

## **APPENDIX C**

### **Waterways and Harbor Management Law**

**Findings:** Lake Champlain within the Town of Essex supports a wide range of public and private in-water uses. These uses include recreational and commercial boating, anchorage and mooring areas, recreational fishing and swimming, marinas, public and private docks, special aquatic events, and ferry service. The Town of Essex finds that to manage the efficient use of Lake Champlain that lies within the Town, promote the safety of commercial and recreational navigation, provide for the equitable allocation of the water's surface for a variety of uses, and to protect the natural and cultural resources upon which many of these uses depend, this Local Law is hereby enacted for these purposes and to implement the Town's Local Waterfront Revitalization Program.

#### **Section 1.0 Authority:**

1.1 This law is adopted pursuant to §130.17 of New York State Town Law, §922 of the New York State Executive Law, §10 the Municipal Home Rule Law; and Article IX of the New York State Constitution.

1.2 The provisions of this law shall, except when prohibited by the laws of the United States, apply to all the waters of Lake Champlain that lie within the Town of Essex.

#### **Section 2.0 Definitions:** As used in this law, the following terms shall have the meaning indicated.

**ANCHOR:** To secure a vessel temporarily to the bottom of a water body by dropping an anchor or anchors or other ground tackle from a vessel for a period of no longer than seventy-two (72) consecutive hours.

**ANCHORAGE AREA:** The areas designated by the Town of Essex, as depicted on the Harbor Management Chart, that are reserved specifically for the anchoring of vessels.

**AQUATIC EVENT:** Any public or private organized activity including but not limited to a regatta, boat race, boat show, water skiing competition or demonstration, or firework display, which uses a defined area of the water for set period of time.

**BEACH:** All public beaches (of all jurisdictions), private membership club beaches, and private homeowners' association beaches, as depicted on the Harbor Management Chart.

**BULKHEAD:** Any structure, except a building, positioned parallel to the shoreline, the primary function of which is to retain soil or any other material from eroding into a waterway or to protect the land from wave damage.

**CHANNEL:** Water areas specifically reserved for unobstructed movement of vessels and which may be marked in the water by aids to navigation. Channels are depicted on the Harbor Management Chart.

**DOCK:** Any permanent structure, except a building, connected to a bulkhead or the upland and extending over the water's surface designed to secure vessels and provide access from the shore to a water body. The term dock includes the term pier, attenuation dock, quay, wharf, crib dock, stake dock, floating dock and all other similar structures.

**DOCK-COMMERCIAL:** A dock or portion of a dock which accommodates more than three (3) vessels, excepting canoes or row boats and sailboats under eighteen (18) feet.

**DOCK-PRIVATE:** A dock which accommodates up to three (3) vessels, owned by the property owner, excepting canoes, and row boats and sailboats under eighteen (18) feet.

**DOCKMASTER:** See Harbormaster.

**FAIRWAY:** An area in the harbor, other than a federally or locally designated channel, commonly used as an open access way between marine structures or designated channels, buffers areas, and mooring areas.

**FERRY APPROACH AREA:** The area designated on the harbor management chart which is used by the cross lake ferry in arriving and departing from the shore.

**FLOAT:** Any structure buoyant on the water surface affixed and secured in place to underwater lands which provides an offshore surface, for swimmers, or other purposes.

**HARBOR MANAGEMENT AREA:** All surface waters, inlets, bays, and coves of Lake Champlain within the Town of Essex.

**HARBOR MANAGEMENT CHART:** The water surface map adopted by the Town of Essex as part of this local law.

**HARBORMASTER:** The person appointed by the Town Board to ensure enforcement of laws, regulations, and policies governing navigable waters within the Town of Essex. For purposes of this Local Law, the term Harbormaster shall include the position of Dockmaster or any such person authorized by the Town Board to carry out the provisions of this Local Law.

**JET SKI:** A ski propelled by machinery and designed to travel over water. (See Personal Watercraft)

**LAKE CHAMPLAIN WITHIN THE TOWN OF ESSEX:** That part of Lake Champlain that extends to the east to the center of the Lake and north and south to the Essex Town boundary lines.

**LIVE-ABOARD VESSEL:** Any vessel used, designed, or occupied as a dwelling unit, business office or any commercial use, or for any private or social club of whatsoever nature, including but not limited to a structure constructed upon a barge while the same is moored or docked within the harbor management area of the Town of Essex.

