

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village

(Select one:)

of Plattsburgh

Local Law No. 2 of the year 2013

A local law City of Plattsburgh Mooring Law

(Insert Title)

Be it enacted by the Common Council of the  
(Name of Legislative Body)

County  City  Town  Village

(Select one:)

of Plattsburgh as follows:

Section 1. Title This local law shall be known as the "City of Plattsburgh Mooring Law" and shall be cited as Chapter 200 of the City Code.

### Section 2. Purpose and Authority

The purpose of this local law is to regulate the placement, construction and use of moorings in the waters of Lake Champlain adjoining the City of Plattsburgh to a distance of fifteen hundred (1500) feet from shore as authorized by the New York State Navigation Law §46-a and the Municipal Home Rule Law, to protect the interests of waterfront property owners and the general public.

### Section 3. Applicability of this Law.

On and after the effective date, this law shall apply to all moorings within the City of Plattsburgh that are located within 1500 feet of the mean high water mark of Lake Champlain. This law does not abrogate the regulatory authority of the New York State Department of Environmental Conservation (hereinafter referred to as the DEC), New York State Office of General Services (hereinafter referred to as the OGS) or the U.S. Army Corps of Engineers (hereinafter referred to as the Corps of Engineers), nor does it release anyone from compliance with regulations issued by these or other Federal or State agencies having jurisdiction over the use of public waterways. All moorings shall comply with this and all other applicable laws and regulations of the City, DEC, Corps of Engineers and any other New York State and federal laws, agencies and authorities having jurisdiction. The provisions of this law do not apply to lakeshore parcels owned by New York State or the United States.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

#### **Section 4. Definitions**

For the purposes of this law the following definitions shall apply:

**Boat** - Any vessel requiring State or Federal registration for use on public waters.

**Lakeshore Owner** - The person or persons holding a fee simple title to the Lakeshore Parcel.

**Lakeshore Parcel** - A parcel of land bordering on the shore of Lake Champlain.

**Marina** – A lakeshore business engaged in the sale or rental of dock or mooring space.

**Mean High Water Level** - The approximate average of the low water level and high water level for Lake Champlain which as of the date of adoption of this law has been determined by the New York State Department of Environmental Conservation to be 99.8 feet.

**Mooring** means a float, buoy, chain, cable, rope, and anchor that cannot be stowed on the boat and to which a boat can be made fast.

**Mooring Area** means the water area between a lakeshore parcel's littoral rights lines as limited or circumscribed by a setback requirement.

**Other Land Uses** - All types of land uses on the lakeshore except Marinas.

**Littoral Rights Line** – littoral rights lines are imaginary lines that extend into the lake and define the littoral rights of adjoining lakeshore parcels.

**Tie Line** – The straight line extending between the points where boundaries of a lakeshore parcel intersect the mean high water mark.

**Setback** means a linear distance from a Littoral Rights Line beyond which moored vessels may not encroach.

**Waterside** - The lakeside of the mean high water mark.

#### **Section 5. Permit Requirements, Application Procedures and Fees.**

- A. A mooring permit is not required for a lakeshore parcel with four or less moorings.
- B. All Marinas shall have a mooring permit for existing and new moorings.

- C. The mooring permit application may require the following information:
1. A Plan drawn to scale showing the location of existing and proposed moorings in relation to littoral rights lines; the depth of the lakeshore bottom at mooring anchor locations; the required setback distances of moorings from littoral rights lines and between mooring anchors; the location of docks, beaches or other landing areas where moored boats may dock or land dinghies; any required channel or mooring lights.
  2. A copy of any required State or Federal permit for moorings, or a certification and explanation as to why none are required.
  3. The identification of moorings reserved for transient boaters, if any.
  4. Such other information as the Code Enforcement Officer determines is necessary for a complete application.
- D. Site plan approval, pursuant to Chapter 270 of the City Code, is required for a new Marina with moorings and to increase in the number of moorings at an existing Marina.
- E. The Code Enforcement Officer is authorized to issue mooring permits and enforce the requirements of this Chapter.
- F. The annual fee for a mooring permit shall be as follows; which fee may be amended from time to time by resolution of the Common Council.

