

# Town of New Shoreham Ordinances, Revised 2019

## ARTICLE III. - HARBORS <sup>[42]</sup>

<sup>(42)</sup> **Cross reference**— Public property, § 2-216 et seq.; environmental protection, § 11-36 et seq.; public places, § 15-76 et seq.

<sup>(42)</sup> **State Law reference**— Harbors and harbor lines, G.L. 1956, § 46-4-1 et seq.; powers conferred upon New Shoreham town council relating to public waters, G.L. 1956, § 46-4-6.10; appointment of harbormaster, G.L. 1956, § 46-4-6.10.

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### DIVISION 1. - GENERALLY

#### Sec. 9-41. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adverse weather* means any weather condition which could cause damage to vessels, impede the operation of vessels or pose a hazard to the operation of a vessel. Adverse weather includes, but is not limited to, tropical depressions, tropical storms and instances of adverse wind conditions.

*Anchoring* means to secure a vessel temporarily to the bottom of a water body by dropping an anchor from a vessel.

*Assistant* means any town harbor department employee or designee.

*Boat* includes ship, vessel, or any other type of watercraft or seaplane.

*Channel* includes any water areas that are federally maintained and reserved for unobstructed movement of vessels.

***Charter vessel* means any type of vessel used primarily for carrying passengers for hire.**

*Coastal waters* means all waters bordering the town from the shore to a distance of 600 feet seaward not included in the designation "harbor waters."

*Commercial vessel* means any type of vessel used primarily for any type of commercial venture, including but not limited to fishing, towage, salvage and the carrying of passengers for hire.

*Derelict dock* means any dock which poses an immediate danger to navigation, the environment, or public or private property, or is deposited upon a beach, public right-of-way, or in the waters of the town without authorization from the harbormaster, or pursuant to a permit issued by the coastal resources management council.

*Derelict vessel* means any of the following:

- (1) Any vessel not properly numbered, registered or documented, pursuant to the provisions of G.L. 1956, Title 46, Ch. 22, or pursuant to applicable federal or state law;
- (2) Any vessel which poses an immediate danger to navigation, the environment, or public or private property;
- (3) Any motorized vessel over 12 feet which has been left unattended on a beach or public right-of-way for 24 hours or more;
- (4) Any vessel which is left unattended for 72 hours in the waters of the town, except for those vessels located in the designated mooring and/or anchorage areas in the Great Salt Pond/New Harbor during the period of May 1<sup>st</sup> through November 1<sup>st</sup>;
- (5) Any vessel not in a location the harbormaster has designated for mooring or anchorage; during the period of May 1 through November 1, any vessel left on a mooring to which the vessel is not assigned will be deemed derelict;
- (6) Any vessel which is abandoned, forsaken, deserted or cast away by the owner; or
- (7) Any vessel which is disabled, drifting, sinking, or otherwise unfit to be in the waters of the town, or which, in the opinion of the harbormaster, is unsound, unseaworthy, or unfit, the basis of which determination shall include but is not limited to a vessel which is:
  - a. Deteriorated, rotten, damaged, dismantled, or otherwise in a state of disrepair so as to admit water where designed to be watertight, or otherwise not seaworthy as it was originally designed and built;
  - b. Not capable of navigating under its own power; or
  - c. Not capable of being lawfully operated in the waters of the state.

*Dinghy* means a vessel with a maximum length of fourteen (14) feet and is a tender to a larger vessel that is moored or anchored in a town harbor or coastal water area.

*Dinghy Dock* means any float, floating dock, or permanent structure such as a pier, pile or wharf, which is designated for in-water, short-term dinghy tie-up.

*Dock* means any float, floating dock, or permanent structure such as a pier, pile or wharf, which is used for the purpose of securing or berthing an in-water vessel.

*Dockmaster* means the person charged with the overall management and control of the Old Harbor docks and anchorage and the collection of all fees established by the town council. The dockmaster reports directly to the harbormaster.

*Fairway* means the navigable portion of a body of water specifically designated for the ingress and egress of vessels within the harbor waters.

*Floating business* means a building constructed on a raft or hull that is represented as a place of business, including, but not limited to, waterborne hotels, restaurants, marinas or marina-related businesses.

*Harbor* means Old Harbor, inner and outer basin, and New Harbor which shall include Great Salt Pond, Cormorant Cove, Inner Harbor (Hog Pen), and Trims Pond, and shall also include the approaches and harbor entrances.

*Harbor of refuge* means a harbor offering a safe haven to private and commercial vessels and their operators during times of adverse weather. Rules, regulations and procedures for mooring and anchoring in a harbor of refuge shall be consistent with United States Army Corps of Engineers' policy of "open-to-all on equal terms."

*Harbormaster* means the harbormaster of the town as appointed by the town council and shall refer to the appointed assistant or assistants where applicable. The harbormaster's authority shall include the enforcement of the provisions of the town harbor ordinances and any additional regulations subsequently required for the implementation of this harbor management plan.

*Harbors committee* means a committee appointed by the town council and charged with providing advice to the town council regarding the Old Harbor, Great Salt Pond, harbor facilities and areas.

