 10 in Appendix F.)

This area is characterized by the highest concentration of boat berthing and service facilities in the Chester Harbor Management Area, including facilities provided by commercial marinas and private boating clubs utilizing excavated marina basins that are connected with the creek. Also included in this management area are the tidal wetlands adjacent to the creek just east of the railroad bridge. Navigation takes place in the narrow Chester Creek navigation fairway that generally does not exceed 75 feet in width and more typically is about 50 feet wide. Due to the narrowness of the creek and fairway and the extent of existing water-dependent development, dock expansion and additional vessel berthing opportunities are limited. All of the waterfront properties are within the Town's Waterfront Design zoning district.

1. Priority Management Objectives:

- a. To ensure the continued operation of water-dependent facilities and land uses supporting recreational boating and boating access to the Connecticut River.

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Figure 6-2: Conceptual Mooring Plan for Connecticut River Special Anchorage Areas.

b. To promote public safety and reduce conflicts between vessels using the Chester Creek navigation fairway.

c. To ensure that in-water and upland uses and development do not exceed the capacity of the creek to safely accommodate such uses and development.

d. To protect and improve environmental quality, including water quality, and to ensure that in-water and upland uses and development do not exceed the capacity of the creek to accommodate such uses and development in an environmentally sound manner.

e. To seek and encourage opportunities for visual and physical public access to the creek and Connecticut River.

f. To support the continued operation of viable commercial marina and yacht club facilities providing boating facilities and services in the excavated basins connected with Chester Creek and along the Chester Creek shoreline. [Added 2010]

g. To formally establish and maintain a navigation fairway in Chester Creek, from the mouth of the creek to the railroad bridge, of sufficient and specific width to ensure ease and safety of navigation for all vessels using the creek. [Added 2010]

2. Boating Facilities and Marinas:

a. The existing boating facilities using Chester Creek for access to the Connecticut River (these facilities are known in 2013 as the Castle Marina, Hays Haven Marina, Pataconk Yacht Club, and Springfield Yacht and Canoe Club) should be recognized as

important water-dependent uses providing significant water access opportunities.
Town planning and zoning requirements should support the continued operation and viability of these facilities.

b. The design and review of all waterfront development proposals, including proposals for marina development and expansion, should take into consideration the "carrying capacity" of Chester Creek to accommodate increased water use without significant adverse impacts on natural resources, water use, and public safety. The design and review of all waterfront development proposals should also be guided by the recognition that there are limits to the amount of growth and development that Chester Creek's marine environment can safely support in an environmentally sound manner.

c. The development of new boating facilities or the expansion of existing facilities should not have significant adverse impacts on natural coastal resources and should be consistent with the capacity of the creek to support such development or expansion.

d. It should be the responsibility of project applicants to provide the information necessary to adequately assess the potential impacts of proposed development projects on Chester Creek. The information required should be reasonable in scope and should be in balance with the size, scope, and potential positive and negative impacts of the proposal.

e. Any new or expanded marina facility should provide on-site sewage pump-out facilities for vessel holding-tanks, or demonstrate that available pump-out capacity exists elsewhere in the Chester HMA to accommodate their needs. Existing marinas are encouraged to add on-site sewage pump-out facilities.

f. Existing commercial marinas and private yacht clubs are encouraged to provide transient facilities, including moorings, slips, restroom facilities, and dinghy launching/landing facilities, for the use of transient boaters. All new or expanded marina facilities should provide facilities for transient boaters or demonstrate other such facilities are available in the area.

3. Chester Creek Navigation Fairway:

a. The existing navigation fairway in Chester Creek should be maintained free of any obstructions from the mouth of the creek (at the eastern end of the jetty on the north side of the mouth of the creek) to the railroad bridge.

b. Unessential encroachments into the fairway should be avoided.

c. It is the responsibility of those applying for permits to construct docks, piers, and any other structures in Chester Creek to provide the reviewing agencies with the information necessary to determine that the proposed structures will provide for unobstructed use of the navigation fairway and reasonable in-water and waterfront development opportunities on the opposite side of the fairway.

4. Dredging:

a. Maintenance dredging of the Chester Creek navigation fairway and existing marina facilities should be carried out in the most timely manner necessary to ensure navigation safety and the continued viability of existing boating facilities.

b. Dredging of sub-tidal areas outside the Chester Creek navigation fairway as described in 3(a) above should be limited to maintenance dredging of previously dredged areas. Dredging of intertidal areas should be discouraged.

c. Maintenance dredging and the disposal of dredged material from the Chester Creek navigation fairway and all docking facilities and berthing areas should be undertaken in compliance with all applicable state and federal regulations and in a manner that will minimize adverse impacts on coastal resources.

5. In-Water and Waterfront Structures:

a. Future in-water and waterfront development actions should not result in constriction of the existing navigable area in Chester Creek. Repair or replacement of existing bulkheads should not result in the further extension of bulkheaded areas into Chester Creek.

b. Docks and other in-water structures should be set back from the Chester Creek navigation fairway a sufficient distance so that these structures (and vessels docked at these structures) do not interfere with the safe and free passage of any vessel using the fairway. Appropriate setback distances should be recommended by the Harbor Management Commission based on a case-by-case review of existing conditions.

c. The construction or extension of public and private docks and piers to reach navigable water should not infringe on the riparian rights of adjoining waterfront property owners or on the riparian rights of waterfront property owners on the opposite side of the fairway.

d. It is recognized that the existing commercial marina facilities and yacht club facilities are water-dependent uses providing significant opportunities for beneficial access to Chester Creek and the Connecticut River for marina patrons and yacht club members and guests. The continued operation and viability of these facilities is supported by the legislative policies of the Connecticut Coastal Management Act and by the Plan. It is also recognized that future expansion of marina and yacht club water-access structures in the creek, beyond the boundaries of currently permitted structures may result in adverse impacts on navigation, coastal resources, and the existing scenic character of the shoreline. As a result, expansion of marina floats, docks, and piers into Chester Creek, outside of the excavated basins and beyond the boundaries of currently permitted structures, should be avoided, to the extent that such expansion would result in any significant adverse impacts on navigation, coastal resources, or the existing scenic character of the shoreline. Further, no structure, including any vessel attached to that structure, may extend from the shoreline for a distance that would at any time encroach upon or otherwise adversely affect the safe and beneficial use of the normally used Chester Creek navigation fairway. [Added 2010]

e. All docks, floats, piers, and other water-access structures should be set back a sufficient distance from the boundaries of the normally used Chester Creek navigation fairway.

This "set-back" distance, determined by the HMC, should be of sufficient length to ensure that the in-water structures and any vessels docked at such structures do not unreasonably interfere with navigation. [Added 2010]

f. To avoid any undue obstructions to navigation in the normally used Chester Creek navigation fairway, boats should not be rafted side to side at any floats or in any other berthing arrangement in areas adjoining Chester Creek outside of the excavated basins.

[Added 2010]

6. Town Facilities for Water Access:

a. The Town should evaluate and pursue any existing and future opportunities to increase physical and visual public access to Chester Creek, including the establishment of a public launching/landing area for small vessels such as canoes, dinghies and kayaks that can be transported without trailers.

b. The "Overlook" area should be maintained as a public water access facility providing visual access to Chester Creek and the Connecticut River. The Overlook should be utilized to its full potential as a passive recreation area and the Town should evaluate and pursue any opportunities to expand public use of the area.

c. Docking space reserved for the Chester Harbor Master and for emergency vessels such as the Fire Department's fire fighting and rescue boat should be provided near the Overlook.

7. Public Safety:

a. The speed of all vessels should be limited to the speed necessary to allow a vessel to be steered while making forward progress.

b. Appropriate emergency equipment and procedures should be maintained by the owners/operators of the commercial marinas and private yacht clubs to ensure prompt and effective response to fuel spills, fires and other emergencies. All existing and future marinas and waterfront facilities should provide for appropriate fire prevention and preparedness as required by the Fire Marshall and the Connecticut Fire Safety Code.

c. A "private" (non-federal) navigation beacon should be maintained on the Connecticut River shoreline just north of the mouth of Chester Creek.

d. No development should be permitted that will restrict vessels from turning in the area down-stream of the railroad bridge.

8. Protection and Enhancement of Environmental Quality:

a. The freshwater-tidal wetlands along Chester Creek east of the railroad tracks should be recognized as intertidal resources of special significance and the ecological values of these resources should be preserved. The protection of natural resource values, including values related to fish and wildlife habitat, water quality maintenance, flood protection, and esthetic quality, should take precedence over dredging and the development of new structures such as docks and piers to provide boating access in this area.

b. Because of the intensity of boating use, constricted water circulation, and the potential for water quality degradation in enclosed marina basins, the improvement of water quality, including upgrading of the current SC water quality classification, should be a continuing harbor management priority.²

2 Water quality in Chester Creek has improved significantly since The Chester Harbor Management Plan was adopted in 1994. The state water quality classification of the creek is now SA (the highest classification attached to tidal water bodies) up to Middlesex Avenue. West of Middlesex Avenue, Chester Creek and the Pattaconk Brook are also classified SA to the center of Town. Water quality in Chester Creek and the Pattaconk Brook improved significantly following construction of a special community sewerage system in 1985 to serve buildings in the center of Town.

c. All feasible measures to correct, reduce, and/or eliminate sources of pollution, including improvement and repair of nearby septic systems, reduction of non-point sources of pollution, and reduction or elimination of sources of pollution caused by boating activities, should be encouraged. Special attention should be directed toward the mitigation of any existing and potential water quality problems in the marina basins.

d. As part of a water quality monitoring program throughout Chester Creek, water quality should be regularly monitored in the navigation channel and marina basins to identify any pollution problems that may exist and to help identify sources of pollution and feasible pollution abatement measures.

e. The Town should work closely with state and federal agencies for authorization and implementation of a Chester Creek "no-discharge" zone under state law.³

³ Following action taken by the State of Connecticut and U.S. Environmental Protection Agency in 2007, all of Connecticut's coastal waters, including the Chester HMA, are now part of a statedesignated no discharge area, making it illegal for boaters to discharge sewage from their vessels anywhere in the state's portion of Long Island Sound or its tributaries.

f. Appropriate collection procedures and facilities should be established to prevent paint scrapings and other waste products from vessel repair and maintenance activities from entering Chester Creek and adjacent intertidal areas.

g. The use of booms in the adjacent waterway should be encouraged to protect water quality during upland construction actions.

Middle Chester Creek Management Area

The Middle Chester Creek area extends upstream on the creek from the railroad bridge to Middlesex Avenue, a distance of about 1,625 feet. (See photos E-3 and E-4 in Appendix E and sheet 11 in Appendix F.) This management area is characterized by the relatively undisturbed tidal wetlands, including freshwater-tidal wetlands, on both sides of the creek. Some residential development is found along the landward limits of the wetlands. In 2013 there is one authorized dock within this reach of the creek, and visual and photographic evidence indicate the presence of another small dock on the north side of the creek just downstream of the Middlesex Avenue Bridge. Navigable depths are limited throughout this reach, providing access only to shallowdraft motorized vessels and hand-powered craft. All of the shoreline properties are in the Town's Tidal Wetland zoning district.

1. Priority Management Objectives:

- a. To maintain and improve environmental quality, including water quality.
- b. To seek and encourage opportunities for visual and physical access to Chester Creek for water-based recreational activities that have minimal impact on the natural environment.

c. To preserve the natural and undeveloped character of the shoreline and creek. [Added 2010]

d. To preserve the creek's intertidal flora and fauna which provide ecological functions and values of special interest and regional significance, including their significance as part of the tidelands of the Connecticut River which are designated as "Wetlands of International Importance." [Added 2010]

2. Protection and Enhancement of Environmental Quality:

a. The freshwater-tidal wetlands along Chester Creek between the railroad and highway bridges should be recognized as intertidal resources of special significance and regional importance. The ecological values of these resources should be preserved. The protection of natural resource values, including values related to fish and wildlife habitat, water quality maintenance, flood protection, and esthetic quality, should take precedence over dredging and the development of new structures such as docks and piers to provide boating access in this area.

b. All feasible measures to correct, reduce, and/or eliminate sources of pollution, including improvement and repair of nearby septic systems and reduction of non-point sources of pollution, should be encouraged.

c. Dredging, other than maintenance dredging, for the purpose of expanding boating use and navigation access in this section of the creek should be discouraged.

d. Any further restriction of water circulation under the railroad bridge and resulting increase in potential flood hazard caused by restriction of water circulation should be

avoided.

e. The use of booms in the adjacent waterway should be encouraged to protect water quality during upland construction actions.

3. In-Water Structures:

a. The construction of private docks to reach navigable water by the owners of waterfront properties should be permitted if the resource impacts are minimal and there are no feasible alternatives that would have less significant environmental impacts. All structures should be of the minimal length necessary to reach navigable water and should be designed to have only minimal impacts on intertidal areas and water use.

b. It should be recognized that, given the existing natural and undeveloped character of the shoreline and creek, placement of any water access structure in this area other than structures required to maintain the railroad and Middlesex Turnpike bridges would alter that existing character and may establish precedent for other structures to be considered in an existing natural and undeveloped area. [Added 2010]

c. No proposal for any water-access structure in this planning unit, including any proposal to repair and/or replace an existing, duly-authorized structure, should be approved if the structure as proposed would: 1) unreasonably intrude upon or otherwise alter existing public views of the creek from public roads and other viewing locations; 2) require crossing of, or other impacts on, wetland resources; and/or 3) create any obstruction significantly affecting current navigation on the creek by small craft. Approvable water-access structures that would support navigation on the creek by small, lowpowered, wind-propelled, or hand-powered vessels are preferred. [Added 2010]

Upper Chester Creek and Pattaconk Brook

Management Area

This management area includes the intertidal area from Middlesex Avenue to the center of Town and includes the water course commonly referred to as the Pattaconk Brook. (For purposes of The Chester Harbor Management Plan, this water course west of Middlesex Avenue will continue to be known as Chester Creek until its intersection with the Great Brook, and thence will be known as the Pattaconk Brook upstream and west of the Great Brook.)

The upper reach of Chester Creek extends approximately 4,200 feet upstream of the Middlesex Avenue Bridge to the area known as the cataracts located in the Chester Town center. (See photos E-5 and E-6 in Appendix E and sheets 11 and 12 in Appendix F.) The character of this area is similar to that of the Middle Chester Creek Management Area. Relatively undisturbed tidal wetlands, including freshwater-tidal wetlands, are on both sides of the creek. Some residential and commercial development is found along the landward limits of the wetlands. There are no docks or other water access structures within this reach of the creek. Navigable depths are limited, providing access only to shallow draft motorized vessels and hand-powered craft. Access to

the watercourse is provided at several locations, including the small canoe/kayak launching ramp at the Carini Preserve. All of the shoreline properties are in the Town's Tidal Wetland zoning district.

1. Priority Uses and Management Objectives:

a. To protect and enhance natural coastal resources and environmental quality, including water quality.

b. To seek and encourage opportunities for visual and physical access to Chester Creek for water-based recreational activities with minimal impact on the natural environment.

c. To preserve the natural and undeveloped character of the shoreline and creek. [Added 2010]

d. To preserve the creek's intertidal flora and fauna which provide ecological functions and values of special interest and regional significance, including their significance as part of the tidelands of the Connecticut River which are designated as "Wetlands of International Importance." [Added 2010]

2. Protection and Enhancement of Environmental Quality:

a. The freshwater-tidal wetlands and intertidal flats along Chester Creek should be recognized as intertidal resources of special concern and regional importance. The protection of natural resources, including those related to fish and wildlife habitat, water quality maintenance, flood protection, and scenic quality, should take precedence over dredging and the development of new structures such as docks and piers to provide boating access.

b. All feasible measures to correct, reduce, and/or eliminate sources of pollution, including regular monitoring of water quality, improvement and repair of nearby community sewage disposal facilities and individual septic systems, and reduction of non-point sources of pollution, should be encouraged.

c. Dredging in this area should be discouraged.

d. Care should be taken during any construction activities to protect environmental quality, including water quality.

e. Any further restriction of water circulation under the Middlesex Avenue Bridge and resulting increase in potential flood hazard caused by restriction of water circulation should be avoided.

f. The use of booms in the adjacent waterway should be encouraged to protect water quality during upland construction activities.

3. Water Access Opportunities:

a. The Town should evaluate and pursue any existing and future opportunities to increase physical and visual public access to Chester Creek, including the establishment of public launching/landing areas for small, non-motorized vessels such as canoes and kayaks that can be transported without trailers

4. In-Water Structures:

a. It is recognized that, given the existing natural and undeveloped character of the shoreline and creek, placement of any water access structure in this area other than structures required to maintain the Middlesex Turnpike Bridge would alter that existing character and may establish precedent for other structures to be considered in an existing natural and undeveloped area. It is also recognized that currently and historically there have been no water-access structures in this area excepting the existing small canoe/kayak launching ramp at the Carini Preserve. Further, it is recognized that significant scenic vistas of this area and the natural and undeveloped character of the shoreline and creek are enjoyed from public roads and other areas. Accordingly, with the exception of the Carini Preserve canoe/kayak launching ramp, any access to and from the Chester HMA in this management unit should be achieved only through non-structural means. [Added 2010]

Connecticut River Management Area

The Connecticut River Management Area is that part of the river within the jurisdiction of the Town of Chester, generally extending to the centerline of the river and including the two Special Anchorage Areas offshore of the mouth of Chester Creek.

1. Priority Uses and Management Objectives:

- a. To ensure the continued operation of water-dependent facilities supporting boating and boating access to the Connecticut River.
- b. To promote public safety and reduce conflicts between water uses on the Connecticut River.
- c. To seek and encourage opportunities for visual and physical public access to the Connecticut River.
- d. To encourage equitable use of public waters by the general public, shorefront residents, private waterfront clubs, and others.
- e. To protect and improve environmental quality, particularly water quality.
- f. To enhance the existing quality of life associated with shorefront residential areas.

2. Boating Facilities and Marinas:

a. The existing boating facilities with direct access to the Connecticut River (these facilities are known in 2013 as the Chester Point Marina, Chrisholm Marina, and Middlesex Yacht Club) should be recognized as important water-dependent uses providing significant water access opportunities. Town planning and zoning requirements should support the continued operation and viability of these facilities.

b. All proposals for marina development and expansion should take into consideration potential impacts on natural resources, water use, and public safety. All proposals should include appropriate measures to protect environmental quality, including water quality, during the construction phase.

c. The development of new boating facilities or the expansion of existing facilities should not have significant adverse impacts on natural coastal resources and should be consistent with the capacity of coastal resources to support such development or expansion.

d. Any new or expanded marina facility should provide on-site sewage pump-out facilities for vessel holding-tanks, or demonstrate that available pump-out capacity exists elsewhere in the Chester Harbor Management Area to accommodate their needs. Existing marinas are encouraged to add on-site sewage pump-out facilities.

e. Existing commercial marinas and private yacht clubs are encouraged to provide transient facilities, including moorings, slips, public restrooms, and dinghy launching/landing facilities, for the use of transient boaters. All new or expanded marina facilities should provide facilities for transient boaters.

3. Dredging:

a. Maintenance dredging of existing boating facilities should be carried out in the most timely manner necessary to ensure navigation safety and the continued viability of existing boating facilities.

b. Dredging of sub-tidal areas should be limited to maintenance dredging of previously dredged areas. Dredging of intertidal areas should be discouraged.

c. Maintenance dredging and the disposal of dredged material from all dredged areas should be undertaken in compliance with all applicable state and federal regulations and in a manner that will minimize adverse impacts on coastal resources.

4. In-Water and Waterfront Structures:⁴

⁴ See the following section "Connecticut River Planning Units" for more detailed provisions concerning water-access structures in the Connecticut River Management Area.

⁵ See "Guidelines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States Regulated by the New England Division, U.S. Army Corps of Engineers," July 1996.

a. The riparian rights of waterfront property owners to reach navigable water should be protected. Consistent with these rights, the construction of new or extended docks and piers should not have significant adverse impacts on coastal resources and water activities, nor infringe on the riparian rights of adjoining property owners.

b. Docks and piers should be of the minimal length necessary to reach navigable water. The use of long docks or piers to provide permanent docking facilities should be discouraged. Short piers or small floats to facilitate small craft access to moorings are preferred.

c. Construction of water access facilities by groups of waterfront property owners for shared use should be encouraged.

d. In the absence of compelling reasons to the contrary, including the need to protect valuable coastal resources, the construction of new or extended docks and piers should be consistent with guidelines established by the U.S. Army Corps of Engineers for the placement of fixed and floating structures in navigable waters.⁵

5. Town Facilities for Water Access:

a. The Town should evaluate and pursue any existing and future opportunities to provide increased visual and physical access to the Connecticut River.

b. The Parker's Point boat launching area should be maintained as a public water access facility providing safe and efficient small craft access to the Connecticut River. The boat launching area should be improved and utilized to its full potential as a water access area. Use of the launching area to launch and retrieve vessels and to park should be monitored, and all regulations pertaining to boat launching, parking, and other site uses should be strictly enforced. Periodic maintenance of the facility should be carried out in the most timely manner possible to ensure continued use and enjoyment of the facility. All development, operation, and maintenance of the launching area should be in accordance with an established Town plan for the area.

c. The Town should evaluate and pursue any existing and future opportunities to provide an additional public launching/landing area on the Connecticut River for small vessels such as canoes, dinghies, and kayaks that can be transported without trailers.

d. The Connecticut River shoreline between Dock Road and Ferry Road should be considered as an important opportunity area for possible future establishment of a waterfront walkway to provide visual access to the Connecticut River. The opportunities and constraints associated with development of such a walkway and other possible water access facilities in this area should be evaluated and specific short and long-term objectives for public use of this shoreline area should be considered.

6. Public Safety:

a. A navigation fairway free of obstructions should be maintained between the Special Anchorage Areas and the Chester shoreline to allow the free and safe passage of vessels along the shoreline.

b. The speed of all vessels within the Special Anchorage Areas and between the Anchorage Areas and the Chester shoreline should be limited to that which causes no wake.

c. Appropriate emergency equipment and procedures should be maintained by the owners/operators of the commercial marinas and private yacht clubs to ensure prompt and effective response to fuel spills, fires, and other emergencies. All existing and future marinas and waterfront facilities should provide for appropriate fire prevention and preparedness as required by the Fire Marshall and the Connecticut Fire Safety Code.

d. The boundaries of the Special Anchorage Areas should be marked by appropriate nonfederal aids to navigation.

e. Adequate separation should be maintained between moored vessels, berthing facilities, and water activity areas to help ensure public safety and reduce the risk of property damage caused by normal and abnormal marine conditions.

7. Protection and Enhancement of Coastal Resources:

a. The intertidal areas along the Connecticut River shoreline should be protected. Natural resource values, including values related to fish and wildlife habitat, water quality maintenance, flood protection, and esthetic quality should be protected.

b. All feasible measures to correct, reduce, and/or eliminate sources of pollution, including regular monitoring of water quality, improvement and repair of nearby septic systems, reduction of non-point sources of pollution, and reduction or elimination of sources of pollution caused by boating activities, should be encouraged. Special attention should be directed toward the mitigation of any existing and potential water quality problems in the marina basins.

c. Water quality should be regularly monitored in the river and marina basins to identify any pollution problems that may exist and to help identify sources of pollution and feasible pollution abatement measures.

d. The Town should work closely with state and federal agencies for authorization and implementation of a Connecticut River "no-discharge" zone under state law.⁶

6 Following action taken by the State of Connecticut and U.S. Environmental Protection Agency in 2007, all of Connecticut's coastal waters, including the Chester HMA, are now part of a statedesignated no discharge area, making it illegal for boaters to discharge sewage from their vessels anywhere in the state's portion of Long Island Sound or its tributaries.

e. Appropriate collection procedures and facilities should be established to prevent paint scrapings and other waste products from vessel repair and maintenance activities from

entering the Connecticut River and adjacent intertidal areas.

