

**Town of Santa Clara - Content for Proposed Local Law #3 of 2021
Amendments to Town Land Use Code**

**Proposed New Commercial Marina Regulations & Related Amendments
(September 28, 2021)**

2.20 DEFINITIONS *(The following definition shall be added.)*

MARINA, COMMERCIAL: A commercial waterfront facility including docks, wharves and moorings which provides accommodation services for boats by engaging in any one or more of the following:

- A. the sale of marine products or services;
- B. the sale, lease, rental or charter of boats of any type;
- C. the sale, lease, rental or any other provision providing for the docking, mooring or storage of more than two boats and/or for the launching of boats.
- D. The term “commercial marina” shall include facilities with or without supply and repair services.

4.12 R-C Districts *(The following lists of allowable secondary uses shall be modified to add Commercial Marinas, as shown.)*

SECONDARY USES:

<u>District</u>	<u>Secondary Use</u>
R-C-1.3	(1) Commercial other than pre-existing use
	(2) Home Occupation
	(3) Tourist Accommodations
	(4) Residential Boathouses (subject to provisions of section 7.35)
	(5) Tennis Courts with customary fencing
	(6) Commercial Marinas (subject to provisions of section 7.36)
R-C-3.2	(1) Commercial other than pre-existing use
	(2) Home Occupation
	(3) Tourist Accommodations
	(4) Residential Boathouses (subject to provisions of section 7.35)
	(5) Tennis Courts with customary fencing
	(6) Commercial Marinas (subject to provisions of section 7.36)

7.35 Boathouses, Docks, Decks, Wharves and Piers *(Sub-section A shall be modified to read as follows.)*

For every residential waterfront lot:

- A. The maximum dimension of any individual boathouse, dock, deck, wharf or pier, or the total dimension of any combination of such structures, along the shoreline of the lot (such dimension being commonly referred to as the “width” of such boathouse, dock, deck, wharf or pier in relation to the

shoreline) shall not exceed 15% of the width of the shoreline of the lot. The width of the lot shall be as measured from lot sideline to lot sideline along the mean high-water line, as such line is determined by the APA and/or DEC or in relation to any reference point(s) established by either or both of them. If DEC and APA have established different mean high-water marks or lines for the subject body of water, the lot width shall be measured along the higher of such marks or lines. No boathouse, dock, deck, wharf or pier shall extend away from land more than 33 feet from the mean high-water mark closest to such structure. Subject to the limitation in sub-section 7.35(C) below, the total surface area ("footprint") of any dock, deck, wharf or pier shall not exceed 500 sq. ft. including the area of any openings or "slips" in which boats or other watercraft may be berthed.

(The following section 1.130 and its sub-sections shall be added.)

1.130 Special Use Permits

A. Intent.

1. Certain land uses have been designated as requiring a Special Use Permit (and thereby also requiring Site Plan Review and approval) pursuant to Article 6 (Site Plan Review) of this chapter. These uses have been so designated because they are considered to be inherently challenging and potentially incompatible with surrounding land uses due to the nature, intensity, size or type of operation of the proposed use or due to its proposed location. Accordingly, the Town of Santa Clara has, in effect, reserved judgment on whether to allow these uses until an appropriate review of a particular proposal with consideration of the details of the proposal and its location.

2. This article sets forth those requirements and the procedures which shall apply to land uses and activities designated as Special Use Permit uses due to their characteristics, and/or the special characteristics of the area in which they are to be located, so that they may be properly located and planned with respect to the objectives of this chapter, their effect on the surrounding properties and community character. The primary purpose of Special Use Permit review is to ensure that these designated uses are compatible with the surrounding properties and neighborhood; that adverse impacts are avoided or mitigated; and that such uses contribute to the long-term benefit to the Town.

B. Authority of Planning Board.

1. Consistent with § 274-b(2) of New York State Town Law, the Planning Board is hereby authorized to administer this article by conducting Special Use Permit review and is authorized to issue, with or without conditions, or deny issuance of a Special Use Permit in accordance with the procedures of this article for any use identified as requiring such review in Section 4.10 of this chapter.

