

## **CHAPTER 53     WATERWAYS**

[HISTORY: Adopted by the Board of Trustees of the Village of Sag Harbor 7-2-1996 as L.L. No. 2, 1996.  
Editor's Note: This local law also provided for the repeal of former Ch. 53, Waterways, adopted 6-2-1992 as L.L. No. 2, 1992.

Amendments noted where applicable.]

### **GENERAL REFERENCES**

Bulkheading, dredging and canals — See Ch. 12.

Harbor Committee — See Ch. 21.

Land and beach use — See Ch. 27.

## **ARTICLE I         General Provisions (§ 53-1 — § 53-4)**

### **§ 53-1             Title.**

This chapter shall be cited as the "Waterways Law of the Village of Sag Harbor."

### **§ 53-2             Findings and purpose.**

#### A.

Sag Harbor supports a wide range of public and private in-water uses, including recreational and commercial boating, anchorage and mooring areas, recreational fishing and swimming, marinas and yacht clubs, passenger ferry service, charter vessels and commercial and recreation shellfishing. The Village of Sag Harbor finds that in order to manage the efficient use of the harbor, ensure the safety of commercial and recreational navigation in the waters or waterways of the Village of Sag Harbor or waters adjacent to the Village of Sag Harbor, protect access to marketable shellfish and provide for equitable allocation of the water's surface for a variety of uses, Chapter 53 of the Code of the Village of Sag Harbor should be amended to implement a harbor management plan.

#### B.

The operation and mooring of vessels in Sag Harbor, the safe and efficient use of space within the harbor and the maintenance of available shellfish beds for human consumption being a matter affecting the public interest are and should be subject to the regulatory controls hereinafter set forth. The purpose of this chapter is to establish standards, requirements and procedures for the safe and sanitary operation of vessels; mooring of vessels; regulation of matters relevant to safety, sanitation and environmental conservation within waters bounding the Village of Sag Harbor; and to implement a harbor management plan for the use of surface waters and underwater lands within the harbor.

### **§ 53-3             Authority.**

#### A.

This chapter is adopted pursuant to § 46-a of the Navigation Law, § 10 of the Municipal Home Rule Law and Article IX of the State Constitution.

#### B.

The provisions of this chapter shall, except when prohibited by the laws of the United States, apply to all waters or waterways in the Village and to all waters or waterways bordering the Village to a distance of 1,500 feet from the shore, except as otherwise shown on the chart.

Editor's Note: Said chart is located in a pocket at the end of this Code.

#### C.

All provisions of the Navigation Law of this state, of the inland rules enacted by Congress and governing the navigation of the inland waters of the United States and the Pilot Rules for United States inland waters applicable to the channel systems relative to the rules for vessels passing each other as to lights on vessels and other matters consistent with the proper use of the channel systems shall be complied with by all persons operating or in control of a vessel navigating within the harbor management area.

### **§ 53-4             Definitions.**

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

AIRCRAFT

A machine, heavier than air, used for navigation in the air that is supported by the dynamic reaction of the air against its surfaces. The term "aircraft" includes fixed wing airplanes that are driven by a propeller or by a high-velocity jet and helicopters whose support in the air is derived chiefly from the aerodynamic forces acting on one or more rotors turning about substantially vertical axes.

ANCHOR

To secure a vessel temporarily to the bottom of a waterbody by dropping an anchor or anchors or other ground tackle from a vessel for a period of no longer than 12 consecutive hours.

BUFFER AREA

An area 15 feet wide immediately adjacent to the outside lines of channels, basins and mooring areas; and, an area 25 feet wide immediately adjacent to public swimming areas, as shown on the chart.

Editor's Note: The Harbor Management Chart is located in a pocket at the end of this Code.

CHANNEL

Water areas specifically reserved for unobstructed movement of vessels and marked in the water by aids to navigation. Channels are depicted on the Village of Sag Harbor chart.

DISCHARGE

The disposal of sewage from a vessel by any method into the water.