8. Mooring and Anchoring:

a. All moorings [mooring tackle] should be placed under the direction of the Harbor Master and be subject to a mooring permit application fee as may be established by the Town.

b. When allocating mooring locations, the Harbor Master should, to the extent feasible, assign priority for mooring allocations to riparian property owners who apply for moorings offshore of their property.

c. Commercial and transient moorings should only be placed within the boundaries of Special Anchorage Areas designated by the U.S. Coast Guard, unless the applicant for such moorings can demonstrate that an alternative location is preferable from an environmental and/or navigation perspective.

d. Individual-private moorings may be placed in Special Anchorage Areas, and may also be placed in nearshore areas outside of the Special Anchorage Areas, consistent with all other harbor management goals, policies, and guidelines.

e. All moorings, including individual-private, commercial, and transient moorings, located within a Special Anchorage Area should be placed in accordance with specific mooring plans designed, as necessary, to provide the safest and most efficient mooring of vessels and to maximize anchorage area capacity. (Figure 6-2 illustrates a conceptual plan for placement of moorings in the Special Anchorage Areas in the Connecticut River.)

i. When allocating individual-private and commercial mooring locations within the Special Anchorage Areas, consideration should be given to the demand for individual-private and commercial moorings, as well as the need for transient anchoring space. Where demand for individual-private moorings and commercial (including rental, transient, and yacht club moorings) exceeds the available mooring space in the Special Anchorage Areas, 60% of the available space (following the designation of transient anchoring areas in accordance with f(ii) below) should be allocated for individual-private moorings and 40% for commercial moorings.

ii. In the absence of demand for individual-private mooring locations in the Special Anchorage Areas, more than 40% of the available mooring space (following the designation of transient anchoring areas in accordance with f(ii) below) may be allocated for commercial moorings during any one year. However, commercial mooring permits should be subject to annual review and modification if necessary to accommodate demand for individual-private mooring locations in accordance with d(i) above.

f. Access to commercial moorings is currently accommodated only through commercial marina facilities and private yacht clubs where dinghy storage and parking is available.

g. Adequate space should be reserved for transient anchoring.

i. A transient anchoring area should be designated within Special Anchorage Area #1 and/or #2. Other transient anchoring areas may be designated by the Harbor Management Commission as necessary.

ii. The size of the area(s) designated for transient anchoring should be equal to at least 10% of the total water surface area included in Special Anchorage Areas #1 and #2 (and in any other special anchorage area that may be designated in the Harbor Management Area).

iii. Use of transient anchoring areas should be on a "first-come, first-served" basis and for a limited time subject to rules and regulations established by the HMC.

9. Shorefront Residential Areas:

a. The existing character and quality of life associated with the shorefront residential areas along the Connecticut River should be protected.

10. Cooperation with Other Connecticut River Towns:

a. To the maximum extent possible, the Town should coordinate planning, management, and enforcement actions with other Connecticut River municipalities to address common concerns in the Connecticut River, including concerns for protection of coastal resources and maintenance of public safety.

Connecticut River Planning Units

For the purpose of developing more specific area-guidelines and recommendations concerning water-access structures in the Connecticut River Management Area, The Chester Harbor Management Plan 2010 Plan Addendum subdivided the Management Area into eight shoreline planning units. These are presented below from north to south along the Chester shoreline along with the Town's established harbor management guidelines for each planning unit.

Parker's Point North Shoreline Planning Unit

The Parker's Point North Planning Unit extends approximately 2,900 feet along the western shoreline of the Connecticut River from the Haddam town limits on the north to the southern property line of Lot 4 shown on Town of Chester Assessor's Map 4. (See photos E-7, E-8, and E-9 in Appendix E and sheet 1 in Appendix F.) The Connecticut River shoreline of this planning unit includes two significant water-dependent facilities in 2013: the Middlesex Yacht Club and the Parker's Point boat launching area which is at the foot of Parker's Point Road. Shorefront residential properties are also found in this planning unit. All of the properties are included in the Town's R-2 residential zoning district which requires a minimum lot area of two acres for development. The river channel sweeps close to the Chester shoreline throughout this reach as

indicated on sheet 1 which shows that the one fathom contour of the river bottom is less than 50 feet from the shoreline. The Middlesex Yacht Club is north of the Parker's Point boat launching area and is shown in photo 1. The landform of the shoreline can be characterized as a floodplain, and includes landscaped lawns as well as wooded tracts. The edge of the river is generally composed of an eroded escarpment that extends to a narrow intertidal cobble beach in those areas not stabilized by man-made structures. Photo 2 shows the Parker's Point boat launching area and the nearby residential properties. On the south, the planning unit ends with the property that includes the fixed pier structure shown in photo 3.

Guidelines and Recommendations: Priority management objectives include: a) to utilize the Parker's Point boat launching area to its full potential as a water-access area for the general public (including nearby waterfront property owners) for boating, scenic views of the Connecticut River, and other beneficial purposes; and b) to support the continued operation of the Middlesex Yacht Club as a viable water-dependent facility providing boating access to the Connecticut River for the club's members and guests.

Any Town plans for enhancement of the boat launching area should be prepared with input from nearby residents and be consistent in scale and appearance with existing shoreline conditions.

It is recognized that the Middlesex Yacht Club is a water-dependent use providing significant opportunities for beneficial access to the Connecticut River for Yacht Club members and guests.

Continued operation and viability of this facility is supported by the legislative policies of the Connecticut Coastal Management Act and The Chester Harbor Management Plan.

No future proposal for any water-access structure in this planning unit should be approved if the structure as proposed would: a) unreasonably intrude upon or otherwise alter existing public views of the Connecticut River from the Parker's Point boat launching area; and/or b) create any obstruction significantly affecting current and traditional navigation in the vicinity of the boat launching area.

Parker's Point South Shoreline Planning Unit

This planning unit encompasses six residential properties with a total shoreline of about 2,800 feet along the Connecticut River south of the Parker's Point North Planning Unit. (See photos E-10, E-11, and E-12 in Appendix E and sheet 2 in Appendix F.) A significant part of the shoreline is characterized by bluffs that rise more than 40 feet above the river. In the northern part of the planning unit the shoreline is steepest and generally stressed as a result of the river's erosive flood forces. The southern part of the planning unit, including specifically the four properties identified as Lots 1, 6, 10, and 13 on Town of Chester Assessor's Map 5, is further characterized by a wetland area that extends from the base of the bluff to the river. The wetland area is generally composed of state-regulated tidal wetlands as well as freshwater wetlands. The only currently authorized water-access structure in this planning unit is located on Lot 13 on Assessor's Map 5 and is immediately north of the Chrisholm Marine-Commercial area (see below). This pier and float structure is shown on photo 6 in Appendix E. All of the shorefront properties are in the Town's R-2 residential zoning district.

Guidelines and Recommendations: The priority management objective is to preserve the

existing natural and undeveloped character of the shoreline in the areas of significantly steep shoreline topography. In those areas, including areas of bluff-type topography, no future proposals for any water-access structure should be approved if the structure as proposed would cause any significant alteration of the existing natural and undeveloped appearance of the shoreline as viewed from the Connecticut River.

Chrisholm Marine-Commercial Shoreline Planning Unit

The Chrisholm Marine-Commercial Planning Unit includes approximately 350 feet of Connecticut River shoreline as well as the excavated marina basin and the shoreline surrounding the basin. (See photo E-13 in Appendix E and sheet 3 in Appendix F.) The basin and surrounding land support a commercial marina with boat service facilities that are connected with the Connecticut River via a short dredged channel. This area is characterized by a high concentration of recreational power boats served by the marina. The entire shoreline and marina facility are in Town's Waterfront Design zoning district which allows for water-dependent uses such as marinas, yacht clubs, and boat-building, storage, service, and repair facilities, as well as specified accessory businesses, when authorized by a "special exception" granted by the Planning and Zoning Commission pursuant to the Chester Zoning Regulations.

Guidelines and Recommendations: The priority management objective is to support the continued operation of a viable commercial marina facility providing boating facilities and ser-

vices in and adjoining the excavated marina basin connected with the Connecticut River.

It is recognized that the existing commercial marina facility is a water-dependent use providing significant opportunities for beneficial access to the Connecticut River for marina patrons. The continued operation and viability of this facility is supported by the legislative policies of the Connecticut Coastal Management Act and by The Chester Harbor Management Plan.

Castle View North Shoreline Planning Unit

The Castle View North Planning Unit defines a significant part of Chester's Connecticut River shoreline within the direct viewshed of the public areas that overlook the river from Gillette Castle State Park which is located high on the east side of the river in East Haddam. (See photos E-13, E-14, E-15, and E-16 in Appendix E and sheet 4 in Appendix F.) The planning unit's shoreline extends for about 1,975 feet south from the Chrisholm Marine-Commercial Planning Unit to and including the Chester-Hadlyme Ferry dock which is located at the foot of Ferry Road. There are eight shorefront residential properties, five of which, in 2010, had private dock and pier facilities in the river. Intertidal flats and tidal and freshwater wetlands are also found along much of the shoreline. The state-operated Chester-Hadlyme Ferry is a significant cultural and transportation resource of the state and provides unique opportunities for scenic views of the river and shoreline. All of the shorefront properties are in the Town's R-2 residential zoning district.

Guidelines and Recommendations: Priority management objectives include: a) to preserve the existing partially developed character of the shoreline and the existing scenic character of the shoreline as viewed from Gillette Castle State Park; and b) to preserve the ecological functions and values of the significant intertidal flat adjoining the shoreline. No future proposals for any water-access structure in this planning unit should be approved if the structure as proposed

would unreasonably intrude upon or otherwise significantly alter the existing natural character of the shoreline as viewed from Gillette Castle State Park.

Castle View South Shoreline Planning Unit

The Castle View South Planning Unit defines a significant part of Chester's Connecticut River shoreline within the direct viewshed of the public areas overlooking the river from Gillette Castle State Park. (See photo E-17 in Appendix E and sheet 5 in Appendix F.) The planning unit's shoreline extends about 2,125 feet south from the Chester-Hadlyme Ferry Dock at the foot of Ferry Road to the point where Dock Road extends to the Connecticut River shoreline. The planning unit is comprised of a single property known as the "Bonanomi" property which is in the Town's R-2 residential zoning district. In 1985, the owner granted a perpetual scenic easement and all development rights concerning the property to the State of Connecticut. The purpose of the easement is to preserve the natural and undeveloped character of the property and thereby advance the purposes and objectives of Section 25-102a of the Connecticut General Statutes concerning preservation of the lower Connecticut River area in the Connecticut River Gateway Conservation Zone.

.... the lower Connecticut River and the towns abutting the river possess unique, scenic, ecological, scientific and historic value contributing to the public value contributing to the public enjoyment, inspiration and scientific study; and

... it is in the public interest to preserve such values and to prevent deterioration of the natural and traditional river scene for the enjoyment of present and future generations of the State of Connecticut

Guidelines and Recommendations: The priority management objectives include: a) to preserve the natural and undeveloped character of the shoreline and the existing scenic character of the shoreline as viewed from Gillette Castle State Park; and b) to preserve the ecological functions and values of the significant intertidal flat adjoining the shoreline.

Pursuant to the terms of the perpetual scenic easement, established by State statute and held by the State of Connecticut concerning the waterfront property between Ferry Road and Dock Road, no structure or development of any kind may be placed on or contiguous to the shoreline. Continuation of the existing, unimproved access to the Connecticut River for small craft from the area immediately south of and adjoining the Chester-Hadlyme ferry dock is encouraged and supported.

Yacht Club Shoreline Planning Unit

The Yacht Club Planning Unit extends approximately 2,250 feet along the Connecticut River shoreline. (See photos E-18 and E-19 in Appendix E and sheet 6 in Appendix F.) The planning unit extends from the southern limit of the Bonanomi property described above to the southern property line of Lot 185 as shown on Assessor's Map 10. The 11 properties that make up this reach include several residential tracts as well as properties used for commercial marina and yacht club operations. While these operations are primarily oriented toward access to the Lower Chester Creek Harbor Management Area, the properties also extend to the Connecticut River shoreline. It is noted that a single authorized dock structure was located on the Connecticut River

shoreline in this planning unit in 2010. In addition, a temporary boat ramp structure can be seen in the referenced photos. All of the properties are in the Town's Waterfront Design zoning district. A special anchorage area within the HMA is located in the Connecticut River offshore of this planning unit.

Guidelines and Recommendations: Priority management objectives include: to manage any future use and development of the shoreline to: a) ensure that any future water-access structures are consistent in scale and appearance with the existing and traditional water-access structures in this location; and b) maintain a navigation fairway of appropriate width to be kept free of obstructions between the shoreline and the nearby Connecticut River Special Anchorage Area.

Shared use of any future water-access structures by more than one waterfront property owner is preferred and strongly encouraged as an alternative to the construction of single and separate structures for use by individual owners.

Chester Creek / Connecticut River Marine-Commercial

Shoreline Planning Unit

This planning unit extends along the Connecticut River shoreline for a distance of about 1,300 feet, including the distance across the mouth of Chester Creek. (See photos E-21 and E-22 in Appendix E and sheet 7 in Appendix F.) Included is the undeveloped parcel of land immediately

north of the mouth of the Creek, once used for dredged material disposal and which now provides habitat for a variety of wildlife species. Also included are the excavated marina basin and the shoreline surrounding the basin immediately south of the mouth of the creek. The basin and surrounding land support a commercial marina with boat service facilities that are connected with the Connecticut River via a short dredged channel. All of the properties in this planning unit are in the Town's Waterfront Design zoning district. A relatively high concentration of recreational and commercial vessels can be found at the mouth of the creek and in the nearby reach of the Connecticut River. A special anchorage area within the Chester Harbor Management Area is located in the Connecticut River offshore of this planning unit. The anchorage area extends south offshore of the Gateway Commission planning unit (see below).

Guidelines and Recommendations: Priority management objectives include: a) to support the continued operation of a viable marina facility providing boating facilities and services in the excavated basin connected with the Connecticut River south of the mouth of Chester Creek; and b) to preserve the ecological functions and values of the significant intertidal flats adjoining the shoreline.

It is recognized that the existing commercial marina facility is a water-dependent use providing significant opportunities for beneficial access to the Connecticut River for marina patrons. The continued operation and viability of this facility is supported by the legislative policies of the Connecticut Coastal Management Act and The Chester Harbor Management Plan.

Gateway Commission Shoreline Planning Unit

The Gateway Commission planning unit encompasses a single parcel of property adjoining the Connecticut River. This undeveloped parcel, formerly known as the "Garthwaite" property, is

bounded on the north by the commercial marina property utilizing the excavated basin near the mouth of Chester Creek, and on the south by Deep River Creek. (See photos E-20, E-22, and E-23 in Appendix E and sheet 8 in Appendix F.) The total length of the planning unit's Connecticut River shoreline is about 1,200 feet. This property, previously owned by the Lower Connecticut River Land Trust, Inc., was transferred by quitclaim deed to the Connecticut River Gateway Commission in 1996 for the purpose of maintaining the property as an undeveloped conservation area adjoining the Connecticut River. The planning unit is within the Town's Waterfront Design zoning district but development is prohibited in accordance with the deed restrictions.

Guidelines and Recommendations: Priority management objectives include: a) to preserve the natural and undeveloped character of the shoreline; and b) to preserve the ecological functions and values of the significant intertidal flat adjoining the shoreline. Pursuant to the restrictions established in the quit claim deed to the Connecticut River Gateway Commission concerning the waterfront property in this shoreline management unit, no structure or development of any kind may be placed on or contiguous to the shoreline.

Deep River Creek Management Area

The Deep River Creek Management Area is that part of the Deep River Creek, along with the adjacent intertidal areas, within the jurisdiction of the Town of Chester. (Deep River Creek is also known as the Deep River.)

The harbor management area encompasses the entire tidal reach of Deep River Creek, extending approximately 2,600 feet upstream from the mouth of the creek at the Connecticut River. (See photo E-24 in Appendix E and sheet 9 in Appendix F.) Residential properties adjoin the creek's Town of Chester shoreline, landward of the creek's wetlands; the Town of Deep River's wastewater treatment plant is a significant feature on the other side of the creek. Except for the wastewater treatment plant and the Connecticut Valley Railroad line and bridge that cross the creek near its mouth, the creek is undeveloped and there are no docks or other water access structures in 2013. The creek is characterized by its extensive tidal and freshwater wetland resources, including relatively undisturbed freshwater-tidal wetlands that provide particularly significant ecological values, including habitat for a diverse population of wildlife. The shoreline properties on the Chester side of the Creek are in the Town's Tidal Wetland zoning district which allows single family dwellings when authorized by a "special exception" granted by the Planning and Zoning Commission pursuant to the Chester Zoning Regulations.

1. Priority Uses and Management Objectives:

a. To protect and enhance natural coastal resources and environmental quality, including water quality.

b. To seek and encourage opportunities for visual and physical access to the Deep River

Creek and Connecticut River for water-based recreational activities with minimal impact on the natural environment.

c. To preserve the natural and undeveloped character of the shoreline and creek. [Added 2010]

d. To preserve the creek's intertidal resources which provide ecological functions and values of special interest and regional significance. [Added 2010]

2. Protection of Coastal Resources:

a. The freshwater-tidal wetlands and intertidal areas along the Deep River Creek should be recognized as intertidal resources of special concern and regional importance. The ecological values of these resources should be preserved. The protection of natural resource values, including values related to fish and wildlife habitat, water quality maintenance, flood protection, and scenic quality, should take precedence over dredging and the development of new structures such as docks and piers to provide boating access.

b. All feasible measures to improve water quality and upgrade the current SC water quality classification, including regular monitoring of water quality, and reduction of nonpoint sources of pollution, should be encouraged.⁷

⁷ Water quality in Deep River Creek has improved significantly since the Harbor Management Plan was adopted in 1994. The state water quality classification of the creek is now SB.

c. No proposal that would increase boating use on the Deep River Creek should be approved unless it is shown that such increased use will not have significant adverse impacts on natural coastal resources, and will be consistent with the capacity of the creek to support increased boating use.

3. Coordination with the Town of Deep River:

a. To the maximum extent possible, waterfront planning and management activities, including water quality monitoring and the formulation of pollution abatement measures, should be coordinated with the Town of Deep River.

4. In-Water Structures:

a. It should be recognized that, given the existing natural and undeveloped character of the shoreline and creek, placement of any water access structure in this area other than structures required to maintain the railroad bridge would alter that existing character and may establish precedent for other structures to be considered in an existing natural and undeveloped area. Accordingly, any access to and from the Chester HMA in this management unit should be achieved only through non-structural means.
[Added
2010]

Responsibilities

For Plan Implementation

A Town Harbor Management Consistency Review Process shall be carried out by the Harbor Management Commission to ensure effective implementation of the Harbor Management Plan, and to provide coordinated, efficient, and comprehensive review of proposed projects and activities affecting the Harbor Management Area.

Article II, Section 10 of the Town of Chester

Harbor Management Ordinance

TOWN OF CHESTER

HARBOR MANAGEMENT PLAN

SEPTEMBER 2013

Responsibilities for Plan Implementation¹

¹ The implementation responsibilities set forth in this chapter include the provisions from Part Two of the 1994 The Chester Harbor Management Plan as well as the provisions included in Chapter 5 of The Chester Harbor Management Plan 2010 Addendum.

² This section is presented substantially unchanged from Part Two of the 1994 Plan document. Changes include updating Connecticut "Department of Environmental Protection" to "Department of Energy and Environmental Protection," Chester "Plan of Development" to "Plan of Conservation and Development," and Connecticut "Boating Safety Division" to "Boating Division." Footnotes 2-15 have been added to provide background information and should not be considered adopted provisions of the Plan. Figure 7-1 has been updated to reflect the established Harbor Management Consistency Review Process described in this chapter.

³ The Town Meeting adopted the Plan in 1994 and Plan amendments in 2010 according to the procedure set forth in Section 22a-113m of the Connecticut General Statutes. Adoption of any future amendments must follow the same procedure.

This chapter sets forth recommended roles and responsibilities for implementing the Town of Chester's harbor management goals, policies, and guidelines established in the preceding chapters of The Chester Harbor Management Plan (the Plan). Included are the basic roles and responsibilities from the Plan document adopted by the Town Meeting in 1994 as well as the more recent recommendations from The Chester Harbor Management Plan 2010 Plan Addendum (2010 Plan Addendum) that specifically concern implementation of the Plan's dock management provisions.

Basic Roles and Responsibilities²

The following actions should be carried out to implement Chester's goals, policies, and guidelines for harbor management. The recommendations are directed toward roles and responsibilities of: 1) the Board of Selectmen and Town Meeting; 2) the Harbor Management Commission (HMC), including the HMC's responsibility for carrying out the Town's Harbor Management Consistency Review Process; 3) other Town commissions and departments; 4) the Harbor Master; 5) relevant state and federal government agencies; and 6) private groups and individuals.

Board of Selectmen and Town Meeting

For the Town of Chester to assume an increased role in the planning, management, and regulation of activities in the Chester Harbor Management Area (HMA), the Board of Selectmen (the Town's executive body) and the Town Meeting (the Town's legislative body) should continue to support the Harbor Management Commission and implementation of The Chester Harbor Management Plan through the following actions.

1. The Town Meeting should adopt The Chester Harbor Management Plan as the Town's principal guide (in coordination with the Chester Plan of Conservation and Development (POCD) and Municipal Coastal Program) for: a) water-related use and development; and b) protection of natural resources in the Chester HMA.³

4 Section 15-136 of the Connecticut General Statutes authorizes any town to make regulations respecting the operation of vessels within its territorial limits, subject to review and approval by the Connecticut Commissioner of Energy and Environmental Protection. In 2013, the DEEP's Boating Division reviews any such regulations on behalf of the Commissioner.

5 The Town's capital and operating budget for emergency services includes funds for fire, fire marshal, police, and emergency management services. The Harbor Management Commission supports all of these services as they pertain to the Chester HMA and waterfront.

6 The Town's Harbor Management Fund, used for maintenance and improvement of the HMA for the public and for necessary expenses of the HMC and Harbor Master or Deputy Harbor Master, was established following adoption of the Plan in 1994.

2. The Town Meeting should modify the Town Ordinances as necessary to implement specific provisions of the Plan. Modification of the existing Ordinances should be based on recommendations provided by the HMC.

a. The definition of the boundaries of the Chester HMA and the jurisdiction of the Chester HMC should be clarified in the Town Ordinances.

b. Any revised section of the Town Ordinances pertaining to the operation of vessels should be submitted to the Boating Division of the Connecticut Department of Energy and Environmental Protection (DEEP) for review and approval.⁴

c. The Town Meeting should establish appropriate fees to be charged for the issuance of mooring permits and for other activities within the scope of the Plan.