*Headway speed* means the slowest possible speed, or no more than 5 miles per hour, that a vessel can be operated and maintain steerage way.

*Houseboat* means a building constructed on a raft, barge, or hull that is used primarily for single or multiple family habitation; use for transportation or recreation is secondary.

*Live-a-board* means persons intending to sleep on board a vessel for more than three consecutive days or more than six days in any given month shall be considered to have lived on board a vessel.

*Moor* means the securing of a vessel by anchoring, attachment to a mooring, rafting to another vessel, and/or tying to a pier, pile or wharf.

*Mooring* means a semi-permanent anchorage installation consisting of a heavy anchor or block, mooring buoy, and a pennant used for securing a vessel.

*Mooring, Private* means a mooring which is rented or leased to residents and non-residents annually which is assigned to a vessel within a designated mooring area.

*Mooring, Town (Transient)* means a mooring which is rented or leased by the Harbormaster on a first-come, first-served basis for transient vessel use within the Town mooring area.

*Mooring, Waterfront* means a mooring held by a riparian property owner under a permit granted by the Town of New Shoreham which is located within sufficient coastal waters bordering that property as bounded by the seaward extension of that property's lateral lot lines.

*Mooring, Yacht Club* means a mooring which is rented or leased to a yacht club which is registered in the corporate, business or club name and used by members of said private yacht or boat club.

*Mooring permit* means a license granted by the town on an annual basis to place a mooring in the waters of the town. This license may be revoked at any time for failure to comply with the provisions of this article.

*Mooring permit, Private* means a permit issued annually by the Harbormaster to residents and non-residents which is assigned to a vessel where the mooring tackle associated with the mooring permit is used by the permit holder.

*Mooring permit, Waterfront* means a permit issued annually by the Harbormaster to a riparian property owner which is assigned to a vessel where the mooring tackle associated with the mooring permit is used by the permit holder.

*Mooring permit, Yacht Club* means a permit issued annually by the Harbormaster to a yacht club which is assigned to vessels where the mooring tackle associated with the mooring permit is used by the permit holder.

*Mooring space* means the water space assigned to a permit holder by the Harbormaster where the mooring tackle associated with the mooring permit is placed.

*Mooring tackle* means the hardware used to secure a vessel at a mooring and which is kept in place seasonally or semi-permanently.

*Non-displacement craft* means vessels that are supported by the dynamic lift of hydrofoils or other lifting surfaces such as planing hulls.

*Official government vessel* means any vessel registered to a local, state or federal governmental entity and utilized by official government personnel.

*Old Harbor (Harbor of Refuge)* means the waters of Old Harbor inside the granite breakwater as designated on NOAA nautical charts and as designated by the U.S. Army Corps of Engineers.

*Outhaul* means a recreational boating facility that consists of a non-single-point anchoring device, for the purpose of securing a boat in tidal waters and retrieving it from shore.

*Outhaul permit* means a license issued by the town, on authority granted by CRMC, on annual basis to locate or maintain an outhaul(s) in the waters of the town.

*Person* includes individuals, corporations, societies, associations and partnerships.

*Personal watercraft* means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional method of sitting or standing inside the vessel.

*Recreational boating facilities* includes outhauls, marinas, launching ramps, residential boating facilities, recreational wharves, piers and slips, floats or floating docks, and recreational mooring areas.

*Recreational vessel* means any vessel designed for navigation on the water and used primarily for pleasure.

*Registered owner* means the person owning the vessel assigned to a mooring permit at the time of issue.

*Resident* means any real property taxpayer of the town or a resident as defined in Section 2-2.

- (1) For the purposes of this article and all licenses, permits and regulations issued by the town, a resident is defined as one who resides fulltime in the town.
- (2) Fulltime Block Island residency status is not affected by absence due to enrollment at an educational institution or fulfilling a military obligation providing that the resident is also a registered Block Island voter.
- (3) Fulltime Block Island residency status is not affected by absence, whatever the reason, of up to three months in any calendar year providing that the resident is also a registered Block Island voter.
- (4) The town council may, for cause shown, waive the fulltime residency requirements for such reasons, including but not limited to family obligations, illness or unusual work circumstances, upon appeal within 30 days from a decision of any board, commission or licensing authority. [NOTE: cannot use this as a cute way to exceed ≤ 3:1

*Right-of-way* means an unobstructed path, corridor or access way from land to shore leading to or along the coastal waters and shoreline areas below the high-water mark.

**Riparian Property Owner** means the individual or association that holds deed to the entire waterfront property.

*Seaplane* means aircraft equipped for landing and taking off on the water.

*Sufficient Coastal Waters* means locations having adequate water depth and barrier-free access for the purpose of mooring vessels.

*Transient vessel* means any vessel which seeks to moor and/or anchor in the waters of the town on a temporary basis.

*Type 1 Waters* means those areas indicated as "Type 1" waters on the maps of the Great Salt Pond and the Old Harbor as designated by the Rhode Island Coastal Resource Management Council.