Editor's Note: The former definition of "fairway," which immediately followed this definition, was repealed 4-28-2005 by L.L. No. 7-2005.

[Added 7-13-2004 by L.L. No. 4-2004]

FLOAT

A structure buoyant on the water's surface, anchored to the underwater land by cables or lines, which provides an offshore surface for swimmers, storage of small vessels or other purposes.

FLOATING HOME

Any vessel in fact used, designed or occupied as a dwelling unit, business office or source of any occupation or for any private or social club of whatsoever nature, including but not limited to a structure constructed upon a barge primarily immobile and out of navigation which functions substantially as a land structure while the same is moored or docked within the harbor management area of the Village of Sag Harbor, whether such vessel is self-propelled or not.

HARBOR MANAGEMENT AREA

All surface waters, inlets, bays and coves, including the area between the mean high and mean low water mark, within or bounding the Village of Sag Harbor to a distance of 1,500 feet from the shore or less, as such waters are designated on the chart.

Editor's Note: The Harbor Management Chart is located in a pocket at the end of this chapter.

HARBOR MANAGEMENT CHART, VILLAGE OF SAG HARBOR

The map prepared by First Coastal Corp., dated April 14, 2005, for purposes of this chapter, and sometimes referred to as "the chart" in this chapter.

[Amended 4-28-2005 by L.L. No. 7-2005]

HARBOR MANAGEMENT PLAN

A plan comprised of the policies, goals, objectives, standards and the chart.

HARBOR MASTER

The harbor master appointed by the Village Board of Sag Harbor, who is a peace officer pursuant to § 2.10, Subdivision 19, of the New York State Criminal Procedure Law.

MARINE SANITATION DEVICE, MARINE TOILET OR MARINE HEAD

Any equipment on board a vessel or watercraft which is designed to receive, retain, treat or discharge sewage, and any process to treat such sewage; any such equipment that has been permanently sealed and made inoperable is exempted from this definition.

[Added 7-13-2004 by L.L. No. 4-2004]

MOOR

To attach a vessel to a pier or dock or other structure or to attach a vessel to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

MOORING AREA

The areas designated by the Village of Sag Harbor, as shown on the chart, that are reserved specifically for the mooring of vessels.

MOORING DEVICE

A permanent or semi-permanent vessel anchoring device and its associated tackle, such as chains, buoys and other equipment, other than a common anchor, manufactured and used specifically for the permanent or semi-permanent mooring of vessels.

PERSONAL WATERCRAFT

A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

PERSONS

Those, including individuals, partnerships, corporations, associations or any other legal entity, using the facilities and areas within the harbor management area and subject to the provisions of this chapter.

SEWAGE

All human body wastes.  
[Added 7-13-2004 by L.L. No. 4-2004]

SHORELINE

The line of the shore depicted on the chart  
Editor's Note: Said chart is located in a pocket at the end of this Code.  
at mean high water.

SPECIALTY PROP-CRAFT

A vessel which is powered by an outboard motor or a propeller derive motor, which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

SPEED

The speed of a vessel as measured in slack water in statute miles.

SWIMMING AREA

A water area designated on the Village of Sag Harbor chart set aside for swimming.

TURNING BASIN

An area in the harbor, other than a federally or locally designated channel, commonly used as an open accessway between marine structures, designated channels and mooring areas.  
[Added 4-28-2005 by L.L. No. 7-2005]

VESSEL

Includes every description of vessel and watercraft or other contrivance used or capable of being used as a means of transportation in the water, including seaplanes and personal watercraft. Specifically excluded from this definition are floating homes.

VESSEL OWNER

Includes the person under whose name the vessel was last registered in accordance with the provisions of 46 U.S.C., Chapters 121-125, or the Motor Vehicle and Traffic Law and in any other case the last known owner or the person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

VESSEL WASTE

Sewage from a marine toilet, marine sanitation device, marine head.

[Added 7-13-2004 by L.L. No. 4-2004]

VILLAGE BOARD

The Board of Trustees of the Village of Sag Harbor.