3. The Town Meeting should support the Chester Volunteer Fire Department's capital and operating budget requirements for maintaining and expanding, as necessary, the Fire Department's marine fire protection/emergency response capabilities.⁵

4. The Board of Selectmen should work with the HMC to establish a Town Harbor Management Fund and appropriate accounting procedures for allocation of funds generated by mooring permits, launching fees, and other possible fees that may be established by the Town within the scope of the Plan.⁶

Harbor Management Commission and the

Harbor Management Consistency Review Process

Consistent with its powers, duties, and responsibilities established by Town Ordinance and its authorities provided by the Connecticut Harbor Management Act, the Harbor Management Commission should continue to carry out the Town's most direct responsibilities with regard to management of the Chester Harbor Management Area. These responsibilities should include the review of proposed actions that would affect the Chester HMA to ensure that those actions are consistent with The

Harbor Management Plan. This review process should be known as the Harbor Management Consistency Review Process and is highlighted below.

1. The HMC should plan for, manage, and regulate in-water and waterfront uses and activities to the maximum extent permissible under Town, state, and federal law. In accordance with these responsibilities, the HMC should establish and carry out a Harbor Management Consistency Review Process and review all proposals potentially affecting the HMA for consistency with the Plan (see Figure 7-1).

2. The HMC should carry out necessary actions to ensure continued boating and navigation safety in the Chester HMA, including the recommendation of necessary Town Ordinances to control boating and other in-water activities.⁷

7 To help ensure continued boating and navigation safety, the Chester HMC acts in coordination with the Harbor Master to identify and remove any abandoned and/or derelict vessels from the Chester HMA in accordance with the Harbor Master's authority pursuant to the Connecticut General Statutes, including Sections 15-9 and 15-140c.

a. The HMC should submit recommended changes to existing sections of the Town Ordinances pertaining to harbor management and boating safety to the Town Meeting for adoption.

b. The HMC should adopt minimum guidelines for the mooring tackle used in the HMA.

c. The HMC should establish a mooring grid plan for the placement of moorings in the Special Anchorage Areas in the Connecticut River.

d. The HMC should support and cooperate with state and federal agencies in the identification and elimination of any encroachments (unauthorized structures and other work) in the HMA.

e. The HMC should review and approve the placement of all "private" (nonfederal) aids to navigation.

f. The HMC should designate a navigation fairway to be kept free of obstructions in Chester Creek.

g. The HMC should evaluate, on a case-by-case basis, appropriate distances that proposed structures and work below the high tide line should be set back from the navigation fairway in Chester Creek.

h. The HMC should initiate actions needed for necessary dredging in Chester Creek.

FIGURE 7-1:

HARBOR MANAGEMENT CONSISTENCY REVIEW PROCESS

. A Harbor Management Consistency Review Process is established to help ensure effective implementation of the Chester Harbor Management Plan (the Plan) and to provide coordinated, efficient, and comprehensive local review of proposed projects affecting the Chester Harbor Management Area (HMA).

. The Harbor Management Commission (HMC) will review, for consistency with the Plan, specific development proposals submitted to, or proposed by, Town of Chester commissions and departments, as well as applications submitted to the Connecticut Department of Energy and Environmental Protection and U.S. Army Corps of Engineers.

. Proposals to be referred by Town agencies to the HMC for review should include:

All proposals requiring a Coastal Site Plan Review (i.e., submitted to the Planning and Zoning Commission or Zoning Board of Appeals in accordance with the Connecticut Coastal Management Act and the Chester Municipal Coastal Program) and occurring on property on, in, or contiguous to the HMA.

All activities involving placement of temporary or permanent structures (e.g., docks, floats, piers), dredging, filling, or other activities below (waterward of) the high tide line.

All proposed revisions or amendments to Town plans, rules, and regulations affecting the HMA and lands adjacent to the HMA, including, but not limited to, proposed revisions and amendments to the Zoning Regulations and Plan of Conservation and Development, regulations for use of Town water-access facilities, and regulations governing wetlands and flood and erosion control.

. It is the responsibility of project applicants to provide the information necessary for the HMC to adequately assess: a) the potential impacts of proposed development projects on the HMA; and b) the consistency of such proposals with the Plan. Information required should be reasonable in scope and should be in balance with the size, scope, and potential positive and negative impacts of the proposal.

. The HMC will determine the consistency of proposed projects with the Plan and make that finding known to the appropriate Town, state, or federal authority within an established period of time. If no comment regarding the consistency of the proposed project is made by the HMC within the established time period, the proposal will be assumed to be consistent with the Plan.

. In accordance with Section 22a-113p of the Connecticut General Statutes, a 2/3 vote of the referring Town agency is required to approve a proposed project that has not received a favorable recommendation from the HMC, provided that the HMC's recommendation does not alter the authority of the agency having primary jurisdiction over the proposal.

. In accordance with Section 22a-113n of the Connecticut General Statutes, a recommendation of the HMC pursuant to the Plan shall be binding on any official of the state when making a regulatory decision affecting the HMA, unless such official shows cause why a different action should be taken.

i. The HMC should evaluate the appropriate extent to which docks and piers should extend from the shore in order to reach navigable water.

3. The HMC should evaluate the feasibility of obtaining a General Permit from the U.S. Army Corps of Engineers (USACE), as authorized by the Connecticut Harbor Management Act, to facilitate the review and approval of specified in-water activities.

4. The HMC should adopt administrative rules and procedures to guide its various activities, including: conducting meetings; reviewing applications referred by federal, state, and Town agencies for consistency with the Plan; supervising the issuance of mooring permits; and other activities that become necessary from time to time.

5. The HMC should conduct an on-going examination of the effectiveness of the Plan and revise the Plan as necessary.

6. The HMC should review actions by persons or organizations (including the Harbor Master) acting under authority of the HMC and the Plan.

7. The HMC should serve in an advisory capacity on all Town-supported planning and development initiatives affecting the HMA.

8. The HMC should promote the provision of educational and information services to boaters and other users of the HMA and to all those concerned with use and protection of waterfront and harbor resources.

9. The HMC, through its regular and special meetings, should provide a public forum for the presentation of all concerns, including those of waterfront residents and the owners of waterfront businesses, related to the quality and character of the Town's waterfront and harbor resources.

10. The HMC should work with the Board of Selectmen to establish a Harbor Management Fund, and prepare and present to the Board of Selectmen and Town Meeting an annual operating budget.

a. Potential sources of funds for harbor management include annual fees for mooring permits, permits for boat launching, and fines for violations of rules and regulations.

b. The HMC should recommend to the Town Meeting an appropriate fee for issuance of mooring permits and other activities within the scope of the Plan.

11. The HMC should coordinate harbor management efforts and develop cooperative programs to the maximum extent possible with the adjacent municipalities of Deep River, Haddam, Lyme, and East Haddam.⁸

8 The municipal jurisdictions of these towns adjoin the Chester HMA.

9 Following action taken by the State of Connecticut and U.S. Environmental Protection Agency in 2007, all of Connecticut's coastal waters, including the Chester HMA, are now part of a statedesignated no discharge area, making it illegal for boaters to discharge sewage from their vessels anywhere in the state's portion of Long Island Sound or its tributaries.

a. The HMC should pursue the establishment of a multi-town "Harbor Management District" for the purpose of coordinating the management of multi-town resources, addressing multi-town problems, and providing for the establishment of regional water-use policies.

12. The HMC should establish and maintain a database of information and materials pertaining to the HMA. The database should contain information on all docks, piers, and other structures in the HMA, as well as information concerning mooring records, all permit applications reviewed by the HMC, and water quality data.

13. The HMC should pursue state designation of the HMA and adjacent waters as a "nodischarge zone" within which no marine sanitation device may be emptied.⁹

14. The HMC should arrange to have the names of those who violate boating laws in the HMA and those who unlawfully contribute to degradation of natural resources in the

HMA published in a public place or newspaper having circulation in the Town.

Other Town Commissions and Departments

In addition to the Harbor Management Commission, other Town commissions and departments have responsibilities that affect the Chester Harbor Management Area. These include the Planning and Zoning Commission, Inland Wetlands/Conservation Commission, Police Department, Fire Department, and other Town agencies. (See Chapter 2 of The Chester Harbor Management Plan.)

Adoption of the Plan does not change the existing regulations and authorities of these Town commissions and departments. Implementation of the Plan, however, does require that all Town agencies with waterfront and harbor management-related responsibilities carry out their responsibilities in a manner consistent with the goals, policies, guidelines, and recommendations established in the Plan. The Harbor Management Consistency Review Process (see Figure 7-1) helps to ensure this consistency.

1. Town commissions and departments with authority to review and approve proposals for activities affecting the Chester HMA should refer the proposals to the HMC for review as part of the Harbor Management Consistency Review Process.

2. Town commissions and departments proposing actions impacting the HMA should formulate their proposals to be consistent with the provisions of the Plan and refer their proposals to the HMC for review.

3. The Fire Department should continue to carry out emergency response activities on the water and coordinate these activities with the adjoining municipalities and state and federal agencies.¹⁰

¹⁰ The Harbor Management Commission has supported effective emergency response capabilities by all duly authorized emergency services agencies, including the Fire and Police departments, in coordination with not only the municipalities with jurisdictions adjoining the Chester HMA, but also in coordination with other municipalities in the lower Connecticut River region.

¹¹ Proposals received by the Planning and Zoning Commission and/or Inland Wetlands/Conservation Commission affecting natural resource values in the Chester HMA are to be referred to the Chester HMC for review as part of the Harbor Management Consistency Review Process.

4. The Planning and Zoning Commission and Inland Wetlands/Conservation Commission should restrict future development of critical environmental areas to protect such natural resource values as fish and wildlife habitat, nutrient productivity, water quality functions, flood hazard buffer, and scenic quality. ¹¹

5. The Planning and Zoning Commission should develop and implement the administrative procedures necessary to ensure consistent and strict compliance with the Town's Flood Plain Regulations.

6. The Park and Recreation Commission should work with the HMC to identify and pursue opportunities for providing public access (physical and visual access) to Chester Creek and the Connecticut River. The two commissions should also work together to enhance the Parker's Point boat launching area.

The Harbor Master

The Chester Harbor Master – who is appointed by the Governor and subject to the direction and control of the state's Commissioner of Transportation – is an ex-officio member of the Chester Harbor Management Commission and is required to carry out his responsibilities in accordance with The Chester Harbor Management Plan. These responsibilities should focus on the administration, placement, and inspection of boat moorings and also include the appropriate enforcement of boating regulations. Some of these responsibilities may be delegated by the Harbor Master to a Deputy Harbor Master or other official who may be appointed by the Chester HMC.

1. The Harbor Master should work cooperatively with the Chester HMC, including any persons assigned to assist the HMC, to implement provisions of the Plan and Town Ordinances.

2. The Harbor Master should carry out specific responsibilities for the administration, placement, and inspection of all moorings placed in the HMA.

a. The Harbor Master should be responsible for issuing all mooring permits, allocating all mooring locations, and collecting mooring permit fees.

b. The Harbor Master should maintain complete and accurate records of all mooring applications, permit fees, moorings, and moored vessels.

c. The Harbor Master should supervise the placement of all moorings to ensure they are properly located in suitable areas.

d. The Harbor Master should be responsible for ensuring that all mooring tackle is inspected at appropriate intervals to ensure compliance with minimum mooring tackle requirements.

e. The Harbor Master should have the authority to revoke a mooring permit for failure to comply with any permit provisions.

3. The Harbor Master should assist the Chester Police Department and other law enforcement authorities as necessary and appropriate to enforce Town and state boating laws and regulations.¹²

¹² Under Section 15-154 of the General Statutes, harbor masters are empowered to enforce state boating laws within their jurisdiction, except that harbor masters who are not certified law enforcement officers

may not enforce the "boating under the influence" laws. Since no police training is provided to Connecticut harbor masters, the Connecticut Department of Transportation advises harbor masters who have not been certified as law enforcement officers to report violations of law to the local police department or other law enforcement authorities rather than become directly involved with arrests or confrontations with violators.

4. The Harbor Master should enforce the Connecticut boating statutes and regulations for the removal of abandoned vessels and obstructions to navigation.

State and Federal Agencies

With Harbor Management Authorities

Implementation of The Chester Harbor Management Plan will require that state and federal agencies with harbor management-related responsibilities in the Chester Harbor Management Area carry out their responsibilities in accordance with the Plan. These agencies include various units of the state

departments of Energy and Environmental Protection and Transportation, the U.S. Army Corps of Engineers, and others. (See Chapter 2 and Appendix D of the Plan.)

The state and federal agency responsibilities and authorities pertaining to waterfront and harbor management (in particular, the permitting programs of the DEEP and USACE) will remain unchanged from the existing authorities and responsibilities for harbor management. Upon adoption of the Plan, however, governmental and private actions subject to these state and federal permit programs should be consistent with the Plan. This consistency requirement represents one of the major benefits of the Plan as the Town's goals, policies, and guidelines for harbor management should be incorporated into the various state and federal decision-making processes affecting the Chester HMA.

1. The DEEP and the Department of Transportation should approve the Plan and work with the HMC to ensure its implementation.¹³

¹³ The Plan was approved by the state commissioners of Environmental Protection and Transportation prior to adoption of the Plan by the Chester Town Meeting in 1994; the 2010 Plan Addendum was approved by the state commissioners prior to Town adoption of the Addendum in 2010. State approval of any future amendments must follow the same procedure required for Plan adoption in 1994 and Plan amendment in 2010. That procedure is set forth in Section 22a-113m of the Connecticut General Statutes.

¹⁴ In accordance with Section 22a-113n of the Connecticut General Statutes, a recommendation made by the Harbor Management Commission pursuant to the Plan is to be binding on any official of the state when making regulatory decisions or undertaking or sponsoring development affecting the Chester Harbor Management Area, unless such official shows cause why a different action should be taken.

2. Actions by state and federal government agencies should be consistent with the provisions of the Plan and applicable sections of the Town Ordinances.¹⁴

a. Following adoption of the Plan, the DEEP and the USACE should forward copies of all permit applications they receive that pertain to the HMA to the HMC for the HMC's comments regarding the consistency of those applications with the Plan.

b. If, in accordance with state and federal laws and regulations, the DEEP or USACE renders a decision on a proposed activity that is contrary to the findings of the HMC, they should provide the HMC, in writing, with the compelling reasons for doing so.

Private Organizations and Citizens

In addition to government agencies and officials, private individuals and groups should also contribute to implementation of The Chester Harbor Management Plan. There are a number of voluntary or non-regulatory initiatives for management of waterfront and harbor resources that can be carried out by Town residents and others.

1. Those proposing development actions that would affect the Chester Harbor Management Area should design their proposals for consistency with the Plan. 15

15 The Harbor Management Commission reminds all applicants for DEEP Permits, Certificates of Permission, and General Permits to prepare their applications in accordance with DEEP instructions, and recommends that all applicants schedule a pre-application conference with the HMC to discuss their proposals.

2. Town residents and others concerned with use and protection of Chester's waterfront and harbor resources should demonstrate their interest and support for the planning and management efforts needed to guide the use and protection of these important resources.

a. The public should attend meetings of the Harbor Management Commission as necessary to express their concerns.

b. Citizens of Chester should participate in special events and efforts as may be organized to increase environmental awareness, improve the quality of waterfront resources, improve boating safety, and contribute to other harbor management goals.

c. The public should recognize that certain individually minor but collectively significant actions can contribute to management concerns in the Chester HMA, and should refrain from actions that would have negative impacts on environmental, navigational, and other conditions in the HMA.

3. The operators of commercial and private boating facilities should contribute to efforts to increase public awareness with regard to boating safety and the proper use and protection of waterfront and harbor resources.

Recommendations for Implementing

"Dock Management" Provisions¹⁶

¹⁶ This section is presented substantively unchanged from Chapter 5 "Recommendations for Implementing 'Dock Management' Provisions" included in The Chester Harbor Management Plan 2010 Plan Addendum. Footnotes 16-22, 24, and 26-28 have been added to provide background information and should not be considered adopted provisions of the Plan. Footnotes 23 and 25 were included as footnotes 2 and 3, respectively, in Chapter 5 of the 2010 Plan Addendum.

¹⁷ For the purpose of these recommendations, the term "water-access structure" shall mean any dock, float, pier, or other structure, or combination thereof, constructed partly or wholly on, in, or contiguous to the Chester Harbor Management Area for the purpose of temporarily or permanently docking or mooring a vessel or otherwise providing physical and/or visual access to the HMA.

This section, originally included in The Chester Harbor Management Plan 2010 Addendum, presents recommendations for advancing the harbor management policies and area-specific guidelines for managing water-access structures¹⁷ set forth in the preceding chapters 5 and 6 of The Chester Harbor Management Plan.

In summary, the principal recommendation is that the Town of Chester should, at the present time, address dock management issues with the authority provided by the Connecticut Harbor Management Act (Sections 22a-113k through 22a-113t of the General Statutes) to influence state and federal regulatory decisions. That authority should be applied to manage water-access structures in the Chester Harbor Management Area. The Town's influence on state and federal regulatory decisions should be exerted through informed and thoughtful review of individual proposals by the Chester Harbor Management Commission and other Town agencies on a case-by-case basis rather than through efforts to quantify or precisely predetermine the number and/or size of water-access structures

that the Chester HMA can support. To avoid the possibility of adverse impacts on navigation, coastal resources, and the natural and traditional scenic quality of the Town's shoreline, the recommendations call for effective implementation of Town policies for limiting, to the extent feasible and practical, the number and size of water-access structures in the HMA, and for avoiding such structures altogether in undisturbed shoreline areas with significant natural resource value.

Included in this section are recommendations for: conducting informed Town review of proposals for water-access structures; incorporating consideration of potential impacts on natural and traditional scenic quality into the review of such proposals; and increasing public input and awareness with regard to dock management issues. The intent of the recommendations is to achieve and maintain balance in the Chester HMA between, on the one hand, the public's rights and interests with respect to use of navigable waters and, on the other, the rights of riparian property owners for reasonable access to those waters.

When pursuing the following recommendations, consideration should be given to the recommendations contained in two reports prepared by the Connecticut River Estuary Regional Planning Agency

(CRERPA) 18: the December 2003 report "Investigation of Potential Impacts of New Dock Construction on the Lower Connecticut River" and the December 2004 report "Implementation Phase, Lower Connecticut River Dock Study: Creation of a General Plan." While the CRERPA recommendations address dock management issues on a regional basis, they are generally consistent with and complement the implementation recommendations of the Plan.

18 The CRERPA was merged with the Midstate Regional Planning Agency in 2012 to establish the Lower Connecticut River Valley Council of Governments ("River COG").

At such time as additional information and new methodologies for dock management in the Lower Connecticut River region may become available, the Town may consider formulating more detailed standards concerning docks and other water-access structures in the Chester HMA, including dimensional standards, and for inclusion of those standards in the Plan. In addition, the Town may consider, for inclusion in the Plan, recommendations for establishment of boundaries waterward of the high tide line in the HMA, beyond which there may be no encroachment of docks, floats, piers, or other water-access structures. Such boundaries may be established by the Connecticut Commissioner of Energy and Environmental Protection pursuant to Section 22a-360 of the General Statutes, provided such boundaries are demonstrated to be in accordance with sound planning for the HMA.

Recommendations

1. Increase awareness of dock management issues: The Chester HMC should continue to pursue opportunities to increase awareness of dock management issues, including resource carrying capacity considerations, the paramount public rights for use of navigable waters, and private riparian rights for reasonable access to those waters, including awareness by Town officials making decisions affecting use of the Chester HMA and by the general public and

waterfront property owners.

Awareness of dock management issues should be advanced at public hearings and meetings, including, but not limited to: a) hearings and meetings held prior to adoption by the Chester Town Meeting of any Plan amendments and any amendments to the Chester Plan of Conservation and Development and other Town plans and ordinances; and b) hearings and meetings held by the HMC in the course of case-by-case review of individual proposals affecting the HMA.

To increase public awareness, the HMC may prepare materials for public distribution, including, but not limited to, summaries of the Plan's dock management provisions and the HMC's guidelines and requirements for applicants submitting proposals to be reviewed by the HMC. The HMC may also provide copies of other relevant materials, including, but not limited to, information prepared by the Department of Energy and Environmental Protection's Office of Long Island Sound Programs such as the pamphlet entitled "Connecticut's Coastal Permit Program: Residential Dock Guidelines" and the "Fact Sheet for Landscape Protection and Visual Impacts," and information prepared by other agencies, such as design guidelines for fixed and floating structures prepared by the U.S. Army Corps of Engineers. (See "Guide-

lines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States Regulated by the New England District U.S. Army Corps of Engineers," July 1996.)

2. Pursue effective Town management of water-access structures: The Town, acting through the HMC and other Town agencies when appropriate (including Town agencies responsible for land-use decisions), and in coordination with state and federal agencies, should manage water-access structures in the Chester HMA to the maximum extent permissible under Town, state, and federal law. (See nos. 3 and 4 below.)

It is a basic policy of the Plan that the Town, through implementation of the Plan and applicable Town Ordinances, should exercise its authority to manage and regulate activities in the Chester HMA to the maximum extent practical. This policy should be applied by the HMC to the management of all water-access structures including docks, floats, and piers.

3. Apply harbor management authorities to manage water-access structures: The Town should, at the present time, address dock management issues with the authority provided by the Connecticut Harbor Management Act to influence state and federal regulatory decisions concerning water-access structures in the Chester HMA. That authority should be exerted through informed and thoughtful Town review of individual proposals by the HMC and other Town agencies, including Town agencies responsible for land-use decisions, on a case-by-case basis rather than through efforts to quantify or precisely predetermine the number and/or size of docks that the Chester HMA can support. (See no. 4 below.)

The significant authority provided to municipalities pursuant to the Harbor Management Act, including the authority to establish goals and make recommendations for the use, development,

and preservation of a municipality's area of harbor management jurisdiction and to plan for the most desirable use of that area, should be applied by the Town for the purpose of managing water-access structures in the Chester HMA.

a. Case-by-case decisions concerning individual proposals for water-access structures should be guided by the applicable Town policies formally established in the Plan and the Chester Plan of Conservation and Development, including the policies and provisions to limit the number and extent of water-access structures to the extent reasonable and practical and the policies to avoid such structures altogether in undisturbed shoreline areas with significant natural resource value.

b. In the Town's case-by-case review of individual proposals for water-access structures, it should be the responsibility of the applicant to provide sufficient information concerning the potential impacts of the proposed structure on navigation, coastal resources, and the natural and traditional scenic quality of the Chester shoreline. The HMC may establish information guidelines and procedural requirements to be followed by applicants preparing and submitting proposals for review by the HMC. (See no. 6 below.)

c. At such time as additional information and new methodologies for dock management in the Lower Connecticut River region may become available, the Town may consider formulating more detailed standards concerning water-access structures in the Chester HMA, including, but not limited to, dimensional standards and standards for avoiding or otherwise mitigating adverse visual impacts, and for inclusion of those standards in the Plan. (See no. 13 below.)

4. Apply Harbor Management Consistency Review Process: Acting in coordination with other Town agencies (including Town agencies responsible for land-use decisions) and with state and federal agencies, the HMC should apply the authority provided by the Connecticut Harbor Management Act, the Town's Harbor Management Ordinance and any other applicable Town ordinances, and the Plan to review all proposals for water-access structures in the Chester HMA. Such authority should be applied through the Harbor Management Consistency Review Process established by the Plan.