2. Site Plan Review in accordance with the requirements and procedures of Article 6, Site Plan Review, is required for all uses that require a Special Use Permit. Such review shall occur concurrently with Special Use Permit.

3. If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant approval with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQRA compliance), all proposed uses on a parcel or parcels shall be considered together.

C. Preapplication conference(s).

Prior to making application for a Special Use Permit, an applicant must schedule and attend a preapplication meeting with the Town Code Enforcement Officer. The purpose of the meeting is to review the applicable regulations and application requirements, as well as the procedure for review and policies and procedures of the Planning Board. No application will be accepted for review by the Planning Board until the preapplication conference is held. The applicant must also schedule a preapplication conference and site visit with the Planning Board at which the applicant may present a sketch or preliminary presentation of its proposal in order to receive feedback and comments from the Planning Board prior to the submission of a formal Special Use Permit application that also includes all of the required details and information for a formal site plan application as set forth in Article 6. Such preapplication conferences may include, and be combined with, the preapplication or sketch plan conference for the Site Plan Review aspect of Special Use Permit review.

D. Application for special use permit.

1. Application for a Special Use Permit shall be made to the Planning Board using forms supplied by the Town. Applications shall include the one original and 3 copies of the following items:

- a. A completed Town of Santa Clara Special Use Permit application form.
- b. A plan of the proposed use and structures, with accurate dimensions providing information sufficient to enable the Planning Board to make an informed decision.
- c. A narrative describing, in detail, the proposed use and operation and how such proposed use furthers or is consistent with the policies of the Town and/or the Town's Comprehensive Plan.
- d. A short- or long-form SEQRA environmental assessment form (EAF), with Part 1 of the EAF fully completed by the applicant. A long-form EAF is required for all SEQRA Type I actions. For SEQRA unlisted actions, the Planning Board may require the long-form EAF if it deems that the additional information contained on

the long form would be helpful and appropriate under the circumstances of the project proposal.

e. The application fee for a Special Use Permit.

2. The Planning Board may add or waive any requirements for a complete application submission if it deems such waived or added requirements are appropriate in order to accomplish the purposes of this article and this chapter. In adding requirements, the Planning Board may choose items from the Site Plan submittal requirements in Article 6, Site Plan Review, that shall be submitted for the Special Use Permit application.

3. At the first meeting on an application the Planning Board shall determine whether the application is complete for purposes of commencing the formal review process. If an application is determined to be incomplete, the Planning Board shall advise the applicant as to what aspects are lacking or otherwise insufficient. The time frames for holding a hearing or for any Planning Board action shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete.

4. SEQRA compliance. Upon receipt of a complete application, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and environmental assessment form to all involved agencies (if coordinated review is undertaken) and/or by beginning its own SEQRA review.

5. The application shall include the name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect. If the applicant is not the record owner, a letter of authorization shall be required from the owner.

6. Not later than 10 days following receipt of a complete application for said project, the Code Enforcement Officer shall notify the Adirondack Park Agency in the case of Class A and Class B Regional Projects and shall furnish to the Agency such pertinent information as the Agency may deem necessary and shall afford the Agency any opportunity to comment as may be required by law and/or requested by the Planning Board.

7. The Planning Board shall fix a time, within 62 days from the day an application for a Special Use Permit approval is determined to be complete, for the public hearing on the permit application. The time within which the Planning Board must hold a public hearing may be extended by mutual consent of the applicant and the Planning Board. The Board shall give public notice of the hearing by the publication in the Town's official newspaper of such hearing at least 10 days prior to the date thereof. In addition to notice requirements stated above and below, any further notice provisions of Article XII of the Town Land Use Law shall also be followed, the intent being to, at minimum, comply with all applicable notice provisions required by State law.

- a. In the case of Class B Regional Projects, A copy of the public hearing notice shall be mailed to the Adirondack Park Agency. The Adirondack Park Agency shall be a full party in interest, with standing to participate in any and all proceedings on projects within the Adirondack Park conducted pursuant to this section.
- b. In the case of a public hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board must give notice of the hearing to the Clerk of the municipality by either mail or electronic transmission at least 10 days prior to the hearing, pursuant to General Municipal Law § 239-nn.
- c. The Planning Board shall decide on the application within 62 days after the close of such hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.

