

A LOCAL LAW REGULATING ICE-RETARDANT SYSTEMS IN THE TOWN OF HORICON

ARTICLE 1. PURPOSE, INTENT AND AUTHORITY

PURPOSE AND INTENT

The intent of this Local Law is to regulate the installation and use of ice-retardant systems on waterfront properties within the Town of Horicon for the protection of persons and property and to provide for the public health, safety and welfare of its inhabitants.

AUTHORITY

This Local Law is adopted pursuant to New York Municipal Home Rule Law.

ARTICLE 2. DEFINITIONS

As used in this Local Law, the following terms shall have the meanings indicated:

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

BOATHOUSE: A covered structure with direct access to a navigable body of water which:

- A. is used only for the storage of boats and associated equipment;
- B. does not contain bathroom facilities, sanitary plumbing, or sanitary drains of any kind;
- C. does not contain kitchen facilities of any kind;
- D. does not contain a heating system of any kind;
- E. does not contain beds or sleeping quarters of any kind;
- F. does not exceed a single story in that the roof rafters rest on the top plate of the first floor wall, and all rigid roof surfaces have a minimum pitch of 4 on 12, or, alternatively, 1 flat roof covers the entire structure; and
- G. has a footprint of 1,200 square feet or less measured at the exterior walls (or in the absence of exterior walls, at the perimeter of the roof), and a height of 15 feet or less. For the purpose of this definition, the height of a boathouse shall be measured from the surface of the floor serving the boat berths to the highest point of the structure.

DOCK: A floating or fixed structure that:

- A. extends into or over a lake, pond, or navigable river or stream from only that portion of the immediate shoreline or boathouse necessary to attach the floating or fixed structure to the shoreline or boathouse;
- B. is no more than 8 feet in width; or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element of which is no more than 8 feet in width; and
- C. is built or used for the purposes of securing and/or loading or unloading water craft and/or for swimming or water recreation. A permanent supporting structure located within the applicable setback area which is used to suspend a dock above water level for storage by means of a hoist or other mechanical device is limited to not more than 100 square feet, measured in the aggregate if more than one such supporting structure is used. A dock must remain parallel with the water when suspended for storage, unless the size of the total structure does not exceed 100 square feet. Mechanisms necessary to hoist or suspend the dock must be temporary and must be removed during the boating season.

CRIB-STYLE DOCK: A crib-style dock is a stationary, permanent dock built with a framework of wood, metal, or concrete filled with rocks or gravel to provide stability. This framework, often called a "crib," is anchored to the bottom of the water and covered with decking for use

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

BUBBLER SYSTEM: An ice-retardant system that uses compressed air to create a string of bubbles that circulate water to prevent ice from forming

AGITATOR SYSTEM: An ice-retardant system that uses a motor driven propeller that draws up subsurface water to the surface, creating a current that disrupts ice-formation.

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

OWNER or OPERATOR ; The owner of record of a tract of land according to the tax rolls of the Town of Horicon or any person occupying said premises or utilizing the property.

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

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

ARTICLE 3. PERMIT REQUIRED

No person shall operate an ice-retardant system within the municipal limits of the boundary lines of the Town of Horicon unless said operation is in conformance with this Local Law.

An application shall be submitted accompanied by a plot plan drawn to scale, adequately dimensioned, showing the location of the existing structure and the location of the ice-retardant system in its relation to said structure.

The applicant shall provide such other information as the Zoning Administrator require regarding the type of ice-retardant system to be utilized and the manufacturer's specifications for the same.

The provisions of this chapter shall only be effective for the operation of an ice-retardant system from December 1 of each year through April 1 of the following year. Nothing herein shall prevent the operation of an ice-retardant system at other times during the year.

ARTICLE 4. OPERATIONAL REQUIREMENTS

- A. Under normal operating conditions, the affected area of ice created by the ice-retardant system shall not extend outward more than 10 feet beyond the protected structure, or horizontally more than 10 feet, measured along the shoreline, from all sides of the protected structure. (A total of 10' on each side of the dock and at the deepest end.
- B. Irrespective of the standard appearing in Subsections A above, the affected area of ice, under normal operating conditions, should not extend beyond the side property lines of the property for which the ice-retardant system is being used, as if said property lines were extended into the lake.

- C. No ice-retardant system shall be permitted within 300 feet of any public access area.
- D. All ice-retardant systems shall be marked with an appropriate sign placed along the shore or on the protected structure specifying "Danger, Thin Ice." Such sign shall be displayed so that it is clearly visible on the ice from a distance of 100 feet.
- E. Unless the ice-retardant system has been designed and approved in accordance with this chapter, no system shall be designed or operated in such a way as to prevent ingress or egress to any portion of the water body or to foreclose the formation of ice across a channel.
- F. All ice-retardant systems must be on a timer with a minimal 2 hours off and maximum of 3 hours operation. A plug-in thermostat may be utilized to regulate timer.
- G. Any ice-retardant system for a new dock or boat house shall be an Bubbler System.

ARTICLE 5. ENFORCEMENT AND PENALTIES

The Zoning Administrator is hereby designated as the enforcement officer under the terms of this Local Law. All complaints received by any municipal agency concerning the operation of ice-retardant systems shall be referred to the Zoning Administrator.

Upon receipt of a complaint, the Zoning Administrator shall investigate within five days and, if the complaint is found justified, notify the owner and operator of the terms of this chapter and require compliance within an additional 10 days. The Zoning Administrator may reduce the time period for compliance when the interest of public safety so requires.

If the owner or operator of the system fails to undertake the corrections within the specified time frame, the Zoning Administrator may issue a summons for appearance in the Town of Horicon Town Court to enforce the requirements of this chapter.

A violation of the terms of this chapter, including the operational requirements, shall be punishable by a fine not to exceed \$50 for the first offense, \$100 for the second offense and \$250 for the third and subsequent offenses. Each day that a violation of this chapter continues may be deemed to be a separate offense.

Liability

Compliance and/or noncompliance with the requirements of this chapter shall not preclude any civil action for damages arising from injuries incurred through the operation of an ice-retardant system.

ARTICLE 6. LOCAL LAW APPLICATION AND SAVINGS CLAUSE

Nothing in this chapter shall be construed as repealing any provision of any other municipal ordinance. In the event that any regulation provided above shall vary from the same or a similar regulation of any other municipal ordinance, the more restrictive provision of such ordinance shall be deemed to control.

ARTICLE 7. SEVERABILITY

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 8. EFFECTIVE DATE

This Local Law shall take effect upon filing with the office of the New York State Secretary of State or _____ - whichever date is later.

All existing boathouses and docks having an Agitator Ice-Retardant System will be granted a three (3) year period to phase out or convert to a Bubbler Ice-Retardant System.