



Item 10

August 21, 2017

Greenwich Harbor Management Commission
c/o Bruce Angiollilo, Chairman
Town Hall
101 Field Point Road
Greenwich, CT 06830

RE: Greenwich Harbor Management Plan Approval

Dear Commissioners:

Thank you for providing us a copy of the Final Draft of the Town of Greenwich Harbor Management Plan (Plan) dated August 2017. This latest Final Draft is the result of revisions made in response to comments provided by the Department of Energy and Environmental Protection's (DEEP's) Land & Water Resources Division, Marine Fisheries, Boating Division, as well as comments submitted by the Connecticut Port Authority, the Connecticut Bureau of Aquaculture, the U.S. Army Corps of Engineers, and local residents.

We have reviewed the entire Plan and have found that all substantive comments provided by the reviewing agencies have been adequately addressed. We hereby approve this Plan pursuant to the provisions of the Connecticut Harbor Management Act (CHMA), Connecticut General Statutes (CGS) §22a-113m.

Upon the Town's adoption of the Plan by ordinance, we will consider this Plan to be in effect in accordance with CGS §22a-113n(b) and will evaluate all regulated activities and development proposals for consistency with the goals and recommendations of the Plan as approved. However, any substantive changes to the Plan made in response to comments raised during the City's review and adoption process must also be submitted for our approval prior to final adoption by the Town. After formal adoption by the Town of Greenwich, please forward three copies of the locally-approved Plan to this Office for our files.

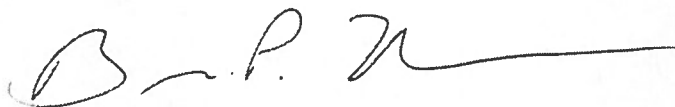
Formal approval does not constitute approval or endorsement of any specific activity or proposal contained in the Plan that requires authorization from the DEEP. Additionally, our approval is not intended and should not be construed as concurrence with the Commission's complete scope of regulatory authorities set forth in the Plan nor its interpretation of the Plan's policies. Because the Commission will function as a municipal agency pursuant to state statutes, you may wish to have the Plan reviewed by the Town attorney to ensure that the

entire scope of authorities set forth in the plan is enforceable.

Finally, you should also be aware that pursuant to CGS §15-136 which predates the CHMA, any ordinances pertaining to the operation of vessels, as may or may not be proposed, must be approved by the DEEP Boating Division after local adoption. Therefore, subsequent to local adoption of the Plan by ordinance, any relevant sections of the Harbor Management Plan must be resubmitted for approval in accordance with the statute referenced above to the Boating Division, c/o Commissioner of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106. For further information, contact Eleanor Mariani of the Boating Division at 860.424.8638 in Old Lyme.

Thank you for your persistence and commitment to completing this Plan. We hope that the Town will be well served by the Plan and look forward to working with the Commission in the implementation of the Plan. If you have any questions concerning this letter or if we can be of additional assistance, please contact John Gaucher of my staff at 860.424.3660 or via email at john.gaucher@ct.gov. Thank you.

Sincerely,



Brian P. Thompson
Director
Land & Water Resources Division

BPT/JG/j

cc: Joe Salvatore, Connecticut Port Authority
Ed O'Donnell, Chief of Navigation Branch, U.S. ACOE
Steve Gephardt, DEEP, Bureau of Natural Resources, Division of Inland Fisheries
Denise Ruzicka, DEEP, Planning & Standards Division
Tim Delgado, DEEP Boating Division
David Carey, Bureau of Aquaculture
John Gaucher, DEEP - L&WRD
Ian MacMillan, Harbormaster



CHAPTER 7A. HARBOR MANAGEMENT COMMISSION.

Sec. 7A-1. - Creation of the Greenwich Harbor Management Commission.

Pursuant to the provisions of Connecticut General Statutes §§ 22a-113k through 22a-113t, there is hereby created the Harbor Management Commission for the Town of Greenwich, which Commission, subject to the authority held by the Board of Selectmen of the Town of Greenwich under Town Charter § 307, shall be responsible for preparing, maintaining and implementing a Harbor Management Plan for the Town of Greenwich in accordance with General Statutes § 22a-113m through § 22a-113t. Any Harbor Management Plan prepared by the Harbor Management Commission shall be effective only upon approval and adoption by the Board of Selectmen and the Representative Town Meeting. Any and all actions of the Harbor Management Commission may be reviewed by or appealed to the Board of Selectmen within thirty (30) days of the Harbor Management Commission's action being appealed.