<b>Number of Moorings</b>	<b>Permit Fee</b>
<b>0-4</b>	<b>None Required for non Marina Uses</b>
<b>5 to 25</b>	<b>\$250.00</b>
<b>Over 25</b>	<b>\$20 for each mooring over 25</b>

**Section 6. Number, Placement and Configuration of Moorings**

- A. The boundaries of a lakeshore parcel shall be presumed to be as shown on the City of Plattsburgh Real Property Tax Maps.
- B. Marinas. A Marina lakeshore parcel must have a tie line at least 200 feet in length. A Marina whose tie line is 200 to 249.99 feet in length is permitted to have a maximum of 75 moorings, plus 20 moorings for each additional 50 feet of tie line length. Where a lakeshore owner owns adjoining waterfront parcels, the parcels may be considered as one parcel to determine tie lines and littoral rights lines.

- C. Other Lakeshore Parcel Uses. For all other lakeshore parcel uses, including residential and commercial uses, the maximum number of moorings allowed is as follows:

Lake Shore Parcel Tie Line Length	Maximum Number of Moorings
1-99.99 feet	4
100 to 199.99 feet	6
Over 199.99 feet	For each additional 50 feet 1 mooring is permitted

- D. Moorings shall be located within a lakeshore parcel's mooring area.
- E. Marina mooring setback requirements:
1. Moorings must be placed so that in all wind directions no part of a moored boat is closer than thirty (30) feet from a littoral rights line.
  2. Moorings must be placed so that in all wind directions no part of a moored boat will be closer than thirty (30) feet from another moored boat.
- F. The lakeshore owner shall obtain any required State or Federal permit for the placement of a mooring.

**Section 7. Site Plan Approval.**

- A. A Marina with a site plan that was approved before the effective date of this law is not required to obtain site plan approval unless the number of moorings is proposed to be increased. An applicant for a Marina mooring permit shall provide a copy of the approved site plan for the marina and note any changes to the site since the date of approval.
- B. The design, method of construction, number and placement of moorings, docks and other improvements on or in the water are not subject to Planning Board review.
- C. Where Site Plan approval is required, the following requirements and standards shall apply:
1. The purpose of requiring site plan review is primarily to determine the adequacy of parking, marina waste pump out facilities and trash receptacles.
  2. The applicant shall certify the number of moorings and boat slips that existed as of the effective date of this Chapter.

3. In determining whether an adequate number of parking spaces is provided, the Planning Board shall apply the following standards:

a. The parking requirements for on site uses, such as restaurants, retail shops, repair shops shall be calculated based on parking requirements for such uses in Chapter 270.

b. The parking space requirements for boat slips and moorings shall be as follows:

	Number	Ratio
Wet slips	50 and under	2 slips/1 parking space
	51 and over	3 slips/ 1 parking space
Mooring	50 and under	4 moorings/1 space
	51 and over	5 moorings/1 space

c. The Planning Board is authorized to grant variances from the parking requirements of this section in accordance with the standards for granting area variances set forth in Chapter 270.

4. Short term parking or standing areas shall be designated for loading and unloading goods and passengers going to moored boats.
5. Docking or beaching areas shall be designated for mooring dinghies. One space shall be provided for every two moorings or fraction thereof. .
6. To determine the adequacy of parking, the applicant may be required to submit a plan for the entire marina site showing land based improvements, parking spaces, drives and fire lanes.
7. The location and capacity of boat pump out stations and trash receptacles shall be shown to determine if they are of sufficient size for demand generated by the additional moorings.

**Section 8. Determination of Littoral Rights Lines.**

- A. A lakeshore parcel's boundaries are presumed to be as shown on the real property tax maps of the City of Plattsburgh.