**MARINA:** Any waterfront facility which provides accommodation services for vessels by engaging in any of the following: (1) the sale of marine products or services; (2) the sale, lease, rental, or charter of vessels of any type; (3) the sale, lease, rental or any other provision of storage, wharf space, or mooring for vessels not registered to the riparian property owner's immediate family, the owner or lessee of the property, members of the lessee's immediate families, or an overnight guest on said property.

**MOOR:** To attach a vessel to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

**MOORING AREA-PUBLIC:** The areas designated by the Town of Essex as depicted on the Harbor Management Chart that are reserved specifically for the mooring of vessels.

**MOORING DEVICE:** a permanent or semi-permanent vessel-anchoring device and its associated tackle, such as chains, buoys, and other equipment, other than a common anchor, manufactured and used specifically for the permanent or semi-permanent mooring of vessels.

**PERSONAL WATERCRAFT OR SPECIALTY PROP CRAFT:** A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power or is powered by an outboard motor or a propeller drive motor, and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

**PERSON:** An individual, partnership, corporation, association, and any other legal entity subject to the provisions of this chapter.

**PIERHEAD LINE:** A line, as depicted on the Harbor Management Chart, beyond which no structure may extend out into navigable waters.

**SHORELINE:** The line of the shore as generally depicted on the Harbor Management Chart.

**SPEED:** The speed of a vessel over the water's surface as measured in miles per hour.

**SWIMMING AREA:** A water area designated on the Harbor Management Chart set aside for swimming.

**TOWN BOARD:** The Town Board of the Town of Essex.

**UNREGISTERED VESSEL:** A vessel that is not registered as required by New York State Law.

**VESSEL:** Includes every description of a motorized vessel and watercraft or other contrivance used or capable of being used as a means of transportation in or on the water, including aircraft, and personal watercraft.

**VESSEL OWNER:** The person under whose name the vessel was last registered in accordance with the provisions of Section 46, United States Code on Chapters 121-125 of the NYS Motor Vehicle and Traffic Law and, in any other case, the last known owner or person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him/her to such possession.

### Section 3.0 Vessel Operations:

3.1 Dangerous operation prohibited. No person shall operate a vessel at a speed greater than is reasonable or prudent, including, without limitation, the throwing of its wake, so as to:

- a. endanger the life or limb of another person using Lake Champlain under the conditions and having regard to the actual and potential hazards then existing; or to
- b. disturb the reasonable comfort or endanger a person on or operating another vessel or cause damage to another vessel, structure, shoreline property, the environment, or interfere with the free and proper use of the waters of any channel.

### 3.2 Speed of vessels:

- a. No person shall operate any vessel at a speed in excess of that posted by speed markers. The Town may, from time to time, by resolution, establish maximum speed limits for any portion of waters or waterways subject to this law and provide for the posting of speed markers, or signs at conspicuous locations.

No person shall operate a vessel at speeds greater than five (5) miles per hour within congested areas within the jurisdictional limits of the Town, which shall include marinas, anchorage areas, mooring areas, fairways, channels, the north and south bays adjacent to the hamlet of Essex or other areas within feet of the shoreline, except to enable a water skier to take off or land in areas outside the waters adjacent to the hamlet.

The Town Board may, by resolution, from time to time and for periods stated in such resolution, suspend the enforcement of this section with respect to any portion or portions of waters or waterways and designate such areas by the location of appropriate speed markers.

No person shall operate a vessel at speeds greater than five (5) miles per hour within one hundred fifty (150) feet of swimmers, bathing floats, a regulation red diving flag, or lifelines.

No person shall operate a vessel within one hundred fifty (150) feet of any area marked for skin or scuba diving by the placement a regulation red diving flag except a vessel being used to support such diving.

### 3.3 Identification and Vessel Registration:

No person shall operate an unregistered vessel upon the waters of the Town. Vessel operators shall identify themselves and produce the vessel's registration to Town, county, state or federal law

Where a shoreline lot owner violates this Section, the Zoning Officer may require total re-vegetation so as to create a buffer strip area which is in compliance with this Section.

APA Standards should be met if they are stricter than the above.

Provisions for Access: Within the Shoreline Overlay District, the following minimum shoreline frontages shall be required for deeded, easement, right-of-way, or other contractual access to the shoreline of Lake Champlain for three or more lots, parcels, or sites or multi-family dwelling units not having separate and distinct ownership of shore frontage:

Site plan review and approval by the Planning Board pursuant to the standards below.

A plan shall be submitted showing areas for swimming, recreation, docking, building placement, parking and landscaping.

