

5.2.4 Existing Use and Occupancy

All existing uses and occupancies (defined as those existing as of 12/31/05) located on project lands (including existing structures) shall be licensed by the Project Owner to ensure that such uses and structures do not present hazards to navigation, cause pollution of the lake, or interfere with the safe and reliable operation of the Project. Licenses for any new construction shall not be issued unless applicable local land use permits are obtained. Previously licensed structures will be eligible for license fee reductions to account for fees previously paid.

Existing uses can generally be classified into one of the following categories:

1. Individual private property owners:
 - a. bordering the project and/or with deeded rights for a dock; or
 - b. not bordering the project but with deeded rights to pass and re-pass or not bordering the project and no deeded rights.
2. Community Associations
3. Municipalities
4. Commercial Entities

Allowance for continued use and occupancy for each of these cases is briefly outlined below.

5.2.4.1 Individual Private Property Owners that Border the Project and/or have Deeded Rights for a Dock

Existing use and occupancy by individual private property owners whose property borders the Project and/or who maintain deeded rights for a dock shall generally be allowed to continue their existing use and occupancy as is unless there is an onerous non-conforming use that is creating a hazard to navigation, causing pollution of the lake, or interfering with the safe and reliable operation of the Project. Non-conforming uses shall be defined as uses or occupancies (including structures) that do not conform to the development guidelines outlined in Section ___ of this SMP.

Onerous non-conforming uses shall be identified by the Project Owner in reviewing the license applications. The Project Owner shall contact these adjacent property owners to discuss the issue of concern and explore potential remedies. If no agreement can be reached to rectify the problem, the adjacent landowner can request that the matter be brought before the License Review Board.

5.2.4.2 Individual Private Property Owners not Bordering the Project but with Deeded Rights to Pass and Re-Pass or not Bordering the Project and no Deeded Rights.

Individual property owners who only maintain only a right to pass and re-pass across project lands or who maintain no existing property rights to project lands have no established right for a dock or other structure on project lands. Occupancy by these users on the form of structures shall not be allowed to continue and any existing structures shall be removed.

5.2.4.3 Community Associations

Existing use and occupancy by community associations shall be evaluated by the Project Owner on a case-by-case basis in consultation the License Review Board. In general, use and occupancy by these organizations shall be limited to that that is allowed under the existing licenses and/or lease agreement unless there are unsatisfied deeded rights which if exercised would not overburden the easement. Non-conforming uses, including uses above and beyond those allowed for by existing licenses or lease agreements shall be discussed by the License Review Board and recommendations made.

5.2.4.4 Municipalities

Existing use and occupancy by municipalities shall be allowed to continue in accordance with existing license or lease agreement, including provisions regarding the number and configuration of boat slips and/or docks. If these uses do not conform to the development guidelines outlined in Section ___ of this SMP, they will be allowed to continue until such time that there is a change in the use, including a significant alteration or replacement of a structure. Development of additional docks or boat slips will require submittal of an application for a new license.

5.2.4.5 Commercial Entities

Existing use and occupancy by commercial entities such as marinas shall be allowed to continue in accordance with existing license or lease agreement, including provisions regarding the number and configuration of boat slips and/or docks. If these uses do not conform to the development guidelines outlined in Section ___ of this SMP, they will be allowed to continue until such time that there is a change in the use, including a significant alteration or replacement of a structure. Development of additional docks or boat slips will require submittal of an application for a new license.

All structures located in project lands must display a license tag issued by the Project Owner. The tag must be affixed on the lake side of the structure in a location most visible from the water.

All license holders shall be responsible for maintaining their structures in a safe working condition. If a dock is to be removed or replaced, the old dock must be disposed of properly. Issuance of any replacement dock permits will be contingent upon proof that

the existing structure has been properly removed and disposed of. Replacement structures must conform to current shoreline development guidelines and all applicable local land use regulations.

Information obtained through licensing will be used to construct a central database and GIS for long-term management and compliance. The database shall include information regarding the number; size and location of all existing structures and/or enhancements, as well as the date such structures were constructed and a photograph of the project property. The database will also contain parcel number information that can be used to link the shoreline database to other sources of land use regulatory information, including Town records.

Procedures for obtaining a license for existing use and occupancy are listed below:

1. Property owner completes a license application form. Required information includes but is not limited to the type and location of the facility, dimensions, the time of construction, any applicable deed rights, and a photograph of the facility.
2. Property owner submits application form and applicable administrative fee to the Project Owner requesting a license.
3. Project Owner reviews the application for conformance with development guidelines and any potential safety or environmental issues.
4. Depending on the request, a site visit may be scheduled by the Project Owner.
5. Project Owner approves or denies the request.
6. If the request is approved, a license will be issued by the Project Owner upon receipt of all applicable fees. Project Owner furnishes a license tag and number to be placed on the structure.
7. Where project lands have been cleared of native vegetation, the Project Owner will encourage voluntary establishment of a vegetated buffer. Licensing fees will be reduced for individuals who opt to re-establish vegetated buffers. Buffers will be required for any change in use (see procedures for new structures) Licensees will be encouraged to reestablish buffers and will receive reductions to licensing fees based on the complexity of the buffer (See Section 6.2 - Vegetated Shoreline Buffer Program)
8. If the license request is denied, the property owner must remove said structures from project lands and re-vegetate the lands using native plant species.

