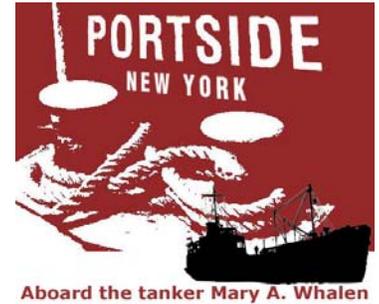


**December 9, 2016**

**New York City Council  
Waterfronts Committee  
Testimony by PortSide NewYork**



**Via email – updated from 12/5/16 version**

**Re:** NYC Council Improving Boater Safety in the City's Waterways  
<http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=516675&GUID=9C627122-BDF0-4917-9F2F-C0A004AC3137&Options=info&Search>

Thank you for holding this hearing. This is a very important topic, one that prompts our growing concern.

We previously testified before you on this topic on October 31, 2006 in a hearing “Rules of the Road, Boating Safety and Cooperation in New York City Waters.” We concluded that testimony by attaching an article about the risks associated with the rise of recreational boating, written by our President Carolina Salguero for the recreational boating magazine “Offshore” in 1999. In the seventeen years since that article, the number of ferries and recreational boats, especially human powered ones, has grown hugely in this harbor.

We understand that a catalyst for this hearing was the incident in the Hudson between a NY Waterways ferry and a kayak tour on August 30, 2016. As the Coast Guard report for that incident is not yet complete, we will refrain from making any absolute conclusions about that incident save to say this was an accident waiting to happen.

We strongly state that PortSide supports increased use of the waterways by boats of all types – advocating that is essential to our mission - and that we support recreational boating and wish to run such programs ourselves.

However, we see the risks rising from the combination of recreational and commercial boats – given certain physical characteristics of this harbor with its strong currents and harbor traffic – and the specific practices of some players in this harbor.

We are concerned that current regulations are inadequate.

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917-414-0565, [chiclet@portsidenewyork.org](mailto:chiclet@portsidenewyork.org), [www.portsidenewyork.org](http://www.portsidenewyork.org)**

### **Risks intensified by how boating was advocated**

During the late 1990s to the early 2000s, there was a big push for “public access” to the waterfront.

Access advocates and paddling groups used a rights-driven language to bolster the campaign. human-powered boating was promoting with advocacy language such as “the right to get to the water’s edge.”

A stated goal by advocacy groups was increasing the numbers of people they got onto the water.

Boating was less promoted as an activity with centuries of traditions and skills behind it. This focus on the right to boat rather than the skill of boating contributes to some of the safety issues we now find in the harbor.

Similarly, artists increasingly see the water as a “space of liberty” and zone for conceptual art projects underway and at a dock. Several of these projects have sunk. We know several that have been hazards to navigation. We know of multiple incidents where attendees at arts-afloat parties have been at risk due to falling overboard (eg, into the Gowanus Canal).

We believe a culture of maritime heritage and the skills of boating needs to be promoted more.

### **Specific Problems:**

1. Boating licenses are not required for all recreational users (NYS mandates that just some pass a boating safety class). This means that many unskilled boaters are out there. It also means that merchant mariners cannot be sure of the skill level of the recreational boater; so even if there is no incident, the merchant mariner is thrust into a defensive, and stressful, stance when encountering recreational boaters in this harbor.
2. Human powered vessels are not required to be registered and marked, so there is no way to accurately identify one in distress or causing a hazard.
3. The City Council cannot change NYS or USCG regulations about vessel identification or boating licenses.
4. Recreational boaters in this harbor, especially the kayaking contingent, have often been very resistant to boat registration and licensing making negotiated solutions hard. This pushes us, with some regret, to suggest it may be time for new rules.

### **Solutions to consider**

- a. Consider the regulations from Chicago that we attach.
- b. Pass regulation that addresses 1 and 2 above by mandating licensing and boat registration for all boats launched from City property (parks, marinas, street ends).

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For harbor tours, such as the NY Waterways-kayaker incident:

- c. Require that paddling tours make VHF radio contact with ferry operators before departure and not leave the dock until they have an answer
- d. Require a minimum ratio of experienced, certified tour guides to tourists.
- e. Have tours use established routes so the merchant mariner knows where to look for them.
- f. Consider prohibiting tours that include inexperienced paddlers from certain areas at certain times. Sunset-rush hour opposite a busy ferry terminal is such a possible location.
- g. When developers seek City permits for waterfront developments on private property that include a boating component, mandate that they conform to proposed regulation b above.