WATERWAY

All waters within the municipal limits of the Village of Sag Harbor or otherwise subject to its jurisdiction.

**ARTICLE II**      **Boundaries, Designated Areas and Standards for Harbor Use and Activities (§ 53-5 — § 53-12)**

**§ 53-5**              **Harbor Management Area boundaries and designated areas.**

[Amended 4-28-2005 by L.L. No. 7-2005]

The boundaries of the Sag Harbor Management Area include all waters and intertidal areas as described on the chart. Channels, buffer areas, mooring areas, and swimming areas are hereby established in Sag Harbor as shown on the chart.

**§ 53-6**              **Method of operation of vessels.**

A.

Dangerous operation prohibited. No person shall operate a vessel at a speed greater than is reasonable or prudent, including, without limitation, the throwing of its wake, so as not to:

(1)

Endanger the life or limb of another person using the harbor under the conditions and having regard to the actual and potential hazards then existing.

(2)

Disturb the reasonable comfort or endanger person on or operating another vessel or cause damage to another vessel, structure, shoreline property, the environment or interfere with the free and proper use of the waters of any channel.

B.

Use of power. No person shall operate any vessel having mechanical power without using such power while entering or leaving the harbor management area between the breakwater and 1,200 feet west of the eastern buttress of the State Highway 114 bridge.

C.

Speed of vessels.

[Amended 4-28-2005 by L.L. No. 7-2005]

(1)

No person shall operate any vessel at a speed in excess of that posted by speed markers. The Village Board of Trustees may, from time to time, by resolution, establish speed limits for any portion or portions of waters or waterways subject to this chapter and provide for the posting of speed markers.

(2)

No person shall operate a vessel at speeds greater than five miles per hour within 200 feet of the shoreline west of the breakwater and within 500 feet of the shoreline east of the breakwater to the eastern boundary of the Village of Sag Harbor or within 50 feet of swimmers, bathing floats or lifelines.

(3)

No person shall operate a vessel in any area where there is congestion of vessels, either underway or at anchor, at a speed in excess of five miles per hour.

(4)

The Village Board of Trustees may, by resolution, from time to time and for periods stated in such resolution, suspend the enforcement of this section with respect to any portion or portions of waters or waterways and designate such areas by the location of appropriate speed markers.

D.

Operation of vessels in proximity to swimmers. No boat propelled other than by hand shall cruise or be operated within 50 feet of any lifeline or bathing float or, if there is no lifeline or bathing float, within 50 feet of any swimming area. Any such boat shall not cruise or be operated in excess of five miles per hour within 50 feet of any person bathing or swimming or of an anchored or moored boat, except when being used to effect a rescue or to render assistance to prevent harm to a person or damage to property.

[Amended 4-28-2005 by L.L. No. 7-2005]

E.

Identification. Vessel operators shall, at all times, identify themselves and produce the vessel's registration to Village, state or federal law enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of a violation of this section.

F.

Required equipment. No person shall operate a vessel which does not meet all duly adopted and published requirements of the Navigation Law with regard to safety equipment to be carried on or incorporated into vessels of its type.

**§ 53-7                      Operation of aircraft.**

[Amended 9-7-1999 by L.L. No. 6-1999; 6-6-2000 by L.L. No. 3-2000]

A.

No person shall take off or land any aircraft within the harbor management area of the Village of Sag Harbor.

B.

No person shall taxi or otherwise operate an aircraft within the harbor management area, except by special permit issued by the Village Board.

C.

Special permit regulations.

(1)

The special permit issued by the Village shall not permit the establishment of any aircraft landing and takeoff area within the harbor management area.

(2)

Said special permit shall only allow an aircraft to taxi within the harbor management area within a sea-lane to a docking facility which is approved by the Village in the special permit.

(3)

The applicant for the special permit shall identify the channel and docking facility within the Village that would be used to dock the aircraft. Only said sea-lane and docking facility may be utilized by the aircraft.

