

CHAPTER 4.

WATERFRONT AND PARK COMMISSION*

* **Editors Note:** The Warwick waterfront and park commission was created by P.L. 1958, ch. 113. That act amended P.L. 1950, ch. 2580, which established a previous commission.

ARTICLE I.

IN GENERAL

Sec. 4.1. General authority.

The city of Warwick, through the commission hereinafter created in section 7 of this act [section 4.7], is hereby authorized and empowered to develop, operate and administer parks and shoreline recreational facilities, waterfront business facilities, harbors and coves, to carry on a general beach and bathhouse business at said city; to purchase, construct, maintain and operate or lease thereon buildings, wharfs, piers, walks, parking facilities and swimming pools; to furnish business buildings and accommodations on or near the waterfront for lease or hire; to furnish bathing accommodations and facilities to the public; and to make reasonable rules and regulations for the use of the same, to charge suitable fees and/or rents therefor, and to perform all acts necessary and consistent with the purposes of this act.

(P.L. 1958, ch. 113, § 2)

Sec. 4.2. Lots which may be taken, purchased.

Said city is hereby authorized and empowered to purchase or to take for the aforesaid purposes the hereinafter described land or any part or parts thereof situated in said city and described as follows: [The enumeration of lots set forth in P.L. 1950, ch. 2580, § 2, has been omitted at the request of the city.]

(P.L. 1950, ch. 2580, § 2)

Sec. 4.3. Method of taking land; notice to landowner.

The city council of said city may take said land or any part or parts thereof, by filing in the records of land evidence of said city a description of the land, and also a plat thereof, and a statement that the same is taken pursuant to the provisions of this act, which description and statement shall be signed by the president of said city council and the mayor, and upon the filing of such description, statement and plat, the title in fee simple of such land shall vest in said city; and after the filing of such description, statement and plat, notice of the taking of such land shall be served upon the owners of and persons having an estate in and interested in such land by the city sergeant of said city leaving a true and attested copy of such description and statement with each of such persons personally, or at their last and usual place of abode in this state with some person living there, and, in case any such persons are absent from this state and have no last and usual place of abode therein occupied by any person, or in case the whereabouts of any such persons are unknown to said city sergeant, such copy shall be left with the persons, if any, in charge of or having possession of such land taken of such absent person and persons whose whereabouts are unknown, and another copy thereof shall be mailed to the address of such absent persons if the same is known to said officer; and after the filing of such description and statement, the city clerk of said city shall cause a copy of such description and statement to be published in some

newspaper in Kent County at least once a week for 3 consecutive weeks; and if any party shall agree with said city council for the price of the land so taken, the same shall be paid to him forthwith by said city.
(P.L. 1950, ch. 2580, § 3)

Sec. 4.4. Contesting taking of land.

Any owner of or person entitled to any estate in or interested in any part of the land so taken, who cannot agree with said city council for the price of the land so taken in which he is interested as aforesaid, may, within 3 months after personal notice of said taking, or, if he have [has] no personal notice of said taking, may, within one year from the filing of the description, statement and plat, referred to in section 3 of this act, apply by petition to the superior court held for the county of Kent, setting forth the taking of his land and praying for an assessment of damages by a jury. Upon the filing of said petition the said court shall cause 20 days' notice of the pendency thereof to be given to said city by serving the city treasurer of said city with a certified copy thereof, and may proceed after such notice, to the trial thereof; and such trial shall determine all questions of fact relating to the value of such land and the amount thereof; and shall be conducted in every respect as other civil cases are tried, including the right to except to rulings and apply for new trial for cause. In case of conflicting claims to such land by any 2 or more petitioners, said court may set down the petitions of such petitioners for trial at the same time by the same jury, and may frame all necessary issues for the trial thereof.
(P.L. 1950, ch. 2580, § 4)

Sec. 4.5. Authority to issue bonds not exceeding \$75,000.00; terms of issuance.