*Unattended vessel* means any vessel whose operator, captain, crew, or owner is not made available to the vessel or town harbors department personnel.

*User fee* means the fee established and charged on a daily basis for use of a harbor of refuge.

*Vessel* includes every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water.

*Waters of the town* means water area over which the town hereby asserts jurisdiction. Town waters are classified as follows:

(1) *Harbor waters.*

- a. *Mooring zones.* Those areas primarily designated for placement of moorings.
- b. *Transient anchorage zone.* Those areas designated for the short-term use of vessels and seaplanes and any vessels seeking emergency shelter.
- c. *No anchoring zone.* Those waters exclusively designed for the protection of water quality, recreation, shellfishing, wildlife and plant habitat values. Transient anchorage and moorings are prohibited.
- d. *Navigational channel.* That area specifically designated for the navigational ingress and egress of vessels and seaplanes to the harbor waters.

(2) *Areas under jurisdiction.*

- a. All waters surrounding the island out to a distance of 600 feet from the mean high water line for the purpose of implementing the provisions of G.L. 1956, § 46-4-6.10.
- b. Harbors. The Old Harbor, inner basin, within the confines of the sandstone breakwater, and outer basin, within the confines of the granite

breakwater; Great Salt Pond, which shall include Cormorant Cove, Inner Harbor (Hog Pen), Trim's Pond and Harbor Pond, shall also include the approaches and harbor entrance.

c. New Harbor closure line. All harbor water enclosed within the bounds of a straight line across the northerly extension of the New Harbor breakwaters, and based upon the physical configuration of the harbor in 1989.

(Ord. of 3-19-2004, § 9-41; Ord. of 12-19-2005, § 9-41; Ord. of 5-1-2007, § 9-41; Ord. of 6-2-2008, § 9-41)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 9-42. - Legislative findings.**

It is the purpose of this article to promote the public health, safety and welfare by regulating and controlling the use of the harbors and harbor facilities in the town in accordance to G.L. 1956, § 46-4-6.10, and to establish the authority and duties of the harbormaster and harbormaster assistants.

(Ord. of 3-19-2004, § 9-42; Ord. of 12-19-2005, § 9-42)

**Secs. 9-43—9-55. - Reserved.**

**DIVISION 2. - HARBORS COMMITTEE** <sup>[43]</sup>

<sup>(43)</sup> **Cross reference**— Boards, committees, commissions, § 2-51 et seq.

**Sec. 9-56. - Appointed; duties.**

The harbors committee shall be appointed by the town council and shall be charged with the overseeing the Old Harbor, New Harbor and harbor facilities and areas.

(Ord. of 3-19-2004, § 9-56; Ord. of 12-19-2005, § 9-56)

**Secs. 9-57—9-70. - Reserved.**

### **DIVISION 3. - HARBORMASTER <sup>[44]</sup>**

<sup>(44)</sup> **Cross reference**— Officers and employees, § 2-141 et seq.

#### **Sec. 9-71. - Powers and duties of the harbormaster and assistants.**

(a) The harbormaster and assistant harbormasters shall have full power and authority to prescribe and enforce regulations and to give direction regarding anchorage, management and control of all vessels within the waters of the town, as authorized by state and federal marine laws and G.L. 1956, Title 46, Ch. 22.

(b) All vessels anchored, berthed or moored in the waters of the town shall be properly documented and/or registered as required by law. Names and registration numbers shall be prominently displayed according to the regulations of the issuing agency.

(c) All vessels lying in the harbor not anchored according to directions of the harbormaster or assistants, and posing a potential danger to any other vessel, or blocking any channel or hindering the movement of any other vessel and not having sufficient crew to move them, shall be moved by the harbormaster, assistants, or designated commercial towing service, and the expense thereof shall be paid by the owners or masters of such vessels.

(d) The harbormaster or assistants **at the direction of the harbormaster** shall also have the authority to remove from any town-owned, -operated or -maintained public wharf in the designated harbors, any vessel not anchored, moored or wharfed according to their directions. The harbormaster shall have the authority to control the use of public launch ramps including but not limited to size of vessels, time and period of use, size, type and number of vehicles, type of activity. The harbormaster or assistants may also determine the extent of time and manner of accommodation respecting the position of vessels to each other, which shall be extended by the owners or masters thereof to each other and may require that such accommodation be extended.

(e) The harbormaster and assistants at the direction of the harbormaster are authorized to board and seal the marine sanitation device discharge valves on any vessel within the harbors, to place dye tablets in the holding tank of any vessel within the harbors and to randomly inspect the head and holding tank of any vessel within the harbors, as authorized by G.L. 1956, §§ 46-12-39, 46-12-40, and 46-12-41.

(f) It is hereby ordained that the harbormaster or assistants at the direction of the harbormaster shall have the power and authority to represent the town as its agent, whereby they may execute any and all mooring, outhaul, dockage and wharfage, permits, assignments and notices, excluding any contract agreements which bind the town. The harbormaster or assistants shall transfer any and all monies and accounting to the town treasurer.