### **PortSide NewYork's Credentials**

- PortSide NewYork is a living lab for better urban waterways. PortSide NewYork works to activate NYC's waterfront, specifically the BLUEspace, the water part of it. PortSide shows how to combine the working waterfront, public access and community development.
- PortSide has extensive experience with vessel operations. We are responsible for a retired 172' coastal oil tanker. We engage the services of tugboats to move it.
- Our plans since 2005, include creating a maritime center that provides a landing for multiple vessel types. As a result, we work with vessel operators of many types and sizes.
- We have brought more visiting vessels to Brooklyn than major parks.
- We confer extensively with merchant mariners and recreational boaters
- Our President has a USCG OUPV Captain's license and rows, kayaks, sails and powerboats. Her documentary and advocacy work has had her spend time on tug boats, barges, ice breakers, Staten Island ferries in addition.

We encourage the City Council to get in touch for any follow up questions or to be referred to any of the sources we consulted to inform our testimony.

Best wishes for your holiday season!

Sincerely,



Carolina Salguero  
President  
PortSide NewYork

(1) attachment included,  
Chicago Harbor Safety Committee Safety Recommendations and Guide to Rules and Regulations v3.28.16

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# **Safety Recommendations and Guide to Rules and Regulations**

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# Chicago Harbor Safety Committee Safety Recommendations and Guide to Rules and Regulations

April 2016

After several years of extensive dialogue with Chicago Harbor Safety Committee (CHSC) stakeholders, waterway users and governmental authorities, comprehensive research, observation and assessment of the Chicago River and its users, the CHSC Board of Directors has identified and developed recommendations that will improve operational safety and promote and sustain the goals of marine safety for all users of the Chicago River.

These recommendations are provided to assist users of the navigable waters in the Chicago harbor and river system as best practices. They do not affect applicable laws or regulations. All vessel operators remain obligated to familiarize themselves with and follow applicable laws and regulations as they are in force at the time the vessel is operated. The Chicago Harbor Safety Committee provides references to laws and regulations as a convenience and does not provide legal advice.

## ALL VESSELS/GENERAL

### *Rules and Regulations*

- All vessels should displace a minimum wake at all times where practicable (with the exception of responding to an emergency) and shall comply with 10-40-261 of the Municipal Code of Chicago<sup>1</sup>
- All vessel operators shall comply with U.S. Coast Guard (USCG) Navigation Rules-Inland<sup>2</sup>
  - All vessels shall so far as practicable avoid crossing traffic lanes, but if obliged to do so shall cross as nearly as practicable at right angles to the general direction of traffic flow
  - No vessel shall overtake another vessel unless acknowledged and confirmed by VHF marine radio or whistle signal
- All vessels must carry at least one USCG-approved wearable PFD for each person on board and must be of the appropriate size of the wearer<sup>3</sup>

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<sup>1</sup> City of Chicago, *Municipal Code of Chicago Restrictions on Wake of Vessels* (Added Coun. J. 12-10-97, p.59008; Amend Coun. J. 7-29-98, p. 75119; Amend Coun. J. 11-8-12, p. 38872, § 193), <http://chicagocode.org/10-40-261>

<sup>2</sup> U.S. Department of Homeland Security, *USCG Navigation Rules International-Inland*, COMDTINST M16672.2D, <http://www.navcen.uscg.gov/pdf/navrules/navrules.pdf>

<sup>3</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/)* *Boat Registration and Safety Act*, <http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt.+II&ActID=1826&ChapterID=49&SeqStart=700000&SeqEnd=1300000>

- In accordance with 625 ILCS 45/5-21, persons riding on the decking over the bow or stern, gunwale or tops of seat backs of a motorized vessel while underway unless within guard rails is prohibited <sup>4</sup>
- All persons operating vessels shall comply with 46 USC §2302(a)<sup>5</sup> (Monetary penalties are subject to Federal Civil Penalties Inflation Adjustment Act of 1990.) which states:
  - A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.
- No person shall operate a vessel while under the influence of alcohol or a dangerous drug<sup>6</sup>
  - No person under the age of 21 shall be permitted to purchase or consume alcohol on board any vessel
  - Illegal drugs are prohibited on all vessels

### *Communications*

- All businesses should establish a dedicated direct phone number to be shared with other businesses and waterway users
- All persons operating a vessel, or group leader in the case of a HPC group, should carry a VHF marine radio and understand its proper use including the following: monitoring channel 16; hailing a vessel on channel 16; switching to a working channel to converse; and accurate communication of security calls including name of vessel, group or company, location and direction
- Mobile devices should not be used by persons operating vessels while underway except in the event of an emergency

### *Navigation*

- All vessels should keep clear of other vessels exiting and entering the Chicago Lock
- USACE Chicago Lock tenders should announce to inbound boaters that: *“In accordance with 10-40-261 of the Municipal Code of Chicago, the Chicago River is a no wake zone and is patrolled by the Chicago Police Marine Unit.”*