Compliance with the Town of Essex Waterways and Harbor Management Law and the provisions of this Section and this zoning law.

Such use shall not significantly impair the natural appearance of said parcel; shall not overcrowd the parcel or the adjacent water surface; shall not produce unreasonable noise or glare to the surrounding properties; and shall not pose any substantial hazards.

The first three (3) lots, sites or dwelling units shall require a total of not less than 75 feet and each additional lot, site or dwelling unit shall require an additional five (5) feet of shoreline frontage.

Waterfront parcels may be developed for contractual access for five (5) or more lots or units only if those lots or units are part of an overall development plan for land that is located adjacent to the waterfront parcels.

Each parcel used for contractual access shall measure at least the minimum lot area for the zoning district where the access is proposed and shall measure an average depth of 100 feet from the mean high water mark.

No structures other than toilets in compliance with NYS Dept. of Health regulations, pump houses, changing facilities, and picnic shelters shall be constructed on the waterfront parcel. The total combined square footage of all structures shall not exceed 1000 square feet.

Commercial activities of any kind are prohibited.

Parking areas shall be landscaped and shall be set back from the shoreline a minimum of 75 feet.

### 3.1-8-10 Exemption for Emergency Conditions

The shoreline restrictions shall not apply to any emergency land use or development which is immediately necessary for the protection of life or property as defined by the Adirondack Park Agency in its rules and regulations as authorized in Section 809 of the Adirondack Park Agency Act.

enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of the operation of an unregistered vessel and a violation of this section. Required equipment: No person shall operate a vessel which does not meet all duly adopted and published requirements of the State Navigation Law with regard to safety equipment to be carried or incorporated into vessels of its type.

### 3.5 Prohibited discharges.

No person on or operating a vessel shall dump refuse, or garbage, or discharge treated or untreated sanitary waste to the water.

### Section 4.0 Personal Water Craft (PWC):

No person shall operate a PWC within five hundred (500) feet of shore at a speed greater than five (5) miles per hour except that such five (5) mile per hour speed limit shall not apply when operating at safe headway speed in a straight line to or from shore or to of from an area five hundred (500) feet from shore.

No person shall operate a PWC within the Town so as to knowingly annoy, disturb, injure or endanger the health, comfort, repose, or peace of another person.

No person shall operate a PWC between the hours of 7:00 p.m. or sunset, whichever is earlier and 8:00 a.m.

### Section 5.0 Aquatic Events:

No person shall conduct organized aquatic events without obtaining a permit for such event from the Town Board.

No person shall operate a vessel to tow water skiers, nor shall any person water ski in or across navigation channels at any time within five hundred (500) feet of any bather, diver, pier, wharf, float, mooring, other boat or the shore. Water skiing includes riding on, operating, or being towed by motor-propelled surfboards and water bikes, and the towing or manipulation of a surfboard or similar devices behind a motorboat. Such devices, which are defined as vessels in accordance with the State Navigation Law, may be operated along the outside lines of navigation channels to reach and return from open waters where their operation is permitted, but shall not interfere with the operation of other vessels.

### Section 6.0 Mooring Areas:

Location of Mooring: The location of public mooring areas are indicated on the harbor management chart, the use thereof, and the types of mooring permitted are subject to standards adopted by the Town Board. Location and use conditions will be stated on the mooring permit.

## Mooring Permits:

No person shall place a mooring or mooring tackle, or moor a vessel, without first obtaining a mooring permit. Such permit shall be applied for on forms to be supplied by the Town and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Town Board.

Upon receipt of a properly prepared application, the Harbormaster shall determine if the application is complete, and if so, shall process the application. No application shall be deemed complete until the permit fee is paid. A mooring permit shall be deemed expired if the mooring is not installed within two years of the date it was issued. The applicant shall have six months to file an application for renewal of the expired permit.

Permits for the use of individual private moorings in public mooring areas shall be issued to the owner of the vessel to be moored. These moorings shall not interfere with egress or access to new or existing fairways or new and existing public access to the waterfront.

Permits for moorings accessory to a waterfront residential use shall be issued to the riparian property owner or lessee. Two moorings are allowed per riparian residential property dependent on conditions and available water surface area. These moorings should not limit access to adjacent properties. All such permits shall be non-transferable.

### 6.3 Mooring within the Harbor Management Area:

No person shall moor any vessel except in a designated mooring area as shown on the Harbor Management Chart unless the vessel is moored at a marina, yacht club, or at a mooring accessory to a lodging, restaurant, or waterfront residential use.