(g) The harbormaster or assistants at the direction of the harbormaster may remove, or cause the removal of, moorings, out hauls, derelict vessels, and in the case of derelict docks only in consultation with the Coastal Resources Management Council. The town council shall establish all fees to be charged for the harbors department.

(i) Annually, the harbors department will submit a report to the town manager, who in turn will submit said report to the coastal resources management council with the following information:

(1) Total number of mooring permits granted.

(2) Total number of commercial, private and waterfront mooring permits granted.

(3) Total number of out haul permits granted.

(4) Total number of grandfathered out haul permits granted, as provided for in Section 9-82(9).

(5) Summary of the total vessel characteristics (length, motor or sail, MSD) from permit applications.

(j) In the absence of a port authority, the harbormaster is the liaison between ferry companies, operating in the harbors of Block Island, and the town.

(Ord. of 3-19-2004, § 9-71; Ord. of 12-19-2005, § 9-71; Ord. of 5-3-2006, § 9-71(e); Ord. of 5-1-2007, § 9-71(f), (i); Ord. of 6-2-2008, § 9-71(a), (g))

#### **Sec. 9-72. - Conservation commission.**

Pursuant to G.L. 1956, § 45-51-3, the powers and duties of the Block Island conservation commission extend to the harbors of Block Island.

(Ord. of 12-19-2005, § 9-72)

#### **Secs. 9-73—9-81. - Reserved.**

### **DIVISION 4. - REGULATIONS**

#### **Sec. 9-82. - Procedures for out hauls.**

(a) Before any out haul is located or maintained in the coastal waters and harbor areas of the town, a permit must be issued by the harbormaster or assistants at the harbormaster's direction. The harbormaster and assistants, having due regard to draft and facility of navigation and the policies of the Coastal Resources Management Council (CRMC) program, section 1.3.1(D), shall designate where out hauls shall be located or maintained. The town council shall establish the fee to be paid for the permits to be issued by the harbormaster or assistants at the harbormaster's direction for

outhauls.

(b) Such permits shall be issued by the harbormaster or assistants at the harbormaster's direction on an annual basis and shall be valid from May 1 to April 30 of the following year.

(1) Except as provided below, an outhaul is to be permitted to the contiguous waterfront property owner.

(2) One (1) outhaul may be allowed per waterfront property.

(3) Outhauls are not permitted on properties which contain a recreational boating facility.

(4) Outhauls are not permitted in Type 1 waters.

(5) Live-a-boards are not permitted on vessels using an outhaul.

(6) Procedures have been adopted to ensure that permits are only issued consistent with the RI Coastal Resources Management Program (RICRMP), including the provisions of section 1.3.1(R).

(7) Procedures acknowledge that the CRMC retains the authority to revoke any permits issues by the municipality if it finds that such permit conflicts with the RICRMP.

(8) From November 15 to April 15, when a vessel is not being secured by the outhaul device on an annual basis, the outhaul cabling system shall be removed.

(9) Outhauls may be "grandfathered" in their current location upon annual harbormaster documentation that such outhauls have been in continuous use at such location since 2004, and, the contiguous property owner(s) agree in writing to such; however, such "grandfathering" is extinguished when a recreational boating facility is approved at the location.

(Ord. of 5-1-2007, § 9-82)

**Sec. 9-83. - Outhaul application and permit process.**

(a) No outhaul shall be located in the coastal waters and harbor areas of the town until a permit has been issued for the use of such outhaul by the harbormaster or assistants. No outhaul shall be located nor shall be maintained unless the outhaul owner has received a valid outhaul permit issued by the harbormaster or assistants for the outhaul and that the outhaul conforms to the specifications and standards set forth in this article and permit.

(b) Request for new outhaul permit.

(1) To be eligible for a new outhaul permit, an applicant must own a vessel and must be the owner of record of the waterfront property for which an outhaul permit

is being sought. All requests for a new outhaul permit shall be submitted to the harbors division on the forms provided by the harbors division by March 14 of each year. Outhaul permit applications are available at the harbors division office. An application shall be accompanied by the appropriate fee and shall be received by March 14 in the office of the harbors division. A complete and accurate outhaul permit application must be provided before the harbor division can act to approve or deny such application. The harbors division shall determine if a new outhaul permit can be issued only after the provisions of the harbor management plan and this article are satisfied.

(2) If the harbors division issues an outhaul permit, the outhaul owner for which the permit has been issued must locate the outhaul at the direction of the harbor master or assistant at the harbor master's direction in accordance with the harbor management plan and this article.

(c) Permit renewals.

(1) Applications for renewal of a valid outhaul permit shall be submitted to the harbors division on the application forms provided by the harbors division by March 14 of each year. An application shall be accompanied by the appropriate fee and shall be received by March 14 in the office of the harbors division. Failure to submit a complete and accurate application by March 14 shall result in the loss of the outhaul permit.

(2) The harbors division shall forward the application forms by February 1 of each year to those persons who held valid outhaul permits at the end of the previous calendar year, to the address listed on their last outhaul permit. It shall be the responsibility of the outhaul permit holder to notify the harbors division of any change in address.