The Commission shall consist of seven (7) members who are electors and are nominated by the Board of Selectmen and appointed by the Representative Town Meeting, to serve without compensation, for terms of three (3) years each commencing on April 1, provided, however, that the initial term of each member shall be as follows: three (3) members for four (4) years; two (2) members for three (3) years and two (2) members for two (2) years.

There shall be two (2) alternate members of the Greenwich Harbor Management Commission who are electors and are nominated by the Board of Selectmen and appointed by the Representative Town Meeting, who may be seated and vote in the event of the absence of a regular Harbor Management Commission member. The terms of such alternate Commission members shall be for three (3) years, and their initial terms shall be for three (3) years and two (2) years respectively.

In addition, the following will be non-voting, ex officio members of the Greenwich Harbor Management Commission: the Greenwich Harbor Master, one (1) member of the Board of Selectmen, a member each from the Planning and Zoning Commission, Conservation Commission, Board of Parks and Recreation, Shellfish Commission and the Representative Town Meeting, and a representative from the Greenwich Marine Police Division, Greenwich Department of Parks and Recreation and the Greenwich Department of Public Works. A Chairman, Vice Chairman and Secretary of the Greenwich Harbor Management Commission shall be elected annually by the voting membership of the Commission.

(RTM 9/16/2013.)

Sec. 7A-2. - Required Attendance at Regular Meetings By Harbor Management Commission Members.

There shall be at least one (1) meeting of the Harbor Management Commission every three (3) months. A failure of a voting member to attend fifty percent (50%) of the regular meetings of the Greenwich Harbor Management Commission over a twelve-month period shall constitute evidence of sufficient cause to consider removal of such voting member of the Commission. Any such removal must be accomplished by a majority vote of the Board of Selectmen. In the event that such removal occurs, any replacement member to be appointed to the Commission shall be so nominated by the Board of Selectmen and appointed by the Representative Town Meeting. The Secretary of the Greenwich Harbor Management Commission shall provide a report to the Board of Selectmen on a quarterly basis, which report shall include minutes of Greenwich Harbor Management Commission meetings and attendance by its voting members.

(RTM 9/16/2013.)

Sec. 7A-3. - Jurisdiction of the Harbor Management Commission.

The Greenwich Harbor Management Commission shall have jurisdiction within and over all "navigable waters", as defined in Connecticut General Statutes § 15-3a(1), and inter-tidal areas below the

mean high water line of the shoreline of Greenwich and within the territorial limits of the Town of Greenwich.

(RTM 9/16/2013.)

Sec. 7A-4. - Harbor Management Commission Powers, Duties and Responsibilities.

Pursuant to the provisions of General Statutes § 22a-113p, the Greenwich Harbor Management Commission shall review and make recommendations, consistent with the Greenwich Harbor Management Plan, on issues coming within the Harbor Management Commission's jurisdiction arising from any proposal affecting the real property on, in or contiguous to the Greenwich Harbor and the shoreline of Greenwich that are received by the Greenwich Planning and Zoning Commission, Zoning Board of Appeals, or the Historic District Commission. Failure of the Greenwich Harbor Management Commission to submit a recommendation shall be deemed to be its approval of the proposal.

In accordance with the provisions of General Statutes § 22a-113m, the Greenwich Harbor Management Commission shall review the Greenwich Harbor Management Plan on an annual basis and shall propose any additions and/or modifications to the Harbor Management Plan that the Harbor Management Commission deems appropriate. Any such proposed modification of the Greenwich Harbor Management Plan by the Greenwich Harbor Management Commission shall be approved in the same manner as the Greenwich Harbor Management Plan was initially approved as required pursuant to the provisions of General Statutes § 22a-113m.

Pursuant to the provisions of General Statutes § 22a-1131, the Greenwich Harbor Management Commission shall be authorized to enter into contracts, employ consultants and other assistants, and to receive and expend funds for equipment, supplies and staff to carry out the purposes of General Statutes §§ 22a-113k to 22a-113t, inclusive. Any contracts to be entered into by the Greenwich Harbor Management Commission shall be first approved by the Board of Selectmen and be subject to the Town's purchasing policies and procedures. The Town of Greenwich may appropriate funds to the Greenwich Harbor Management Commission, as provided by and subject to the normal budgetary process of the Town.