No person shall moor any vessel so that it lies within the lines of any channel, swimming area, fairway, or ferry approach access channel.

No person shall place a mooring, nor shall any mooring be placed so that a vessel moored to it, at the full swing of its' mooring line, will be closer than twenty (20) feet to the projection of the property lines extended into the lake as determined by the Harbormaster in accordance with commonly accepted convention and practices for such determinations.

No person shall fail to anchor or moor a vessel in such manner as to be secure at all times and under all conditions. Any vessel that becomes a menace to navigation or is un-seaworthy or sinks, grounds, or otherwise becomes disabled, shall be removed by the owner or person in charge of such vessel. If such vessel is not removed within a reasonable period of time after a lawful order to remove it, it may be removed by or at the direction of the Town Board at the expense of the owner or person in charge of said vessel. It shall be a violation of this section if any person fails to remove such vessel after ordered to remove it.

## Section 7.0 Anchoring:

No person shall anchor in a channel, fairway, mooring area, ferry access channel or within 100 feet of shore except in a designated anchorage area.

No person shall anchor at night without displaying lights except in an anchorage area designated on the Harbor Management Chart.

No person may anchor a vessel for more than seventy two (72) hours without obtaining a permit from the Harbormaster.

A person owning, operating, or in control of such vessel may leave a vessel temporarily to go ashore, but must be available to tend the vessel in the event of inclement weather. It shall be the vessel owner's and/or operator's responsibility to remain clear of all moored vessels and other structures.

## Section 8.0 Floats:

No person shall anchor or moor any float without a permit from the Harbormaster.

Issuance of permits shall take into account safety, day and night navigation, water depth and bottom conditions, tackle, access, and compliance with the Local Waterfront Revitalization Program. No float shall interfere with the use of channels or fairways. Permit shall only be issued to a riparian property owner.

## Section 9.0 Docks and Other In Water Structures:

No person shall construct or expand any structure including but not limited to docks, piers, wharves, boat lifts, breakwaters, or jetties, without obtaining a permit in compliance with the Town of Essex Zoning Law. Permits shall only be issued to a person with a riparian property interest by the Harbormaster.

Issuance of permits shall take into account safety, day and night navigation, effects on natural resources, cultural resources and water quality, public use of the water, and compliance with the Town's Local Waterfront Revitalization Program.

Docks accessory to a riparian residential use are limited to 100 feet in length or 8 feet of water depth, whichever is less, and 8 feet in width.

No dock or other structure may be constructed within 15 feet of a line that defines the area of riparian rights of a neighboring property, which line shall be determined in accord with commonly established conventions and practices for such determinations.

No structures shall be placed upon a dock that are not necessary for vessel access and safety.



No dock or other structure shall extend into a fairway, channel, ferry access channel, anchorage area, mooring area, or extend waterward of a pierhead line designated on the Harbor Management Chart.

A permit is not required for repairs to an existing dock, if such repairs do not alter the dock's size or shape.

#### Section 10.0 Living Aboard Vessels:

Except as hereinafter provided, no person shall live aboard any vessel or any floating or fixed structure over the water, nor shall any person or marina owner or operator permit any vessel to be used for living aboard when moored or docked within the harbor management area, except as outlined in Section 6.2 (Mooring Permits).

During the period April 15 to November 30, a vessel may be occupied as living quarters, provided that:

The vessel is of a type typically used for recreational boating and is suitable for general navigation on Lake Champlain under its own propulsion at any time during the period April 15 to November 30.

The vessel shall be moored or docked in a marina that has access to the lake for that boat, excluding periods of hazardous boating conditions.

The vessel is equipped with a Type III Marina Sanitation Device, in operational condition, and has access to a vessel waste pump facility.

#### Section 11.0 Enforcing Authority:

The Town Board, Harbormaster or any peace officer, are empowered to enforce the provisions of this Local Law. Every person in charge of a vessel shall at all times obey the lawful orders of a police or peace officer.

All appeals of decisions made by the Harbormaster shall be reviewed by the Town Board which shall be responsible for issuing a final determination.

The Harbormaster may recuse himself from the review of any application which represents a conflict of interest and may turn over any application he deems appropriate to the Town Board to rule on.

The Town Board shall have the final authority to enforce all provisions of this Local Law.

#### Section 12.0 Penalties for Offenses:

Any person violating any provision of this law shall be guilty of a violation and may, upon conviction, be punished by a fine not exceeding \$100. Each day that a violation under this law continues shall be deemed a separate offense.

