

CHAPTER 444a*

HARBOR MANAGEMENT COMMISSIONS

*See chapter 263 re harbors and rivers.

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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.

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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-133t" was changed editorially by the Revisors to Sec. "22a-113t").

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Sec. 22a-113m. Harbor management plan. Approval. The commission, in consultation with the Commissioner of Energy and Environmental Protection and the Connecticut Port Authority, 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 commissioner and the authority. Said commissioner and authority shall act on the plan not more than sixty days after submission of such plan. Upon approval by said commissioner and authority, 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, the commissioner and the authority.

(P.A. 84-247, S. 3; P.A. 10-106, S. 7; P.A. 11-80, S. 58; June Sp. Sess. P.A. 15-5, S. 31.)

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; June Sp. Sess. P.A. 15-5 replaced reference to Commissioner of Transportation with reference to Connecticut Port Authority and made conforming changes, effective July 1, 2016.

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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.

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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 V-zones 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.)

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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.)

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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.)

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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 thirty-first 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.

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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.

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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.

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