(RTM 9/16/2013.)

Sec. 7A-5. - Regulation of Mooring Areas and Anchorage Areas.

Fees and plans for activities to take place in areas within the Greenwich Harbor Management Commission's jurisdiction shall be developed as elements of the Greenwich Harbor Management Plan and made available for review by the general public. The Greenwich Harbor Management Plan shall be submitted to the Board of Selectmen for its approval and then to the Commissioners of the State of Connecticut Department of Energy and Environmental Protection and the Department of Transportation for their approval and to the Army Corps of Engineers for review, comments and recommendations, and shall become effective upon approval and adoption by the Representative Town Meeting.

(RTM 9/16/2013.)

Sec. 7A-6. - Harbor Management Commission's authority to establish regulations.

In accordance with the Greenwich Harbor Management Plan, the Greenwich Harbor Management Commission shall have the authority to establish regulations relating to the use and maintenance of the area within its jurisdiction as delineated by Section 7A-5 of this Chapter.

(RTM 9/16/2013.)

Sec. 7A-7. - Harbor Management Commission's authority to establish fees.

In accordance with the provisions of General Statutes § 22a-113s, the Greenwich Harbor Management Commission, pursuant to the Greenwich Harbor Management Plan, shall have the authority to propose a fee schedule for a permit for a mooring or anchorage or any other activity within the scope of the Greenwich Harbor Management Plan. Any such proposed fee schedule must be approved by the

Greenwich Board of Selectmen and the Representative Town Meeting. The maximum annual fee for a mooring or anchorage shall not exceed the amount set by State statute.

Any fees collected pursuant to this section shall be deposited into a fund maintained by the Town of Greenwich, which fund shall be known as the Greenwich Harbor Management Fund, and shall be utilized solely for the maintenance and improvement of the areas within the jurisdiction of the Greenwich Harbor Management Commission for the benefit of the public and for expenses for personnel and equipment directly related to the function of the Greenwich Harbor Management Commission and the Greenwich Harbor Master. The Town's Treasurer shall collect any and all fees authorized pursuant to the provisions of this section.

(RTM 9/16/2013.)

Sec. 7A-8. - Coordination with other municipal agencies, boards and commissions.

The Greenwich Harbor Management Commission shall consult with and coordinate its activities with the other agencies, boards and commissions of the Town of Greenwich in furtherance of the purposes of the Harbor Management Commission as provided in this chapter.

(RTM 9/16/2013.)

Q&A for Proposed Harbor Management Plan

Q1. Why does Greenwich need a Harbor Management Plan (HMP)?

First, a HMP will protect and enhance the Town's "home rule" over the Greenwich Harbors Area (GHA). *Second*, it will enable the Town to establish a harbor management vision and set it forth in a document that is specific and focused, but also durable. *Third*, it will help achieve an appropriate balance in the GHA between safe and beneficial use of the GHA for recreational and other purposes on the one hand, and protection of natural coastal resources and the existing character and quality of life in the Town on the other.

The *Plan of Conservation and Development* (POCD), approved by the Representative Town Meeting (RTM) in June 2009, recommended that the Town develop and adopt a HMP to better manage its waterways by providing a general framework for the safe, efficient and balanced use of the GHA. Consistent with the recommendation in the POCD, the HMP will help foster better co-ordination among Town, State and Federal agencies that currently have overlapping jurisdiction over navigable waters in the GHA. For example, the HMP can serve as an effective advocacy tool for the Town to work with the U.S. Army Corps of Engineers for maintenance dredging projects, which it has already demonstrated in the recent successful completion of the long-awaited maintenance dredging of the Mianus River by the Corps of Engineers.

An approved HMP will also have a beneficial impact on the Town's relationship with the State and the State appointed Harbor Master. With an approved HMP, the State appointed Harbor Master is required to exercise his/her duties in a manner consistent with the HMP. Furthermore, the Governor is required to appoint a Harbor Master from a list of three (3) candidates submitted by the Town. The State is also required to abide by the recommendations of the Harbor Management Commission (HMC) when making certain types of decisions affecting the HMC's area of jurisdiction. There is a very high threshold for the State to deviate from the HMC's recommendation.