### Section 13.0 Waivers:

Upon request from the applicant, the Town Board may waive the numerical standards for docks and other in-water structures where strict compliance with the regulations for such structures results in an undue burden on the applicant, provided that such waiver will not have the effect of nullifying the intent and purpose of the Harbor Management Law.

### Section 14.0 Miscellaneous Provisions:

Owners of the upland property shall completely remove any pilings, floats, or similar structures which are abandoned or fall into disuse.

No permit shall be issued for moorings or docks for commercial uses as defined in the Town zoning code unless or until the associated upland property has met the standards of the Town of Essex Zoning Law.

The Town Board shall have the power to establish standard contracts and contract terms and fees for the rental of public wharves, slips, docks, and moorings.

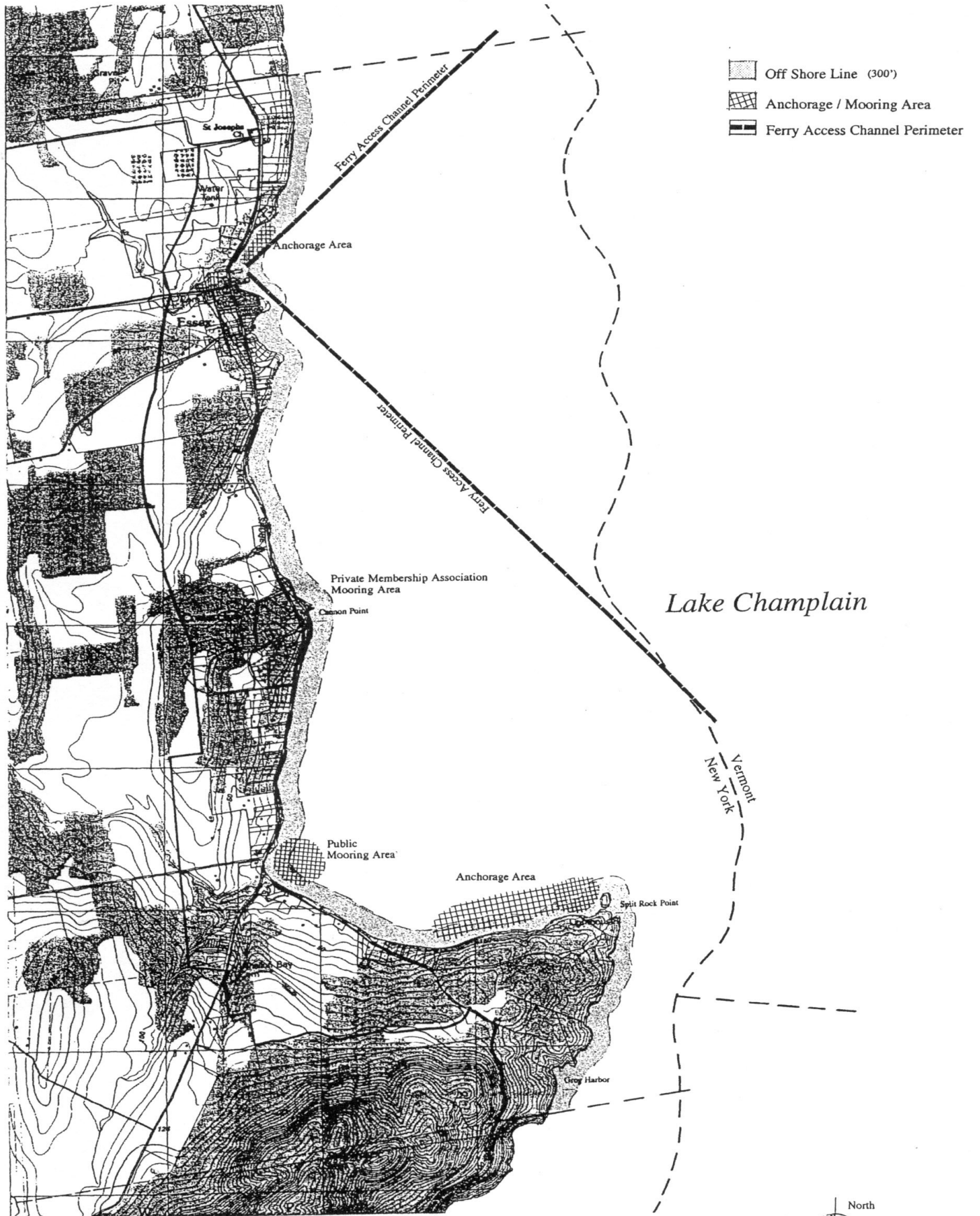
### Section 15.0 Severability:

The provisions of this Local Law are declared to be severable and, if any section, sentence, clause, or phrase hereof shall for any reason be held to be invalid, ineffective, in conflict with regulations of state or federal authorities or unconstitutional, such decision shall not affect the validity of the remaining portions hereof, but such portions shall remain in full force and effect.