Pursuant to the Plan and the Town's Harbor Management Ordinance, it is the responsibility of the HMC to review all proposals affecting real property on, in, or contiguous to the Chester HMA, including, but not limited to, proposals and applications submitted to or prepared by Town agencies, and proposals and applications for water-access structures and other work submitted to the DEEP OLISP and/or USACE. The purpose of that review is to determine the consistency of the proposals and applications with the Plan. The HMC may transmit the results of its review to the appropriate Town, state, and/or federal agency in the form of recommendations and/or comments. (See nos. 5-7 below.)

To facilitate the most effective Town review of proposals affecting the Chester HMA, the HMC may act in coordination with other municipal harbor management commissions in

Connecticut and the DEEP OLISP to consider and propose initiatives that will continue to improve the local and state regulatory processes for review and authorization of water-access structures.

5. HMC to review applications to Town agencies: In accordance with authority provided by Section 22a-113p of the Connecticut General Statutes and Section 10 of the Town's Harbor Management Ordinance, the HMC may review proposals affecting real property on, in, or contiguous to the Chester HMA submitted to or prepared by the Planning and Zoning Commission, Zoning Board of Appeals, Inland Wetlands/Conservation Commission, Park and Recreation Commission, and any other Town agency. All such proposals will be referred by these Town agencies to the HMC for review and determination of consistency with The Chester Harbor Management Plan. The following proposals are subject to the HMC's review and harbor management consistency determination:

i. All proposals requiring a coastal site plan review in accordance with the Connecticut Coastal Management Act and the Chester Municipal Coastal Program.

ii. All proposed uses or activities occurring below the mean high water line.¹⁹

19 Effective October 1, 2012, the DEEP's regulatory jurisdiction for proposed work in coastal waters is defined by the "coastal jurisdiction line" (CJL) defined in accordance with standards set forth by the DEEP and determined for the state's tidal waterbodies, including the waterbodies in the Chester HMA. Therefore, all proposed activities that would occur waterward of the CJL and which require DEEP approval are reviewed by the Chester HMC for consistency with the Plan.

20 Although this section from the 2010 Plan Addendum includes a reference to Town beaches, there are currently no Town beaches adjoining the Chester HMA. This section is interpreted by the HMC as applying to all Town water-access facilities.

21 Applications that may be reviewed by the HMC include applications for DEEP Permits and Certificates of Permission, General Permit registration forms, and all proposals for work on the bridges crossing the navigable waterways in the Chester HMA.

iii. All proposed revisions or amendments to Town plans, rules, and regulations affecting the Chester HMA and lands adjacent to the HMA, including, but not limited to, proposed revisions and amendments to the Zoning Regulations and Plan of Conservation and Development, regulations for the use of Town beaches and boat launching facilities, and regulations governing wetlands and flood and erosion control.²⁰

iv. Permit applications submitted to the DEEP and USACE. ²¹

In accordance with authority provided by Section 22a-113p of the General Statutes and as specified in Section 10 of the Town's Harbor Management Ordinance, each Town agency must refer all proposals subject to the Harbor Management Consistency Review Process to the HMC at least thirty-five days prior to any Town hearing or final decision on the proposal.

The HMC should review each referred proposal for consistency with the Plan and determine if the proposal is consistent with the Plan. The HMC should provide its consistency finding to the approving Town agency within the thirty-five day period, either prior to or during any public hearing on the proposed action. If a public hearing is not held, the HMC should provide its comments prior to any final action by the approving agency. In accordance with Section 22a-113p of the General Statutes, failure of the HMC to provide a recommendation to the approving agency will be considered as approval of the proposal.

When reviewing a proposal for consistency with the Plan, the HMC should consider whether the proposal is consistent with the Plan's goals, policies, guidelines, and water-use plans.

The approving agency must consider the comments and recommendations of the HMC. As required by Section 22a-113p of the General Statutes and Section 10 of the Town Harbor Management Ordinance, if the HMC finds that a proposal is inconsistent with the Plan, then the proposal cannot be approved unless the Town agency with authority to approve the proposal acts to over-ride the HMC's finding by a two-thirds vote (instead of a simple majori-

ty).²² This "two-thirds" requirement does not alter the authority of the agency having primary jurisdiction over the proposal to deny, modify, or condition a proposal that has received an unfavorable recommendation from the HMC.

22 A municipal harbor management commission's review of applications to other municipal agencies is authorized by Section 22a-113p of the General Statutes which specifies, in part, that "A two-thirds vote of all [emphasis added] the members of the local agency having authority to act on the proposal shall be required to approve a proposal which has not received a favorable recommendation from the [harbor management] commission."

23 This section should not be construed as altering any duly established regulatory procedures, requirements, and schedules of the OLISP or other responsible state agency, including, but not limited to, the responsible agency's requirements for soliciting and receiving public comments, including comments from the HMC. The Plan recognizes that the duly established regulatory procedures, requirements, and schedules of the responsible state agency may be amended from time to time. Further, the Plan recognizes that any recommendations of the HMC that may concern duly established regulatory procedures, requirements, and schedules of the OLISP or other responsible state agency are not binding on officials of the state pursuant to Section 22a-113n of the General Statutes.

It should be the responsibility of project applicants to provide the HMC with the information necessary for the HMC to adequately assess the potential impacts of proposed projects on the Chester HMA and the consistency of such proposals with the Plan. The HMC may request that an applicant provide specific information addressing the consistency of the proposal with the Plan.

All applicants whose proposals are reviewed by the HMC should be provided an opportunity to describe the proposal to the HMC and answer any questions posed by the HMC. Members of the public should be afforded an appropriate opportunity to speak in favor of, or in opposition

to, a proposal as it relates to the Plan.

The HMC may, along with its recommendation for approval or disapproval, prepare written comments on any proposal it reviews for consistency with the Plan. The HMC may recommend conditions or modifications that would make an otherwise inconsistent proposal consistent with the Plan.

In addition, just as the activities of private applicants should be consistent with the Plan, so should activities of the Town. Therefore, each Town agency should work cooperatively with the HMC when developing any plans for Town-sponsored projects or other initiatives that may affect the Chester HMA. Plans for Town-sponsored initiatives should be submitted to the HMC for review as part of the Harbor Management Consistency Review Process.

6. HMC to review applications for state approvals²³: The HMC should review all proposals affecting the Chester HMA as submitted to and prepared by state agencies. All proposals for placing structures, filling aquatic areas, and dredging waterward of the high tide line are sub-

ject to state regulatory programs administered by the DEEP OLISP and cannot be implemented without authorization from the DEEP OLISP.²⁴ Plans and applications for these proposals must be submitted by the project sponsor to the DEEP OLISP for review and approval. In addition, other proposals subject to authorization from other divisions and bureaus of the DEEP may also affect the real property on, in, or contiguous to the HMA.

24 Effective October 1, 2012, the DEEP's regulatory jurisdiction for proposed work in coastal waters is defined by the "coastal jurisdiction line" (CJL) defined in accordance with standards set forth by the DEEP and determined for the state's tidal waterbodies, including the waterbodies in the Chester HMA. Therefore, all proposed activities that would occur waterward of the CJL and which require DEEP approval are reviewed by the Chester HMC for consistency with the Plan.

To help ensure that decisions of state officials affecting the HMA are consistent with the Plan as required by Section 22a-113n(b) of the Connecticut General Statutes, the HMC should review all proposals subject to DEEP authorization that may reasonably be expected to have a significant effect on the HMA, including, but not limited to, plans and applications for DEEP OLISP Permits, Certificates of Permission, and General Permits. Following that review, the HMC may provide appropriate recommendations to the DEEP regarding the consistency of each proposal with the Plan.

The HMC's review should be conducted in a manner similar to that described in no. 5 above with respect to proposals submitted to or prepared by Town agencies, except that the HMC's review of proposals submitted to or prepared by state agencies is not conducted in accordance with Section 22a-113p of the Connecticut General Statutes which specifically concerns the HMC's actions on applications to municipal agencies. In addition, the HMC's review should be conducted in accordance with the applicable regulatory procedures, requirements,

and schedules of the responsible agency of the DEEP, including but not limited to, the responsible agency's requirements for soliciting and receiving public comments. The HMC's review will not obligate the responsible state agency to depart from its established procedures, requirements, and schedules in order to accommodate the HMC's review.

With regard to proposals requiring authorization from the DEEP OLISP, the HMC's review should be conducted in accordance with the applicable coastal permitting process and requirements of the DEEP OLISP, including, but not limited to, pre-application requirements whereby the applicant must properly confer with the HMC prior to submitting a permit application to the DEEP OLISP, and requirements concerning preparation of the applicant's site surveys and plan drawings by licensed professionals. The HMC may establish reasonable pre-application requirements concerning the information that must be provided to the HMC by the applicant in order for the HMC to properly review the applicant's proposed plans. Such requirements of the HMC should be properly published and provided to each applicant. The HMC's transmittal of pre-application findings and recommendations to the DEEP OLISP should make clear that the HMC reserves its right to re-evaluate the proposal at such time as the applicant submits a formal application to the DEEP OLISP, additional infor-

mation concerning the proposal may be provided to the HMC, and/or the proposal is the subject of a Public Notice issued by the DEEP OLISP.

The HMC recommends that applicants for DEEP OLISP permits to place water-access structures, fill aquatic areas, or dredge in the HMA provide their permit applications to the HMC at the same time as those applications are formally submitted to the DEEP OLISP following the HMC's required pre-application review. The HMC should review permit applications formally submitted to the DEEP OLISP and all applications that are the subject of a Public Notice issued by the DEEP OLISP and may provide appropriate recommendations and comments on those applications and notices. The HMC may, based on consideration of the scale and potential impacts of each application, hold a duly noticed public meeting (as distinct from a public hearing) to hear public comments and to provide the applicant with an additional opportunity to describe the proposal. The HMC may then formally transmit its findings and recommendations with respect to the application's consistency with the Plan to the DEEP OLISP and/or USACE.

Also, any proposal prepared by a state agency and affecting the HMA should be designed for consistency with the Plan, and reviewed by the HMC for consistency with the Plan.

7. HMC to review applications for federal approvals²⁵: The HMC should review all proposals affecting the Chester HMA as submitted to and prepared by federal agencies. All proposals for placing structures, filling aquatic areas, and dredging waterward of the Mean High Water line, are subject to federal regulatory programs administered by the USACE and cannot be implemented without authorization from the USACE. Applications for these proposals must be submitted by the project sponsor to the USACE for review and approval with respect to federal laws and regulations. In coordination with this federal review, the HMC

may review proposals submitted to the USACE for placing water-access structures, filling aquatic areas, and dredging in the HMA. The HMC may formally review these proposals and comment to the USACE on the consistency of each proposal with the Plan.

25 This section should not be construed as altering any duly established regulatory procedures, requirements, and schedules of the USACE or other responsible federal agency, including, but not limited to, the responsible agency's requirements for soliciting and receiving public comments, including comments from the HMC. The Plan recognizes that the duly established regulatory procedures, requirements, and schedules of the responsible federal agency may be amended from time to time. Further, the Plan recognizes that any recommendations of the HMC that may concern duly established regulatory procedures, requirements, and schedules of the USACE or other responsible federal agency are not binding on those agencies.

The HMC's review should be conducted in a manner similar to that described above with respect to proposals submitted to or prepared by Town and state agencies, except that the HMC's review of proposals submitted to or prepared by federal agencies is not conducted in accordance with: i) Section 22a-113p of the Connecticut General Statutes which specifically concerns the HMC's actions on applications to municipal agencies; and ii) Section 22a-

113n(b) of the General Statutes which concerns recommendations pursuant to the Plan that are transmitted to any official of the state.

With regard to applications submitted to or prepared by federal agencies such as the USACE, it is recognized that the Connecticut General Statutes and the Regulations of Connecticut State Agencies do not establish requirements concerning the review of such applications by the HMC, and that recommendations of the Plan are not binding on federal agency decisions.

It is recommended that any proposal prepared by a federal agency and affecting the HMA should be designed for consistency with the Plan and reviewed by the HMC for consistency with the Plan.

8. Apply standard procedure for project review: The HMC should conduct its case-by-case reviews of proposals affecting the Chester HMA in accordance with a standard procedure established by the HMC. For each proposal that it reviews, the HMC should record its findings and recommendations according to a standard format that may include, but not be limited to, the following information: 1) a HMC file identification number (e.g., 2013-01; 2) application review date; 3) applicant's name and address; 4) address of the proposed work; 5) type of proposed work (e.g., construction of ramp and floating dock in the Connecticut River); 6) type of application reviewed (i.e., application to Town agency, DEEP OLISP, USACE); 7) a statement of the application's consistency with the Plan; 8) the HMC's recommendations concerning action that should be taken on the application by the appropriate regulatory agency; 9) any comments by the HMC concerning the application and/or recommended conditions transmitted to the appropriate regulatory agency; and 10) the date of the HMC's decision on the application.²⁶

²⁶ This information is duly noted in the minutes of the specific HMC meeting during which a proposal

subject to the Harbor Management Consistency Review Process is reviewed by the HMC.

With respect to consistency with the Plan, the HMC should determine if: 1) the application is consistent with the Plan; or 2) the application is not consistent with the Plan (and state the reasons that it is not consistent).

With respect to the HMC's recommendations concerning action that should be taken on the application, the HMC may recommend: 1) favorable action; 2) favorable action with specified conditions and/or comments; 3) tabling the application pending receipt of additional information; 4) that the project not be approved in its present form; or 5) no comment.

The HMC's determination of consistency with the Plan and the HMC's recommendations concerning action on the application should be stated in a motion approved by the HMC and formally transmitted to the authorizing agency in a letter from the HMC.

9. Consider any pending enforcement actions: When reviewing an application for consistency with the Plan, the HMC should consider if there is any enforcement action pending with Town, state, or federal agencies for violations of environmental or other laws at the site of the proposed work and/or associated with the work for which the authorization is being sought. The HMC may defer its review of an application involving a site associated with a pending enforcement action until such time as the action has been conducted. Pursuant to the Plan, the HMC should provide recommendations to appropriate Town, state, or federal regulatory agencies concerning the elimination of any unauthorized encroachments in the Chester HMA.

10 . Continue to strengthen dock management capabilities: The Chester HMC, in cooperation with the Connecticut River Estuary Regional Planning Agency²⁷ and other agencies, should continue to assemble information pertinent to dock management in the Chester HMA, including information on environmental conditions and methodologies for dock management in the lower Connecticut River region, for the purpose of continuing to strengthen the Town's ability to effectively manage water-access structures in coordination with other Town, state and federal agencies. At such time as additional information and new methodologies may be available, the HMC may consider formulating more detailed standards concerning water-access structures in the HMA, including, but not limited to, dimensional standards and standards for avoiding or otherwise mitigating adverse visual impacts, and for inclusion of those standards in the Plan. (See no. 13 below.)

27 The CRERPA was merged with the Midstate Regional Planning Agency in 2012 to establish the Lower Connecticut River Valley Council of Governments ("River COG").

28 The CRERPA previously assembled information to assist with development of the recommended Town inventory of water-access structures, and it is the intent of the Chester HMC to continue to pursue development of the inventory with assistance from the River COG.

In addition, the Town may consider, for inclusion in the Plan, recommendations for establishment of boundaries waterward of the high tide line in the HMA, beyond which there may be no encroachment of docks, floats, piers, or other water-access structures. Such boundaries may be established by the Connecticut Commissioner of Environmental Protection pursuant to Section 22a-360 of the General Statutes, provided such boundaries are demonstrated to be in accordance with sound planning for the HMA.

11 . Maintain a Town inventory of water-access structures: To ensure that all water-access structures in the Chester HMA are properly authorized in accordance with applicable Town, state, and federal requirements, the HMC should conduct and maintain an inventory of all such structures on, in, or contiguous to the HMA. This inventory should include the permittee's name, assessor's map and lot number of the affected property, a description of the structure, any conditions included in the state and/or federal permits for approved structures, and other pertinent information.²⁸

12 Consider appropriate amendments to Town ordinances: To facilitate the most effective local review of proposals affecting the Chester HMA pursuant to the Town's Harbor Management Consistency Review Process specified in the Town's Harbor Management Ordinance, the Town of Chester should amend the Ordinance as necessary to reflect any new initiatives that will continue to improve the review processes affecting the management of water-access structures. (See nos. 3.c., 4.a., and 10.) Pursuant to its authority to propose ordinances for implementing the Plan, the HMC may prepare recommendations for appropriate amendments to the Harbor Management Ordinances and other applicable Town ordinances.

13 Consider appropriate Plan amendments: The Plan should be amended, as needed, to respond to changing conditions and circumstances affecting the Chester HMA and to reflect any new initiatives that will continue to improve the ability of the Town to manage wateraccess structures and otherwise plan for the most desirable use of the HMA. (See nos. 3.c., 4.a., and 10.)

Pursuant to Section 22a-113m of the Connecticut General Statutes, the same process required for approval and adoption of the Plan, including review by the USACE, approval by the Connecticut commissioners of Environmental Protection and Transportation, and adoption by the Chester Town Meeting, is required to amend the Plan. To accomplish any appropriate amendments, including any future amendments concerning dock management, the Plan need not be revised in its entirety. A public meeting should be held by the HMC to present the proposed amendments and hear public comments. The HMC should then consider the public comments as well as comments by the DEEP OLISP and other agencies prior to submitting a proposed Plan Addendum to the DEEP OLISP for review and approval. Proposed Plan amendments should be sent by the Chester HMC to the DEEP OLISP which will distribute copies to other DEEP divisions, to the Department of Transportation's Bureau of Aviation

and Ports, and to the USACE. The DEEP OLISP will coordinate review and approval of the proposed amendments by those agencies. Following receipt of the necessary state approvals, the Town may move forward with the process of Town adoption by action of the Town Meeting which will include a public hearing.

14 . Consider appropriate amendments to the Plan of Conservation and Development: The HMC should work cooperatively with the Planning and Zoning Commission to ensure that the Plan and the Chester Plan of Conservation and Development are implemented as consistent and complementary documents. The HMC recommends that the Planning and Zoning Commission consider future amendments to the POCD that would emphasize the importance of the Connecticut River, Chester Creek, and Deep River Creek to the quality of life in the Town of Chester and to establish more explicit Town policies to: a) preserve the natural and traditional scenic character of the Connecticut River and its tributaries at Chester pursuant to the public interest and the legislative intent of the Connecticut River Conservation Zone; b) preserve Chester's traditional Town and neighborhood character; c) support effective management of the Town's marine resources through implementation of The Chester Harbor Management Plan; and d) encourage and support coordination and cooperation among the Town agencies responsible for land-use decisions and the HMC to ensure the most effective management of water-access structures affecting the Chester HMA.

Together, the Plan and the POCD should be implemented in coordination as two of the Town's principal guides for beneficial use and conservation of the HMA and shoreline. The two plans should be complementary and consistent documents. The HMC should provide recommendations for amending the POCD at such time as the Chester Planning and Zoning Commission next prepares an update to that plan.

15 . Consider appropriate amendments to the Zoning Regulations: The HMC should work cooperatively with the Planning and Zoning Commission to ensure that the Zoning Regulations of the Town serve to effectively implement the Town's policies for beneficial use and conservation of the Chester HMA and shoreline as established in the Plan and the Chester Plan of Conservation and Development. The Zoning Regulations should reflect awareness that some proposals for water-access structures may have significant impacts on the existing character of the Chester shoreline and HMA, including the shoreline above the Mean High Water line. The HMC should work cooperatively with the Planning and Zoning Commission to recommend amending Section 91B.1(C) of the Zoning Regulations to remove the coastal site plan review exemption currently afforded to "all docks incidental to the enjoyment and maintenance of residential property." The HMC recommends that certain proposed docks and other water-access structures that will substantially alter the natural character of the Town's coastal resources should be subject to the Town's coastal site plan review process.

PART THREE:

APPENDICES

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THE CONNECTICUT HARBOR MANAGEMENT ACT

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Appendix A:

THE CONNECTICUT HARBOR MANAGEMENT ACT

NOTE: This appendix is copied from the Web Site of the Connecticut General Assembly which should be consulted as an authoritative source of the Connecticut General Statutes:
<http://www.cga.ct.gov/>

THE CONNECTICUT HARBOR MANAGEMENT ACT

Chapter 44a*

Harbor Management Commissions

*See chapter 263 (Sec. 15-1 et seq.) re harbors and rivers.

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Sec. 22a-113p. Action on applications to municipal agencies referred to commission.

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Sec. 22a-113r. Mooring or anchorage permit. Enforcement of ordinances implementing plan.

Sec. 22a-113s. Permit fee.

Sec. 22a-113t. Model harbor management.

Sec. 22a-113k. Harbor management commissions. (a) Any municipality having within its limits navigable waters as defined in subsection (b) of section 15-3a may establish by ordinance one or more harbor management commissions or may designate any existing board, commission, council, committee or other agency as a harbor management commission. Any harbor management commission established under this section may include one member representing each of the following: The planning commission, the zoning commission, or the combined planning and zoning commission, the conservation commission, shellfish commission and flood control board. The

harbor master or deputy harbor master for the municipality shall be a nonvoting ex-officio member of any harbor management commission. The ordinance shall designate the area within the territorial limits of the municipality and below the mean high water that shall be within the jurisdiction of a commission and shall set forth the number of members of a commission, their method of selection, terms of office and procedure for filling any vacancy.

(b) Notwithstanding the provisions of the general statutes or any special act, if an existing municipal waterfront authority, municipal shellfish commission or municipal port authority is designated as a harbor management commission, the municipality may by ordinance increase the membership of such authority, commission or agency and may include one member representing each of the following: The planning commission, the zoning commission, or the combined planning and zoning commission, the conservation commission, shellfish commission and flood control board.

(c) Any two or more municipalities whose common boundaries lie within navigable waters, as defined in subsection (b) of section 15-3a, may by concurrent ordinances of their legislative bodies establish one or more harbor management commissions. Each such commission shall consist of an equal number of members from each municipality constituted pursuant to subsection (a) of this section. Any municipality that is a member of a commission may, by vote of its legislative body, elect to withdraw from a commission.

(P.A. 84-247, S. 1; P.A. 88-336, S. 3, 5; P.A. 90-269, S. 5, 8; P.A. 07-217, S. 109.)

History: P.A. 88-336 inserted new Subsec. (b) concerning membership of existing authorities designated as commissions and relettered former Subsec. (b) as Subsec. (c); P.A. 90-269 authorized a municipality to have one or more harbor management commissions; P.A. 07-217 made technical changes in Subsec. (c), effective July 12, 2007.

Statutory scheme demonstrates state did not intend to fully occupy field of regulating conduct waterward of the mean high water mark because it expressly delegated responsibility of regulation to harbor management commissions it created. 93 CA 314.

Sec. 22a-113l. Powers. Any commission established pursuant to section 22a-113k is authorized to enter into contracts, employ consultants and other assistants and receive and expend funds for equipment, supplies and staff to carry out the purposes of section 15-1, subsection (a) of section 15-7 and sections 22a-113k to 22a-113t, inclusive. Any municipality may appropriate funds to such commission.

(P.A. 84-247, S. 2.)

History: (Revisor's note: In 1993 an incorrect internal reference to Sec. "22a-113t" was changed editorially by the Revisors to Sec. "22a-113t").