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<sup>4</sup> State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/5-21) Boat Registration and Safety Act*, <http://www.ilga.gov/legislation/ilcs/documents/062500450K5-21.htm>

<sup>5</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter 23 §2302*, <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap23-sec2302.pdf>

<sup>6</sup> United States Government Publishing Office, *Code of Federal Regulations Title 33- Navigation and Navigable Waters Chapter I Subchapter F §95*, <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=33:1.0.1.6.46>

## Other

- Proposed new operations that may affect navigation should make a presentation to the Committee to be reviewed for safety concerns before submitting permit applications under the Regional Permit Program and the City of Chicago Harbor Permit Program. This does not include bridge operations or maintenance.
- Swimming should not be permitted in the Chicago River where there is commercial navigation

## BAREBOAT CHARTERS

### Rules and Regulations

- Entities conducting bareboat charter operations shall comply with the requirements of the Passenger Vessel Safety Act of 1993<sup>7</sup>
- All persons operating vessels shall comply with 46 USC §2302(a)<sup>8</sup> (Monetary penalties are subject to Federal Civil Penalties Inflation Adjustment Act of 1990.) which states:

A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.
- All vessels shall comply with 33 CFR Parts 175 thru 187<sup>9</sup>
- All vessels shall be in compliance with State of Illinois registration, licensing and inspection requirements in 625 ILCS 45<sup>10</sup> and Administrative Rule 2080<sup>11</sup>
- All vessels shall be in compliance with the Illinois Boat Registration and Safety Act 625 ILCS 45<sup>12</sup>
  - No person shall operate a vessel while under the influence of alcohol or a dangerous drug
  - Illegal drugs are prohibited on all vessels

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<sup>7</sup> United States Coast Guard, *NVIC 7-94 Guidance on the Passenger Vessel Safety Act of 1993*, September 30, 1994, <http://www.uscg.mil/hq/cg5/nvic/pdf/1994/n7-94.pdf>

<sup>8</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter 23 §2302*, <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap23-sec2302.pdf>

<sup>9</sup>United States Government Publishing Office, *Code of Federal Regulations Title 33- Navigation and Navigable Waters Chapter I Subchapter S §175-187*, <http://www.ecfr.gov/cgi-bin/text-idx?SID=1a91c0f98b72c6f86937e8240b27ec04&mc=true&tpl=/ecfrbrowse/Title33/33CISubchapS.tpl>

<sup>10</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/) Boat Registration and Safety Act*, <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1826&ChapterID=49>

<sup>11</sup> State of Illinois, *17 Illinois Administrative Code Chapter I, Sec. 2080 Operation of Watercraft Carrying Passengers for Hire on Illinois Waters*, August 24, 2006, <https://www.dnr.illinois.gov/adrules/documents/17-2080.pdf>

<sup>12</sup> State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/) Boat Registration and Safety Act*, <http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt.+II&ActID=1826&ChapterID=49&SeqStart=700000&SeqEnd=1300000>

- All vessels must carry at least one USCG-approved Type I, II or III PFD for each person on board and must be of the appropriate size of the wearer
- All children under the age of 13 must *wear* a PFD on vessels less than 26 feet in length when underway, unless they are below decks in an enclosed cabin
- Persons under the age of 10 may not operate any motorized vessel, including personal watercraft

#### *Other*

- Bareboat charters must be legally authorized by the USCG, Chicago Park District, City of Chicago and/or the Illinois Department of Natural Resources where applicable
- Documentation that there is a legal agreement between the charterer and the bareboat charter company should be made available to law enforcement entities upon request
- All vessels shall display appropriate Livery License and/or Boat Rental decal

## **COMMERCIAL VESSELS**

#### *Rules and Regulations*

- Certain Commercial Towing Vessels shall comply with 46 CFR Parts 136 thru 144 (Subchapter M) where applicable (currently NPRM)<sup>13</sup>
- Credentialed mariners and crewmembers are subject to 46 CFR Part 16- Chemical Testing<sup>14</sup> and 46 CFR Part 4, Subpart 4.06- Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service<sup>15</sup>
- USCG inspected small passenger vessels shall be in compliance with 46 CFR Parts 90 thru 139 (Subchapter K); 46 CFR Parts 166 thru 199 (Subchapter T); or 46 CFR Parts 70 thru 89 (Subchapter H) where applicable<sup>16</sup>
- Certain vessels and facilities shall comply with the Maritime Transportation Security Act of 2002<sup>17</sup> where applicable

<sup>13</sup> U.S. Department of Homeland Security, *Federal Register*, Vol. 76, No. 155, August 11, 2011, <http://www.uscg.mil/hq/cg5/TVNCOE/Documents/SubM/NPRM.pdf>

<sup>14</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter I Subchapter B §16 Chemical Testing*, <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=de2439b0a1fb0c273b34d232e95630f8;rgn=div5;view=text;node=46:1.0.1.2.16;idno=46;cc=ecfr>

