

# Connecticut Department of Energy & Environmental Protection

## Residential Dock Guidelines

If you are a coastal property owner in Connecticut, you have the right to access navigable waters from your property. While you own the area landward of the mean high water elevation, the submerged lands and waters waterward of mean high water are held in trust by the State of Connecticut for the public's enjoyment. Subject to regulation by the State, typically you may exercise your right to access the water (often referred to as your "littoral" or "riparian" right) by constructing a dock from your upland area into the state's public trust waters. **(See Figure 1)**

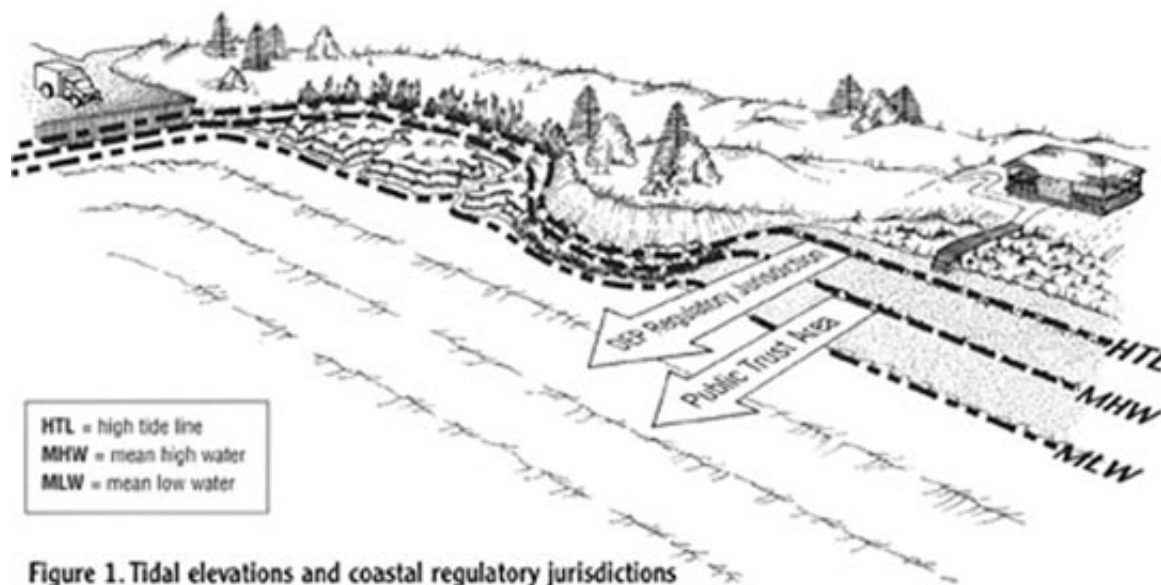


Figure 1. Tidal elevations and coastal regulatory jurisdictions

The installation of residential docks in the tidal, coastal or navigable waters of Connecticut is regulated by the Department of Energy and Environmental Protection's Office of Long Island Sound Programs (OLISP). The goals of the permitting program are to protect our coastal resources, promote safe navigation, and balance private rights of access with the public's right to use and enjoy public trust waters.

The placement of your private dock in public trust waters is limited to the minimum encroachment which provides "reasonable" access to the water. In most situations, reasonable access is achievable with a four-foot wide fixed pier extending to mean low water (MLW), a gangway or ramp and a 100 square foot float. While such a structure may not be ideally sized for your vessel and may not provide full tidal-cycle access, in most cases it strikes a balance between your private rights of access and the public's right to use and enjoy public trust waters.

As a littoral property owner, you are entitled to one point of access per property. Decks, gazebos and other structures which are not necessary for boating access are not permissible waterward of the high tide line (HTL). The sharing of docks by adjacent waterfront property owners is encouraged. If multiple owners choose to share a dock, and legally relinquish individual littoral rights, the dock can often be somewhat larger than that typically authorized for a single property.

Creation of additional rights-of-way or easements does not create new littoral rights, therefore, docks on easements are not generally permissible. In cases where a number of upland property owners, such as a homeowners association, purchase a waterfront parcel, a standard sized residential dock is generally permissible.

Please be aware that it may not be possible for you to have a dock just like your neighbor's. If your neighbor's dock was authorized many years ago, it was reviewed under a different set of standards than those used by OLISP today. The definition of a minimized dock is continuously refined to reflect our increased knowledge of development pressures and the impact of docks on our coastal resources.