Sec. 22a-113m. Harbor management plan. Approval. The commission, in consultation with the Commissioners of Energy and Environmental Protection and Transportation, shall prepare or cause to be prepared a management plan for the most desirable use of the harbor for recreational, commercial, industrial and other purposes. For those towns in the coastal area, as defined in section

22a-94, the plan shall provide for the preservation and use of the coastal resources of the harbor in a manner consistent with the provisions of sections 22a-90 to 22a-111, inclusive, and any municipal coastal plan adopted pursuant to section 22a-101 by any municipality that is a member of the commission. A copy of the plan shall be forwarded to the U.S. Army Corps of Engineers for review, comments and recommendations. Such plan shall be submitted for approval to the Commissioners of Energy and Environmental Protection and Transportation. Said commissioners shall act on the plan not more than sixty days after submission of such plan. Upon approval by said commissioners, the plan may be adopted by ordinance by the legislative body of each municipality establishing the commission. The ordinance shall specify the effective date of the plan. A modification to the plan may be proposed at any time and shall be approved in the same manner as the plan. The plan shall be reviewed annually by the commission and the Commissioners of Energy and Environmental Protection and Transportation.

(P.A. 84-247, S. 3; P.A. 10-106, S. 7; P.A. 11-80, S. 58.)

History: P.A. 10-106 replaced reference to Sec. 22a-112 with reference to Sec. 22a-111; P.A. 11-80 changed "Commissioner of Environmental Protection" to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Sec. 22a-113n. Content of plan. (a) The plan shall identify existing and potential harbor problems, establish goals and make recommendations for the use, development and preservation of the harbor. Such recommendations shall identify officials responsible for enforcement of the plan and propose ordinances to implement the plan. The plan shall include, but not be limited to, provisions for the orderly, safe and efficient allocation of the harbor for boating by establishing (1) the location and distribution of seasonal moorings and anchorages, (2) unobstructed access to and around federal navigation channels, anchorage areas and harbor facilities, and (3) space for moorings and anchorages for transient vessels.

(b) The plan may recommend: (1) Boundaries for development areas to be approved and established by the Commissioner of Energy and Environmental Protection in accordance with the provisions of section 22a-360; (2) designations for channels and boat basins for approval and adoption by the Commissioner of Energy and Environmental Protection in accordance with the provisions of section 22a-340; (3) lines designating the limits of areas for the location of vessels with persons living aboard to be approved and adopted by the director of health in accordance with section 19a-227; (4) pump-out facilities, including the designation of no discharge zones in accordance with Section 312 of the federal Clean Water Act; and (5) regulations for the operation of vessels on the harbor pursuant to the provisions of section 15-136. Upon adoption of the plan, any recommendation made pursuant to this section shall be binding on any official of the state, municipality or any other political subdivision when making regulatory decisions or undertaking or sponsoring development affecting the area within the commission's jurisdiction, unless such official shows cause why a different action should be taken.

(P.A. 84-247, S. 4; P.A. 95-218, S. 9, 24; P.A. 11-80, S. 1.)

History: P.A. 95-218 amended Subsec. (b) to replace a reference to "subsection" with a reference to

"section"; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (b), effective July 1, 2011.

When city has established a harbor management commission which has enacted a harbor management plan, the terms of that plan are binding on commissioner when he issues a permit to construct docks. 93 CA 314.

Sec. 22a-113o. Factors considered in preparation of plan. In preparing the plan, the commission shall consider the following factors: (1) Recreational and commercial boating; (2) recreational and commercial fisheries and shellfisheries; (3) fish and shellfish resources, including leased or designated shellfish beds; (4) conservation of natural resources; (5) areas subject to high velocity waters, including but not limited to hurricanes, wave washes or tsunamis, that are designated as Vzones on a flood insurance rate map published by the National Flood Insurance Program; (6) exposed areas subject to flooding and erosion as defined in section 25-70; (7) commercial and industrial uses that are water dependent as defined in subdivision (16) of section 22a-93; (8) water quality and public health; (9) recreational uses other than boating and fisheries; (10) water dependent educational

uses; (11) public access; and (12) tidal wetlands, beaches and dunes, bluffs and escarpments and intertidal flats as defined in section 22a-93.

(P.A. 84-247, S. 5.)

Sec. 22a-113p. Action on applications to municipal agencies referred to commission. The commission may review and make recommendations, consistent with the plan, on any proposal affecting the real property on, in or contiguous to the harbor that is received by any zoning commission, planning commission or combined planning and zoning commission, zoning board of appeals, historic district commissions, flood and erosion control board, harbor improvement agency, port authority, redevelopment agency, shellfish commission, sewer commission, water pollution control authority or special district with zoning or other land use authority. Such agencies shall send a copy of any such proposal to the commission upon the request of such commission. The commission shall be notified of any such proposal at least thirty-five days prior to the commencement of the hearing thereon or where no hearing is held, at least thirty-five days prior to the taking of any final action on the proposal. The local agency authorized to act on the proposal shall consider the recommendations of the commission. A two-thirds vote of all the members of the local agency having authority to act on the proposal shall be required to approve a proposal which has not received a favorable recommendation from the commission, provided that the provisions of this section shall not be deemed to alter the authority of the agency having primary jurisdiction over the proposal to deny, modify or condition the proposal. Failure of the commission to submit a recommendation shall be deemed to be approval of the proposal.

(P.A. 84-247, S. 6.)

Sec. 22a-113q. Request for general permit and delegation of enforcement authority. Upon adoption of the plan, the commission may request a general permit from the United States Army Corps of Engineers and delegation of enforcement authority pursuant to section 22a-2a.

(P.A. 84-247, S. 7.)

Sec. 22a-113r. Mooring or anchorage permit. Enforcement of ordinances implementing plan.

Upon adoption of the plan, no mooring or anchorage shall be placed in the harbor without a permit from the harbor master or deputy harbor master for the municipality. Any permit granted by the harbor master or deputy harbor master shall be consistent with the plan and shall expire on the thirtyfirst day of December next following its issuance. The harbor master or deputy harbor master shall keep a record of the location of each mooring and anchorage for which a permit has been issued, the name and address of the owner and a description of the vessel to be moored. Such information shall be made available to any officer authorized to enforce the provisions of chapter 268. The harbor master or deputy harbor master shall enforce any ordinance adopted by a municipality to implement the plan.

(P.A. 84-247, S. 8.)

See Secs. 15-1 and 15-7 re duties of harbor masters.

Sec. 22a-113s. Permit fee. The commission may propose a fee schedule for a permit for a mooring or anchorage or any other activity within the scope of the plan to be adopted by vote of the legislative body of each town establishing the commission. The maximum annual fee for a mooring or anchorage shall be two hundred dollars. The harbor master or deputy harbor master for the municipality shall collect such fee. Any fee collected pursuant to this section shall be deposited into a fund maintained by the municipality in which such fee was collected and shall be used for the maintenance and improvement of the harbor for the public and for expenses for personnel and equipment directly related to the function of the commission and the harbor master or deputy harbor master.

(P.A. 84-247, S. 9; P.A. 94-108, S. 3.)

History: P.A. 94-108 increased the maximum mooring fee from \$100 to \$200.

Sec. 22a-113t. Model harbor management. Not more than six months after October 1, 1984, the Commissioner of Energy and Environmental Protection in consultation with the Commissioner of Transportation shall prepare a model harbor management plan.

(P.A. 84-247, S. 10; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Appendix B:

TOWN OF CHESTER

HARBOR MANAGEMENT ORDINANCE

NOTE: This appendix is copied from the "Ordinances and Special Acts Pertaining to the Town of Chester, Connecticut" which should be consulted as the authoritative document containing the Town of Chester Harbor Management Ordinance. See the Town Clerk section under "Town Services" on the Town of Chester Web Site: <http://www.chesterct.org/>

HARBOR MANAGEMENT ORDINANCE FOR
THE TOWN OF CHESTER

Pursuant to a Special Town Meeting held on July 19, 1994, the following Ordinance was enacted:

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HARBOR MANAGEMENT ORDINANCE

FOR THE TOWN OF CHESTER

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ARTICLE I: IN GENERAL

Section 1. Purposes

WHEREAS, The Town of Chester has established a Harbor Management Commission and prepared a Harbor Management Plan pursuant to authority provided by Sections 22a-113k through 22a-113s of the Connecticut General Statutes and other related legislation: and

WHEREAS, the Town of Chester desires to manage its harbor resources in the most effective manner and to plan for the most desirable use of the Chester Harbor Management Area for conservation, recreation and development:

THEREFORE, the Chester Town Meeting hereby enacts these rules and regulations for the management of the Chester Harbor Management Area.

Section 2. Harbor Management Area Boundaries

The overall boundaries of the Chester Harbor Management Area include all navigable waters and intertidal areas below the mean high water line of the shoreline of Chester and bounded on the north by the Chester/ Haddam town line, on the south by the Chester/Deep River town line, on the east by the centerline of the Connecticut River, and including Chester Creek from the Connecticut River upstream to Chester center.

Section 3. Definitions

Aids to Navigation: All markets on land or in the water placed for the purpose of enabling navigators in the Harbor Management Area to avoid navigation hazards and/or fix their position. Aids to navigation include federal aids placed and maintained by the U.S. Coast Guard, and "private" aids placed and maintained by all other government and private interests under permit from the Coast Guard, Corps of Engineers, and Connecticut DEP. Private aids include any buoys, signs and other markers identifying restricted speed areas.

Anchorage: A water area designated for anchoring with ground tackle carried on board a vessel.

Anchor: To secure a vessel temporarily to the bottom of a waterbody by dropping an anchor or anchors from a vessel. A heavy device, fastened to a chain or line, and dropped to the bottom of a waterbody to hold a vessel in position, including an anchor used to secure a vessel at a mooring. Specifically excluded from this definition are engine blocks and other devices which, when used as anchors, could result in the degradation of water quality or otherwise damage coastal resources.

Channel: A water area specifically designated for unobstructed movement of vessels, shown on navigation charts, and marked in-water by aids to navigation.

Chester Harbor Management Area: The area of jurisdiction of the Chester Harbor Management Commission as defined in the Harbor Management Plan and Section 2 of the Harbor Management Ordinance.

Chester Harbor Management Commission: The duly appointed body of the Town or Chester with responsibilities set forth in the Connecticut Harbor Management Act and by Town Ordinance, including responsibilities for preparing and carrying out the Harbor Management Plan.

Chester Harbor Management Plan: A plan for the balanced use of Chester's Harbor Management Area for recreational and other purposes and for the protection of environmental resources as prepared by the Chester Harbor Management Commission, adopted at a Town Meeting, and approved by the Connecticut departments of Environmental Protection and Transportation in accordance with Sections 22a-113k through 113t of the Connecticut General Statutes and the Town ordinance establishing the Chester Harbor Management Commission.

Coastal Site Plan Review: The process whereby specific development plans proposed within the Town's coastal boundary are reviewed by the Planning and Zoning Commission for consistency with the Chester Municipal Coastal Program and the Connecticut Coastal Management Act.

Commercial Mooring: A mooring as defined by the Corps of Engineers for which any type or fee is charged (excepting any fee charged by the Town for a mooring permit issued by the Harbor Master), and which must be authorized by a permit from the Corps of Engineers, the Connecticut Department of Environmental Protection, and the Harbor Master. Commercial moorings include moorings offered by marinas for transient or seasonal rental, and moorings controlled by private clubs if the annual membership fee includes club-controlled mooring.

Commercial Vessel: Any vessel licensed or unlicensed, used or engaged for any type of commercial venture, including but not limited to the carrying of cargo and/or passengers for hire and commercial fishing.

Connecticut Harbor Management Act: The legislation contained within the State of Connecticut General Statutes, Sections 22a-113k through 22a-113t, as may be amended from time to time, and which authorizes municipalities to establish harbor management commissions and prepare harbor management plans.

Deputy Harbor Master: The Deputy Harbor Master or the Town of Chester who may be appointed by the Governor of Connecticut in accordance with Sections 15-1 through 15-10 of the Connecticut General Statutes, and who shall carry out his or her duties under the direction of the Harbor Master.

Emergency: A state of imminent or proximate danger to life or property in which time is of the essence.

Fairway: A specific water area to be kept free of obstructions to ensure safe passage of recreational and commercial vessels to, from, through, and alongside navigation channels, mooring areas, anchorages and berthing areas.

Harbor Management Consistency Review Process: The process authorized by Section 22a -113p of the Connecticut General Statutes and described in the Harbor Management Plan whereby the Harbor Management Commission shall review, for consistency with the Harbor Management Plan, specific development proposals submitted to, or proposed by, Town of Chester commissions and departments, and state and federal agencies.

Harbor Management Fund: A Town fund as authorized by Section 22a-113s of the Connecticut General Statutes into which shall be deposited all fees for mooring and anchorage permits and other activities within the scope of the Harbor Management Plan and which shall be used for the maintenance and improvement of the Chester Harbor Management Area for the public and for expenses for personnel and equipment directly related to the function of the Harbor Management Commission and the Harbor Master or Deputy Harbor Master.

Harbor Management Ordinance: This Ordinance establishing rules and regulations for the use and enjoyment of the Chester Harbor Management Area as recommended by the Chester Harbor Management Commission and adopted by the Town Meeting of the Town of Chester.

Harbor Master: The Harbor Master appointed by the Governor of Connecticut in accordance with Sections 15-1 through 15-10 of the Connecticut General Statutes, and who shall serve as an exofficio member of the Harbor Management Commission and have specific responsibilities for implementing the Harbor Management Plan.

Hazard to Navigation : An obstruction, usually sunken, that presents sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal, or redefinition of a designated waterway to provide for navigational safety.

High Tide Line: The line or mark left upon fide flats, beaches or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. Proposed work and structures seaward of the high tide line are subject to state regulatory authorities carried out by the Connecticut DEP. The high tide line is defined by a higher elevation than the mean high water line.

Individual - Private Mooring: A mooring belonging to an individual and authorized for use by a mooring permit issued by the Harbor Master.

Marine Facility: Any facility (including but not limited to docks, floats, piers, ramps, hoists, parking areas, concessions, and service facilities), either publicly or privately owned, intended primarily to be used by or for the service of vessels and located within the Harbor Management Area.

Mean High Water Line: The line along the shoreline representing the average height of the maximum elevation reached by each rising tide over a nineteen-year period immediately preceding the current year. Proposed work and structures seaward of the mean high water line are subject to federal regulatory authorities carried out by the U.S. Army Corps of Engineers as well as state regulatory authorities, (State regulatory authorities also extend above the mean high water line to the high tide line which is defined by a higher elevation than the mean high water line.) All land and water areas seaward of the mean high water line are subject to the Public Trust Doctrine and held in trust by the State of Connecticut for public use. The mean high water line also marks the seaward boundary of the jurisdiction of Chester's Planning and Zoning Commission

Mean Low Water Line: The line along the shoreline representing the average height of the minimum elevation reached by each falling tide over a nineteen-year period immediately preceding the current year.

Moor: To secure a vessel to the bottom of a waterbody by the use of mooring tackle.

Mooring: A semi-permanent anchorage installation consisting of a heavy anchor (usually of the mushroom type), chain, a mooring buoy, and other equipment so designed that, when the attachment

of such equipment to the vessel is terminated, some portion of the equipment remains below the surface of the water and is not under the control of the vessel or its operator.

Mooring Area: An area designated by the Harbor Management Commission, and including Special Anchorage Areas designated by the U.S. Coast Guard, within which vessels may be moored provided a valid permit for such mooring is obtained from the Harbor Master.

Mooring Tackle: The chain, anchor, buoys, and other equipment used to moor a vessel. Specifically excluded from this definition are engine blocks and other devices which, when used as anchors, could result in the degradation of water quality or otherwise damage coastal resources.

Obstruction to Navigation: Anything that restricts, endangers, or interferes with navigation.

Person: Those, including individuals, corporations, societies, associations, and partnerships, using the facilities and areas within the Harbor Management Area and subject to the provisions of this Ordinance.

Shall and May: "Shall" is mandatory: "may" is permissive.

Slip: Berthing space for a single vessel alongside a pier, finger float, or walkway.

Special Anchorage Area: A water area designated by the Coast Guard, identified on navigation charts, and where vessels may be anchored or moored. Within such areas, vessels less than 65 feet are not required to display anchorage lights.

State: The State of Connecticut

Stray Vessel: An abandoned vessel, a vessel with unknown owner, or a vessel underway without a competent person in command.

Transient: A person traveling to the Harbor Management Area by boat and staying for a temporary period of time.

Vessel: As defined by state statute, every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water.

Section 4. General Provisions.

a. Applicability:

The provisions of this Harbor Management Ordinance and any rules and regulations adopted pursuant thereto shall be applicable, and shall govern, the use of the harbor management lands, waters and facilities under the jurisdiction of the Chester Harbor Management Commission. This Ordinance shall be subordinate to all existing federal and state statutes and regulations affecting the Chester Harbor Management Area, and is not intended to pre-empt any other valid laws.

b. Invalidity of Provisions:

Should any provision or provisions of this Ordinance be held invalid or inoperative, the remainder shall continue in full force and effect.

c. Authorities and Enforcement:

The Chester Harbor Master or his designee, under the direction of the Chester Harbor Management Commission, shall have the authority to carry out harbor management directives and enforce all provisions of the Harbor Management Plan, including this Ordinance. The Harbor master or his designee may cite any alleged violators of this Ordinance. Any Constable of the Town of Chester shall have authority to enforce the provisions of this Ordinance.

d. Violations and Penalties:

Any person who violates any provision of this Ordinance or any rules and regulations adopted pursuant thereto in any portion of the Harbor Management Area shall be liable to a fine not to exceed \$50.00 for each offense. Each day that a violation continues after seven (7) days following notification of the offending party or, if the offending party is not known, after notice has been posted for that time on any vessel, mooring or other object that is the cause of the violation, shall be considered a separate offense. The provisions of this section are in addition to and do not supersede any penalties resulting from simultaneous violations of state or federal laws.

Fines levied under the provisions of this Ordinance shall be collected by the Town of Chester and deposited into the Chester Harbor Management Fund. (See Section 4.e.)

Any violations of the provisions of this Ordinance relating to mooring permits shall, after due notice, result in revocation of the mooring permit.

e. Harbor Management Fund:

A Harbor Management Fund is hereby created to receive and expend monies for harbor management purposes determined by the Harbor Management Commission. All revenues generated by (1) mooring permits and (2) fines levied under the provisions of this Harbor Management Ordinance as it applies to the Harbor Management Area shall be deposited into this fund. Other funds generated or allocated specifically for harbor management shall also be deposited in this fund. Funds shall be disbursed for purposes directly associated with the management of Chester's Harbor Management Area and implementation of the Chester Harbor Management Plan. Monies from this fund may be allocated to the Harbor Master or his designee for the purpose of carrying out the provisions of the Chester Harbor Management Plan and/or the Harbor Management Ordinance.

f. Compensation of Harbor Personnel:

The Harbor Master, Deputy Harbor Master and administration personnel may receive compensation to be determined by the Harbor Management Commission. Additionally, monies from the Harbor Management Fund may be used to reimburse the Harbor Master, Deputy Harbor Master and administrative personnel for necessary, pre-approved expenses incurred in the performance of their duties. Monies from this fund may also be used to compensate contractors hired to perform work as may be deemed necessary by the Harbor Management Commission or the Harbor Master.

g. Coordination with Other Governmental Laws and Regulations:

Nothing herein contained shall bar or prevent the Harbor Master or any of his deputies from performing those duties which have been assigned to him in accordance with the General Statutes of the State.

Section 5. Regulations for Use of the Harbor Management Area.

a. Liability:

Persons using the public facilities and areas within the limits of the Chester Harbor Management Area shall assume all risk or personal injury and damage or loss to their property. The Town of Chester assumes no risk on account of accident, fire, theft, vandalism, or acts of God. Each marina operator, commercial operator, waterfront property owner, and any other user of the Harbor Management Area is responsible for maintaining his property in a safe, clean and attractive condition.

b. Unreasonable Interference by Vessels Prohibited:

The operation of any vessel in any manner which unreasonably interferes with the free and proper use of the Harbor Management Area is hereby prohibited.

c. Vessel Speed and Wake:

The operation of any vessel within the Chester Harbor Management Area shall proceed in a manner which protects all persons and property from any damage caused by a wake. Any person operating a boat within the Harbor Management Area at such a speed as to cause a wake shall be held responsible for any damage caused by such wake. The provisions of Section 15-121-B15 of the State Boating Regulations shall be strictly enforced on the main body of the Connecticut River. The speed of all vessels in Chester Creek shall be limited to the minimum speed necessary to allow a vessel to be steered while making forward progress.

Note: See the 2004 amendment to this section on page B-14 of this appendix.

d. Obstruction of Channels Fairways and Berthing Space:

No vessel shall be moored or anchored so as to interfere with the free and unobstructed use of any channel, fairway or berthing space within the Harbor Management Area.

e. Swimming and Underwater Diving:

Swimming and underwater diving are prohibited in all designated channels except in an emergency or for inspection purposes.

f. Fishing:

Fishing from vessels shall not occur in any designated channels, fairways and anchorages in a manner that poses a hazard to navigation. The placement of floats and fixed fishing nets is prohibited in all channels marked by U.S. Coast Guard channel markers, within any fairway designated in the Harbor Management Plan, and within any mooring area designated in the Harbor Management Plan.

g. Water-skiing:

Water-skiing is prohibited in all designated anchorages and mooring areas in the Harbor

Management Area when vessels are anchored or moored therein. Waterskiing is prohibited within

100 feet of shore and within 100 feet of any dock, pier, float or anchored or moored vessel in the

Harbor Management Area with the exception of taking off and landing the skier.

h. Public Docks and Boat Launching Ramps:

The use of any public dock and boat launching ramp shall be in accordance with rules and

regulations established by the Harbor Management Commission. No vessel shall remain at a public

dock or boat launching ramp for a period longer than the time limit posted at the dock in accordance

with rules and regulations established by the Harbor Management

Commission. If a vessel is left

unattended for a period of time in violation of the posted limit, then the vessel's owner of record

shall be held responsible.

i. Identification of Vessels:

All vessels moored or tied up to wharves, piers, or docks in the Harbor Management Area, except

those on temporary call, shall maintain identification legible without boarding the vessel in one of

the following forms:

(1) Federal or state registry number.

(2) A boat name and hailing port in accordance with federal documentation requirements.

(3) The name and address or telephone number of the owner.

j. Stray, Derelict or Abandoned Vessels and Structures:

No vessel, mooring, mooring float, or other object within the Harbor Management Area shall be

abandoned or sunk or placed where it may constitute a hazard to navigation or to the Safety of

persons or property. Any vessel, mooring, mooring float, or other object abandoned or sunk or so placed may be removed or relocated (in accordance with Sections 15-8 et. seq. of the Connecticut General Statutes) by direction of the Harbor Master, if corrective action is not taken by the owner, if known, within seven (7) days after notification, or, if not known, after notice has been posted for that period on the vessel, mooring, mooring float, or object. Nothing herein contained shall prevent the Harbor Master or Deputy Harbor Master from taking measures with or without notice, if, in their judgment, it is necessary in order to provide for the safety of persons or property. The expense of such removal or relocation and any liability arising from injury to person or property incurred thereby shall be the responsibility of the owner.

k. Rafting of Vessels:

Unattended rafting of more than two (2) additional vessels on the same mooring or anchor of the host vessel shall be prohibited in those waters of the Harbor Management Area that are not within the main body of the Connecticut River.

l. Transient Anchoring:

Vessels using transient anchorage space in accordance with rules and regulations established by the Harbor Management Commission may land at an area designated by the Harbor Master or Harbor Management Commission. The operator of a vessel in the transient anchorage may leave the vessel unattended for a period not to exceed three days without notifying the Harbor Master.

m. Redefining Waterways for Navigation Safety:

In the event that an obstruction to navigation becomes a hazard to navigation, the Harbor Master may temporarily redefine a designated waterway within the Harbor Management Area to provide for navigational safety in accordance with federal regulations (33 CFR, Part 64).