<sup>15</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter I Subchapter B §4.06 Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service*, [http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=46:1.0.1.1.4#sp46.1.4.4\\_106](http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=46:1.0.1.1.4#sp46.1.4.4_106)

<sup>16</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter I Volumes 3, 4 and 7*, [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title46/46tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title46/46tab_02.tpl)

<sup>17</sup> U.S. Department of Homeland Security, *Maritime Transportation Security Act of 2002 Public Law 107-295*, November 25, 2002, <http://www.gpo.gov/fdsys/pkg/PLAW-107publ295/pdf/PLAW-107publ295.pdf>

- USCG inspected small passenger vessels shall be in compliance with State of Illinois registration, licensing and inspection requirements in 625 ILCS 45<sup>18</sup> and Administrative Rule 2080<sup>19</sup>
- Uninspected commercial vessels shall be in compliance with State of Illinois registration, licensing and inspection requirements in 625 ILCS 45<sup>20</sup> and Administrative Rule 2080<sup>21</sup> and 46 CFR Subchapter C Uninspected Vessels<sup>22</sup>

### *Construction, Maintenance and Special Purpose Vessels*

- Operators of construction, maintenance and special purpose vessels (tugs, hopper barges, platform barges, skiffs, jumbo tank barges, performance stages, recreational platforms and the like) shall obtain proper permits prior to locating vessels in the Chicago River when there may be an impact on navigation
- Proposed operations should work with the CHSC to determine safety concerns before submitting permit applications
- Any project or operation on the Chicago River should be listed in the USCG Ninth District Local Notice to Mariners
- Construction and maintenance vessels should not constrict the width of the Chicago River by more than 50% of the available width of the river or less than 100 feet accounting for bridge structures and dolphins. Projects are reviewed by the USCG on a case by case basis to determine navigational risk
- Operators of vessels used to move or maneuver barges at construction sites should monitor VHF channel 16 and make appropriate security call prior to any movement
- The operator of construction, maintenance or special purpose vessels for shore side projects that may have an impact on navigation should notify the CHSC prior to transiting or mooring in the Chicago River
- If the movement of a construction, maintenance or special purpose vessel will significantly impact navigation on the river, a Broadcast Notice to Mariners should be generated

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<sup>18</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/) Boat Registration and Safety Act*,

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1826&ChapterID=49>

<sup>19</sup> State of Illinois, *17 Illinois Administrative Code Chapter I, Sec. 2080 Operation of Watercraft Carrying Passengers for Hire on Illinois Waters*, August 24, 2006, <https://www.dnr.illinois.gov/adrules/documents/17-2080.pdf>

<sup>20</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/) Boat Registration and Safety Act*,

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1826&ChapterID=49>

<sup>21</sup> State of Illinois, *17 Illinois Administrative Code Chapter I, Sec. 2080 Operation of Watercraft Carrying Passengers for Hire on Illinois Waters*, August 24, 2006, <https://www.dnr.illinois.gov/adrules/documents/17-2080.pdf>

<sup>22</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter I Subchapter C §24 Uninspected Vessels*, <https://www.gpo.gov/fdsys/pkg/CFR-2011-title46-vol1/pdf/CFR-2011-title46-vol1-chapI-subchapC.pdf>

- Construction companies should establish a dedicated direct phone number to be shared with other businesses and waterway users
- All projects that may affect marine navigation should coordinate with the CHSC before permits are issued
- A manned rescue boat should be used for any project on the waterway. Boat should not impede navigation.
- Permitting agencies should send a copy of permit the CHSC to be posted on the website
- Contractors should receive a copy of these guidelines

#### *Other*

- Small passenger vessels should maintain a following distance of approximately 200' where practicable, while underway

## **EMERGENCY RESPONSE**

- USCG, Illinois Department of Natural Resources and Chicago Police & Fire Departments will work with the CHSC to create a list of areas accessible for emergency response throughout the Chicago River for all types of vessels
- A call for more proactive patrolling of the Chicago River
- All hourly rental operations should consider having a safety/rescue vessel at the ready to tend to their own disabled vessels or non-life threatening issues

## **HOURLY RENTALS- HUMAN-POWERED CRAFT (HPC)**

#### *Rules and Regulations*

- All vessels shall be in compliance with State of Illinois registration, licensing and inspection requirements in 625 ILCS 45<sup>23</sup> and Administrative Rule 2080<sup>24</sup>
- All vessels shall be in compliance with 33 CFR Parts 175 thru 187<sup>25</sup> where applicable
- Each vessel engaged in hourly rental should prominently display company name and IDNR identification number (where applicable) on the port and starboard sides of the vessel.
- State-issued water usage stickers may be kept at the rental facility if they do not properly adhere to the vessel.