(3) The harbors division shall provide notice of permit application approval or rejection by May 1.

(d) Relocation of existing permitted outhaul.

All requests for relocation of existing permitted outhauls must be submitted to the harbors division. Information for such requests must meet the requirements listed for an outhaul application, as well as show proof of valid outhaul permit issued for the previous year. The reason for outhaul relocation must also accompany the request. Based on availability of space, the requirements of this article, and the type and size characteristics of vessel, action will be taken on the request.

(e) Failure to renew an existing valid outhaul permit.

Failure to renew an existing valid outhaul permit in accordance with the provisions of this article by March 14 of any given year shall result in the permitted owner's abandonment of all his/her privileges and interests in the previously permitted outhaul. The harbor master may remove the now abandoned outhaul, at the permitted owner's expense. Such expenses may in turn be recovered by the town, in accordance with any

provision of this article.

(f) Forfeiture of outhaul.

Any owner of an outhaul located in the coastal waters and harbors areas of the town shall be deemed to have forfeited his/her outhaul by reason of any of the following:

- (1) Failure to comply with any of the requirements of this article;
- (2) Removal of the outhaul by outhaul owner and notification to the harbors division that the outhaul has been removed;
- (3) Failure to respond to the harbors division notice that the outhaul does not comply with the outhaul standards set forth in this article, or that the outhaul has been displaced or moved from its permitted location;
- (4) Failure to resurface or replace an outhaul within 30 days after being advised by the harbormaster that the outhaul is down.

(g) Outhaul permit application requirements.

All applications for outhaul permits shall contain the following information:

- (1) Name, address and telephone (home and office) of owner;
- (2) Plat and lot number of the waterfront property for which an outhaul permit is being sought;
- (3) Map depicting the lot, and the location of the outhaul in relation to the waterfront property;
- (4) Vessel name, registration number, length (feet), width (feet), draft (feet), type, and color;
- (5) Number of sleeping berths, if any, and type of marine sanitation device (MSD), if any;
- (6) Appropriate registration fee.

(h) Outhaul records.

The harbors division shall keep a detailed record of all outhauls, their location, along with the owner's name, home (and business, if applicable) address, telephone number(s), outhaul permit number, date outhaul was set, last outhaul inspection date, and vessel data as detailed above.

(i) No outhaul permit will be issued without proof of the owner's current vessel registration and/or documentation and/or proof of annual inspection of outhaul by a qualified inspector.

(j) No outhaul permit will be issued without proof of the applicant's documentation

and/or proof of ownership of waterfront property.

(k) Outhaul inspections.

The harbormaster shall develop and set standards for installing, maintaining, and inspecting outhauls.

(Ord. of 5-1-2007, § 9-83)

**Sec. 9-84. - Outhaul areas in Great Salt Pond and Old Harbor.**

(a) The areas indicated Type 2 and Type 3 waters on the maps of the Great Salt Pond and Old Harbor attached to the ordinance from which this section is derived and made a part of this article, are suitable areas for outhauls. The areas designated on the official maps may be amended or changed by the town council, by amendment of this article and by submission and assent by the state coastal resources management council. The harbormaster shall determine the exact location for individual outhauls within these areas as set forth in section 9-82

(b) All outhauls permitted in the Great Salt Pond and Old Harbor will be in either coastal resources management council classified Type 2 or 3 waters, except outhauls which are grandfathered as set forth in section 9-82

(Ord. of 5-1-2007, § 9-84)

**Sec. 9-85. - Appeals for outhauls.**

Any person aggrieved by the determination of the harbormaster or assistant, with respect to outhauls, may appeal such determination to the town council, provided any outstanding fee or charge determined shall be paid pending the appeal.

(Ord. of 5-1-2007, § 9-85)

**Sec. 9-86. - Procedure for moorings and anchorages.**

(a) Mooring areas, moorings, and moored vessels shall not obstruct the use of fairways, channels, or shoreline facilities. Moorings granted by the permission of a federal agency shall be allocated according to the federal "Open to all on an equal basis" mooring allocation policy. Moorings permitted in a federal navigation project shall likewise be allocated according to the federal "Open to all on an equal basis" mooring allocation policy.

(b) Before any mooring is secured in a designated town harbor, a permit must be issued by the harbormaster or assistants at the harbormaster's direction. The harbormaster and assistants at the harbormaster's direction, having due regard to the draft of each vessel and facility of navigation shall designate the places where moorings and/or anchorages shall be maintained. No moorings and anchorages in the said waters shall be maintained except at the locations designated on the official maps attached to

the ordinance from which this section is derived and made a part of this article. The town council shall establish the fee to be paid for permits to be issued by the harbormaster for moorings.