By minimizing dock size, the cumulative environmental impacts of all permitted structures is reduced. In some rare cases, unacceptable adverse impacts to coastal resources or navigation may preclude construction of any dock structure.

### Planning for Your Dock

#### Design Considerations

**Structural Configuration** – Docks must be designed to minimize encroachment into public trust waters. Accordingly, fixed piers generally should not exceed four feet in width and should extend only to mean low water. Afloat, connected to the fixed pier by a gangway or ramp, generally should not exceed 100 square feet in area. (See Figure 2)

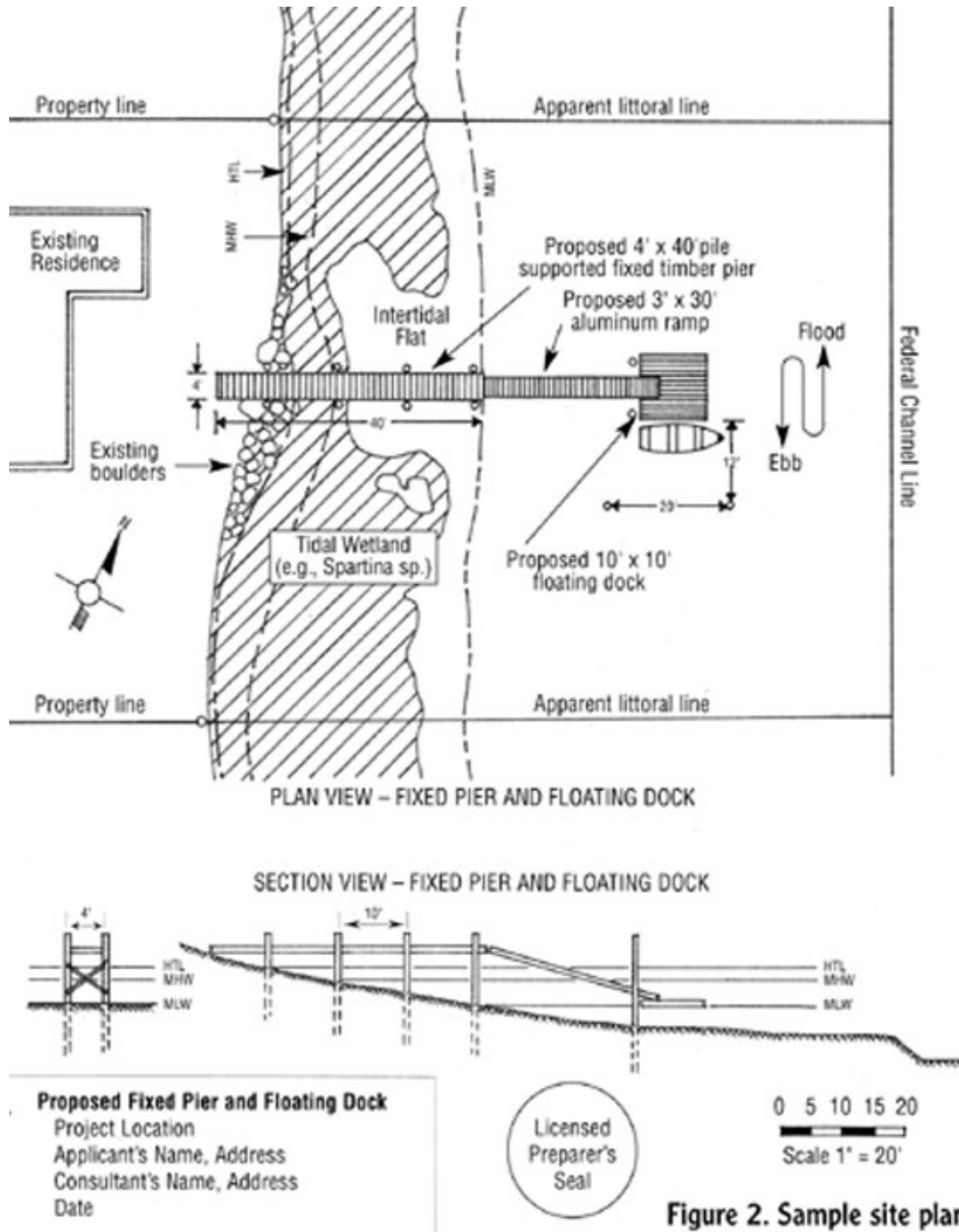


Figure 2. Sample site plan

**Location** – Docks must be located in areas where they will have no, or minimal, adverse resource or

navigational impacts. If it is not possible to avoid sensitive coastal resources (see discussion below), adverse impacts must be reduced to the greatest extent possible. If there is a federal navigation channel in the vicinity of the proposed dock, the U.S. Army Corps of Engineers requires that there be a setback from the edge of the channel based on the authorized channel depth. The dock should generally be centered along your waterfront in such a manner as to avoid potential conflicts with the littoral rights of adjacent waterfront property owners.