<sup>23</sup> State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/)* Boat Registration and Safety Act, <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1826&ChapterID=49>

<sup>24</sup> State of Illinois, *17 Illinois Administrative Code Chapter I, Sec. 2080 Operation of Watercraft Carrying Passengers for Hire on Illinois Waters*, August 24, 2006, <https://www.dnr.illinois.gov/adrules/documents/17-2080.pdf>

<sup>25</sup> United States Government Publishing Office, *Code of Federal Regulations Title 33- Navigation and Navigable Waters Chapter I Subchapter S §175-187*, <http://www.ecfr.gov/cgi-bin/text-idx?SID=1a91c0f98b72c6f86937e8240b27ec04&mc=true&tpl=/ecfrbrowse/Title33/33CISubchapS.tpl>

- All vessels must carry at least one USCG-approved wearable PFD for each person on board and must be of the appropriate size of the wearer

#### *Alcohol Use*

- Alcohol should not be permitted on HPC rentals

#### *Competency and Training*

- All hourly HPC rental operations will work with CHSC to develop standardized training which shall be provided to renters, operators and staff
- All persons renting craft on an hourly basis should demonstrate operational competency of the vessel and equipment after receiving standardized training before being allowed to leave the immediate vicinity of the respective access point
- All HPC group leaders/guides should have a general understand of the proper use of the VHF marine radio including the following: monitoring channel 16; hailing a vessel on channel 16; switching to a working channel to converse; and accurate communication of security calls including name of vessel, group or company, location and direction
- Group leaders/guides of hourly HPC rental craft must know the designated safe crossing points, once established, on the Chicago River
- HPC group leader/guide should give a security call on the VHF marine radio channel 16 to request a safe crossing or passing of commercial passenger docks

#### *Compliance*

- All operators of rented HPC should be directed to read and understand 46 USC§2302<sup>26</sup>
- The following placard should be prominently displayed at the rental premises or written text should be included in rental waiver, by businesses renting HPC to the general public on an hourly basis, either to individuals or groups:

*46 USC §2302(a) A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.*

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<sup>26</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter 23 §2302*, <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap23-sec2302.pdf>

## Navigation

- HPC rental operations should cap the number of vessels in a group or pod at 24 with a 6:1 vessel to leader/guide ratio. In the case of a special event which may require a deviation from the cap, the operator should notify all CHSC members in a timely manner
- It is critical that HPC rental group leaders/guides actively manage large groups and avoid long strings in front of boat docks
- Hourly HPC rentals should not use the Chicago Lock
- All hourly rental craft should stay to the far right side of the channel with the exception of high-traffic locations such as barge facilities, water taxi and tour boat docks, hourly rental craft facilities or marinas
- Hourly HPC rental operations should establish designated safe crossing points
- Hourly group HPC rentals should cross the river at designated crossing points unless another crossing point is agreed upon on the marine radio
- Hourly HPC rental group leaders/guides should keep group in as tight a formation as possible
- CHSC will work with USCG to establish local OCMI-approved standard navigational lighting for use on all HPC rentals operating at night

## Operational

- HPC renters may not stop or linger in front of boat docks or access points. All HPC users stopping to rest must do so as far to the right as possible and away from boat docking points so as to not inhibit or interfere with other users of the waterway.
- No nighttime HPC individual rentals. Guided tours only.
- A weapons policy should be considered

## HOURLY RENTALS- POWERED

### Rules and Regulations

- Entities conducting hourly rental operations shall comply with the requirements of the Passenger Vessel Safety Act of 1993<sup>27</sup>
- All hourly rental craft shall be in compliance with State of Illinois registration, licensing and inspection requirements in 625 ILCS 45<sup>28</sup> and Administrative Rule 2080<sup>29</sup>

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<sup>27</sup> United States Coast Guard, *NVIC 7-94 Guidance on the Passenger Vessel Safety Act of 1993*, September 30, 1994, <http://www.uscg.mil/hq/cg5/nvic/pdf/1994/n7-94.pdf>

<sup>28</sup> State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/)* Boat Registration and Safety Act, <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1826&ChapterID=49>

<sup>29</sup> State of Illinois, *17 Illinois Administrative Code Chapter I, Sec. 2080 Operation of Watercraft Carrying Passengers for Hire on Illinois Waters*, August 24, 2006, <https://www.dnr.illinois.gov/adrules/documents/17-2080.pdf>