The city of Warwick is hereby authorized and empowered to issue in addition to authority heretofore granted, under its corporate name and seal, bonds in an amount not exceeding \$75,000.00. Said bonds shall be of the denomination of \$1,000.00 each, [and] shall bear interest at a rate not exceeding 4% per annum payable semi-annually; the principal thereof and interest thereon shall be payable in any coin or currency of the United States of America, which, at the time of payment, is legal tender for public and private debts, and the debt secured by said bonds shall be obligatory on said city in the same manner and to the same extent as other debts lawfully contracted by said city. The dates of maturity of said bonds shall in no case be more than 15 years after the date of issue, and not more than \$5,000.00 of said bonds shall become due and payable in any one year. Said bonds shall be signed by the mayor and the city treasurer of said city of Warwick, and shall be issued and sold at such times and in such amounts as the council of said city shall determine: Provided, however, that the premiums, if any, arising from sale of said bonds shall be applied to the payment of the principal of any bonds of said city in the order of their maturity. The proceeds arising from the sale of the bonds authorized by this act shall be delivered to the city treasurer, and such proceeds, except as hereinbefore provided in respect to the premiums arising from the sale thereof, shall be expended for the purposes of paying for the lands acquired, the buildings, piers, parking areas, walks and swimming pools purchased or constructed, and the equipment for the same, all as authorized and contemplated by this act, as well as all expenses and charges incidental to the same. No purchaser of any of said bonds, however, shall be in any way responsible for the proper application of the proceeds derived from the sale thereof. The city of Warwick shall annually appropriate a sum sufficient to pay the interest upon the bonds issued and outstanding under authority of this act, and also to pay the principal of the bonds maturing in any such year, until said bonds are paid in full. All obligations of said city which are incurred under authority of this act shall be excepted from the operation of G.L. 1956, § 45-12-9.
(P.L. 1950, ch. 2580, § 5)

Sec. 4.6. Authority to issue and sell notes, debentures, etc.

The city of Warwick through its city council is hereby authorized and empowered to issue and sell, in its corporate name, notes, debentures, or other evidence of indebtedness, signed by the mayor and city treasurer of the city of Warwick, and said city may renew the same from time to time as the same become due and payable, to an amount not exceeding in the aggregate, at any one time, the amount of bonds authorized to be issued under the provisions of this act and the proceeds of the sale of such notes, debentures or other evidence of indebtedness, shall be used only for the purposes specified in section 5 of this act; provided, however, that the proceeds of the sale of any bonds authorized and issued under the provisions of this act shall first be applied to the payment of such notes, debentures or evidences of indebtedness issued under authority hereof.
(P.L. 1950, ch. 2580, § 6)

Sec. 4.7. Waterfront development and park commission--Created; membership; terms of office; compensation.

The management of the lands acquired, the purchase, the construction, maintenance, leasing and operation of buildings, wharfs, piers, parking facilities, walks and swimming pools, on behalf of said city of Warwick under the provisions of this act except as otherwise provided, in the general conduct of the beach, bathhouse, and any other business of said city authorized by the foregoing provisions, shall be vested in the Warwick waterfront development and park commission consisting of five members all of whom shall be qualified electors of said city of Warwick. The members of said commission shall be appointed by the mayor subject to the approval of the city council, and vacancies which may occur in the membership of said commission shall be filled in the same manner for the unexpired term. The term of office for each member of said commission shall be for five years or until his successor is appointed and qualified; provided, however, the initial appointments shall be made from the present membership of the Oakland beach park commission for the terms as follows: One member to hold office until the first Monday of January, 1959, one member to hold office until the first Monday of January, 1960, one member to hold office until the first Monday of January, 1961, one member to hold office until the first Monday of January, 1962, one member to hold office until the first Monday of January, 1963, or until their successors are duly appointed and qualified; provided, however, that the planning director of the city of Warwick shall be an ex officio member of said commission with full voice but no vote in any proceedings; and provided further that members except the planning director shall receive three hundred (\$300) dollars annually as compensation for their services.
(P.L. 1958, ch. 113, § 3)

Sec. 4.8. Same--Oath, bond.

Before entering upon the discharge of the duties of his office, each member of the commission shall be sworn to the faithful performance of his duties in the same manner as other city officers, and shall give bond to the city of Warwick with surety in some company authorized to do a surety business in this state, and approved by the city treasurer of said city, in the penal sum of \$2,000.00, with the condition that he will well and faithfully execute and perform all and singular the duties appertaining to his office according to law. The cost of any bond given by any member of said commission shall be taken to be part of the necessary expenses of said commission.
(P.L. 1950, ch. 2580, § 8)

Sec. 4.9. Same--General powers and duties.