### Section 16.0 Effective Date:

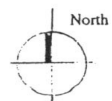
This Law shall take effect immediately upon its adoption by the Town of Essex and approval of the Harbor Management Plan as a component of the Town of Essex Local Waterfront Revitalization Program by the New York Secretary of State, according to the applicable provisions of law.

# Harbor Management Overlays



## Town of Essex Harbor Management Plan

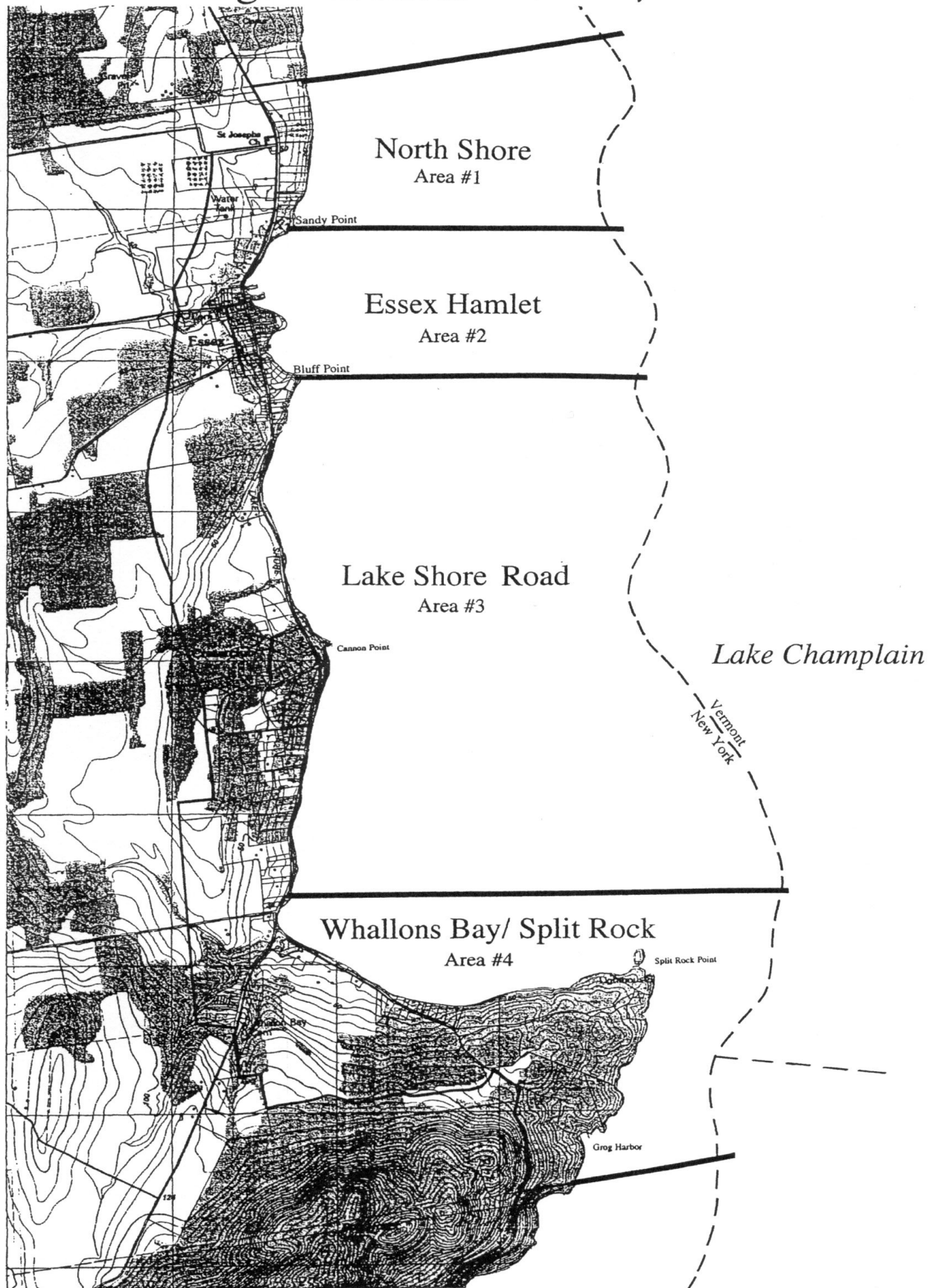
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21 North Street Bristol, Vermont 05443



