

Waukegan Port District, a Municipal Corporation

**ORDINANCE 2011-O-01
HARBOR CONSTRUCTION/ALTERATION/MAINTENANCE
PERMIT ORDINANCE**

**Presented at regular meetings of the
Waukegan Port District Board**

**May 11, 2011
June 15, 2011**

**Passed and approved at a regular meeting of the
Waukegan Port District Board**

June 15, 2011

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**Henry J. Bogdala, Sr., Chairman
Dale Johnson, Secretary
Jorge Torres, Treasurer
Michael M. Melius, Board Member
Joseph J. Legat, Board Member
Homer Benavides, Board Member
C. Todd Binning, Board Member**

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PERMIT ORDINANCE**

WHEREAS, the Waukegan Port District Act, Illinois Compiled Statutes ch. 70 (70 ILCS 1865/1 & ff.) (the "Act") creates a political subdivision, body politic and municipal corporation known as the Waukegan Port District; and

WHEREAS, the territory of the Waukegan Port District includes all of the territory within the City of Waukegan, as more particularly described in Section 3 of the Act, and includes an area of Lake Michigan lying east of the City for a distance of two miles; and

WHEREAS, Section 4.1 of the Act states the Waukegan Port District shall "issue permits for the construction of all wharves, piers, dolphins, booms, weirs, breakwaters, bulkheads, jetties, bridges or other structures of any kind, over, under, in, or within 40 feet of any navigable waters within the Port District; for the removal of and deposit of rock, earth, sand or other material, or any matter of any kind or description in said waters"; and

WHEREAS, Section 14 of the Act states:

It is unlawful to make any fill or deposit of rock, earth, sand, or other material, or any refuse matter of any kind or description, or build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, bridge, or other structure over, under, in, or within 40 feet of any navigable waters within the Port District without first submitting the plans, profiles, and specifications therefor, and such other data and information as may be required, to the Port District and receiving a permit therefor; and any person, corporation, company, city or municipality or other agency, which shall do any of the things above prohibited, without securing a permit therefor as above provided, shall be guilty of a Class A misdemeanor; provided, however, that no such permit shall be required in the case of any project for which a permit shall have been secured from a proper governmental agency prior to the creation of the Port District. Any structure, fill or deposit erected or made in any of the public bodies of water within the Port District, in violation of the provisions of this section, is a purpresture and may be abated as such at the expense of the person, corporation, company, city, municipality or other agency responsible therefor, or if, in the discretion of the Port District, it is decided that said structure, fill or deposit may remain, the Port District may fix such rule, regulation, requirement, restrictions, or rentals or require and compel such changes, modifications and repairs as shall be necessary to protect the interest of the Port District; and

WHEREAS, Section 24 of the Act (70 ILCS 1865/24) provides that the "Board has the power to pass all ordinances and make all rules and regulations proper or necessary, and to carry into effect the powers granted to the District, with such fines or penalties as may be deemed proper.

NOW THEREFORE, the Board of Directors of the Waukegan Port District in order to implement the permitting authority granted to it under Sections 4.1 and 14 of its enabling legislation hereby establishes and adopts the following rules, regulations and procedures for obtaining Construction/Alteration/Maintenance Permits within its area of jurisdiction:

1. Permitted Projects.

Permits will be required in connection with activities described in 70 ILCS 1865/4.1. Permit reviews shall be required before construction, alteration, or repair activities are undertaken on existing structures or before the erection of new structures occurs, all as defined in 70 ILCS 1865/14, as hereinbefore set forth.

2. Plans and Specifications.

A. Any applicant for a Permit shall include with its written permit application to the Waukegan Port District, detailed plans, profiles and specifications for the proposed construction activities, alterations, or repairs bearing the seal, signature and attestation of an Illinois licensed professional engineer, along with a non-refundable plan review fee of one thousand dollars (\$1,000.00). The Waukegan Port District may waive any fees in its sole discretion.

3. Liability and Insurance.

Applicant shall indemnify and hold the Waukegan Port District harmless from any liability, claims or damages arising from the activities or actions performed under the Permit issued pursuant to this Harbor Construction/Alteration/Repair Ordinance. The Waukegan Port District shall be added as an additional insured on a primary non-contributory basis to the comprehensive general liability, marine operations, auto liability and any umbrella insurance policies of the Applicant and the parties undertaking and performing the construction, alteration or maintenance activity with a minimum \$5,000,000 limit of liability each occurrence.

4. Approval, Denial or Modification.

Upon review of the proposed Plans and Specifications, the Waukegan Port District may issue a Request for Change or Further Information or Clarification, a Denial of Permit, or a Permit for Construction/Alteration/Maintenance.

5. Fees.

Prior to the Waukegan Port District issuance of a Permit, applicant shall submit a Permit fee in the amount of five percent (5%) of the total value of the project, as

determined by the value of a contract for services, or five thousand dollars (\$5,000.00) whichever is greater. In the event the cost of the activity will not exceed \$1,000.00, then the Port District may waive the permit application fee, in its sole discretion.

6. Inspections.

During the term of the permit, applicant will pay a weekly inspection fee of one hundred fifty dollars (\$150.00). The purpose of this inspection shall be only to determine compliance with the Harbor Construction/Alteration/Maintenance Permit and shall not be for the purpose of compliance with any other permit, statute or regulation by any other regulatory entity. In no event, will such weekly inspections be considered safety inspections or give rise to a duty for the Waukegan Port District to identify construction defects or discrepancies or defects or irregularities in construction practices. Non-compliance with the Harbor Construction/Alteration/Maintenance Permit may result in a maximum penalty of five hundred dollars (\$500.00) per day, until such time as the violation is corrected.

7. Severability.

If any portion of this Ordinance shall be declared invalid by a court of competent jurisdiction for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect.

8. Repeal.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

9. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED by the Corporate Authority on June 15, 2011, on a roll call vote as follows:

AYES: Torres, Melius, Legat, Binning, Johnson

NAYS: None

ABSENT: Bogdala, Benavides

Presented and read at a regular meeting of the Waukegan Port District Board on the 15th day of June, 2011.

s/Dale Johnson
DALE JOHNSON, Acting Chairman

s/Chris Peters
CHRIS PETERS, Temporary Secretary