The said commission may appoint such officers and employees as may be necessary who shall serve at the pleasure of said commission, and fix their compensation. All contracts and purchases, except as otherwise provided for, shall be made in the manner prescribed by the city Charter. Said commission shall keep a record of its proceedings and of its receipts and disbursements and make an annual report concerning the same to the city council and shall see to it that all the gross income received from the operation of said beach, bathhouse, and all other business and from all other sources connected therewith is turned over to the city treasurer of said city at least once a week, and shall certify all accounts payable incurred in the conduct of said business to the city treasurer of said city for payment when approved by the chairman of said commission, said disbursements to be made out of the budget appropriation of said commission. Said commission may charge suitable and reasonable fees for admission to any part of said beaches, parks or waterfront facilities, owned by said city; and said commission shall charge reasonable and suitable fees for admission to and use of bathhouses, swimming pools, lockers, wharfs, piers, and other bathing and waterfront accommodations, parking space and facilities so furnished by said city to the end that said project contemplated by this act will be self-liquidating and reasonably profitable to said city considering its investment, and the expense of operation incidental to the same. Said commission shall have power to make reasonable rules and regulations as it may deem necessary or proper for the proper care, management, maintenance, protection and improvement of any parks, shorelines and harbors of said city and or any buildings, fences, walks, piers, wharfs, parking areas and other property which may be thereon from time to time, and for the use and enjoyment of the same and the maintenance of good order and sanitary conditions thereon, and for regulating any and all travel by the public to, from, on or over any parks, shorelines and harbors of said city or over the highways or other public ways adjacent or leading thereto. (P.L. 1958, ch. 113, § 4)

Sec. 4.10. Authority of city council to pass penal ordinances.

The city council of said city is hereby authorized and empowered to enact such ordinances as it may deem necessary or proper to enforce the rules and regulations made by said commission under the provisions of this act, and to prescribe penalties not to exceed \$50.00 for the violation of such ordinances; to protect said beach from damage and unsanitary and unsightly conditions and to preserve the interests of said city in and to said beach. (P.L. 1950, ch. 2580, § 10)

Sec. 4.11. Effective date; repealer.

This act shall take effect upon its passage and all other acts and parts of acts inconsistent herewith are hereby repealed. (P.L. 1950, ch. 2580, § 11)

ARTICLE II.

REGULATION OF ANCHORAGES AND MOORINGS

Sec. 4.12. General authority under act.

In addition to any authority and powers conferred upon city or town councils by G.L. 1956, tit. 46, and in addition to any authority and powers conferred upon the Warwick waterfront and park development commission by P.L. 1950, ch. 2580, said commission is hereby further authorized to regulate the size, type,

location and use of all anchorages and moorings within and on the public waters within said city, to require permits for said anchorages and moorings, and to fix the fees therefor.
(P.L. 1965, ch. 219, § 1)

Sec. 4.13. Role of harbor master under act.

In addition to any authority conferred upon the harbor master and assistant harbor masters of said city by existing laws and ordinances, said harbor master is authorized and empowered to enforce the regulations adopted by said commission. Said harbor master shall be the officer to whom application for permits required by the regulations of said commission shall be made and who, pursuant to the rules of said commission, shall be the officer responsible for the issuance of such permits. Said harbor master may delegate any or all of his authority and powers to an assistant harbor master or harbor masters of said city.
(P.L. 1965, ch. 219, § 2)

Sec. 4.14. Public hearing on regulations required.

The regulations authorized in section 1 [4.12] hereof may be made, amended and repealed by said commission on its own motion or on a petition therefor. No such action shall become effective unless public hearing shall have been held upon the proposed action by said commission. The commission before holding any such public hearing, shall first give notice of such hearing specifying its time and place, by publication of such notice in a newspaper of general circulation within the city of Warwick at least once each week for three (3) successive weeks prior to the date of such hearing. At such hearing all parties in attendance shall be given a reasonable opportunity to be heard.
(P.L. 1965, ch. 219, § 3)

Sec. 4.15. Adoption of rules governing application for and issuance of permits.