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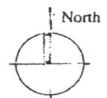
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# Harbor Management Areas



## Town of Essex Harbor Management Plan

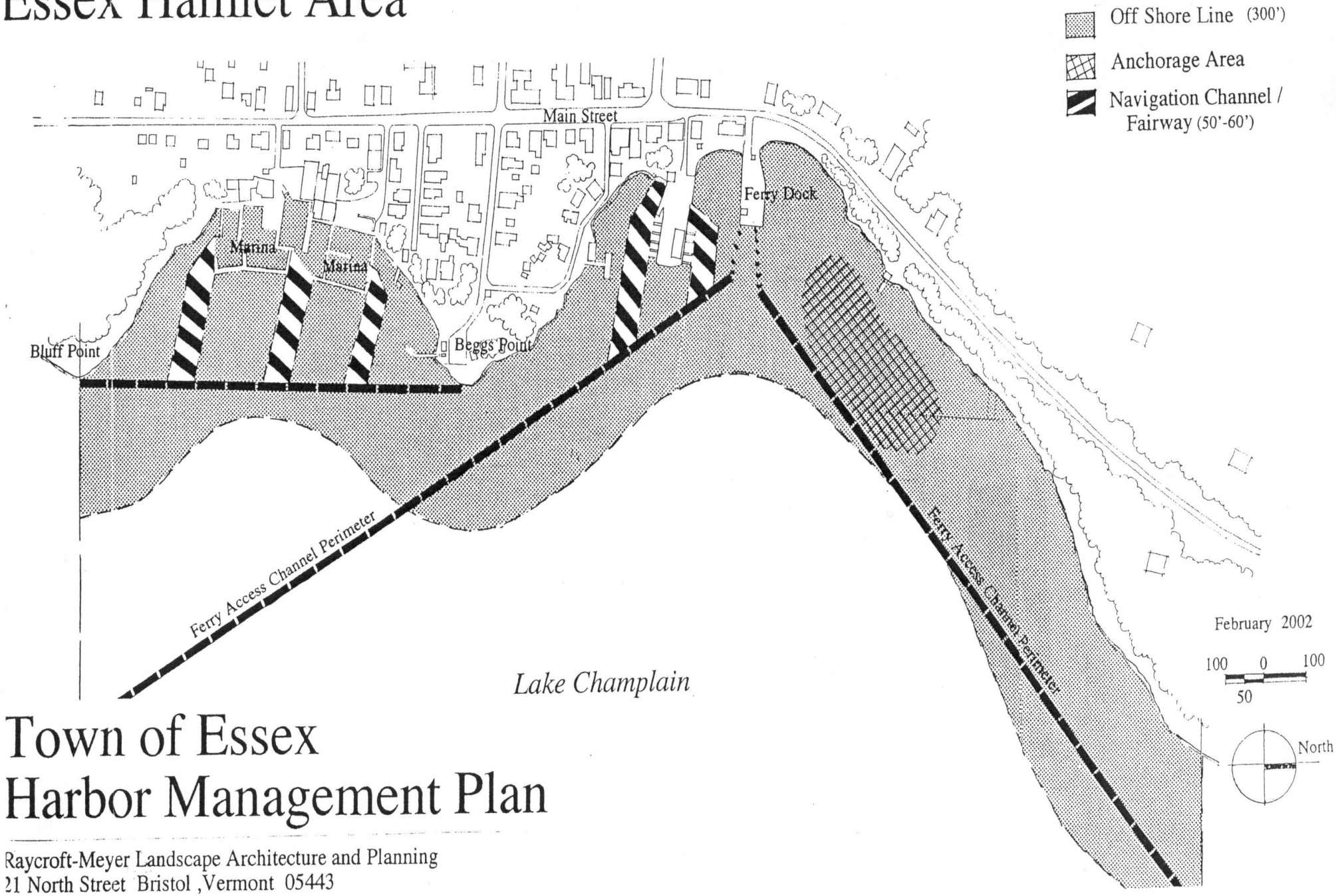
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# Essex Hamlet Area