Section 6. Mooring and Anchoring Vessels in the Harbor Management Area

a. Mooring Permits Required:

In accordance with state law and in order to provide for adequate access for vessels, for the safety of persons and property, for the protection of natural and historic resources, and for the optimum use of the Harbor Management Area, the Chester Harbor Master must approve the location of all moorings - including individual-private and commercial moorings - in the Harbor Management Area.

b. Mooring Permit Fee:

Any person, including individuals, corporations, societies, associations, and partnerships, receiving a permit for a mooring location in the Harbor Management Area shall pay a fee not to exceed hundred dollars (\$100.00) as established by the Harbor Management Commission and authorized by Section 22a-113s of the Connecticut General Statutes.

c. Mooring Rules and Regulations:

The mooring and anchoring of all vessels in the Harbor Management Area shall be in accordance with rules and regulations adopted by the Harbor Management Commission.

d. Discrimination When Allocating Mooring Locations Prohibited:

In allocating mooring locations in accordance with rules and regulations adopted by the Harbor

Management Commission, the Harbor Master shall not discriminate on the basis of Town of residence or any other factor. Any interested person may apply for mooring space in the Harbor Management Area by completing in full the application provided for that purpose and submitting the completed application to the Harbor Master.

e. Authority of the Harbor Master:

No provision contained in this Ordinance or in any rules and regulations adopted by the Harbor Management Commission shall limit the authority of the Chester Harbor Master to station and remove vessels as provided in Sections 15-8 and 15-9 of the Connecticut General Statutes, nor the authority of the Harbor Master to remove vessels in accordance with Public Act No.92-244.

Section 7. Marine Sanitation

a. Littering and Discharge of Pollutants Prohibited:

No person shall place, throw, deposit or discharge or cause to be placed, thrown, deposited or discharged into the Harbor Management Area any litter or other materials, including but not limited to, any refuse or waste matter, sewage, petroleum products or by-products, paint, varnish, dead animals or debris of any kind which renders the waters unsightly, noxious, unwholesome or otherwise detrimental to the public health or welfare or to the enjoyment of the water for recreational

purposes. The provisions of Section 22a-250 of the Connecticut General Statutes shall be strictly enforced with respect to discharge of refuse.

b. Marine Toilets:

No person shall operate a marine toilet at any time so as to cause or permit to pass or be discharged into the Harbor Management Area any untreated or treated sewage or other waste matter or contaminant of any kind. Any discharge shall be in compliance with current federal standards concerning marine sanitary discharge, and state and Town Health Code regulations. The provisions of Sections 15-170 through 15-175 of the Connecticut General Statutes shall be strictly enforced with respect to marine toilets.

c. Responsibility for Sanitation of Facilities:

The owner, lessee, agent, manager, or person in charge of any waterfront development or facility adjacent to the Harbor Management Area shall, at all times, maintain the premises under his charge in a clean, sanitary condition free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials.

ARTICLE II: HARBOR MANAGEMENT COMMISSION

Section 8. Establishment, Jurisdiction and Membership

a. Establishment of the Harbor Management Commission:

There is constituted a seven-member Harbor Management Commission of the Town of Chester which shall have the powers and duties conferred on such commissions by Sections 22a-113k through 22a-113t of the Connecticut General Statutes.

Note: See the 2009 amendment to this section on page B-14 of this appendix.

b. Jurisdiction:

The Commission shall have jurisdiction over the navigable waters as defined in subsection (b) of Section 15-3a of the Connecticut General Statutes, within the Chester Harbor Management Area as defined in Section 2 of this Ordinance.

c. Membership and Terms of Service:

The Chester Harbor Management Commission shall consist of seven (7) members who are electors and residents of the Town of Chester and who are appointed by the Board of Selectmen. The Harbor Master shall be an ex-officio member, without vote. Terms of all members shall run for six (6) years except that initial terms shall be staggered so that the terms of no more than three (3) members shall terminate in a single year. In accordance with Section 9-167A of the Connecticut General Statutes no more than four (4) of the commissioners shall be members of the same political party. In addition, there shall be two (2) alternate members appointed to serve in place of absent regular members, if necessary.

Note: See the 2009 amendment to this section on page B-14 of this appendix.

Section 9. Powers, Duties and Responsibilities

a. Rules and Regulations:

The Commission shall adopt and publish such rules and regulations as may be required to implement its responsibilities as herein provided.

b. Harbor Management Plan:

The Commission shall prepare and after a public hearing adopt a Harbor Management Plan. The Plan will:

- (1) Identify existing and potential problems in the Town's Harbor Management Area;
- (2) Establish recommendations for the use, development and preservation of the Harbor Management Area;
- (3) Recommend the required ordinances to implement the Plan and identify the officials responsible for enforcement of the ordinances.

The Harbor Management Plan shall be reviewed annually by the Commission and amended as necessary.

c. Harbor Management Ordinance:

The Commission shall review Town Ordinances affecting harbor management and recommend any necessary changes. The Commission shall submit ordinances required to implement the Plan to the Board of Selectmen and then to the Town Meeting for adoption.

d. Review of Development Proposals:

The Commission has the authority to review and make recommendations on proposals affecting real property in and adjacent to the Town's Harbor Management Area. (See Section 10 below.)

e. Operating Budget:

The Commission shall prepare and present to the Board of Selectmen an annual operating budget.

The operating budget shall include a section reflecting estimated revenues and a section covering requested expenses by project or activity.

Section 10. Consultation and Coordination with Other Town Boards and Commissions

a. Harbor Management Plan Consistency Review:

A Town "Harbor Management Consistency Review Process" shall be carried out by the Harbor

Management Commission to ensure effective implementation of the Harbor Management Plan, and

to provide coordinated, efficient and comprehensive review of proposed projects and activities

affecting the Harbor Management Area.

b. Coordination with Other Town Boards and Commissions:

The Harbor Management Commission shall review, for consistency with the Harbor Management

Plan, specific development and use proposals (see subsection c below) affecting the Harbor

Management Area as submitted to, or proposed by, the following Town boards and commissions:

- Planning and Zoning Commission

- Zoning Board of Appeals
- Conservation Commission
- Parks and Recreation Commission
- Economic Development Commission

c. Proposals Subject to Consistency Review:

The Harbor Management Commission shall review for consistency with the Harbor Management Plan:

(1) all development proposals subject to the Town's Coastal Site Plan Review process and located on parcels adjacent to waters within the Harbor Management Area;

(2) all proposed uses or activities occurring below the mean high water line;

(3) all proposed revisions and amendments to Town plans, rules and regulations affecting the Harbor Management Area and lands adjacent to the Harbor Management Area, including, but not limited to, proposed revisions and amendments to the Zoning Regulations and Plan of Development, regulations for the use of Town beaches and boat launching facilities, and regulations governing wetlands and flood and erosion control; and

(4) permit applications submitted to the State Department of Environmental Protection and the U.S. Army Corps of Engineers and referred to the Harbor Management Commission for consistency review.

d. Referral Schedule:

The Town boards and commissions listed in subsection b above shall notify the Harbor Management Commission of any proposals subject to the Harbor Management Consistency Review process at least thirty-five (35) days prior to the commencement of any hearings thereon or, where no hearing is held, at least thirty-five (35) days prior to the taking of any final action on the proposal.

e. Determination of Consistency:

The Harbor Management Commission shall determine the consistency of proposed projects with the Harbor Management Plan and make recommendations to the appropriate board or commission within thirty-five (35) days of receipt of the proposal from the referring agency. If no comment regarding the consistency of the proposed project is made by the Commission within thirty-five (35) days, the proposal shall be assumed to be consistent with the Harbor Management Plan. In accordance with Section 22a-113p of the Connecticut General Statutes, a 2/3 vote of the referring agency shall be required to approve a proposed project that has not received a favorable recommendation from the Harbor Management Commission.

This Ordinance was published in The Middletown Press on July 23, 1994.

2004 AMENDMENT TO HARBOR MANAGEMENT ORDINANCE

RESOLVED: That the Harbor Management Ordinance for the Town of Chester, adopted at Town Meeting on July 19, 1994, is hereby amended as follows:

By deleting Article 1 Section 5 Paragraph c and inserting the following in its place:

Section 5. Regulations for Use of the Harbor Management Area

c. Vessel Speed and Wake:

Any vessel operating within the Chester Harbor Management Area defined as "the Town's Harbor Management Area" (HMA); bounded on the north by the Chester/Haddam boundary, on the south by the Chester/Deep River boundary, and on the east by the centerline of the Connecticut River, shall not proceed in any no wake zone at a speed greater than six miles per hour and in a manner which produces a minimum wake. Any person operating a boat within the Harbor Management Area at a speed as to cause a wake shall be held responsible for any damage caused by such wake.

The provisions of Section 15-221-B15 of the State Boating Regulations shall be strictly enforced on the main body of the Connecticut River.

The speed of all vessels in Chester Creek shall be limited to the minimum speed necessary to allow a vessel to be steered while making progress.

This amended Ordinance becomes effective 15 days after publication in a newspaper having a circulation in the Town of Chester.

This amended Ordinance was published August 12, 2004 in The Main Street News.

2009 AMENDMENT TO HARBOR MANAGEMENT ORDINANCE

Pursuant to a Special Town Referendum held on May 5, 2009 the following Amended Ordinance was adopted:

RESOLVED: That the Ordinance entitled Harbor Management Ordinance for the Town of Chester adopted July 19, 1994 is hereby amended as follows:

AMENDED ORDINANCE REGARDING HARBOR MANAGEMENT

Section 8(a) of Article II is hereby deleted and the following inserted in its place:

The Harbor Management Commission of the Town of Chester shall consist of five members, and said Commission shall have the powers and duties conferred on such commissions by Sections 22a-13k through 22a-113t of the Connecticut General Statutes.

Section 8(c) of Article II is hereby deleted and the following inserted in its place:

The Chester Harbor Management Commission shall consist of five (5) members who are electors and residents of the Town of Chester and who are appointed by the Board of Selectmen. The Harbormaster shall be an ex-officio member without vote. Terms of all members shall run for six (6) years. In accordance with Section 9-167a of the Connecticut General Statutes, no more than four (4) of the commissioners shall be members of the same political party. In addition, there shall be two (2) alternate members appointed to serve in place of absent regular members, if necessary.

This amendment shall become effective on the date of publication of the notice of its passage.

This Amended Ordinance was published May 7, 2009 in the Valley Courier.

Appendix C:

RULES AND REGULATIONS

FOR MOORING AND ANCHORING VESSELS

NOTE: These Rules and Regulations for Mooring and Anchoring Vessels were originally included as Appendix B of The Chester Harbor Management Plan adopted by the Chester Town Meeting on July 19, 1994 and were adopted along with the Plan on that date. For additional information concerning requirements for mooring vessels in the Chester Harbor Management Area, including the mooring permit application form and additional suggestions for mooring tackle, see the Harbor Management section under "Town Government" on the Town of Chester Web Site: <http://www.chesterct.org/>

Town of Chester

Harbor Management Commission

Chester Town Hall

65 Main Street

Post Office Box 218

Chester, Connecticut 06412

May 1993

RULES AND REGULATIONS

FOR MOORING AND ANCHORING VESSELS

1. Mooring Permits Required

It shall be a violation of Article I, Section 6.a of the Chester Harbor Management Ordinance and of these Rules and Regulations to place any mooring in the Chester Harbor Management Areal without a permit from the Harbor Master.

1 The Chester Harbor Management Area is defined in the Chester Harbor Management Plan and in the Town's Harbor Management Ordinance to encompass the tidal waters and intertidal areas below the mean high water line of the shoreline of Chester and bounded on the north by the Chester/Haddam town line, on the south by the Chester/Deep River town line, on the east by the centerline of the Connecticut River, and including Chester Creek from the Connecticut River upstream to Chester center. This is the area of jurisdiction of the Chester Harbor Management Commission.

2. Mooring Records

(a) The Harbor Master shall keep a detailed record of each mooring, its location, and the owner's name, home and business address, telephone number, date mooring was set, and name, length, state registration number or official number, and type of boat to be attached thereto.

(b) The Harbor Master shall maintain in a public place a waiting list for mooring space and a list for assignments of mooring space, and both lists shall be updated annually.

3. Allocation of Moorings

(a) The Harbor Management Commission shall establish and post in a public place an allocation procedure and priority list for small craft mooring locations.

(b) In allocating mooring locations in accordance with these Rules and Regulations, the Harbor Master shall give consideration to size, draft, and type and use of vessels, including use for commercial purposes.

(c) In allocating mooring locations in accordance with these Rules and Regulations, the Harbor Master shall not discriminate on the basis of Town of residence or any other factor.

(d) Mooring permits shall be issued by the Harbor Master only to those applicants owning a vessel properly registered in accordance with laws of the State of Connecticut.

(e) Within the limits of size and type of vessels, available mooring locations shall be offered to the senior applicant on the mooring waiting list, subject to the constraints contained in these Rules and Regulations. If the available mooring location is not suitable to accommodate the senior applicant's vessel or specific needs, it shall be offered to the next senior qualified applicant. The senior applicant shall retain his or her place on the waiting list in this case. The Harbor Master shall continue efforts to provide a suitable mooring location for the senior applicant. If the senior applicant refuses a mooring location which is suitable for his or her vessel in the opinion of the Harbor Master, that applicant shall be moved to the bottom of the waiting list. In order to achieve the most effective use of existing mooring locations, a list of applicants shall be maintained according to the length and draft of their vessels. This list will be available for public inspection during regular office hours at the office of the Town Clerk.

(f) When allocating individual-private and commercial mooring locations within the Special Anchorage Areas, consideration should be given to the demand for individual-private and commercial moorings, as well as the need for transient anchoring space. Where demand for individual-private moorings and commercial moorings exceeds the available mooring space in the Special Anchorage Areas, 60% of the available space (following the designation of transient anchoring areas in accordance with Section 17 of these Rules and Regulations) should be allocated for individual-private moorings and 40% for commercial moorings.

In the absence of demand for individual-private mooring locations in the Special Anchorage Areas, more than 40% of the available mooring space may be allocated for commercial moorings during any one year. However, commercial mooring permits should be subject to annual review and modification

if necessary to accommodate demand for individual-private mooring locations.

(g) In the interest of ensuring safe, efficient and equitable use of the Harbor Management Area, the Harbor Master may, at his discretion, limit the number of mooring locations that can be assigned to any one individual, household, corporation, or other group. Only one mooring space shall be allocated to any one vessel.

4. New Application for Mooring Permit

Any interested person, persons, corporation, or other group may apply for a mooring permit by completing in full the application provided for that purpose and submitting the completed application to the Harbor Master. In the case of a corporation or other group, however organized, disclosure of the principals of the corporation or other group and evidence of organization must be submitted by producing current articles of incorporation or similar instrument. Applications will be placed on the list in order of receipt by the Harbor Master of a properly filled out application.

5. Mooring Permits Valid for One Year

Mooring permits shall be valid for one calendar year and shall expire on December 31 of that year.

6. Renewal of Mooring Permit

All applications for renewal of mooring permits or waiting list position shall be submitted by December 31 of each year. All applications for renewal received after this date will be treated in the same manner as new applications.

7. Mooring Permit Fee

(a) All applications for mooring permits or renewal of mooring permits shall be accompanied by the annual fee, as established and levied by the Harbor Management Commission. Such fee shall be nonrefundable unless an application is denied or an applicant is placed on the waiting list.

(b) All mooring permit fees collected shall be deposited into the Chester Harbor Management Fund, as authorized by Section 22a-113s of the Connecticut General Statutes, and used exclusively for purposes directly associated with management of the Harbor Management Area.

8. Mooring Permits are Nontransferable

Whenever the holder of a mooring permit transfers the rights, title or interest in the vessel identified in the mooring permit by any arrangement whatsoever, the mooring permit shall expire, except as otherwise provided herein, with respect to the original permittee. The new owner shall have no right to use the mooring location covered by the mooring permit. The original permittee may, upon written application to and approval by the Harbor Master, retain the mooring space assigned under the mooring permit provided that another vessel owned by the permittee is moved onto the mooring. If the replacement vessel is significantly smaller, larger or of different draft or type, the Harbor Master

shall have the right to relocate the vessel to another, more suitable mooring location if available. If an appropriate mooring space for the replacement vessel is not available, the mooring permit will be canceled and a prorated refund of the mooring fee will be made.

9. Mooring Locations

(a) When a permit is issued for a mooring, the Harbor Master shall assign a specific location for that mooring. No mooring shall be placed or maintained in any part of the Harbor Management Area until the location of that mooring has been approved by the Harbor Master.

(b) Moorings shall under no circumstances be located within, or extend into, navigation channels, fairways, turning basins, or transient anchorages, or otherwise interfere with the safe and free use of navigation channels and fairways.

(c) Designated areas for the placement of moorings in the Harbor Management Area are shown in the Harbor Management Plan as Special Anchorage #1 and Special Anchorage #2. These anchorages are identified as Special Anchorage Areas No. 110.1 and No. 110.55 as shown in Chapter 2, U.S. Coast Pilot. Mooring locations will be designated in a manner that provides for an orderly and efficient arrangement of vessels. Other mooring locations may be assigned to an applicant by the Harbor Master with due consideration of vessel size, draft, riparian access, and any other relevant factors. No mooring permits shall be granted for areas prohibited by these Rules and Regulations or

contrary to any approved Chester Harbor Management Plan policy or recommendation. Mooring permits granted shall be consistent with all provisions of the Chester Harbor Management Plan.

10. Mooring Placement

When an applicant has been issued a permit for a mooring, the Harbor Master shall assign a place and number for a specific mooring location. The mooring float shall bear the proper mooring registration number, and the Harbor Master shall verify the proper location of the mooring.

11. Secure Mooring and Anchoring of Vessels

(a) The owner of any vessel moored or anchored within the Harbor Management Area shall be responsible for causing such vessel to be tied, secured, or anchored with proper care and equipment and in such manner as may be required to prevent breakaway and resulting damage.

(b) Each person mooring a vessel in the Harbor Management Area shall be responsible for any damage to his or her own vessel or to any other vessel or property that may be caused by failure of the mooring tackle used to secure his or her own vessel.

12. Recommended Minimum Mooring Tackle Standards

(a) Use of proper mooring tackle is necessary to secure vessels adequately at their moorings. Storms, wind, waves, tides, current, and wash must be considered when selecting appropriate mooring tackle. Therefore the Harbor Management Commission recommends minimum standards for mooring tackle to secure vessels adequately in the Chester Harbor Management Area. These standards

are advisory only, and no standards or inspection requirements can ensure vessel security under all possible conditions, particularly severe storm conditions with associated wind and wave hazards. As a result, the Town of Chester and its Harbor Management Commission and Harbor Master assume no liability for personal injury or property damage that may result from the use of any mooring tackle that either meets or exceeds the minimum standards.

(b) Mooring tackle should meet the following minimum standards:

Registered Mushroom Bottom Top Nylon or Stainless Steel

Boat Length Anchor Chain Chain Dacron Line Wire Cable

(Feet) (Pounds) (Inches) (Inches) (Inches) (Inches)

Under 16 75 3/8 5/16 1/2 1/4

16-19 150 3/8 5/16 1/2 1/4

20-22 200 1/2 5/16 5/8 1/4

23-25 250 1/2 5/16 3/4 1/4

26-30 300 5/8 3/8 3/4 1/4

Registered Mushroom Bottom Top Nylon or Stainless Steel

Boat Length Anchor Chain Chain Dacron Line Wire Cable

(Feet) (Pounds) (Inches) (Inches) (Inches) (Inches)

31-35 400 5/8 3/8 3/4 1/4

36-40 500 3/4 1/2 7/8 3/8

41-50 600 3/4 1/2 1 1/2

(c) The maximum length of the pennant should be two and one-half times the distance from the bow chock to the water plus the distance from the bow chock to the mooring cleat or post.

(d) All pennant lines running through a chock or any other object where chafing may occur should have adequate chafe guards.

(e) The total scope of the chain should be two and one-half times the depth of the water at high tide. The bottom and top chain should each consist of approximately fifty (50) percent of the scope.

(f) All shackles, swivels, and other hardware used in the mooring hook-up should be proportional in size to the chain used.

(g) All shackles should be properly seized.

(h) It is recommended that the pennant be spliced or shackled into the bitter end of the top chain

below the buoy so the strain is not carried by the buoy. The use of a second pennant and anchor in heavy weather is encouraged.

(i) Only mushroom anchors or individually approved alternatives will be acceptable on permanent moorings.

13. Abandonment of Mooring Tackle

Any permitted mooring not used for a period of one year may be considered abandoned and subject to removal or relocation. Any mooring not authorized by a current permit from the Harbor Master may be considered as abandoned and subject to removal at any time. No mooring may be left unused for more than one calendar year without written permission of the Harbor Management Commission.

14. Mooring Inspection

The Harbor Master may require that all new moorings, anchors, chains, and other equipment used in connection with moorings in the Harbor Management Area be submitted to the Harbor Master or to an inspector designated by the Harbor Master or Harbor Management Commission for inspection to determine soundness of condition and compliance with recommended minimum standards established by the Harbor Management Commission.

15. Identification of Approved Mooring Locations

The Harbor Master may, from time to time, establish and amend reasonable standards for the marking of mooring buoys for all approved moorings in the Harbor Management Area. Notice of such standards shall be provided in writing to all approved mooring permit holders.

16. Removal of Moorings

The Harbor Master may require any mooring or vessel to be removed to a new location whenever, in his judgement, the safety of any other vessel or optimum use of the mooring area so requires. If directions given by the Harbor Master with respect to removing unauthorized moorings, changing the location of existing moorings for the purpose of ensuring safety and optimum use of the mooring area, or replacing mooring tackle determined to be inadequate are not taken by the owner, if known, within fourteen (14) days after notification, or, if not known, after notice has been posted for that period on the vessel or mooring, the Harbor Master may cause such moorings to be removed or changed, or may drop same to the bottom. Nothing herein contained shall prevent the Harbor Master or his designee from taking measures with or without notice if, in the judgment of the Harbor Master, such measures are necessary to provide for the safety of persons or property. The expense of such mooring removal or relocation and any liability arising from injury to person or property incurred thereby shall be the responsibility of the mooring permit holder.

17. Anchoring

(a) Ten (10) percent of the total water surface area in Special Anchorage #1 and Special Anchorage #2 as shown in the Harbor Management Plan shall be reserved for transient anchoring. This transient anchoring space shall be reserved for the exclusive short-term use of commercial and recreational

vessels and shall be available on a first-come, first-served basis. The following regulations shall apply to the use and users of the designated transient anchorage:

(1) Vessels may remain at the transient anchorage for a period not to exceed seven (7) consecutive days except in cases of special circumstances and after notification of and approval by the Harbor Master.

(2) Vessels shall be anchored securely and properly.

(3) Vessels must be anchored so as to remain within the designated area at all times and under all conditions.

(4) Vessels may be left unattended up to three days, but the vessel's operator shall not leave the immediate Chester area without notifying the Harbor Master.

(5) No structures or permanent moorings shall be placed in the designated transient anchorage area.

(b) No vessel shall be anchored within the Harbor Management Area so as to extend into any designated channel, fairway, or turning basin.