- Each vessel engaged in hourly rental should prominently display company name and IDNR identification number (where applicable) on the port and starboard sides of the vessel
- All persons operating vessels shall comply with 46 USC §2302(a)<sup>30</sup> (Monetary penalties are subject to Federal Civil Penalties Inflation Adjustment Act of 1990.) which states:
  - A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.
- All vessels shall be in compliance with the Illinois Boat Registration and Safety Act 625 ILCS 45<sup>31</sup>
  - No person shall operate a vessel while under the influence of alcohol or a dangerous drug
  - Illegal drugs are prohibited on all vessels
  - All vessels must carry at least one USCG-approved wearable PFD for each person on board and must be of the appropriate size of the wearer
  - All children under the age of 13 must *wear* a PFD on vessels less than 26 feet in length when underway, unless they are below decks in an enclosed cabin
  - Persons under the age of 10 may not operate any motorized vessel, including personal watercraft
- All vessels shall be in compliance with 33 CFR Parts 175 thru 187<sup>32</sup>

#### *Alcohol Use*

- Operator of the vessel must not be impaired by alcohol or dangerous drugs<sup>33</sup>
- Hard liquor should not be permitted on board hourly powered rental craft
- The renter/operator of a powered hourly rental craft shall be deemed the “designated driver” and shall not be permitted to consume alcohol while on board. The “designated driver” must wear an orange wristband identifying them as such.
- Beer and wine may be consumed by the “guests” of the renter however quantity should be limited to 2 beers per person per hour or 1/3 bottle of wine per person per hour

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<sup>30</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter 23 §2302*, <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap23-sec2302.pdf>

<sup>31</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/) Boat Registration and Safety Act*, <http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt.+II&ActID=1826&ChapterID=49&SeqStart=700000&SeqEnd=1300000>

<sup>32</sup>United States Government Publishing Office, *Code of Federal Regulations Title 33- Navigation and Navigable Waters Chapter I Subchapter S §175-187*, <http://www.ecfr.gov/cgi-bin/text-idx?SID=1a91c0f98b72c6f86937e8240b27ec04&mc=true&tpl=/ecfrbrowse/Title33/33CISubchapS.tpl>

<sup>33</sup> United States Government Publishing Office, *Code of Federal Regulations Title 33- Navigation and Navigable Waters Chapter I Subchapter F §95*, <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=33:1.0.1.6.46>

### *Competency and Training*

- All hourly rental craft operations will work with CHSC to develop standardized training which shall be provided to renters, operators and staff
- All persons renting craft on an hourly basis should demonstrate operational competency of the vessel and equipment after receiving standardized training before being allowed to leave the immediate vicinity of the respective access point
- All persons operating a rental craft should have a general understand of the proper use of the VHF marine radio including the following: monitoring channel 16; hailing a vessel on channel 16; switching to a working channel to converse; and accurate communication of security calls including name of vessel, group or company, location and direction
- Renters must yield at all times to oncoming traffic and cross the river at right angles and should not linger in the middle of the waterway
- Operator of powered hourly rental craft should give a security call on VHF marine radio channel 16 to request a safe crossing when necessary

### *Compliance*

- All hourly renters should be directed to read and understand 46 USC§2302<sup>34</sup>
- The following placard should be prominently displayed at the rental premises and on each vessel and written text should be included in rental waiver, by businesses renting vessels to the general public on an hourly basis, either to individuals or groups:  
*46 USC §2302(a) A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.*

### *Navigation*

- Renters should not use the Chicago Lock unless the vessel is operated by an appropriately credentialed USCG licensed mariner
- All hourly rental craft shall stay to the far right side of the channel with the exception of high-traffic locations such as barge facilities, water taxi and tour boat docks, hourly rental craft facilities or marinas
- Hourly rental craft operations should establish designated safe crossing points
- Hourly rental craft should cross the river only at designated crossing points
- Hourly rental craft should travel single file

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<sup>34</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter 23 §2302*, <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap23-sec2302.pdf>

- CHSC will work with USCG to establish local OCMI-approved standard navigational lighting for use on all HPC rentals operating at night

### *Operational*

- Hourly renters may not stop anywhere except designated locations on the Riverwalk
- Hourly rental craft may not stop along its route to pick up additional passengers or alcohol
- A weapons policy should be considered

## **RECREATIONAL VESSELS**

### *Rules and Regulations*

- All vessels should displace a minimum wake at all times where practicable (with the exception of responding to an emergency) and shall comply with 10-40-261 of the Municipal Code of Chicago<sup>35</sup>
- All vessel operators shall comply with U.S. Coast Guard (USCG) Navigation Rules-Inland<sup>36</sup>
  - All vessels shall so far as practicable avoid crossing traffic lanes, but if obliged to do so shall cross as nearly as practicable at right angles to the general direction of traffic flow
  - No vessel shall overtake another vessel unless acknowledged and confirmed by VHF marine radio or whistle signal
  - All vessels shall so far as practicable avoid crossing traffic lanes, but if obliged to do so shall cross as nearly as practicable at right angles to the general direction of traffic flow (USCG Navigation Rule 10)
- All persons operating vessels shall comply with 46 USC §2302(a)<sup>37</sup> (Monetary penalties are subject to Federal Civil Penalties Inflation Adjustment Act of 1990.) which states:  
A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.