**Public Access** – The public is entitled to unrestricted access along the shore waterward of the mean high water line. Fixed piers must be elevated such that the lowest horizontal member is a minimum of 5 feet above the substrate at the mean high water mark to allow the public to pass underneath. If this clearance cannot be met, stairs or some other type of accessway with appropriate signage must be constructed to provide the necessary access. (See Figure 3)

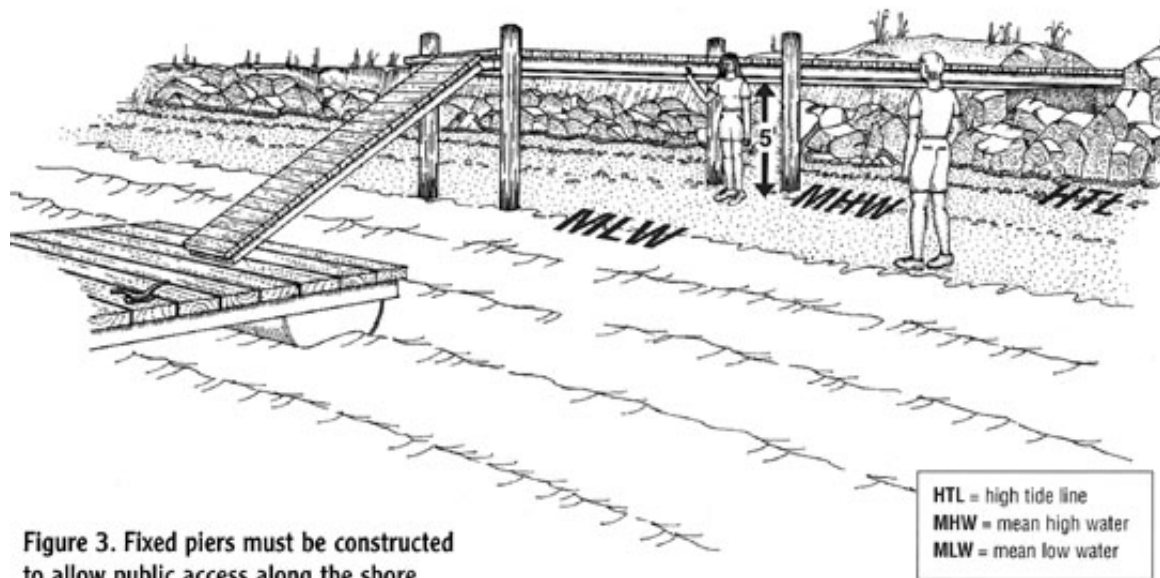


Figure 3. Fixed piers must be constructed to allow public access along the shore

**Construction Material** – The number and size of pilings to support fixed piers should be minimized to the greatest extent possible. Docks composed of solid fill, such as stone cribs or concrete, are generally not permissible. Concrete pilings are acceptable in certain situations. Pending federal regulations will likely ban the use of wood treated with Chromated Copper Arsenate (CCA) in dock construction.

### The Public Trust Doctrine

The submerged lands and waters below the mean high water (MHW) line in Connecticut belong to all citizens of the state under the ancient common law public trust doctrine. The public trust area is also referred to as tidelands.

The general public may freely use these intertidal and subtidal lands and waters for fishing, shell-fishing, hunting, boating, sunbathing and walking along the beach. DEEP works to preserve these rights by regulating the encroachment of private structures into the public trust area and by promoting public access opportunities throughout the Connecticut coast.