18. Designation of Channels or Fairways to be Kept Free of Moorings and Anchored Vessels

In order to provide safe navigation access to all parts of the Harbor Management Area, the Harbor Management Commission, with the advice of the Harbor Master, is empowered to designate the location of channels or fairways within which approved moorings shall not be located and to make changes in such designations when conditions or needs require. These channels or fairways shall be identified in the Harbor Management Plan.

19. Suspension of Requirements and Imposition of Emergency Requirements

In order to respond most effectively to any emergency as may be caused by a severe storm or other natural or man-made conditions, the Harbor Master is empowered to suspend the requirements of these Rules and Regulations and/or impose additional requirements in the interest of public safety.

20. Violations

(a) These rules and regulations have been adopted and approved in accordance with Article II of the Chester Harbor Management Ordinance. In accordance with Article I, Section 4 of the Harbor Management Ordinance, any person who shall violate any of these rules and regulations shall be fined not more than fifty dollars (\$50.00). Each day that a violation continues after seven (7) days following notification of the offending party or, if the offending party is not known, after notice has been posted for that time on any vessel, mooring, or other object that is the cause of the violation, shall be considered a separate offense.

(b) Fines levied for violations of these rules and regulations as authorized by the Harbor Management

Ordinance shall be collected by the Town of Chester and deposited into the Chester Harbor Management Fund.

21. Revocation of Mooring Permits

The Harbor Master shall have the authority to revoke a mooring permit if the permit holder fails to maintain the moored vessel in a seaworthy condition or fails to comply with any permit condition or provision of these rules and regulations.

22. Review of Decisions

Any party aggrieved by any decision pertaining to the application of these rules and regulations may request the Harbor Management Commission to review that decision with respect to these rules and regulations and with respect to the goals, objectives, policies and guidelines established in the Chester Harbor Management Plan.

Appendix D:

THE INSTITUTIONAL FRAMEWORK FOR MANAGING WATER-ACCESS STRUCTURES

NOTE: The material included in this appendix is presented for information purposes only and is not a part of The Chester Harbor Management Plan duly approved and adopted pursuant to Section 22a-113m of the Connecticut General Statutes. Laws, regulations, ordinances, and programs affecting the Chester Harbor Management Area, including but not limited to, laws, regulations, and programs implemented and enforced by agencies of the State of Connecticut, are subject to change and/or re-numbering. Persons affected by or otherwise interested in the laws, regulations, ordinances, and programs noted in this appendix should consult the current statutes, regulations and ordinances, and may contact the appropriate agency for information on the status of current laws, regulations, ordinances, and programs.

THE INSTITUTIONAL FRAMEWORK

FOR MANAGING WATER-ACCESS STRUCTURES¹

¹ This appendix was originally included as Appendix A in The Chester Harbor Management Plan 2010 Plan Addendum adopted by the Chester Town Meeting in 2010. Some information has been updated for inclusion in The Chester Harbor Management Plan re-published in 2013, including updating "Connecticut Department of Environmental Protection" to "Department of Energy and Environmental Protection." Some information contained in this appendix was also included in the study final report "Town of Chester Dock Management Study," December 2003, prepared for the Chester Harbor Management Commission by John C. Roberge, P.E., LLC and Geoffrey Steadman.

This appendix describes the existing "institutional framework" for managing water-access structures in the lower Connecticut River region, including the Chester Harbor Management Area (HMA). Included is a review of state, federal, regional, and Town agencies, laws, and regulations affecting the management of docks, floats, piers, and other structures that provide access to navigable water. For additional discussion of the institutional framework for managing water-access structures in the Connecticut River and other locations, the reader may refer to the reports "Investigation of Potential Impacts of New Dock Construction in the Lower Connecticut River," December 2003, and "Implementation Phase, Lower Connecticut River Dock Study: Creation of a General Plan," December 2004, by the Connecticut River Estuary Regional Planning Agency.

Discussion of the institutional framework for managing water-access structures may begin with a review of the rights and interests of the general public for use of navigable waters pursuant to the Public Trust Doctrine. For dock management purposes, those public rights and interests must be considered in relation to the riparian/littoral right of the waterfront property owner for access to navigable water.

Ensuring that the exercise of riparian/littoral rights is consistent with the public's rights and interests is recognized as a basic goal of the various regulatory and planning programs affecting the construction of docks, floats, piers, and other water-structures. Some conflicts that have arisen between public and riparian/littoral rights have been addressed through court decisions in Connecticut and other states. Those decisions provide an important framework for analysis of current dock management issues in the lower Connecticut River region. (See the study final report "Town of Chester Dock Management Study," December 2003, prepared for the Chester Harbor Management Commission by John C. Roberge, P.E., LLC and Geoffrey Steadman.

A number of agencies at the state, federal, regional, and Town levels have authorities and responsibilities pertaining to the planning, management, and regulation of water-access structures in the Chester HMA. The two agencies with the principal regulatory authority over water-access structures are the Connecticut Department of Energy and Environmental Protection's Office of Long Island Sound Programs (DEEP OLISP) and the U.S. Army Corps of Engineers (USACE). All water-access structures must be authorized in some manner by the DEEP OLISP and USACE in accordance with the respective and applicable state and federal laws and regulatory programs.

On the regional level, the Connecticut River Estuary Regional Planning Agency (CERPA) ² and the Connecticut River Gateway Commission have important interests and certain authorities pertaining to dock management.

² In 2012 the Connecticut River Estuary Regional Planning Agency and the Midstate Regional Planning Agency were merged to form the Lower Connecticut River Valley Council of Governments.

³ Information in this section on public waters and the Public Trust Doctrine is from Connecticut Water Law: Judicial Allocation of Water Resources (1967) by Robert I. Reis, published by the University of Connecticut, and from Putting the Public Trust Doctrine to Work (November 1990) by David C. Slade, published by the Connecticut Department of Environmental Protection, Coastal Resources Management Division.

In the Town of Chester, the Chester Harbor Management Commission (HMC) has a significant planning and management role and is currently involved in the state and federal regulatory programs through the provision of comments and recommendations to the DEEP OLISP and USACE. Other Town agencies including the Planning and Zoning Commission and the Inland Wetlands and Watercourses Commission also have applicable roles and authorities.

PUBLIC RIGHTS AND INTERESTS

The Connecticut River and its tidally influenced tributaries, including Chester Creek and Deep River Creek, are public waters; the general public has important rights to use these waters for navigation, recreation, and other purposes in accordance with the Public Trust Doctrine—the body of law pertaining to waters subject to the ebb and flood of the tide as well as navigable freshwaters.³ Under the Public Trust Doctrine, the title to tidewaters, navigable freshwaters, submerged lands beneath those waters, and the plant and animal life inhabiting those waters is held by the State of Connecticut in trust for the benefit of the general public.

The concept of the Public Trust Doctrine is based in English common law and on the principle, dating back to Roman civil law, that certain lands and resources are so important to the public that private ownership or other impediments to public use should not be permitted. English common law established a distinction between public and private waters and that distinction was applied in the 13 colonies. Essentially, tidal water courses connected with the sea were deemed so important for transportation and commerce that their ownership, including ownership of the underlying soil, was retained by the King. After the American Revolution, the 13 original states, including Connecticut, succeeded to the "rights of sovereign prerogative," including the right of title to tidewaters and submerged lands. Since that time, state and federal courts, including the U.S. Supreme Court, have consistently held that the states hold that title in trust for the public's benefit. In Connecticut, there are a number of State Supreme Court decisions confirming the Public Trust in navigable waters and defining the Public Trust area as the area waterward of the mean high water (MHW) line. Private ownership of upland areas adjoining the Public Trust area (including ownership by a municipality or any governmental agency) may not extend waterward past the MHW line.

In addition to the state's interest in Connecticut's navigable waterways, including the Connecticut River, there is an important federal interest that is also based on considerations of navigability. The

state and federal interests differ in that the state's interest is based on an inherent state right of sovereignty and on responsiveness to the state's immediate economic and social needs, while the federal interest is based on the Commerce clause of the U.S. Constitution and the need to satisfy interstate rather than intrastate needs.

The federal test to determine navigable waters is essentially the same as the "customary usage/navigable-in-fact" test established by the Connecticut courts. The water course must be physically capable of supporting boats and other floatable objects, and the floatable objects themselves or the products they carry must be involved in some useful commerce. Only those waterways that may be used in or affect commerce with other states or countries, however, are designated as navigable waters in accordance with the federal interest. The federal interest in the use and maintenance of these waters, including the Connecticut River federal navigation channel maintained by the U.S. Army Corps of Engineers, is in the nature of a navigation servitude rather than an ownership interest.

The federal navigation servitude ensures the continued public right of navigation for the purpose of interstate and international commerce. As a result, in accordance with the Federal Government's Constitutional power to regulate commerce, no further federal real estate interest is required to establish and maintain navigation projects in navigable waters.

The rights of the general public for use of navigable waters, including the waters of the Chester HMA, are generally classified under three major headings: 1) transportation and navigation; 2) recreational activities; and 3) commercial and consumer use of "sea products" (e.g., fishing).

As indicated above, the use of public waters for navigation is the central and essential public right and generally takes precedence over other rights. The public has the right to pass and repass on navigable

waters without interference or obstruction. Where an obstruction does occur, it constitutes a public nuisance. The right of free navigation is subject to lawfully enacted restrictions (concerning the operation of vessels in the interest of public safety, for example) and includes the right to anchor.

To the extent that members of the public can gain access to navigable waters without trespassing on the adjoining uplands of riparian/littoral owners (see below) they may use navigable waters for recreational purposes, including boating, swimming, and related activities.

Foremost among the rights associated with commercial and consumer use of sea products in public waters is the right of fishing. This right is established in the earliest Connecticut court cases and was made explicit with respect to the Connecticut River. Other related rights include the taking of clams and oysters and the gathering of seaweed.

When discussing public rights for use of tidal and navigable waters, questions concerning the public's right of access to these waters are particularly significant. Where title to the land adjoining navigable waters is in private ownership, the property owner may deny access across his or her land to the Public Trust area. Described below, the right of access to public waters is a significant right associated with the ownership of land bordering navigable water; possession of this right distinguishes the waterfront property owner from members of the general public. At Chester, the general public has opportunity for physical and/or visual access to the Chester Harbor Management Area across

Town-owned properties such as the Parker's Point boat launching area and the Chester Creek Overlook and from other locations.

WATERFRONT PROPERTY OWNERS'

RIGHTS AND INTERESTS

Certain rights – referred to as riparian or littoral rights⁴ – are inherent in the ownership of land bordering navigable water. One of the most important of these rights is the right of access to navigable water. The riparian right of access to a navigable water course is totally distinct from the right of the general public to use that water course.

⁴ With regard to water rights law, water rights arise when property either abuts or contains water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flood of the tide, or is located on a lakeshore, the rights are said to be littoral rights. Despite these distinctions, the terms "riparian" and "littoral" are commonly used interchangeably. The term riparian rights is herein used to describe the rights of the owners of property adjoining the Chester Harbor Management Area on the Connecticut River, Chester Creek, and Deep River Creek, although it is recognized that the flowing water courses in the HMA are also subject to the ebb and flood of the tide.

The Connecticut courts have held that the owner of upland property adjacent to navigable water has "certain exclusive yet qualified rights and privileges" in the adjoining submerged land and navigable waters, including the exclusive right to build docks and piers from the upland to reach deep water (often referred to as "wharfing out"). These structures, however, must not "obstruct the paramount right of navigation" and must be acceptable under applicable regulatory statutes, including the statutes that protect wetlands and other natural resources. In other words, the exercise of the riparian right must not interfere with the rights of the state and the general public and with the federal interest in navigation. To the extent that state and federal activity and regulation is necessary to secure the

benefits of public waters for the general public, the individual riparian right is subservient and inferior. Described in following sections of this appendix, both the Connecticut Department of Energy and Environmental Protection and U.S. Army Corps of Engineers regulate the construction of docks and piers and other activities waterward of the high tide line in tidal and navigable waters. The state and federal regulatory programs help to ensure that the exercise of riparian rights is consistent with the public's interest in those waters.

A waterfront property owner cannot exclude the general public from lawful uses of the Public Trust area adjoining the owner's property. Also, all riparian rights must be exercised with due regard for the rights of other riparian owners; the waterfront property owner cannot wharf out from the shore, for example, in a manner that encroaches on the riparian area of an abutting waterfront property owner. In addition, the Connecticut courts have held that the riparian right to wharf out is severable from the upland and freely alienable; this means that riparian rights can be transferred by the waterfront property owner to a party that does not own the adjacent upland.

At Chester, the owners of waterfront properties supporting commercial marine facilities and private boating access facilities have significant riparian rights of access to the Chester Harbor Management Area. The wharf and pier structures at these facilities were constructed in accordance with those

rights. The Town of Chester, as the owner of waterfront property also has significant riparian rights of access to the Chester HMA.

STATE OF CONNECTICUT

A number of state laws, regulations, and programs affect the management of water-access structures in the Connecticut River and Chester Harbor Management Area. The principal legislation of interest includes the Tidal Wetlands Act (Sections 22a-28 through 22a-35 of the Connecticut General Statutes); Connecticut Coastal Management Act of 1979 (Sections 22a-90 through 22a-112 of the General Statutes); Connecticut Harbor Management Act of 1984 (Sections 22a-113k through 22a-113t of the General Statutes); Structures and Dredging Act (Sections 25-102a through 25-102s of the General Statutes); and Lower Connecticut River Conservation Zone Act (Sections 25-102a through 25-102s of the General Statutes).

Other sections of the General Statutes are also of interest, including Section 22a-360 (formerly Section 25-7c) which authorizes the Commissioner of Environmental Protection to establish boundaries waterward of the high tide line for equitable regulation of use, dredging, structures, and encroachment thereof. Such boundaries may be used to limit the distance to which docks, floats, piers, and other water access structures may extend into navigable water.

The principal state agency with authorities and responsibilities pertaining to the management of water-access structures is the Department of Energy and Environmental Protection's Office of Long Island Sound Programs. In addition, the State of Connecticut, acting through the DEEP, holds a perpetual scenic easement on the Connecticut River waterfront property between Ferry Road and Dock Road at Chester. That easement prohibits the construction of any structure or development along the shoreline.

Office of Long Island Sound Programs

The DEEP's Office of Long Island Sound Programs has important responsibilities for implementing the Connecticut Coastal Management Act (CCMA) and the Connecticut Harbor Management Act.

In addition, the DEEP OLISP reviews coastal area development proposals and regulates structures and other work affecting the coastal and navigable waters of the state, including the Connecticut River, Chester Creek, and Deep River Creek, in accordance with the Tidal Wetlands Act and the Structures and Dredging Act.

- Determination of the consistency of coastal development proposals with the Connecticut Coastal Management Act: The DEEP OLISP (in addition to the Chester Planning and Zoning Commission) is responsible for ensuring that activities within Chester's designated coastal area conform with the policies of the CCMA, including policies for protecting coastal resources and policies for giving highest priority and preference to water-dependent uses and facilities in shorefront areas. The DEEP OLISP may provide technical assistance to the Planning and Zoning Commission during its review of development proposals in the Town's coastal area and may comment on coastal applications before Town commissions; those comments may address the conformance of applications with the CCMA, but the decision to approve or deny the particular application rests with the Town. The CCMA authorizes the development of local plans and

regulations known as Municipal Coastal Programs to achieve local implementation of the CCMA's policies. Chester's Municipal Coastal Program is incorporated in the Chester Plan of Conservation and Development (POCD) and the Town's Zoning Regulations. (See the later section in this appendix on the Town of Chester.)

- Technical assistance for harbor management; review and approval of harbor management plans: The DEEP OLISP provides information and guidance to municipal harbor management commissions preparing and implementing harbor management plans and provides a liaison to each commission for the purpose of facilitating the exchange of that information and guidance.

Proposed harbor management plans and plan amendments submitted by municipalities to the DEEP for approval in accordance with Sec. 22a-113m of the Connecticut General Statutes are reviewed by the DEEP OLISP for conformance with the Harbor Management Act and other applicable state laws and regulations. The DEEP OLISP also coordinates review of proposed plans and plan amendments by the Connecticut Department of Transportation (ConnDOT) and U.S. Army Corps of Engineers. In accordance with Sec. 22a-113m of the General Statutes, the Commissioner of Energy and Environmental Protection (along with the Commissioner of Transportation) must approve any harbor management plan or plan amendment before it may be adopted locally. The Commissioner, when acting on a proposed harbor management plan submitted by a municipality, has relied on the recommendations of the DEEP OLISP. (The Chester Harbor Management Plan was duly approved by the commissioners of Environmental Protection and Transportation in 1994.)

- Review of coastal area development proposals and issuance or denial of permits: The DEEP OLISP's responsibilities for reviewing applications for coastal area development and issuing or denying approvals for that development have a significant effect on conditions in the

Chester HMA. The DEEP OLISP issues or denies approvals for the following activities: placement of structures such as docks, piers, pilings, bulkheads, and commercial moorings waterward of the coastal jurisdiction line⁵; placement of structures affecting tidal wetlands; filling in tidal wetlands; filling in coastal, tidal, or navigable waters; dredging for navigation and disposal of dredged material; and construction and maintenance of nonfederal channels.

⁵ Effective October 1, 2012, the DEEP's regulatory jurisdiction for proposed work in coastal waters is defined by the "coastal jurisdiction line" (CJL) defined in accordance with standards set forth by the DEEP and determined for the state's tidal waterbodies, including the waterbodies in the Chester HMA. Previously, the DEEP's regulatory jurisdiction was defined by the high tide line.

Anyone proposing any of the above activities must submit an application to the DEEP OLISP.

The DEEP OLISP's coastal permitting process has several basic steps as outlined below.

1. An applicant will typically retain a consultant to prepare project plans for an activity regulated by the DEEP OLISP. Examples of regulated activities include construction of docks, floats, piers, bulkheads, and other structures waterward of the coastal jurisdiction line; placement of boat moorings; and dredging or filling of aquatic areas.

The consultant is also typically retained to prepare the project application to be submitted to the DEEP OLISP. Depending on the type of activity that is being proposed, the project application may be: a) an application for a DEEP OLISP Permit; b) an application for a DEEP OLISP Certificate of Permission (COP); or c) a DEEP OLISP General Permit registration form. Application forms, and instructions for completing those forms, are posted on the DEEP OLISP website. The municipal harbor management commission in the affected town has a role and responsibility for reviewing each type of application.

DEEP OLISP permits are required for proposed activities that are considered by the DEEP OLISP to have the greatest potential for adverse impacts on coastal resources; COP's may be issued for maintenance or repair of previously authorized work; and General Permits cover proposed activities considered to have the potential for only minor adverse impacts, such as residential docks that extend less than 40 feet from the shore and to water not more than four feet deep ("4/40" docks).

2. With regard to an application for a DEEP OLISP permit, the applicant will typically complete a DEEP OLISP pre-application questionnaire, prepare draft project plans, and then participate in a pre-application conference with the DEEP OLISP. This conference is not required by law but is strongly recommended by the DEEP OLISP.

With regard to an application for a DEEP OLISP Certificate of Permission, the applicant may or may not request a pre-application conference with the DEEP OLISP.

3. With regard to an application for a DEEP OLISP permit, the applicant is required by the DEEP OLISP (as of November 1, 2008) to contact the local harbor management commission (in those towns where such a commission has been established) and provide project plans

and the required "harbor management consultation form" to the commission. That form is issued by the DEEP OLISP and is available on the DEEP OLISP website. The commission may also request additional information from the applicant as may be necessary for the commission to properly review the project plans.

The harbor management commission will review the project plans and provide appropriate comments and recommendations to the applicant. It is anticipated by the DEEP OLISP that the applicant will submit a Permit application to the DEEP OLISP with a completed harbor management consultation form with the commission's comments and recommendations and the signature of a representative of the commission. In addition, in those towns with an established shellfish commission, the applicant must provide the project plans and a shellfish management consultation form to the shellfish commission.

With regard to a COP application, the applicant is not required to consult with the harbor management commission before submitting an application to the DEEP OLISP. The applicant is, however, required by the DEEP OLISP to provide the application to the commission at the same time as the application is submitted to the DEEP OLISP.

With regard to the General Permit registration form, the applicant is not required to consult with the harbor management commission before submitting the registration form. The applicant is, however, required by the DEEP OLISP to provide the completed form to the commission at the same time as the form is submitted to the DEEP OLISP.

4. With regard to a DEEP OLISP Permit application, following the required harbor management consultation, the applicant will complete the DEEP OLISP permit application form and submit the application to the DEEP OLISP. The harbor management commission may request that the applicant provide a copy of the application to the commission at the same time as application is submitted to the DEEP OLISP. The HMC may then review the application to determine if the application is consistent with the applicant's project plans previously reviewed by the commission during the harbor management consultation.

With regard to a COP application and a General Permit registration form, the harbor management commission may review the application and form at such time as they are provided to the commission and provide appropriate recommendations and comments to the DEEP OLISP.

5. The DEEP OLISP will review the applicant's submitted Permit application to determine if the application is complete. The DEEP OLISP has a target of 30 days to conduct this completeness review and notify the applicant if any additional information is needed to complete the application.

With regard to a COP application, the DEEP OLISP has an initial period of 45 days to determine if the application is approvable. In that period of time, the DEEP OLISP will also consider comments and recommendations from the harbor management commission. Depending

on its review, the DEEP OLISP may request additional information from the applicant and extend the review period for an additional period of 45 days after which time (a total of 90 days) the DEEP OLISP must either approve or deny the application.

6. With regard to a Permit application, the applicant generally has 30 days to respond to a DEEP OLISP notification that additional information is needed to complete the application and to provide that information to the DEEP OLISP. If additional information provided by the applicant is still not sufficient, the DEEP OLISP will "close" the application and the applicant will have to start the permitting process over.

7. Upon determination that a Permit application is complete, the DEEP OLISP begins its review to determine if the application is consistent with applicable state policies including the policies established in the Connecticut Coastal Management Act, the Tidal Wetlands Act, and the Structures, Dredging and Filling Act, as applicable. The DEEP OLISP generally has a target of completing this review in 60 days.

8. If the DEEP OLISP determines that a proposed project requiring a DEEP OLISP Permit is tentatively approvable, the DEEP OLISP will issue a Public Notice seeking public comments on the proposed project. That Notice is posted on the DEEP OLISP website along with a

draft permit that would be issued by the DEEP OLISP. If the proposed project requires a DEEP OLISP "structures, dredging, or fill" permit, the public (and the harbor management commission) will have 30 days to provide comments and the Commissioner of Energy and Environmental Protection is required to hold a public hearing on the project if the Connecticut Director of Aquaculture determines that the proposal could have a significant adverse impact on shellfish resources. If the proposed project requires a DEEP OLISP "tidal wetlands" permit, the public (and the harbor management commission) will have 40 days to provide comments and the Commissioner is required to hold a public hearing on the project if a petition requesting such hearing signed by at least 25 persons is submitted to the DEEP OLISP.

The DEEP OLISP issues no Public Notices for decisions concerning COPs and General Permits.

9. The affected harbor management commission will typically review the proposed plans that are the subject of the public notice to determine their consistency with the town's harbor management plan and provide appropriate findings and recommendation to the DEEP OLISP. Pursuant to Section 22a-113n of the Connecticut General Statutes, the harbor management commission's recommendations pursuant to the harbor management plan are binding on any official of the state when making regulatory decisions affecting the area within the commission's jurisdiction, unless such official shows cause why a different action should be taken.