The harbormaster or assistants at the harbormaster's direction shall issue semi-permanent mooring permits in accordance with the number or cap which has been cooperatively determined by the town, the state coastal resources management council and the state department of environmental management, which is currently 290 private moorings (280 in New Harbor and 10 in Old Harbor) and 90 town rental moorings. The town has permits from the United States Army Corps of Engineers for 90 town rental moorings. Rules, regulations and procedures for obtaining and using these moorings shall be consistent with the Army Corps of Engineers' policy of "open to all on equal terms." All moorings placed in a mooring field not subject to federal mooring allocation policy shall be allocated on a no greater than 3:1 resident to nonresident mooring allocation policy. The harbors of the town host between 500 and 1,500 vessels over 25 feet, exclusive of marinas, daily during the boating season. Such permits shall be issued by the harbormaster or assistants at the harbormaster's direction on an annual basis and shall be valid from May 1 to April 30 of the following year.

(1) The permit issued by the harbormaster or assistants at the harbormaster's direction shall assign a registration number consisting of letters and/or numbers, which shall be affixed to the two opposite sides of the buoy of the mooring. These letters or numbers shall be no less than three inches in height and have contrasting colors, which are deemed appropriate by the harbormaster. Any mooring for which a permit has not been issued shall be subject to removal by the harbormaster or assistants.

(2) Any moored vessel shall not be closer than 50 feet from any noncommercial dock, pier, pile, or town-established fairway. Any moored vessel shall not be closer than 100 feet from any commercial dock, pier, pile or three times the authorized project depth from a federal channel. The harbormaster or assistants may permit the temporary anchoring or temporary use of an unoccupied mooring by a vessel in emergency situations or adverse weather conditions. Exceptions shall be made only at the discretion of the harbormaster or assistants at the harbormaster's direction.

(3) Any vessel at anchor shall not be less than 100 feet from any harbor entrance, federal channel, steamer lane, fairway or public pier or marina. Any anchored vessel shall not be closer than 50 feet to any mooring field. The harbormaster or assistants at the harbormaster's direction may permit the temporary anchoring or temporary use of an unoccupied mooring by a vessel in emergency situations or adverse weather conditions. Exceptions shall be made only at the discretion of the harbormaster or assistants.

(4) An assigned mooring shall be used only by the vessel assigned to it; however, the harbormaster may permit the temporary use of a mooring by another vessel in emergency situations or adverse weather conditions. Use of a mooring by a nonregistered vessel or differently assigned vessel shall constitute a violation of

this article. All private mooring buoys shall be white and have the word "Private" in contrasting color, two-inch minimum letters on two opposite sides of the buoy.

(5) Mooring permits will be revoked if the mooring is not used by the owners registered vessel annually between June 1 and October 15, unless permit is in name only.

(6). The holder of a private mooring permit shall be entitled to transfer the private mooring permit on one occasion only either during the permit holder's lifetime or upon the permit holder's death to any one of the following relatives of the permit holder: spouse (including common-law spouse), child (including a stepchild), sibling (including a stepsibling), grandparent or parent (including a stepparent).

a. In no event shall the recipient of a private mooring permit transferred pursuant to this subsection (b)(6) be entitled to transfer the private mooring permit to any other person either during the permit recipient's lifetime or upon the permit recipient's death.

b. In order to effectuate the transfer of the mooring permit, the permit holder shall file a notice of transfer with the harbors department on a form provided by the harbors department. The harbors department shall not accept a notice of transfer and no transfer shall be effective if there are fees owed with respect to the permit to be transferred or if the permit to be transferred is under a notice of revocation.

(7) No more than one mooring permit shall be issued to any one person.

(8) Mooring tackle specifications. The harbormaster may approve in writing variances to mooring tackle specifications if such specifications are appropriate for the size of the vessel and the area in which a mooring will be located. Minimum mooring specifications are:

a. The minimum length of the pennant should be  $2\frac{1}{2}$  times the distance from the bow chock to the water plus the distance from the bow chock to the mooring cleat or post.

b. All pennant lines running through a chock or any other object where chafing may occur should have adequate chafe guards.

c. The total scope of the chain should be  $2\frac{1}{2}$  times the depth of the water at high tide. The bottom and top chain should each consist of approximately 50 percent of the scope.

d. All shackles, swivels, and other hardware used in the mooring hookup should be proportional in size to the chain used.

e. All shackles should be properly seized.

f. Center pipe mooring buoys are recommended; if a different type is used the pennant must be spliced or shackled into the bitter end of the top chain

below the buoy so the strain is not carried by the buoy. The use of a second pennant and anchor in heavy weather is encouraged.

g. Only mushroom, pyramid and helical moorings will be acceptable on semi-permanent moorings.

h. The minimum distance between any two moored vessels should be no less than 50 feet.

i. Semi-permanent mooring size shall conform to the following minimum size requirements as outlined in the harbor management plan.

j. The number of vessels allowed per mooring is subject to the size of the mooring, size of vessels, weather conditions, and scope or swing radius; 500-pound moorings are restricted to two vessels, 800 pounds (or more), may have three vessels. All use is subject to review by the harbormaster.

(9) All vessels on moorings and in anchorages shall be sited within the respective designated areas.

(10) Mooring use shall be equal for all vessels of similar size in all mooring areas.