All applications for new licenses must be received no later than October 1, 2007. Applications received after October 1, 2007 will be subject to increased fees.

New licenses will be issued by June 2008.

If an application for an existing structure is not received by October 1, 2008, the Project Owner will require removal of that structure.

Property owners may request a pre-application meeting with a representative of the Project Owner to discuss licensing of existing structures in advance of completing an application form.

5.2.5 New Structures, Vegetation Removal, and Ground Disturbing Activities

Prior to any ground disturbing activity or the installation or construction of any new structure on or affecting project lands, a license application must be approved by, and a license issued from the Project Owner. Application reviews will be coordinated with local jurisdictions such that no licenses will be issued until all applicable local permits have been obtained.

Planting plans must be submitted and approved by the Project Owner prior to planting within the project boundary. Planting plans may be incorporated into the application for new or replacement structures.

Procedures for obtaining a license for proposed new activities on project lands are listed below:

1. Property owner completes a license application form. Required information includes but is not limited to information on the type and location of the proposed facility or activity, proposed dimensions, and any applicable deed rights.
2. Property owner submits application form and a site plan drawing of the proposed activity along with applicable fees to the Project Owner requesting a license. The application shall include among other things, existing vegetation with dbh (diameter breast height) and height measures, vegetation proposed to be removed, planting plan, erosion and soil controls, phasing - sequence - methods if project is evolved, and other mitigation measures.
3. Project Owner reviews the application for conformance with development guidelines and any potential safety or environmental issues.
4. If the application is incomplete or the appropriate drawings are not included, the packet will be returned to the applicant for more information.
5. Project Owner notifies local jurisdictions of application and requests sign-off by local authorities.
6. Depending on the request, a site visit may be scheduled by the Project Owner.
7. Project Owner issues a pre-approval or denies the request.
8. If the request receives a pre-approval, a license will be issued by the Project Owner upon receipt of proof of having received all applicable local permits. Project Owner furnishes a license tag and number to be placed on the structure.

9. As soon as a structure is completed, the owner, occupant, or person in charge of the structure shall affix the license tag provided by the Project Owner to the structure. The tag shall be affixed on the lake side of the structure in a location most visible from the channel or cove.
10. New licenses will not be issued until all applicable State and local permits have been obtained by the property owner.
11. If project lands are to be cleared of native vegetation, the Project Owner will require establishment of a vegetated buffer as a condition of licensing and a stipulation before any work begins that removal of vegetation will be limited to the area of the structure plus the minimum area required to install it. These areas must be shown on the applicable site map.

Construction of licensed structures must be completed within one year from the date the license is issued. If the work is not complete within one year, the licensee may apply for one, 6-month extension to complete the work. The extension will be granted provided there have not been any changes in the information that was submitted with the original application and the structure complies with current guidelines. If the license expires, the license is null and void.

5.2.6 License Renewal

All licenses issued in 2008 must be renewed on a three (3) year basis beginning in 2011. Procedures for renewal are listed below:

1. Property owner completes and submits renewal application to Project Owner no sooner than one year and no less than six months prior to the license expiration date.
2. Project Owner reviews application and approves or denies the request.
3. If the request is approved, the Project Owner notifies the applicant and requests applicable license fees.
4. Upon receipt of license fees, the Project Owner issues a new license and license tag.
5. If fees are not received within 30 days of notification, the Project Owner will send a second notification and request for fee payment.
6. If fees are not received within 30 days of the second notification, the license will be canceled and the property owner will be required to remove said facilities from project lands.

5.2.7 License Transfer

If the ownership of the property, dock, or other licensed facility changes, the Project Owner must be notified. If the property is transferred to a new owner, the existing licenses are required to be transferred to the new owner. A license can be transferred by completing a license transfer application.

5.2.8 License Review Board

A review board shall be established by the Project Owner for the purposes of reviewing grandfathered non-conforming uses. The board shall consist of the following:

- 1 One representative from each of the four towns and the City of Danbury
- 2 A Project Owner representative
- 3 Representative of the Candlewood Lake Authority

Town representatives shall be appointed by the town selectman, or the mayor in the case of the City of Danbury. The board shall meet monthly. The board shall nominate a chair who shall run all meetings of the board. Staff functions for the board shall be provided by the Project Owner. All meetings and deliberations of the board shall be open to the public and all determinations shall be recorded in meeting minutes.

Actions by the board shall be advisory in nature. Final decisions regarding issuance of a license shall be made by the Project Owner.