Q2. What is the purpose of the HMC?

The HMC is responsible for preparing, maintaining, and implementing a HMP for the Town of Greenwich for the most desirable use of the GHA for recreational, commercial, and other purposes and for preservation and use of the GHA's coastal resources.

Q3. How is the HMC organized and what are its powers?

The HMC consists of seven (7) regular voting members and two (2) alternates. Candidates are nominated by the Board of Selectmen (BOS) and appointed by the RTM. Except for a staggered initial term, HMC members serve a three (3) year term.

There are also ten (10) *ex-officio* non-voting members on the HMC: the Greenwich Harbor Master, one (1) member of the BOS, a member each from the Planning and Zoning Commission, Conservation Commission, Board of Parks and Recreation, Shellfish Commission and the RTM, and a representative from the Greenwich Marine Police Division, the Department of Parks and Recreation, and the Department of Public Works.

The primary function of the HMC is to serve as the central forum for all harbor related issues. To that end, the HMC has been charged with the preparation of the HMP. Upon approval of the HMP, the HMC will have the primary responsibility for its implementation. It will also review and make recommendations, consistent with the HMP, concerning any proposals submitted to the Planning and Zoning Commission, Zoning Board of Appeals and the Historic District Commission, if the proposals affect property on, in, or contiguous to the GHA. The HMC will also evaluate applications for State of Connecticut permits for work in the GHA. The Connecticut Harbor Management Act (CHMA) provides that applicants for such State permits are required to come before the HMC prior to submitting their applications. Additionally, upon approval of the HMP, the HMC will be charged with proposing mooring regulations, a fee schedule for permits for moorings, anchorages and any other activity within the scope of the HMP. A draft of the proposed mooring regulations may be found posted on the Town website: <http://www.greenwichct.org/upload/medialibrary/9e9/Revised-Mooring-Regulations-June-9-2016.pdf>.

Q4. What is a HMP?

A HMP is a policy document that typically contains the goals, objectives, policies, guidelines and recommendations for the balanced and efficient use of a municipality's harbors. The enabling State legislation requires a HMP to identify existing and potential harbor problems, establish goals and make recommendations for the use, development and preservation of the harbor, identify officials responsible for the enforcement of the plan and propose ordinances to implement the plan. The HMP is also required to include provisions for the orderly, safe and efficient allocation of the harbor for boating by establishing the location and distribution of seasonal moorings and anchorages, unobstructed access to and around federal navigation channels, anchorage areas and harbor facilities, and space for moorings and anchorages for transient vessels.

Q5. What was the process that led to the preparation of the proposed HMP?

Over the past several years, there has been an increased recognition of the need for a coordinated effort to manage use and conservation of the Town's harbors, address various competing interests while at the same time developing a long range plan for the efficient management of the Town's harbors and the waterfront. The 2009 POCD recommended that the BOS should consider establishing a HMC. After lengthy consideration of the benefits to the Town of having a HMC, the BOS recommended the Town take advantage CHMA, which authorizes any municipality with navigable waters to establish a HMC and prepare a HMP for the most desirable use of its harbors. A specific intent of this State Act is to increase "*home rule*". That is, to protect and enhance the authority and control of local governments over matters concerning their navigable waters. In September 2013, the RTM approved the Harbor Commission Ordinance which established the HMC to ensure better coordination between State and local authorities over issues affecting our harbors, provide a local forum for Town residents to address harbor related concerns, and prepare a HMP for the Town, subject to the approvals of the BOS, the State of Connecticut and the RTM.

Q6. What are the Goals, Priority Issues, and Policies of the HMP?

The HMC identified eleven (11) *Goals* (Chapter 1) to serve as the foundation of the HMP and, in effect, to establish the Town's harbor management vision:

- Goal 1: Effective Town Management of the GHA
- Goal 2: Environmental Conservation, Enhancement, and Sustainability
- Goal 3: Coastal Resiliency
- Goal 4: Viable Water-Dependent Uses and Facilities
- Goal 5: Nonfederal Dredging
- Goal 6: Recreational Uses
- Goal 7: Public Health, Safety, and Welfare
- Goal 8: Sustainable Economic Benefits
- Goal 9: Appropriate Access to the GHA
- Goal 10: Coordinated Planning and Regulation of Waterfront Land-Use
- Goal 11: Public Interest, Support, and Participation

With these *Goals* in mind, eight (8) harbor management *Priority Issues* (Chapter 4) emerged, some which require prompt attention; others may be more significant in the future or require longer-term approaches to their resolution; and many are inter-related:

Priority Issue 1: Improved procedures are needed to apply effectively the full range of municipal authority for managing the GHA.