(4)

The applicant shall possess an approval from the Federal Aviation Administration for a seaplane base. The takeoff and landing area for the seaplane base must be outside the harbor management area of the Village of Sag Harbor.

(5)

The docking facility for aircraft shall be located only within the Waterfront District or the Marine District on the Zoning Map of the Village.

(6)

A docking facility for aircraft must be open to the public at large. Private docking areas are prohibited.

(7)

All accessory uses for the docking facility, including but not limited to the sale of aviation fuel, repair shops and hangars, shall be prohibited.

(8)

In addition to the special permit required herein, the establishment of a docking facility for aircraft shall also

require site plan approval from the Planning Board.

(9)

The establishment of a docking facility for aircraft must comply with all provisions of the Sag Harbor Village Zoning Code.

Editor's Note: See Ch. 55, Zoning.

(10)

The special permit issued pursuant to this section shall be valid for one year and may be renewed upon the application to the Village Board of Trustees.

(11)

No special permit or renewal shall be issued until a public hearing has been held by the Village Board upon 10 days' notice to be published in the official newspaper of the Village. No special permit shall be issued or renewed until the Village Board of Trustees has received a report on the proposed application from the Harbor Master, the Harbor Committee and the Village Police Department.

(12)

An applicant for such special permit shall have the burden of proof to demonstrate that such aircraft can be operated within the harbor management area without threat to public safety.

**§ 53-8                    Wharfage fees at certain public docks.**

No person shall tie up or berth a vessel at a Village-owned dock or bulkhead within the Village unless a slip rental or wharfage fee has been paid to the Village for use and occupancy of such space by such vessel. Any person who fails to move such vessel when ordered by the Village Police Department, harbor master or any lawful enforcing authority shall be in violation of this chapter. Each day that the violation continues shall constitute a separate additional violation.

**§ 53-9                    Skin diving within the Harbor Management Area.**

A.

No person shall skin dive with any type of diving equipment within any channel nor shall any person bathe or swim in any channel designated on the chart, except in the course of a rescue or similar emergency.

B.

No person shall skin dive or use self contained underwater breathing apparatus (SCUBA) in the harbor management area unless a regulation red diving flag is displayed in accordance with the Navigation law nor shall any person allow or permit such diving flag to remain in any area unless a person is actually skin diving in the area while such flag is displayed.

C.

No person shall operate a vessel within 50 feet of any area marked for skin diving by the placement of a regulation red diving flag.

**§ 53-10                    Spearfishing.**

No person shall discharge any apparatus designed for use in spearfishing within 200 feet of any lifelines or bathing float nor within 200 feet of any public or other beach regularly used for bathing or swimming nor within 50 feet of any person bathing or swimming.

**§ 53-11                    Prohibited discharges.**

[Amended 4-28-2005 by L.L. No. 7-2005]

The dumping or discharge of petroleum products, refuse or garbage into Village waters is prohibited.

**§ 53-11.1                    Vessel Waste No-Discharge Zones.**

[Added 7-13-2004 by L.L. No. 4-2004]

Editor's Note: This local law provided for the addition of this material as § 53-13. It was included in the Code as

§ 53-11.1, with the permission of the Village, to avoid duplicate numbering.

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A.

The waters identified in the Sag Harbor Harbor Management Plan, adopted in 1996, are designated as "No-Discharge Zones."

B.

Securing of marine sanitation devices; use of pump-out station.

(1)

Any marine sanitation device on board a vessel being operated in waters designated as a Vessel Waste No-Discharge Zone must be secured to prevent any discharges to such waters. In accordance with federal regulations, the marine sanitation device shall be secured by closing the seacock and padlocking, using heavy nonresealable tape, using a nonreleasable wire-tie, removing the seacock handle or locking the door to the "head" while such vessel is being operated upon waters within Vessel Waste No-Discharge Zones. Use of a padlock, heavy nonresealable tape, wire-tie, or the removal of the valve handle are adequate methods of securing the device. The method chosen shall be one that presents a physical barrier to the use of the valve.