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<sup>35</sup> City of Chicago, *Municipal Code of Chicago Restrictions on Wake of Vessels* (Added Coun. J. 12-10-97, p.59008; Amend Coun. J. 7-29-98, p. 75119; Amend Coun. J. 11-8-12, p. 38872, § 193), <http://chicagocode.org/10-40-261/>

<sup>36</sup> U.S. Department of Homeland Security, *USCG Navigation Rules International-Inland*, COMDTINST M16672.2D, <http://www.navcen.uscg.gov/pdf/navrules/navrules.pdf>

<sup>37</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter 23 §2302*, <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitle11-partA-chap23-sec2302.pdf>

- All vessels shall be in compliance with the Illinois Boat Registration and Safety Act 625 ILCS 45<sup>38</sup>
  - No person shall operate a vessel while under the influence of alcohol or a dangerous drug
  - Illegal drugs are prohibited on all vessels
  - All vessels must have at least one USCG-approved PFD for each person on board and of the proper size for the intended wearer
  - All children under the age of 13 must *wear* an appropriately size PFD on vessels less than 26 feet in length when underway, unless they are below decks in an enclosed cabin
  - Persons under the age of 10 may not operate any motorized vessel, including personal watercraft

## ROWING AND INDIVIDUAL HPC

### *Rules and Regulations*

- All vessels must have at least one USCG-approved PFD for each person on board and of the proper size for the intended wearer<sup>39</sup>
- Watercraft propelled by muscular power when underway shall carry on board from sunset to sunrise, but not fixed to any part of the boat, a lantern or flashlight capable of showing a white light visible all around the horizon at a distance of 2 miles or more, and shall display such lantern in sufficient time to avoid collision with another watercraft.<sup>40</sup>

### *Other*

- Chase boats accompanying rowing shells should carry a sufficient number of appropriately sized, USCG-approved PFDs for every person on board the rowing shell and chase boat<sup>41</sup>

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<sup>38</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/)* Boat Registration and Safety Act, <http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt.+II&ActID=1826&ChapterID=49&SeqStart=700000&SeqEnd=1300000>

<sup>39</sup> State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/)* Boat Registration and Safety Act, <http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt.+II&ActID=1826&ChapterID=49&SeqStart=700000&SeqEnd=1300000>

<sup>40</sup>State of Illinois, *Illinois Compiled Statutes (625 ILCS 45/4-1)* Boat Registration and Safety Act, <http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500450HArt.+IV&ActID=1826&ChapterID=49&SeqStart=760000&SeqEnd=8900000>

<sup>41</sup> Willie Black, "PFDs and Rowing" *U.S. Rowing* (April 2011), [http://www.usrowing.org/news/details/11-04-06/PFDs\\_and\\_Rowing.aspx](http://www.usrowing.org/news/details/11-04-06/PFDs_and_Rowing.aspx)

- Rowing shells on the Main Branch of the Chicago River between the Lake Shore Drive Bridge (mile marker 326.9) and the Franklin Street Bridge (mile marker 325.7) should be limited to the hours of 5:00am-10:00am

## DEFINITIONS

***Bareboat Charter*** Unless a vessel is Coast Guard Inspected and Certified, it may only carry 6 passengers, no matter the size of the vessel. In the event of a ‘Bareboat Demise Charter Contract’, the limit is 12 passengers. Per the Coast Guard, there are many stringent aspects of an acceptable ‘Bareboat Demise Contract’, some of which are very difficult to accomplish. Briefly, they are:

- The charter takes complete possession of the vessel, operating it as if it were their own.
- The charterer becomes the owner for most legal purposes, such as the vessel’s seaworthiness.
- Assumes nearly total liability for the vessel’s operation.
- Charter must provide a qualified Captain/crew
- Responsibility for pollution cleanup, and any other liability normally flowing to a vessel owner.

Guest may NOT pay individually or contribute by ‘paying for gas’, bring food, etc.

A valid bareboat charter is one where the incidents of ownership have been transferred to the charterer. When necessary to determine if a valid bareboat charter exists, the OCMI should discuss the vessel's operations with the vessel owner and make a determination if the vessel's charter is a valid bareboat charter. The elements listed below are indicative but not conclusive of a valid bareboat charter arrangement. Conversely, a valid bareboat charter may exist where one or more of the listed elements is not met. In any particular case, each arrangement must be evaluated on its own merits.<sup>42</sup>

1. The charterer must have the option of selecting the crew. Although a master or crew may be furnished by the owner, full possession and control must be vested in the charterer. This does not preclude the charterer from taking advice from the master and crew regarding hazardous conditions such as, inclement weather, navigational obstructions, etc.
2. The master and crew are paid by the charterer.
3. All food, fuel, and stores are provided by the charterer.
4. All port charges and pilotage fees, if any, are paid by the charterer.