Said commission shall adopt rules governing the application for and issuance of permits required by its regulations. Said rules shall provide for the reasonable prompt disposition of applications by the harbor master and shall also provide for appeals of the harbor master's decisions on such applications to said commission.
(P.L. 1965, ch. 219, § 4)

Sec. 4.16. Authority of council to provide for penalty by ordinance.

The city council of the city of Warwick may provide by ordinance for the imposition of a penalty for the violation of the regulations made by said commission, such penalty not to exceed a fine of twenty dollars or imprisonment not exceeding ten days.
(P.L. 1965, ch. 219, § 5)

Sec. 4.17. Removal of vessels violating regulations.

Whenever any vessel, mooring, structure or thing is deposited or suffered to be or remain in the public waters within said city contrary to or in violation of any regulation of said commission made under the authority of this chapter, said commission is authorized and empowered to remove the same, or cause the same to be removed, in accordance with the provisions of this chapter.
(P.L. 1965, ch. 219, § 6)

Sec. 4.18. Notice to remove unlawful vessel, mooring, structure.

If any person or resident living in the United States is known to said commission as the owner of such unauthorized vessel, mooring, structure or thing, or any interest therein, or as having or exercising any control over the same as master, agent, insurer or otherwise, or, in case of unauthorized moorings, structures or things as having alone or with others built, deposited or caused the same, or as owning, maintaining or using the same in whole or in part, said commission shall give notice in writing to such owner or other person to remove such vessel, mooring, structure or thing at or within a time specified in the notice. It shall be deemed a sufficient notice to all such owners and other persons, if served upon any one or more of them by said harbor master as agent for said commission, upon the direction thereof, by delivering the same in hand, or by leaving it at the usual place of business, residence or abode, or by duly mailing it to the post office address of the owner or other person on whom such notice is to be served.

(P.L. 1965, ch. 219, § 7)

Sec. 4.19. Removal by commission.

If such vessel, or other unauthorized mooring, structure or thing is not removed at or within the time specified in such notice, and in a manner and to a place satisfactory to said commission, or if no such owner or other person is known to said commission upon whom such notice can be served, said commission may proceed to remove such vessel, mooring, structure or thing, or to complete the removal thereof, or to cause the same to be done, in such manner and to such place as said commission shall deem best.

(P.L. 1965, ch. 219, § 8)

Sec. 4.20. Recovery of costs of moving.

The owner of any such vessel, mooring, structure or thing, removed by said commission as hereinbefore provided, whether owning the same at the time it first became unauthorized, or at any subsequent time before such removal is completed, and all persons having or exercising any control over such vessel or any part thereof, and, in the case of any mooring, structure or thing so removed, the person or persons originally building, depositing or causing the same, or at the time of such removal, or at any time prior thereto, owning, maintaining or using the same in whole or in part, shall be liable to pay the cost and expenses of such removal or to repay the same when paid out by said city; and the same may be recovered in an action of the case brought by the city solicitor of said city in the name thereof against such owners or other persons, or against any one or more of them. Any person who pays on a judgment or otherwise more than his proportional part of the costs and expenses aforesaid, shall leave [have] a claim for contribution against all other parties liable according to their respective interests.

(P.L. 1965, ch. 219, § 9)

Sec. 4.21. "Person" defined.

The word "person" as used in this act means and includes an individual, partnership, firm, corporation, association, or their [other] entity.

(P.L. 1965, ch. 219, § 10)

Sec. 4.22. Effect of act on powers of state director of public works under general law.

The provisions of this act shall not supersede the authority and jurisdiction over the public tide waters of this state which are vested in the state director of public works by and under the provision of G.L. 1956, tit. 46. The powers, authority and jurisdiction conferred by this act are in addition to such powers, authority and jurisdiction conferred upon said director as aforesaid. In the actual exercise of the respective powers, authority and jurisdiction of said director and said commission, the actions of said director shall take precedence over and supersede any actions of said commission affecting the same matter or thing to the extent that any such respective acts are inconsistent.

(P.L. 1965, ch. 219, § 11)

Sec. 4.23. Severability.

The provisions of this act shall be severable and if any of the provisions shall be held to be invalid, the decision of the court respecting such provision or provisions shall not affect the validity of any other provision which can be given effect without such invalid provision.

(P.L. 1965, ch. 219, § 12)