(2)

If a marine sanitation device on a vessel provides a means of discharging sewage directly to the water, the discharge valve must be secured in a readily visible manner and closed position while the vessel is being operated in a Vessel Waste No-Discharge Zone.

(3)

The provisions requiring marine sanitation devices to be secured and rendered inoperable in Vessel Waste No-Discharge Zones shall not apply while the wastes from the marine sanitation device are being lawfully disposed of in an approved marine sanitation device pump-out or dump station, or pump-out boat located within a Vessel Waste No-Discharge Zone.

C.

Inspections. Any vessel being operated upon a water body of the Village of Sag Harbor that has been designated as a Vessel Waste No-Discharge Zone may be boarded and inspected by the Village Harbor Master, Police Officer or any other lawfully designated agents acting pursuant to their special duties for the purposes of determining whether such vessel is being operated in compliance with this chapter.

## **§ 53-12                    Special permits for aquatic events.**

Nothing herein contained shall prohibit the Village Board of Trustees from issuing special permits for aquatic events or vessel races under proper supervision in limited areas and for limited periods of time.

## **ARTICLE III            Mooring Areas (§ 53-13 — § 53-21)**

### **§ 53-13                    Location of mooring areas.**

The location of mooring areas as indicated on the chart,

Editor's Note: Said chart is located in a pocket at the end of this Code.  
the use thereof and the types of mooring permitted are subject to standards recommended by the harbor master and approved by the Village Board of Trustees. Location and use conditions for moorings will be stated on the mooring permit.

### **§ 53-14                    Mooring permits.**

A.

No person shall place a mooring or mooring tackle or moor a vessel without first obtaining a mooring permit from the Village Harbor Master. Such permit shall be applied for on forms to be supplied by the Village and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Board of Trustees. Upon receipt of a properly prepared application, the Village Harbor Master shall determine if the application is complete and, if so, shall process the application. No application shall be deemed complete until the permit fee is paid. The permit shall expire on October 31 in the year issued.

B.

The owners of all moorings, including moorings maintained by private boating and yacht clubs for use by members, guests and transient boaters, are required to obtain a permit from the Village Harbor Master.

C.

Permits for the use of individual private moorings shall be issued to the owner of the vessel to be moored.

**§ 53-15                    Mooring and anchoring within the Harbor Management Area.**

[Amended 4-28-2005 by L.L. No. 7-2005]

A.

No person shall moor any vessel except in designated areas as shown on the Harbor Management Chart unless the vessel is secured to a dock, at a marina or yacht club or at a mooring accessory to a waterfront residential use. (One such mooring is allowed per property.)

B.

No person shall moor any vessel whether to mooring tackle or a pier or dock in such a manner that it lies within the lines of any channel, swimming area, buffer area, turning basin or within 50 feet of a channel marker or in a manner that interfaces with the full use of a channel, except in cases of emergency.

C.

No person shall moor any vessel within 1,500 feet of the shoreline east of the breakwater to the eastern boundary of the Village of Sag Harbor (as shown on the Harbor Management Chart), except at a mooring accessory to a waterfront residential use where such mooring lies within 500 feet of the shoreline. One mooring is allowed per property.

(1)

The location and number of moorings shall be set by the Harbormaster as permitted by the provisions of this chapter.

(2)

In assigning moorings, the Harbor Master shall give first priority to waterfront property owners; residents in waterfront communities or associations shall receive second priority.

(3)

The length of a boat at a mooring accessory to a waterfront residential use shall not exceed 26 feet long.

D.

The Harbor Master may, in his discretion, permit the temporary anchoring of vessels under 26 feet long for over 12 hours. The Harbor Master may also, in his discretion, restrict anchoring where necessary to preserve the health, safety and welfare of the public, environmental conservation and the continuation of traditional waterfront uses.

E.