Priority Issue 2: Maintenance dredging of the Mianus River (completed in 2016) and Greenwich Harbor federal navigation projects is necessary and essential.

Priority Issue 3: A new and comprehensive Town program is needed for fair and equitable management of all boat mooring locations in all harbors of the Town. (To that end, a new online mooring system was rolled out for the 2017 boating season.)

Priority Issue 4: An effective procedure is needed for allocating funds relating to the GHA, including mooring permit fees.

Priority Issue 5: Existing and potential conflicts among motorized and human-powered vessels require ongoing attention and coordination.

Priority Issue 6: Additional Town guidelines are needed for the handling of docks and piers.

Priority Issue 7: The Town's waterfront zoning regulations may require amendment to help ensure continuation of some water-dependent land-uses, including recreational boating facilities and services.

Priority Issue 8: Sections of the Town Code pertaining to the GHA are outdated and require amendment to implement the Plan and achieve consistency with current laws and regulations.

The HMP will also establish Town *Policies* (Chapter 5) that would apply throughout the Town's harbor management jurisdiction covering: 1) public health, safety and welfare; 2) navigation and water-use; 3) coastal resources and water quality; 4) recreational boating; 5) waterfront land-use and development; 6) water and waterfront access; and 7) harbor management administration and coordination. More site-specific harbor management *Recommendations* are also included in the Plan (Chapter 6). These have been formulated for each of the seven identified harbors of the Town: Byram River/Port Chester Harbor; Byram Harbor; Greenwich Harbor; Cos Cob Harbor; Greenwich Cove and Tomac Creek; and the Outer Harbor.

Q7. Who prepared the HMP?

The HMC prepared the HMP. To assist it, the HMC engaged Mr. Geoffrey Steadman, as its consultant to help organize our work products and assist in the drafting of HMP documents at our direction. Mr. Steadman is regarded

universally as the most knowledgeable professional outside the government on matters relating to the development and approval of harbor management plans. He is respected and trusted by Connecticut towns up and down the coast, as well as by DEEP, the Connecticut Bureau of Aquaculture, the Connecticut Port Authority, the U.S. Army Corps of Engineers, and the other State and Federal agencies with harbor management authorities. He previously worked for the Town in the preparation of *The Institutional Framework for Waterways Management in the Town of Greenwich*, March 2008, *A Waterways Vision, Town of Greenwich*, September 2011, and *Town of Greenwich, Waterways Management Study*, August 2010. Additionally, he conducted a study of waterfront zoning issues for the Planning and Zoning Commission in 1997 and prepared the waterfront component of *The Cos Cob Neighborhood Plan* in 2013. These studies served as an invaluable resource to the HMC in its work.

Pursuant to a fixed fee contract, Mr. Steadman was paid \$12,000 to assist in the preparation of the draft HMP. His engagement has been renewed on a fixed fee basis and he will be entitled to an additional \$8,000 for his assistance in the HMP approval process.

Q8. Who approves the HMP?

The formal approval process of the HMP has four steps: 1) approval of the draft HMP by a vote of the HMC; 2) approval and adoption by a vote of the BOS; 3) approval by the Connecticut Department of Energy & Environmental Protection (DEEP) and the Connecticut Port Authority; and 4) approval and adoption by a vote of the RTM.

After a three year effort, at a Special Meeting of the HMC held on July 12, 2017, the HMC voted unanimously to approve and recommend the draft HMP to the BOS. In the judgment of the HMC, the proposed HMP embodies a substantial Town-wide consensus and, further, that the draft was in a form that would be approved by DEEP. In advance of the meeting, a copy had also been sent to the U.S. Army Corps of Engineers for its review and recommendations, which were incorporated in the draft HMP. On July 13, 2017, the BOS, by unanimous vote, authorized the HMP to be submitted to DEEP for its approval (The Connecticut Port Authority had already signed-off on the draft HMP). Thereafter, by letter, dated August 21, 2017, DEEP granted formal approval of the HMP, without any substantive changes: "*We hereby approve this Plan pursuant to the provisions of the Connecticut Harbor Management Act (CHMA), Connecticut General Statutes (CGS) 22a-113m.*" As noted above, the HMP does not become effective unless it is also approved and adopted by a vote of the RTM. Thus, RTM action is the last remaining step to the HMP becoming effective.