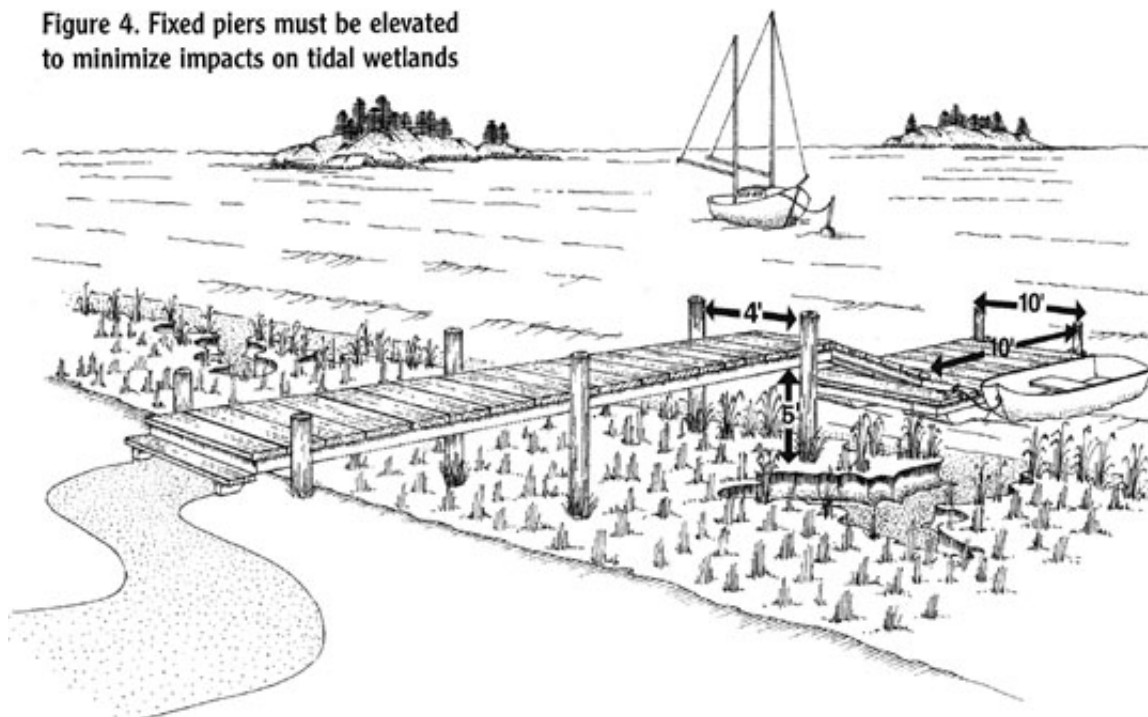
### Resource Considerations

**Tidal wetlands** - Tidal wetlands are typically flat, vegetated areas that are subject to regular flooding by the tides. They are an indispensable part of the Long Island Sound ecosystem, serving such functions as waterfowl and wildlife habitat, nursery areas for fish, a food source for marine organisms, pollution control and floodwater storage. Ideally, docks should be sited out of tidal wetlands. However, if you cannot avoid locating your dock in tidal wetlands, the following guidelines should be applied:

- Maximum pier width of 4 feet.
- Dock must be at least one foot above the height of the tallest undisturbed tidal wetland

vegetation at peak growing season or must be elevated above the substrate a distance equal to or greater than the pier width. (See Figure 4)

**Figure 4. Fixed piers must be elevated to minimize impacts on tidal wetlands**



- In locations where a considerable expanse of wetlands must be traversed to reach navigable waters, no structure may be appropriate, or the dock may need to be constructed at the water's edge without a fixed pier across the marsh surface.

**Submerged aquatic vegetation** - Submerged aquatic vegetation (SAV) are rooted, vascular plants that grow completely underwater, such as eelgrass. SAVs are an important food source for waterfowl, provide habitat and nursery areas for finfish and shellfish, absorb nutrients and remove suspended sediment from the water. Eelgrass is present year round, while brackish and fresh water SAVs are most prevalent during the growing season from June through August. When building a dock in the vicinity of SAVs, the following guidelines should be applied:

- Maximum pier width of 4 feet.
- Fixed pier with no float in order to minimize shading impacts. Davits or boat lifts at the end of a dock may be required to keep the berthed boat from disrupting the SAV bed.

**Intertidal flats** - Intertidal flats are gently sloping or flat areas located between high and extreme low tides. They have muddy, silty, and fine sandy sediments and are generally devoid of vegetation. Docks constructed over intertidal flats are ideally designed as fixed piers alone in order to avoid floats resting on and disturbing the substrate and its associated organisms. If the need for a float can be justified, it must be supported by stringers, legs, or float stops to keep it from resting directly on the bottom during low water.

**Shellfish** - Several species of shellfish are harvested commercially or recreationally in Long Island Sound. Docks and floats must be located, and dock construction activities conducted, so as to prevent harm to shellfish beds in the vicinity of your proposed dock.