No person shall anchor any vessel in such a manner that it lies within the lines of any channel, swimming area, turning basin, buffer area, mooring area, or within Upper Sag Harbor Cove or Morris Cove, and in no case shall any person anchor a vessel within 50 feet of a channel marker or in a manner that interferes with the full use of any channel, except in cases of emergency.

F.

Any vessel or float moored or anchored in violation of any part of this section shall be removed by the owner or person in charge thereof on written notice of the Harbor Master or the Village Police. If the vessel or float is not removed after the Harbor Master or Village Police Department provides written notice to the owner, that vessel or float may be removed at the direction of the Village Board of Trustees after a hearing upon five days' notice. The notice in either instance shall be served by mail upon the owner of the vessel or float at the last known address of the owner and shall also be attached to the vessel. All expenses incurred by the Village, including reasonable attorney's fees, shall be paid by the owner of the vessel or float, and the Village may enforce that obligation by civil action. Such expenses shall be in addition to, and not in lieu of, any penalties as may be prescribed by or imposed under this chapter or under any other law, ordinance, rule or regulation of the Village.

G.

No person shall moor or anchor a vessel or float that will endanger the safety of or cause damage to any vessel



previously moored or anchored. The Harbor Master shall have authority for reasons of safety to direct and order that the location or position of moorings within a mooring area be changed. The Harbor Master shall give notice to the owner or operator of the vessel using such mooring, and compliance shall be required within 10 days thereof. Failure to comply with such direction or order of the Harbor Master by any person shall be a violation of this section.

**§ 53-16**            **Floats.**

**A.**

No person shall anchor or moor any float without a permit obtained from the Village. Such permit shall be applied for on forms to be supplied by the Village and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Board of Trustees.

**B.**

All floats shall be anchored or moored in such a way as to be secure at all times and under all conditions, and such mooring shall be subject to approval and supervision by the harbor master.

**§ 53-17**            **Floating homes.**

No person shall live aboard a vessel or on any other floating structure over the water except on a vessel moored at a marina or in a designated mooring area between April 1 and October 31.

**§ 53-18**            **Hazards to navigation.**

[Amended 4-28-2005 by L.L. No. 7-2005]

Any vessel which becomes a menace to navigation or unseaworthy or sinks, grounds or otherwise becomes disabled shall be removed by the owner or person in charge thereof on written order of the Harbor Master or Village Police Department. If the vessel is not removed within 10 days after the order, the vessel may be removed at the direction of the Village Board of Trustees after a hearing upon five days' notice. The notice in either instance shall be served upon the owner of the vessel by mail at the last known address of the owner and shall also be attached to the vessel. All expenses incurred by the Village, including reasonable attorneys fees, shall be paid by the owner of the vessel, and the Village may enforce that obligation by civil action. Such expenses shall be in addition to, and not in lieu of, any penalties as may be prescribed by or imposed under this chapter or under any other law, ordinance, rule or regulation of the Village and the laws of the State of New York.

**§ 53-19**            **Enforcing authority.**

[Amended 4-28-2005 by L.L. No. 7-2005]

**A.**

The Village police officers and the Harbor Master are empowered to enforce the provisions of this chapter, and every person in charge of a boat navigating or using the waterways of the Village shall at all times obey the lawful orders of a police or peace officer and the Harbor Master.

**B.**

The Harbor Master is empowered to issue application forms, permit forms, mooring tackle standards and otherwise promulgate such forms and information as may be necessary for the administration of this chapter.

**§ 53-20**            **Penalties for offenses.**

[Amended 4-28-2005 by L.L. No. 7-2005]

Any person, firm or corporation violating any provision of this chapter shall be guilty of a violation and may, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not more than 15 days, or both. Each day that a violation under this chapter continues shall be deemed a separate offense.

**§ 53-21**            **Severability.**

The provisions of this chapter are hereby declared to be severable and, if any section, sentence, clause or phrase hereof shall for any reason be held to be invalid, ineffective, in conflict with regulations of the federal or state authorities or unconstitutional, such decision shall not affect the validity of the remaining portions hereof, but such portions shall remain in full force and effect.