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<sup>42</sup> United States Coast Guard, *NVIC 7-94 Guidance on the Passenger Vessel Safety Act of 1993*, September 30, 1994, <http://www.uscg.mil/hq/cg5/nvic/pdf/1994/n7-94.pdf>

5. Insurance is obtained by the charterer, at least to the extent of covering liability not included in the owner's insurance. A greater indication of full control in the charterer is shown if all insurance is carried by the charterer (of course, the owner retains every right to protect his or her interest in the vessel).

6. The charterer may discharge, for cause, the master or any crew member without referral to the owner.

7. The vessel is to be surveyed upon its delivery and return.

Any provision that tends to show retention of possession or control of the vessel such as the owner of the vessel being aboard during the charter of the vessel contradicts the claim that a valid bareboat charter exists.<sup>43</sup>

**Construction, Maintenance and Special Purpose Vessels** are vessels that are used for construction or maintenance of seawalls, break walls, shore side facilities, bridges, buildings or other infrastructure. Special purpose vessels are vessels that are engaged in diving, surveying, dredging or emergency towing of other vessels.

**Federal Navigable Waterway** Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/ or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.<sup>44</sup>

**Hourly Rental Craft** are vessels designated by license and authorized by the State of Illinois to be rented out to members of the general public on an hourly basis only on bodies of water designated on the license.<sup>45</sup>

**Human-Powered Craft** are watercraft propelled by human power. These include oared, rowing and paddling craft such as sculls, skiffs, row boats, canoes, kayaks, dragon boats, dinghies, racing shells, dories and paddleboards.

**Recreational vessel** means a vessel meeting the definition in 46 U.S.C. 2101(25) that is then being used only for pleasure. A recreational vessel is any vessel manufactured or used primarily

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<sup>43</sup> Jason Neubauer, Captain U.S. Coast Guard, *Guidance on Small Passenger and Charter Vessel Operations*, December 11, 2013.

<sup>44</sup> United States Government Publishing Office, *Code of Federal Regulations Title 33- Navigation and Navigable Waters Volume 3 §329 Definition of Navigable Water of the United States*, <https://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part329.pdf>

<sup>45</sup> State of Illinois, *17 Illinois Administrative Code Chapter I, Sec. 2080 Operation of Watercraft Carrying Passengers for Hire on Illinois Waters*, August 24, 2006, <https://www.dnr.illinois.gov/adrules/documents/17-2080.pdf>

for non-commercial use; or leased, rented or chartered to another for the latter's non-commercial use. It does not include a vessel engaged in carrying paying passengers.<sup>46</sup>

**Small Passenger Vessel** means a vessel of less than 100 gross tons that carries more than 6 passengers, including at least one passenger for hire; is chartered with a crew provided or specified by the owner or the owner's representative and is carrying more than 6 passengers; is chartered with no crew provided or specified by the owner or the owner's representative and is carrying more than 12 passengers; or is a ferry carrying more than 6 passengers<sup>47</sup>

**Towing Vessel** means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.<sup>48</sup>

**Uninspected Passenger Vessel** generally means operations that carry 6 or fewer passengers for hire are referred to as Uninspected Passenger Vessels (UPV), 6 Passenger (pax), or 6 Pack operations. These are your typical charter boat fishing guide or tour boat operations that may use a state numbered boat. UPV operations traveling on navigable waters of the United States under U.S. Coast Guard jurisdiction are not required to be inspected by the Coast Guard. They must comply with minimal federal standards for safety, navigation, pollution prevention and the vessel operator must hold an Operator Uninspected Passenger Vessel (OUPV) license issued by the Coast Guard.<sup>49</sup>

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<sup>46</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Part A Chapter 21 §2101(25)*, <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap21-sec2101.pdf>

<sup>47</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Chapter I Volumes 3, 4 and 7*, [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title46/46tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title46/46tab_02.tpl)

<sup>48</sup> United States Government Publishing Office, *Code of Federal Regulations Title 46-Shipping Part A Chapter 21 §2101(40)*, <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46-subtitleII-partA-chap21-sec2101.pdf>

<sup>49</sup> U.S. Department of Homeland Security, *USCG Passenger Vessel Safety Program- Uninspected Passenger Vessel*, <http://www.uscg.mil/pvs/UPV.asp>

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**Approved by the Chicago Harbor Safety Committee  
Officers and Board of Directors, April 6, 2016**

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Allen Skalecke, ALS Enterprises, Inc.

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