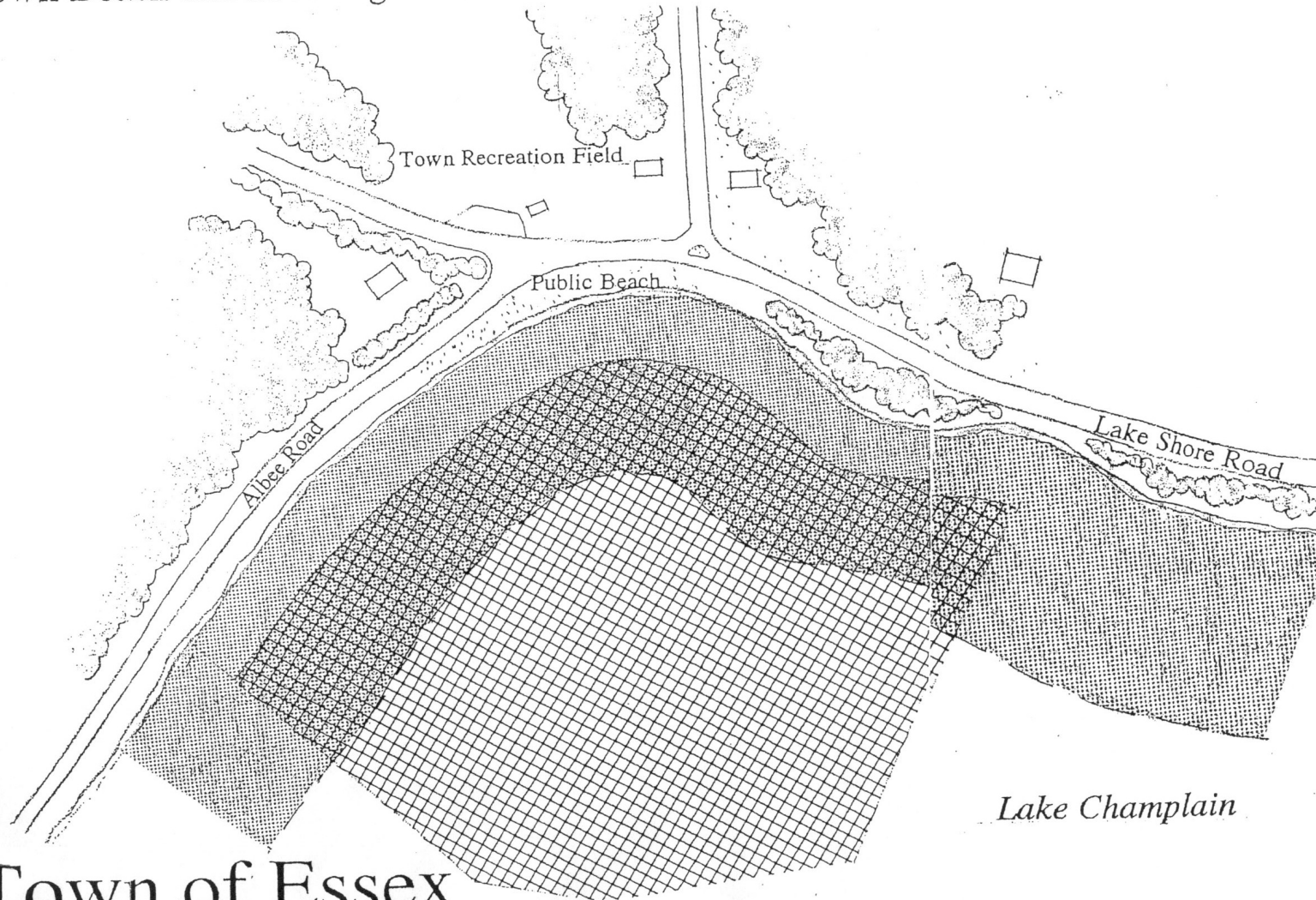


## Town of Essex Harbor Management Plan

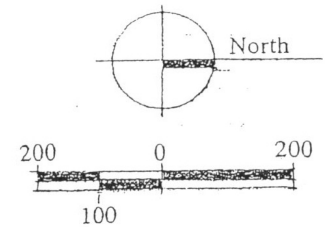
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# Whallons Bay

Town Beach and Mooring Area



- Off Shore Line (300')
- Public Mooring Area



February 2002

## Town of Essex Harbor Management Plan

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