(11) The town shall maintain programs to prevent adverse effects on water quality due to anchored and moored vessels.

(12) No person under the age of 16 shall be considered for a mooring permit application.

(13) Inspections.

a. All new moorings in the coastal waters and harbor areas of the town must have the chain, tackle, and anchor inspected by the harbormaster, designee, or town-certified mooring service provider, prior to setting the mooring.

b. Every permit holder shall be required to maintain his mooring in safe condition. Any chain, shackle, swivel, or other tackle which has become warped or worn by one-third its normal diameter, shall be replaced. Failure to maintain a safe mooring shall be cause for revocation of the mooring permit and shall be deemed a violation of this article. The harbormaster or designee may inspect any mooring at any time to determine compliance with this section.

c. All moorings shall be fully inspected every two years and the results of such inspection shall be reported to the harbormaster. Mooring inspections shall be performed by a qualified mooring inspector. The inspection shall be made by either raising the mooring or by underwater inspection. Such inspection shall determine compliance with the mooring and mooring tackle standards of this article. Any mooring or component of a mooring reported not in compliance with this article shall be replaced within 30 days of such notice. The harbormaster or his designee shall inspect any mooring displaced during



a storm, before it is reset. All costs of any mooring inspection required under the provisions of this article shall be the responsibility of the mooring owner.

d. Qualified inspectors.

1. The harbormaster shall develop and set standards for the requirements and qualifications of mooring inspectors. The harbormaster may designate as many inspectors as he feels are necessary. Minimum requirements for mooring inspectors that the harbormaster shall consider are that an inspector must hold a certificate as a certified scuba diver and/or be engaged in the business of and insured as a mooring service, and that all mooring inspectors are familiar with the minimum mooring tackle specifications of this article.

2. The harbors department shall make available an application form which potential mooring inspectors may complete to be considered a designated mooring inspector. The application shall be filed annually with the harbors department with the appropriate fee. The harbormaster shall determine if such applications meet the requirements to be a qualified mooring inspector for the town and shall so designate the applicant as a qualified mooring inspector.

3. The harbors department shall keep a list of all qualified mooring inspectors and shall make this list available to all mooring permit holders.

(14) All vessels moored or anchored in the waters on Block Island must have valid registration or documentation on the vessel and available for inspection.

(c) In the interest of public safety and sound harbor management, **and with permission by the mooring permit holder**, the Town reserves the right to place transient vessels on private moorings in New Harbor. The following conditions apply:

(1) Private moorings will be rented only when the town moorings are full.

(2) Private moorings will be rented at the same rate as the town moorings (in accordance to the fee schedule).

(3) One vessel per mooring will be permitted unless the mooring is 800 pounds or greater.

(4) In accordance with the fee schedule, a per-boat, per-rental day fee will be subtracted from the permit holder's renewal fee for the following year; no further compensation will be offered after the permit fee is paid.

**(5) The town will provide any corrective maintenance from use of the moorings specific to replacement of related mooring equipment and tackle if damaged while utilized by the town.**

(d) Anchoring and anchorages in Old Harbor (Harbor of Refuge).

(1) A vessel seeking a safe haven during times of adverse weather may anchor on its own anchor in the Old Harbor (Harbor of Refuge) for a period not to exceed 72 hours. Written consent of the harbormaster is required if the vessel is to be anchored for a period in excess of 72 hours. No vessel anchored under adverse weather shall be left unattended overnight. Operators of such vessels and their passengers may go ashore, but operators must be available to tend the vessel if necessary. It shall be the responsibility of the vessel owner as well as the vessel operator to ensure the vessel remains clear of all moored and anchored vessels, and any structures.

(2) Transient vessel anchoring and anchorages in Old Harbor (Harbor of Refuge): A transient vessel may anchor on its own anchor in the Old Harbor for a period not to exceed seven days in a 14-day period. Written consent of the harbormaster is required if the vessel is to be anchored for a period in excess seven days in a 14-day period. No vessel anchored shall be left unattended overnight. Operators of such vessels and their passengers may go ashore, but operators must be available to tend the vessel if necessary. It shall be the responsibility of the vessel owner as well as the vessel operator to ensure the vessel remains clear of all moored and anchored vessels, and any structures.

(Ord. of 3-19-2004, § 9-86; Ord. of 12-19-2005, § 9-86; Ord. of 5-3-2006, § 9-86; Ord. of 6-2-2008, § 9-86(b), (b)(2), (b)(3), (d), (d)(1); Ord. of 11-16-2011(2))

**Sec. 9-87. - Mooring application, permit process and waiting list procedures.**

(a) No private or yacht club mooring shall be located in the coastal waters and harbor areas of the town until a permit has been issued for the use of such mooring by the harbormaster. No private or yacht club mooring shall be located nor maintained unless the mooring owner has received a valid mooring permit issued by the harbormaster for the mooring and the mooring conforms to the specifications and standards set forth in this article and permit.