### **The Permit Process — What to Expect**

Construction of a new residential dock may require an individual Structures, Dredging and Fill (SDF) Permit or a combined Structures, Dredging and Fill/Tidal Wetlands (SDF/TW) Permit if tidal wetland vegetation is present in the area of the proposed dock. Alternatively, a dock may qualify for General Permit (GP). The type of permit required depends on the size of the proposed dock and the resources at your property. The length of the permit process will depend on the type of permit being sought and the level of application completeness. A GP is a streamlined process and is generally issued within



three months. An individual SDF permit typically takes six to twelve months. Routine maintenance or minor modification of your dock may be conducted through a Certificate of Permission (COP), another streamlined authorization process. Completion of the COP process takes a maximum of 90 days.

Permit application forms and instructions are available by mail from OLISP, or may be downloaded from the DEEP website. Prior to submitting a permit application, we advise that you contact the OLISP permit staff at 860-424-3034 to request a pre-application meeting. At that meeting, staff will discuss dock design and determine the appropriate permit process. New docks are also regulated by the U. S. Army Corps of Engineers and may qualify for expedited review under a Programmatic General Permit if the impacts of the proposed dock are determined to be minimal. All applications are reviewed for consistency with any state-approved municipal harbor management plans (HMP). Prior to submitting your application, check with your town or city planning office or Harbor Management Commission to find out if an approved HMP is in place, and make your project consistent with such plan. Also contact your local shellfish commission to determine if there are any shellfish lease areas in the project vicinity. If there are, you must provide the names and addresses of the leaseholders along with your application. Once an application has been received by OLISP, it will be checked for completeness and the proposed dock will be reviewed for impacts to coastal resources, navigation and public trust uses.

**General Permit** - GP docks may be no larger than a total of 220 square feet waterward of mean high water, and extend no further waterward than to a depth of -4 feet mean low water or a distance 40 feet from mean high water, whichever is shortest. GP docks may only be located where there are no SAVs or tidal wetlands on site. If you wish to apply for a GP eligible dock, you must submit the registration fee and a complete registration which meets the criteria specified in Section 3(b) of the general permit. Once you receive an approval of registration from OLISP, you can proceed with your project provided that you have all other necessary local, state and federal authorizations.

**Structures, Dredging and Fill/Tidal Wetlands Permit** - When you submit your SDF or combined SDF/TW permit application to OLISP, you must also publish a Notice of Application in a newspaper having a general circulation in the your area and send a copy of the notice to your town's chief elected official, as described in the application materials. Once OLISP has received your application, it will be reviewed for completeness and consistency with applicable standards and criteria. A permit fee, based on the square footage of the dock, will be calculated, any balance due will be billed, and any items necessary to complete the application will be requested. Upon completion of this technical review, tentative determination to approve, to approve with modification, or to deny the permit will be made by the Commissioner of the DEEP. OLISP will publish a Notice of Tentative Determination at the expense of the applicant, and public comments will be accepted for a 30 or 40 day period. For Tidal Wetlands applications, a public hearing will be held upon receipt of a petition signed by at least 25 persons. After public comments are received and considered and any hearings are closed, the Commissioner will issue a final decision on the permit application.

**Certificate of Permission** - If you already have a dock on your property and would like to modify it or conduct maintenance, the work may be eligible for a COP. Many people mistakenly believe that existing docks are "grandfathered" and that repair of these structures needs no authorizations. The only docks which are grandfathered are those which were built prior to June 24, 1939 and have been continuously maintained and serviceable since that date. However, substantial maintenance work or modifications to a pre-1939 dock would also require authorization as part of the COP process. Docks built between 1939 and January 1, 1980 without permits may be authorized and maintained or modified under a COP, provided there are no resource, navigation, or public trust concerns. Existing authorized docks may also be eligible for modification or maintenance through a COP. If your site has been previously dredged under a permit or COP and you would like to conduct maintenance dredging, a COP is required. However, in general, no new residential dredging will be permitted.

**For further information on Connecticut's Coastal Permit Program, please contact:**

Office of Long Island Sound Programs  
Bureau of Water Protection and Land Reuse  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Phone: 860-424-3034

This overview is designed to answer general questions and provide basic information. You should refer to the appropriate statutes and regulations for the specific language of the different regulatory programs. This document should not be relied upon to determine whether or not an environmental permit is required. It is your responsibility to obtain and comply with all required permits.