- B. The Littoral Rights Lines of a lakeshore parcel shall be determined as follows:
1. Where a lakeshore parcel's shoreline is not an approximately straight line, the shoreline may be segmented to establish base lines that follow the general trend of the shoreline segments. The baseline of a straight shoreline segment shall be a line drawn between the ends of the straight line segment. The baseline of a cove shall be a line drawn between the headlands of the cove.
  2. The littoral rights line shall be established along a line perpendicular to the baseline where it intersects the lakeshore parcel's lateral boundary at the shoreline.
  3. The littoral rights lines, extended 1500 feet from the mean high water level of the lakeshore parcel, shall be the lateral boundaries of a lakeshore parcel's mooring rights area.
- C. Where the Code Enforcement Officer determines the method of establishing littoral rights lines under section 8 B does not accord reasonably proportionate mooring areas to adjoining lakeshore parcels, taking into consideration each parcel's baseline length, he is authorized to determine the littoral rights lines by applying one of the other methods set forth in New York Office of General Services Rules and Regulations Title 9, Part 274. The Code Enforcement Officer's determination is not appealable to the Zoning Board of Appeals, but may be reviewed in an Article 78 proceeding.
- D. The Littoral Rights Lines of Real Property Tax Parcels 194.17-1-2, 194.17-1-1, 270.20-1-2.31, 2.32, 270.20-1-3, 221.8-2-1, 221.12-2-13, 221.16-1-17.3 shall be as shown on the map annexed as Appendix 1 to this law.

#### **Section 9. Encroaching Moorings**

- A. A mooring, or any part of a mooring, that is owned, has been installed or is leased by someone other than the lakeshore parcel owner whose mooring area the mooring is located in, shall be removed by the mooring owner, installer or lessee on or before April 15, 2014 unless the lakeshore parcel owner gives his written consent for the mooring to remain.

#### **Section 10. Design, Installation, Inspection and Maintenance of Moorings.**

- A. The mooring owner is responsible for the design, installation, inspection and maintenance of moorings.
- B. The mooring owner shall repair or replace any component that shows wear or other deterioration that might cause a boat to break free from the mooring.
- C. The mooring owner shall inspect all mooring components annually and file a report with the Building Inspector's office certifying that moorings were inspected and describing any repairs that were made.