8. The decision of the Planning Board shall be filed, within five days from the date that the decision was rendered, in the office of the Town Clerk, in the office of the Code Enforcement Officer and a copy thereof shall be mailed to the applicant. The decision shall contain such findings of fact as are required by sections 1.130 F and 1.130 G. The decision shall also be sent to the Adirondack Park Agency.

9. The Planning Board, in conjunction with its approval of any Special Use Permit, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including, but not limited to, limitations on the hours of use, the intensity of the use, the use of structures and land, and any other condition reasonably related to the project that it deems necessary to further the interest of this chapter. The Planning Board may require the posting of financial security in the form of bond, letter of credit or other instrument in order to ensure that improvements are carried out as specified in the plans and approvals. The Boards shall follow the procedures in the Town of Santa Clara Subdivision Regulations or New York State Town Law § 277(9), or other applicable section(s) of State law, for such financial security.

10. The Planning Board, as a condition of granting any Special Use Permit, may specify its term of validity.

- a. There are three types of Special Use Permit which may be granted by the Planning Board, described as follows:
 - i. **(a)** Permanent: allows a specific use to continue indefinitely until the specific use ceases for any reason for a period of 2 years or as may be defined by Section 8.10 of the Town of Santa Clara Land Use Code.
 - ii. **(b)** Temporary: allows a specific use to continue until a specified date, at which time the Special Use Permit shall automatically terminate and the use shall be permanently discontinued. This type shall not be extendable.
 - iii. **(c)** Renewable: allows a specific use to continue until a specific date, unless the Special Use Permit is renewed or extended by the Planning

Board for an additional period of time. If not extended, the use shall be permanently discontinued. It is the responsibility of the applicant, and not the Town of Santa Clara, or any board, officer, or employee thereof, to initiate the request for the renewal or extension prior to the expiration of the original term of such renewable Special Use Permit. If not extended or renewed prior to the date of expiration, the right to continue such special use shall terminate on such expiration date. An application for the extension or renewal of a renewable Special Use Permit shall be made in accordance with the applicable provisions then applying to s Special Use Permits, as if it was an original request.

- b. The applicant, in accepting a temporary or renewable Special Use Permit, acknowledges and agrees that such Special Use Permit confers no rights or privileges other than those specifically contained therein.

E. Fees.

In addition to the fee listed on the schedule of fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of legal and technical assistance to the Planning Board Consistent with Section 1.80.

F. General criteria.

Before issuing any Special Use Permit, the Planning Board shall consider the public health, safety and general welfare as well as potential environmental impacts. A Special Use Permit shall not be granted until the Planning Board finds that the following criteria have been met:

1. Compatibility. The proposed use shall be compatible with the character of neighborhood, the area, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage future planned growth in the area.
2. Access, circulation and parking. The proposed use shall have safe and efficient access for pedestrians and vehicles, and shall provide for appropriate off-road parking and loading areas. The interior circulation system must be adequate to provide safe accessibility to all parking spaces and ensure that adequate and safe integration of pedestrian and vehicular movement is provided.
3. Infrastructure and services. There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or the project shall extend or provide infrastructure and services for the area where the proposed use is located. There shall also be facilities and services implemented by the applicant to appropriately control any potential nuisances from the operation of the use, such as control of litter or trash, loitering and crime prevention, and any other features or aspects of the operation of the proposed use that may affect the public safety, health and general welfare.

4. Environment and natural features. The proposed use shall be compatible with and appropriately protect environmental and natural resources, including the environmental and physical suitability of the site for development, and the general landscaping, screening and buffering shall be in character with the surrounding areas, and the risk of fire, flood or erosion and impacts such as emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and welfare shall be minimized to the maximum extent practicable.

5. Long-term effects. The proposed use shall provide positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the Town and surrounding properties, districts and uses.

G. Specific standards.

Specific Standards that may be established for uses subject to Special Use Permit. See Section 7.36.