Q9. If the Town finds that the HMP is not working out as anticipated, can it be amended?

Yes, once approved and adopted, the HMP can be modified at any time and is re-approved in the same manner as the original plan. Furthermore, the HMP must be reviewed annually by the HMC. As a result of the ability to modify the HMP, it becomes a document that can evolve over time to address various harbor related issues that are identified and therefore better address the changing needs and concerns of Town residents. The HMC recognizes that management of the GHA through implementation of the HMP is a dynamic process that will evolve as conditions and circumstances change. Further, the HMC recognizes that the HMP cannot identify every issue that is likely to affect the GHA in the future, nor does the HMP provide a definitive answer to every possible problem. That said, the HMP provides a detailed and comprehensive policy and decision-making framework to guide the Town's actions, including decision-making by the HMC, as well as actions of State and Federal agencies.

Q10. Is the Town giving up local control of its harbors by adopting a HMP?

Not at all; just the opposite. The HMP will only protect and enhance the Town's "*home rule*" and reconfirm that the Special Acts of 1949 and 1955 remain in full force and effect. Specifically, the HMP makes clear that the BOS retains its jurisdiction and authority as established by the Special Acts, while at the same time allowing the Town to take advantage of the additional municipal authorities provided by the CHMA.

The legislative intent of the CHMA was to give municipalities more input in decisions involving its navigable waters, especially since jurisdiction is currently shared in many respects with State and Federal agencies. As previously noted, once Greenwich has an approved HMP, State officials are required to follow the recommendations of the HMC when reviewing certain types of applications to the State involving waterfront uses. The HMP adopted by the Town becomes the guiding document for all harbor related issues and must be adhered to. An approved HMP also gives the Town more control over the selection and appointment of a Harbor Master by the State.

Q11. Is there any impact on the role of the Harbor Master once a HMP is approved?

The Harbor Master will continue to serve as an *ex-officio*, non-voting member of the HMC. Upon approval of a HMP, the Harbor Master is required to exercise his/her duties in accordance with an approved HMP. The Harbor Master's other statutory duties are expected to remain unchanged. A description of the Harbor

Master's duties is set forth in the HMP (Chapter Three: 3-14 and Chapter Seven: 7-18 through 21).

Q12. What role will the BOS play if there is a HMP?

The BOS will continue to exercise ultimate jurisdiction and authority over the Town's harbors, while delegating day-to-day operational issues and implementation of the HMP to the HMC. The BOS will continue to nominate members to the HMC, review and approve any fees proposed by the HMC. Under the HMP, the BOS will also have the authority to review decisions of the HMC and hear appeals taken from decisions rendered by the HMC relating to matters covered by the Special Acts. One member of the BOS will continue to be designated as an *ex officio* member of the HMC.

Q13. What role will the RTM play if there is a HMP?

Upon approval of the proposed HMP, the RTM will continue to have the authority to appoint members to the HMC, upon nomination by the BOS. Any future proposed amendments to the Plan, including all fees recommended by the HMC, will also be subject to prior review and approval by the RTM. One member of the RTM will also continue to serve as an *ex-officio* member of the HMC.

Q14. How many other municipalities in Connecticut have a HMP under the State statutes?

There are currently 22 municipalities in Connecticut with fully approved HMP's. Fairfield County municipalities with HMPs are: Stamford, Norwalk, Southport/Fairfield, Bridgeport and Stratford.

Q15. What is the anticipated fiscal impact of having a HMP?

Once a HMC is approved, the HMC will continue to have access to funds collected from mooring fees and other fees established in the HMP. As required by State law and Sec. 7A-7 of the Town Code, these fees are deposited into a fund maintained by the Town and are used solely for the maintenance and improvement of the areas within the HMC's jurisdiction and for expenses directly related to the HMC's and Harbor Master's functions. It is anticipated that the HMC will remain self-supporting through the fees that are collected. The HMP preserves and does not change or modify the existing Town procedures regarding HMC budgets and expenditures (Chapter Seven: 7-13).

(September 20, 2017)