**Section 11. Fines, Civil Penalties, Enforcement and Other Remedies.**

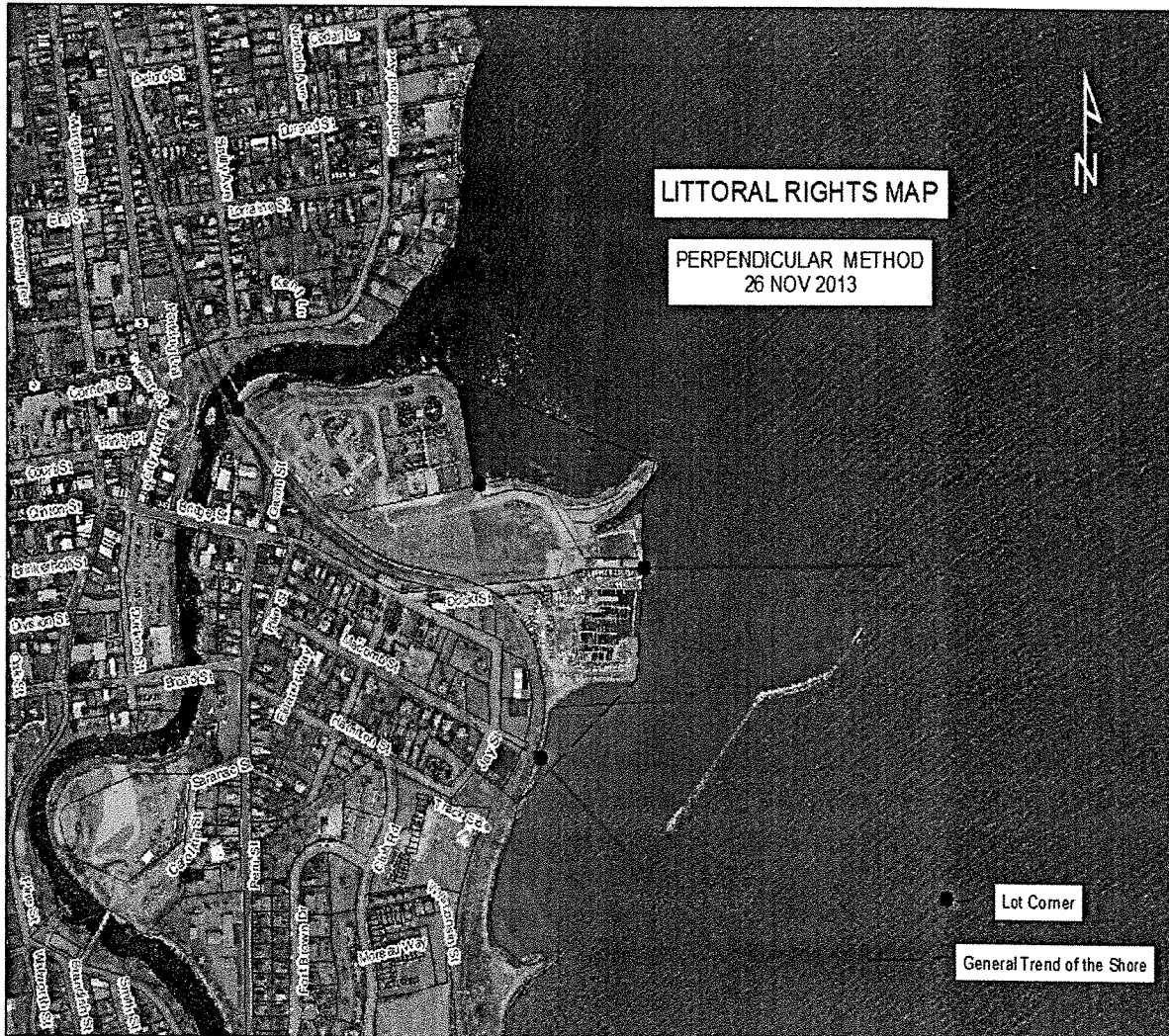
- A. Classification of Offense. A violation of this Chapter shall be an unclassified misdemeanor for the purpose of conferring jurisdiction and establishing fines for violations. A violation shall not be punishable by a sentence of imprisonment, but shall be punishable by a fine.
- B. A violation by a corporation is punishable by a fine under Penal Law §80.10
- C. A violation of this Chapter may be prosecuted in a civil proceeding. A violation shall be punishable by a civil penalty.
- D. Each week that a violation continues shall constitute a separate violation. A week shall commence at 12:01AM the day after service of Notice of a Violation. A week shall end at 12:00 PM of the eighth day following service.
- E. In addition to a fine or civil penalty, the City shall be entitled to recover the cost of any surveying expense incurred in proving a violation and reasonable attorney's fees incurred in prosecuting a violation of this Chapter.
- F. Fines; Civil Penalties. A Violation shall be punishable by a fine or civil penalty as follows:
  - 1. Section 5; installation of moorings without a mooring permit, \$500.
  - 2. Section 6; installation of a mooring in, or failure to remove an encroaching mooring from a required setback area, \$500.
  - 3. Section 9; installation of a mooring, or failure to remove an encroaching mooring, in a lakeshore parcel owner's mooring area, \$500.
  - 4. Fines and Civil Penalties for violations of this Chapter may be amended by Common Council Resolution.
- G. Enforcement.
  - 1. The Corporation Counsel, Code Enforcement Officer, Housing Code Inspector, Municipal Code Inspector or a Police Officer is authorized to bring enforcement proceedings for violations charged as a misdemeanor.
  - 2. The Corporation Counsel is authorized to bring civil enforcement proceedings.

Section 12. If any clause, sentence, paragraph, subdivision, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, decree or order shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment, decree or order shall have been rendered.

Section 13. Effective Date. This Chapter shall become effective on March 1, 2014

Appendix 1.

See: Section 8 D of City of Plattsburgh Mooring Law





(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20<sup>13</sup> of the (County)(City)(Town)(Village) of Plattsburgh was duly passed by the Common Council on 19 December 20<sup>13</sup>, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the Mayor *(Elective Chief Executive Officer\*)* and was deemed duly adopted on 20 December 20<sup>13</sup>, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

Keith A. Heckalo City Clerk  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body *Keith A Heckalo*

Date: 20 Dec 2013

(Seal)