For more information concerning the regulatory and other programs of the DEEP OLISP, see the website (www.deep.ct.us) of the Connecticut Department of Energy and Environmental Protection.

FEDERAL GOVERNMENT

Several federal laws affect the management of water-access structures in the Chester Harbor Management Area, the most prominent of which are Section 10 of the Federal Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Federal programs to regulate the placement of docks, floats, piers, and other water-access structures pursuant to these laws are implemented by the U.S. Army Corps of Engineers. The USACE is the principal federal agency with authorities for managing water-access structures in the Connecticut River and Chester HMA.

U.S. Army Corps of Engineers

The Chester Harbor Management Area is within the jurisdiction of the New England District of the U.S. Army Corps of Engineers. The New England District is part of the USACE North Atlantic Division. The District office is located in Concord, Massachusetts. The USACE has a number of responsibilities concerning management of water-access structures in the Chester HMA, the most prominent of which are related to: 1) programs for regulating development in navigable water and wetlands; and 2) responsibilities for maintaining the Federal Navigation Project in the Connecticut River. In addition, the Connecticut Harbor Management Act requires that any harbor management plan or harbor management plan revisions proposed by a municipality must be submitted to the

USACE for review, comments, and recommendations before the plan or plan revisions can be approved and adopted.

- Corps of Engineers' Regulatory Authorities: The principal USACE regulatory authorities pertinent to harbor management originate from Section 10 of the Federal Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Under Section 10, the USACE regulates structures in or affecting navigable water, as well as excavation or deposition (dredging or filling) of materials in navigable waters. Under Section 404, the USACE is responsible for evaluating applications for Department of the Army permits for any activities that involve placement of dredged or fill material into waters of the United States, including adjacent wetlands.

The USACE may issue two types of permits – individual permits and general permits – for structures and work subject to the Section 10 and 404 regulatory programs.

An individual permit is issued following evaluation of a specific proposal and involves public notice of the proposed activity, review of comments and, if necessary, a public hearing. In general, an individual permit must be obtained from the USACE for most activities that involve:

- Filling in wetlands and navigable water;
- Placement of structures in navigable water; and
- Dredging and disposal of dredged material.

A general permit is an authorization issued for categories of activities that are judged to be substantially similar in nature and to cause only "minimal individual and cumulative adverse environmental impacts." The USACE New England District currently implements a Programmatic

General Permit (PGP) developed jointly with the Connecticut Department of Environmental Protection that applies within the State of Connecticut. An important purpose of the PGP is to expedite the permit process for activities that have the potential for little or no adverse impacts. The PGP eliminates the need for an individual USACE permit for: a) work or structures of minimal impact in or affecting navigable water; and b) minimal impact discharges of dredged or fill material into waters of the U.S. A state permit from the DEEP OLISP is still needed and projects with more than minimal impacts on the aquatic environment continue to be subject to individual permit review and require an individual permit from the USACE.

Docks, piers, pilings, bulkheads, floats, aids to navigation, and moorings are all structures in navigable water that require either an individual or general USACE permit.

Marina operators may apply to the USACE for permits to establish reconfiguration perimeters around their in-water facilities and structures. If approved, a reconfiguration perimeter would enable repositioning of marina docks within the established perimeter without the need to obtain additional permits from the USACE.

To reduce potential adverse impacts on navigation, the USACE has established guidelines for the placement of fixed and floating structures subject to its permitting authorities. These "Guidelines for the Placement of Fixed and Floating Structures in Navigable Waters of the United States

Regulated by the New England District, U.S. Army Corps of Engineers" (dated July 1996) do not have the force of regulation, but when used to design projects in navigable waters of the United States, impacts to navigation are generally not expected. Included are guidelines concerning the distance that docks and other structures may extend from the shore toward Federal navigation projects (channels and anchorages; see below). The USACE guidelines are included in Appendix H of the Harbor Management Plan.

Violations of USACE regulatory programs include unauthorized dredging and filling, construction of docks and piers without authorization or in violation of permit conditions, unauthorized structures (often referred to as encroachments) within the boundaries of federal navigation projects, and commercial boat moorings without necessary permits. The USACE New England District has pursued violators of its regulatory programs and brought legal action against violators who may be required to remove unauthorized work (e.g., unpermitted docks, piers, moorings, fill). No application for a USACE permit will be processed unless the applicant's entire existing facility is properly permitted by the USACE and in compliance with all previously issued permits.

- **Navigation Project Responsibilities:** In addition to its regulatory authorities, the USACE is also responsible for constructing and maintaining federal navigation projects, most of which are authorized by Acts of Congress. Federally authorized and maintained navigation projects may consist of designated channels and anchorages. The USACE maintains navigation projects in a reported 28 Connecticut waterways, including the Connecticut River. Many of these projects were first authorized in the 1800s and early 1900s to serve waterborne commerce. Authorizing documents establish project dimensions, including depths, widths, and lengths. Since construction, operation, and maintenance of Federal navigation projects are funded by federal tax dollars, the USACE has a policy that navigation projects must be "open to all on equal terms." This policy

is to ensure that all citizens have an equal opportunity to benefit from the project.

The Congressionally authorized Federal Navigation Project in the Connecticut River includes the designated channel extending from the mouth of the River at Long Island Sound upstream for approximately 52 miles to Hartford, including the channel reach at Chester. The USACE is responsible for periodic maintenance dredging of federal navigation channels and anchorage basins, as needed. The USACE Section 10 regulatory program prohibits placement of piers, docks, moorings, or other obstructions within federal channels.

REGIONAL ORGANIZATIONS

Two regional agencies with responsibilities and activities affecting the management of water-access structures in the Chester Harbor Management Area are the Connecticut River Estuary Regional Planning Agency⁶ and the Connecticut River Gateway Commission.

⁶ In 2012 the Connecticut River Estuary Regional Planning Agency and the Midstate Regional Planning Agency were merged to form the Lower Connecticut River Valley Council of Governments known as the "River COG." The River COG provides the same sorts of planning services to the Town of Chester previously provided by the Midstate Regional Planning Agency and described in this section of this appendix.

The CRERPA serves the nine towns of Chester, Clinton, Deep River, Essex, Killingworth, Lyme, Old Lyme, Old Saybrook, and Westbrook. It is the CRERPA's responsibility, as established by the Connecticut General Statutes, to prepare, adopt, and assist in the implementation of a regional plan of development for its service area. The CRERPA also reviews and advises on proposed actions (including zoning and subdivision proposals) of regional significance, and provides technical assistance, including assistance for long-range planning, preparation of land-use regulations, and review of development proposals, to Chester and the other towns.

The CRERPA recognizes the tourism and recreational values of the Connecticut River and the river's importance to the regional economy and is interested in a number of issues with regard to the River. The agency has conducted significant research concerning the potential impacts of dock and pier construction in the Connecticut River and has issued the reports "Investigation of Potential Impacts of New Dock Construction on the Lower Connecticut River" (2003) and "Implementation Phase, Lower Connecticut River Dock Study: Creation of a General Plan" (2004) which provide analyses of the issues concerning dock management and the institutional framework for dock management in the Connecticut River. Those reports also include recommendations to address dock management issues on a regional basis. In addition, the CRERPA also assisted the Chester Harbor Management Commission with the HMC's 2003 Dock Management Study.

A representative of the CRERPA serves on the Connecticut River Gateway Commission and the CRERPA provides staff support for that commission which was established in accordance with Sec. 25-102e of the Connecticut General Statutes. The Gateway Commission is charged with specific responsibilities for implementing the purposes of the Lower Connecticut River Conservation Zone, including the legislative goals to preserve the unique scenic, ecological, scientific, and historic values associated with the Connecticut River and "to prevent deterioration of the natural and traditional riverway scene for the enjoyment of present and future generations." The Gateway Commission includes

representatives from Chester and other participating lower Connecticut River towns as well as representatives from the CRERPA and the DEEP.

In addition, the Gateway Commission holds a quit claim deed on a parcel of Connecticut River waterfront property north of the mouth of Deep River Creek at Chester. Restrictions in that deed prohibit the construction of any structures or development along the property's shoreline.

TOWN OF CHESTER

Within the Town of Chester, the Chester Harbor Management Commission has the most direct responsibilities for managing water-access structures, acting in coordination with other agencies of the Town. Those responsibilities are authorized by the Connecticut Harbor Management Act and the Town's Harbor Management Ordinance which enabled the HMC to prepare The Chester Harbor Management Plan duly approved by the State of Connecticut and adopted by the Chester Town Meeting in 1994. The Town ordinance establishes the Chester Harbor Management Area—the Town's area of municipal jurisdiction for harbor management purposes on the Connecticut River, Chester Creek, and Deep River Creek. The ordinance also establishes the Town's Harbor Management Consistency Review Process whereby specific proposals affecting the Chester HMA must be reviewed by the HMC to determine the consistency of those proposals with the Plan, including: per-

mit applications submitted to the DEEP OLISP and USACE; and specific proposals submitted to the Town's Planning and Zoning Commission, Zoning Board of Appeals, Conservation Commission, Parks and Recreation Commission, and Economic Development Commission.

The HMC is empowered by the Harbor Management Act and the Town's Harbor Management Ordinance to formulate recommendations for the use, development, and preservation of the HMA and to plan for the most desirable use of the HMA for recreational, commercial, and other purposes. These authorities may be applied for the effective management of docks, floats, piers, and other wateraccess structures in the HMA.

Through the Plan, the Town has adopted Town goals and policies pertinent to the planning and review of proposals for docks and other water-access structures in the HMA. Among the pertinent goals and policies included in the 1994 Plan document are:

Goals:

- To plan for and regulate in-water and waterfront use and development in a manner consistent with the capabilities of the natural environment to support this use and development;
- To protect and, where possible, improve the quality of the natural and cultural resources in the HMA; and
- To preserve the existing character, maritime heritage, and beneficial quality of life in the Town's waterfront areas.

Policies:

- Waterfront property owners should exercise their riparian rights in a manner that does not have a

significant adverse impact on coastal resources, visual quality, Public Trust uses, and other public values associated with the land and water resources waterward of the mean high water line in the HMA;

- The Town should manage and regulate activities in the HMA to the maximum extent practical;
and

- New waterfront uses and development should be directed away from fragile and sensitive natural resource areas.

In addition to the HMC, the Chester Town Meeting, Board of Selectmen, and other Town boards and commissions, including but not limited to, the Planning and Zoning Commission, Zoning Board of Appeals, Conservation Commission, Parks and Recreation Commission, and Economic Development Commission, have responsibilities and interests affecting the management of water-access structures in the HMA. An overview of their responsibilities is included in Chapter 2 of the 2013 Plan document.

The Town Meeting is the Town's legislative body and is responsible for approval of all Town ordinances as well as adoption of any amendments to the Harbor Management Plan. The Board of Selectmen, as the principal executive agency of the Town, provides important leadership for the Town's harbor management efforts and appoints the members of the HMC. The Planning and Zon-

ing Commission has authority over land-use in the Town and is responsible for preparing and implementing the Town's Plan of Conservation and Development and Zoning Regulations. A review of the municipal authorities exercised by these agencies is found in the 2003 report "Investigation of Potential Impacts of New Dock Construction on the Lower Connecticut River" by the Connecticut River Estuary Regional Planning Agency. Part One of the 1994 Plan document contains a review of the Town's waterfront zoning districts, including the waterfront design districts intended to encourage the continued use of existing water-dependent marina and yacht club facilities, residential districts, and a tidal wetlands district. Those districts are shown on the maps of harbor management areas and planning units in Appendix E of the Plan.

It should be noted that the boundaries of municipal jurisdictions authorized by state statutes for landuse planning and zoning purposes and for harbor management purposes intersect at the MHW line.

In accordance with the state legislation enabling the functions of municipal planning and zoning commissions, Chester's planning and zoning authority does not extend waterward of the MHW line.

For harbor management purposes, the Connecticut Harbor Management Act enables municipalities to extend their local jurisdictions waterward of the MHW line, on navigable waters within the limits of the municipality. Since use and development of land above the MHW line can have a significant impact on the Chester HMA, it is recognized that the authorities and decisions of the Town's Planning and Zoning Commission may affect the beneficial use and conservation of the HMA. In this regard, the Harbor Management Plan and the Town's POCD together serve as Town guides for land and water-use on, in, and contiguous to the HMA.

Appendix E:

AERIAL PHOTOS OF
HARBOR MANAGEMENT AREAS
AND PLANNING UNITS

NOTE: These photos by Geoffrey Steadman for the Chester Harbor Management Commission were taken on April 9, 2003 for the "Town of Chester Dock Management Study" and were included in Appendix D of The Chester Harbor Management Plan 2010 Plan Addendum.

Photo E-1: Lower Chester Creek Harbor Management Area. Management area includes excavated marina basins and properties adjoining creek.

Photo E-2: Lower Chester Creek Harbor Management Area. Management area includes excavated marina basins and properties adjoining creek. Railroad line is at lower right in photo.

Photo E-3: Middle Chester Creek Harbor Management Area. Management area is bounded by railroad bridge to left in photo and Middlesex Avenue on right, and includes intertidal areas and waterfront properties. Dock Road (which follows the creek more closely) and Ferry Road are in the foreground of photo.

Photo E-4: Middle Chester Creek Harbor Management Area. The view is upstream; Dock Road crosses the railroad line in center foreground of photo.

Photo E-5: Upper Chester Creek Harbor Management Area. Management area is upstream of Middlesex Avenue which crosses the creek and intersects with Water Street in lower left of photo. Management area includes intertidal areas and properties adjoining the creek.

Photo E-6: Upper Chester Creek Harbor Management Area. The view is downstream over Chester town center and the intersection of Main Street (extending to right in photo) and Water Street which runs along north side of creek.

Photo E-7: Parker's Point North Planning Unit. Middlesex Yacht Club boating facilities are in center of photo.

Photo E-8: Parker's Point North Planning Unit. Parker's Point Road extends to Connecticut River and Parker's Point boat launching area.

Photo E-9: Parker's Point North Planning Unit. Planning unit extends to property with private dock in left center of photo; Parker's Point Road and boat launching area is to right in photo.

Photo E-10: Parker's Point South Planning Unit. Shoreline in this part of planning unit is characterized by steep embankment.

Photo E-11: Parker's Point South Planning Unit. Floodplain shoreline is in lower left of photo, downstream of steep bluffs. Middlesex Yacht Club can be seen at upper right in photo.

Photo E-12: Parker's Point South Planning Unit. The view is upstream on the Connecticut River; southern boundary of planning unit is marked by the Chrisholm Marina property in the center foreground of photo.

Photo E-13: Chrisholm Marine-Commercial Planning Unit. Planning unit includes shoreline of excavated marina basin connected to the river via a short dredged channel.

Photo E-14: Castle View North Planning Unit. Planning unit is downstream (to the left in photo) of the Chrisholm Marina basin and includes several private water-access structures.

Photo E-15: Castle View North Planning Unit. Planning unit

Is downstream of the Chrisholm Marina basin (in foreground),

Extending to and including the Chester-Hadlyme ferry dock at top of photo. Photo predates construction of private dock just upstream of ferry dock.

Photo E-16: Castle View North Planning Unit. Planning unit is upstream and inclusive of Chester-Hadlyme ferry dock. (Photo predates construction of private dock just upstream of ferry dock.)

Photo-E17: Castle View South Planning Unit. Planning unit is bounded by extension of Dock Road (to left in photo) to the Connecticut River and by the Chester-Hadlyme ferry dock (at right).

Photo - E-18: Yacht Club Planning Unit. Planning unit includes Connecticut River properties downstream (to the left in photo) of the extension of Dock Road (to right in photo).

Photo E-19: Yacht Club Planning Unit. Planning unit includes Connecticut River properties waterward of Dock Road; excavated marina basins shown in photo are part of the Lower Chester Creek Planning Unit.

Photo E-20: Connecticut River Shoreline Planning Units and Lower Chester Creek Harbor Management Area Looking Upstream. Gateway Commission Planning Unit is at bottom of photo; Chester Creek/Connecticut River Marine Commercial Planning Unit is near mouth of Chester Creek and includes excavated marina basin connected to the river; and Yacht Club Planning Unit is upstream of mouth of Chester Creek.

Photo E-21 Chester Creek / Connecticut River Marine Commercial Planning Unit. Planning Unit includes Connecticut River shoreline upstream and downstream of the mouth of Chester Creek and the excavated marina basin shown in lower left of photo connected to Connecticut River.

Photo E-22: Chester Creek / Connecticut River Marine
Commercial Planning Unit and Gateway Commission
Planning Unit. The view is downstream on the Connecticut
River toward the Town of Deep River with Chester Creek in
foreground.

Photo E-23: Gateway Commission Planning Unit. Planning unit is bounded by mouth of Deep River Creek to left and marina property shown at lower right in photo.

Photo E-24: Deep River Creek Harbor Management Area. Railroad line crosses creek downstream near the Connecticut River;
Town of Deep River wastewater treatment plan is near creek in center of photo.

Appendix F:

MAPS OF HARBOR MANAGEMENT AREAS
AND PLANNING UNITS

NOTE: These maps by Roberge Associates Coastal Engineers, LLC were prepared for the "Town of Chester Dock Management Study" and were included in Appendix E of The Chester Harbor Management Plan 2010 Plan Addendum.

Appendix G:

LANDSCAPE PROTECTION AND
VISUAL IMPACTS MATERIALS FROM THE
OFFICE OF LONG ISLAND SOUND PROGRAMS

NOTE: Information in this appendix is from the Web Site of the Connecticut
Department of
Energy and Environmental Protection:
<http://www.ct.gov/deep/site/default.asp>

Appendix H:

CORP OF ENGINEERS GUIDELINES
FOR PLACEMENT OF FIXED AND FLOATING STRUCTURES
IN WATERS OF THE U.S.

NOTE: This appendix is copied from the Web Site of the U.S. Army Corps of
Engineers New
England District: <http://www.nae.usace.army.mil/>

1.

These guidelines have been developed due to the intense pressures of development in our coastal waters and on the adjacent land which have led to increasing conflict between users of these resources. They attempt to provide common sense guidance in allocating space for structures in navigable waters, recognizing reasonable use expectations of the general public and waterfront landowners. These guidelines do not constitute policy or regulation. They do, however, provide guidance for project design which typically will not generate adverse public comment or result in permit denial.

2.

There is no statutory or regulatory prohibition against the Corps issuing regulatory permits authorizing structures or other work in Federal Navigation Project (FNP). However, the Corps permit regulations require district and division commanders to consider the extent to which that proposed work may be in conflict with the uses (and their respective navigational requirements) at issue when the FNP was authorized as well as with subsequent maintenance dredging activities. In general, the Corps discourages and has not permitted structures in FNPs, except as noted in paragraph 6 below. FNPs are typically channels, turning basins and anchorages.

3.

In those cases where a project is proposed within two hundred feet (200') of a FNP the applicant shall determine and show the state plane coordinates for the extreme lateral limits of his project, the point on structures furthest beyond mean high water (MHW), and the point of closest approach of any structure to the FNP (see sketch no. 1).

Sketch No. 1: Illustration of guidelines for structures near federal navigation projects.

Guidelines

For the placement of fixed and floating structures in navigable waters of the United States by the Regulatory Program of the New England District, U.S. Army Corps of Engineers

4.

Similarly, structures which may cause an intrusion into FNPs will typically not be permitted. FNPs are channels and anchorages created at public expense. Examples of intrusions are permanently moored vessels, fish harvesting devices, etc.

5.

To preclude intrusions into FNPs, appropriate setbacks for structures from the project limits may be established on a case by case basis. The setbacks can be determined using appropriate criteria such as:

A.

Project maintenance requirements. The typical setback shall be a horizontal distance three (3) times the authorized project depth since Corps projects often specify, for dredging purposes, side slopes of 3H: 1V. This will, over the long term, minimize the need, expense, and inconvenience of forcing people to remove structures to dredge (see sketch no. 1).

B.

Traditional navigation patterns where because of type and size of vessel, channel conditions, fishing or recreational activities, etc. closer approach of structures to a FNP is not in the public interest.

C.

The configuration and capacity of structures proposed adjacent to FNPs to facilitate intrusion into it. An example would be a pier capable of mooring vessels longer than itself which would extend into the FNP. Such structures would require a greater setback than noted above.

D.

The presence of adjacent, authorized structures where it would be reasonable for new facilities to

conform to their length to provide safe access to the new structure. In some instances this might authorize a smaller setback than noted above.

6.

An exception to the guideline regarding FNPs, structures may be favorably considered where the applicant is a state or local government who would place such structures in a Federal Anchorage to provide greater or more effective use to the public, with the condition that such facilities would be available on an equal access basis to all citizens of the U.S.

7.

In a linear waterway, i.e., river, canal, narrow estuary, etc., a reasonable area of public water should be maintained in the public interest to sustain activities not specifically related to simply transiting the area in safety. Such activities are cruising, fishing, sail boarding, swimming, water skiing, etc. which require open, unobstructed water and should not be eliminated for private interest.

In such areas, no structure should extend more than 25% of the waterway width at mean low water. This will maintain 50% of the width as open water, an even split, between public and private interest (see sketch no.2).

8.

A maximum intrusion into a waterway in areas where there is not a physical width constriction is also desirable to preclude excessive loss of public water usage. In general, new structures should conform in length to adjacent structures and customary usage of the surrounding area. In areas where existing structures and usage do not seem applicable, a reasonable maximum authorized distance beyond mean low water of 600 feet (the traditional cable length) will be used. This may be modified if necessary for site specific conditions or public benefit (see sketch no. 3).

Sketch No. 3: Guidance on spacing structures relative to adjacent properties and maximum length beyond mean low water (MLW).

Sketch No. 2: Guidance on length of structures in linear waterways.

9.

Numerous conflicts between neighboring waterfront property owners have arisen during our permit review process concerning the spacing of projects relative to riparian lines (demarcations of rights in the water associated with owning waterfront property). These conflicts are generally concerned with access to piers and floats for mooring vessels. We typically require a minimum setback from the reasonable riparian boundary of 25 feet. This is based on the fact that a median sized recreational vessel length is in the range of 32 feet. A minimum turning distance for such a vessel is 1.5 times its own length or 48 feet which we have rounded to 50 feet. Each adjacent facility provides half the required turning distance, which is an equitable distribution of the resource (see sketch no. 3).

If abutting property owners reach a mutual agreement regarding structures which has a lesser setback, that setback may be authorized, if the applicant agrees to record any ensuing Corps permit which will have that agreement as a condition and the abutter's letters of no objection, with the Registrar of Deeds, or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property.

10.

Fields of individual single point moorings shall be defined by a polygonal area whose angle points are defined by coordinates, to within 10 feet, in the applicable state plane coordinate system and by a maximum number of moorings authorized within it. A rule of thumb for the area needed by a vessel on a single point mooring is a circle with a radius equal to vessel length plus five times the depth of water at high tide. This can be reduced but the minimum should be length plus three times water depth.

These mooring fields should be in reasonably close proximity to the applicant's property and preferably

encompassed by his reasonable riparian lines and far enough offshore to keep noise disturbance to other shore owners in reasonable limits and not restrict reasonable future development by these owners. If mooring areas remote from the applicant's property are proposed, a clear description of why this is necessary and what are the potential positive and negative impacts to the public's use of the water may occur (see sketch no. 4).

Sketch No. 4: Illustration of guidelines for single point mooring fields.