H. Expiration.

Unless otherwise specified or extended by the Planning Board, the Special Use Permit shall expire if the applicant fails to undertake the proposed action or project within one year from the filing date of such decision thereof.

I. Revocation of permit.

A use authorized by Special Use Permit may be revoked by the Planning Board if it is found and determined that there has been a material failure of compliance with any one of the terms, conditions, limitations or requirements imposed by said permit.

J. Enforcement.

All Special Use Permits shall be subject to the provisions of Article 17, Enforcement, of this chapter.

K. Amendments.

The terms and conditions of any Special Use Permit shall be amended only in the same manner as required to grant a Special Use Permit, following the criteria and procedures of this article. Any enlargement, alteration, or change of use or structure allowed under a Special Use Permit or addition of a new use or structure on a property that received a Special Use Permit shall require an amendment to such Special Use Permit.

(The following section 7.36 and its sub-sections shall be added.)

7.36. SUPPLEMENTAL REGULATIONS FOR COMMERCIAL MARINAS

A. Special Use Permit Required

No person shall construct, expand, or operate a commercial marina, or alter or expand the number or type of services or recreational activities offered without obtaining issuance of a Special Use Permit from the Town of Santa Clara Planning Board, or, if a Special Use Permit

has been granted for the subject facility, an amendment to the approved Special Use Permit for that facility which authorizes the new or expanded services or recreational uses.

B. General Standards for Commercial Marinas

1. Docks shall be a minimum of 50 ft. from any residential area, regardless of any lesser setback requirement set forth elsewhere in the Town's Land Use Law.
2. Docks associated with a marina shall not interfere with navigation on the water body involved. Navigation shall be as defined by NYS OGS, NYS DEC or APA, the most stringent of which shall govern in the case of conflict.
3. No paved area, with the exception of boat launching ramps, may be located within 75 feet of the mean high-water mark. Paved surfaces design to facilitate access for patrons with mobility impairment and constructed in conformance to ADA guidance/standards shall be exempt from this provision.
4. Marinas may not operate between the hours of 10 P.M. and 5 A.M. Operation shall mean provision of services to the user of watercraft (i.e.: maintenance, launch etc.) and as may defined by the Planning Board during project review.
5. Any proposed lighting shall adhere to current APA guidance and seek to comply with International Dark-Sky Association guidance. Generally, all exterior lighting shall be the minimum necessary to address safety, light only those areas to address operations and avoid light spill off site. A lighting plan and details shall be provided for review.
6. A marina that provides a boat pump-out shall demonstrate that said pump out facility complies with any applicable regulatory standard (i.e., NYSDOH) and/or generally accepted industry standards. Pump out facilities are not mandatory.
7. A marina shall provide sanitary facilities sufficient to accommodate their clientele.
8. Every marina shall provide trash receptacles sufficient to accommodate all trash generated by the marina's clientele.
9. Adequate parking spaces for customer's vehicles, as determined by the Planning Board. Guidance on adequate parking shall be determined by the Planning Board in collaboration with the applicant.
10. A maintenance program sufficient to keep all wharves, adjacent shoreline, water and the waterway bottom clean of debris.
11. A plan to prevent the introduction or spread of invasive species. This plan shall include the following as a minimum.
 - A. Training of all employees to ensure their ability to identify invasive species and how to mitigate their introduction into the waterway.
 - B. Informational signage and educational materials available to all who use or visit the marina.
 - C. Inspection of all boats before they are launched.
 - D. Provide decontamination services for any boat introduced to local water that came from outside the area
12. A plan that minimizes the project's visual impact from the sidelines. Covered docks may be allowed if they are consistent with the character of the surrounding area, would have minimal adverse visual impact, including from any lighting associated with them, and otherwise satisfy the provisions of Sections 1.130 and 7.36.
13. Marinas with petroleum sales, a plan relative to the inspection and maintenance of petroleum storage facilities and all associated equipment, and appropriate measures relative to spill prevention and countermeasures. Such plan shall include:

- a. The inspection of all plumbing and related pumping equipment, not less than daily, to guard against leakage of petroleum products into the waterway;
 - b. The training of each person pumping motor fuels in procedures to guard against the spillage of such motor fuels into the waters and procedures to respond to a spill; including reporting procedures to notify state and local officials of any water contamination.
 - c. The maintenance, in close proximity to the pumping facilities, of such equipment as is necessary to respond to any spill of petroleum products into the water or onto land or structures where it may flow into the water.
 - d. Where applicable, proof of compliance with New York State Fire Code standards and DEC bulk storage standards for the storage of gasoline and hazardous materials. If applicable, no permit application shall be complete until proof of compliance is submitted to the Code Enforcement Officer
14. A boat cleaning area that is designed, operated and maintained in such a manner to prevent contamination of the waters shall be provided, or boat cleaning shall be prohibited.
15. A Stormwater Prevention Plan (SWPP) to reduce runoff, erosion and sediment infiltration.
16. Boats shall be moored only at docks, no mooring of boats at any other location.
17. No dry vertical boat stacking storage for quick launch.
18. No rental of personal watercraft.
19. Any facility thus approved shall comply with these and any other conditions set forth by the approving board, and shall be subject to periodic review inspection by Code Enforcement Officer and the appropriate approving board and/or its authorized members.

C. Special Provisions for Commercial Marinas

Depending on the scale and nature of marina operations, the Planning Board may request/require:

- 1. Facilities for the disposal of sanitary wastes from vessels with on-board sanitary equipment including:
 - a. On-site pump-out facilities, or proven access to pump-out facilities, for use by vessels which use the services of marina; and
 - b. Facilities for the disposal of waste from portable marine toilets, or proven access to such facilities, for use by vessels, which use the services of the marina.
 - c. Such facilities shall be designed, installed, operated and maintained to prevent the discharge of contaminants from marine toilets to the waterway or the ground from which they may flow into the waterway. For the purposes of this subsection, vessels using the services of the marina shall include vessels which moor, dock or are quick launched by the marina. Written proof of access to disposal facilities for a period equal to the life of the permit shall be required. Off-site facilities must be located within a reasonable distance from the marina.

D. Commercial Docks & Wharfs

An application for a **Commercial** Marina shall provide a Dock/Wharf Plan. The plan shall show

- 1. Locations and dimensions of docks, proposed and existing, as well as estimates of locations and dimensions of docks within 500 feet of the marina boundaries.

2. Survey information that shows waterway bottom conditions in relation to the Mean High/Low water mark and ownership thereof.
3. Information regarding the potential that the proposed dock will create an obstacle to navigation, recreation and use of waters, and access to adjacent properties. Potential conflicts with navigational hazards or conflicts with other uses such as swimming areas shall be identified and a plan presented to minimize such conflicts.
4. Maximum dock length and number of docks shall be determined by the Planning Board after considering
 - a. Items A through C above and the General Guidelines listed below in Section D5.
 - b. Total number of boats accommodated.
 - c. The total area/acreage of upland (land based) facilities and the ability to accommodate the number of boats docked. Upland facilities include but are not limited to customer/patron parking, boat trailer and boat storage, boat cleaning, fueling and other facilities.
 - d. The placement of the proposed docks and the extent to which they may encroach and/or occupy a defined navigation channel
 - e. Whether the placement and length of dock will create an obstacle to navigation, recreation and use of waters, and access to adjacent properties.
 - f. Whether the planned facilities create a condition that would violate the Special Use Permit General Criteria identified in Section 1.130 F.
5. General guidelines for design.
 - a. Dock design should be limited to 50 ft in width including all lateral projections.
 - b. All lateral projections should be limited to 22 ft.
 - c. All docks, wharfs and moorings should extend no more than 20% of the width of waterbody, OR 200 ft, whichever is most restrictive.
 - d. All floating docks shall include encapsulated flotation devices.

E. Appeals

Any applicant aggrieved by any decision rendered by the Planning Board under this section, 7.36 Supplemental Regulations for **Commercial** Marinas, including but not limited to any decision establishing maximum allowable dimensions and/or area of any dock, deck, boathouse or other structure, shall have a right to appeal solely by bringing an Article 78 proceeding in State Supreme Court in accordance with State law.