(b) Request for a new private or yacht club mooring permit. To be eligible for a private or yacht club mooring permit, an applicant must own a vessel for which a mooring permit is being sought. Applications for new mooring permits shall be submitted to the harbors department with the appropriate fee by December 15 of each year. Mooring permit applications are available at the harbors department office. A complete and accurate mooring permit application must be provided before the harbors department can act to approve or deny such application. The harbors department shall determine if a new mooring permit can be issued only after all provisions of the harbor management plan and these ordinances are met. If an applicant does not own a vessel, the permit may be held in name only for twelve (12) months. If, at the end of twelve (12) months a vessel has not been obtained, the mooring permit shall be forfeited.

(c) Request for a waterfront mooring permit (riparian mooring). Waterfront mooring permits are available to residents with waterfront property (riparian rights). This does

not include individual property owners who have deeded use of waterfront rights-of-ways. Mooring tackle owned by persons who own waterfront property are allowed to be placed in sufficient coastal waters of the Town in riparian waters directly adjacent to their waterfront property as bounded by the seaward extension of that property's lateral lines. The property owner must comply with all mooring permit application requirements and receive a mooring permit from the harbormaster as described herein. A holder of a waterfront mooring permit issued by the harbormaster is authorized to moor any vessel they so choose, as long as the vessel is sea worthy, the location is within sufficient coastal waters and the vessel does not exceed the maximum allowed vessel size of the mooring tackle as described herein.

(d) If the harbors department issues any mooring permit, the mooring owner for which the permit has been issued must locate and place the mooring at the direction of the harbormaster or assistant at the direction of the harbormaster in accordance with the harbor management plan and this ordinance.

(e) Permit renewals.

(1) Applications for renewal of a private, waterfront or yacht club mooring permit will be submitted to the harbors department on the application forms provided by the harbors department by December 15 of each year. An application shall be accompanied by the appropriate fee and shall be received by December 15 in the offices of the harbors department. Failure to submit a complete and accurate application by December 15 may result in the loss of mooring permit.

(2) The harbors department shall mail the application forms by October 15 of each year to those persons who held valid mooring permits at the end of the previous calendar year, to the address listed on their last mooring permit. It shall be the responsibility of the mooring permit holder to notify the harbors department of any change in address.

(3) The harbors department shall approve or reject mooring permit applications by March 1.

(f) Relocation of existing permitted mooring.

All requests for relocation of existing permitted moorings must be submitted to the harbors department. Information for such a request must meet the requirements listed for a mooring permit application, as well as show proof of valid mooring permit issued for the previous year. The reasons for a mooring relocation must also accompany the request. Based upon availability of space, the requirements of this article, and the type and size characteristics of vessel, action will be taken on the request. Any request received by the harbors department that is not complete shall be returned to the applicant and no action will be taken on the request. Waterfront moorings are not eligible for transfer or relocation in the event that access to the water from the property is not practical.

(g) Failure to renew an existing valid mooring permit.

Failure to renew an existing valid mooring permit in accordance with the provisions of this article by December 15 of any given year shall result in the permitted owner's abandonment of all privileges and interests in the previously permitted mooring space. The harbormaster may remove the now abandoned mooring at the permitted owner's expense. The town, in accordance with any provision of this article, may in turn recover such expenses.

(h) Forfeiture and revocation of mooring permit.

Any permit holder of a mooring located in the coastal waters and harbor areas of the town shall be deemed to have forfeited their mooring space by reason of any of the following:

- (1) Failure to comply with any of the requirements of this article;
- (2) Removal of mooring and mooring tackle by mooring owner and notification to the harbors department that the mooring has been removed;
- (3) Failure to respond to the harbors department notice that the mooring does not comply with the mooring tackle standards set forth in this article, or that the mooring has been displaced, moved or sunk from its permitted location;
- (4) Failure to resurface or replace mooring, tackle, or buoy within 72 hours unless acceptable arrangements have been made with the harbormaster;
- (5) Failure to have permitted vessel using mooring, and visually inspected by the harbors department once between June 1 and October 15 of permitted year;
- (6) Mooring is rented at any time by any entity other than the town harbors department;
- (7) Registration, documentation, and permit stickers are found to be counterfeit or forged;
- (8) Noncompliance with the no-discharge policy;
- (9) Registration and documentation is not in permit holder's name;
- (10) Permit holders whose vessels sink at a mooring must resurface the vessel within 72 hours or make acceptable arrangements with the harbormaster.

(i) Available space.

As of February 1 of each year, the harbors department shall determine the number of mooring spaces available for moorings placement as the sum of all authorized mooring spaces minus the totals of all completed acceptable mooring permit renewal applications. These available mooring spaces shall be made available to those persons whose names appear on the waiting list.

(j) Waiting list procedures. The harbors department shall maintain waiting lists of all resident and nonresident applications for private mooring permit requests when no mooring space is available within the coastal waters and harbor areas of the town. Applicants must be at least 16 years of age. Placement of applications on such waiting lists will be recorded from complete mooring waiting list/policy applications as the harbors department receives them. Confirmation of waiting list placement will be mailed to the applicant. The harbors department shall update the waiting list as applications are received and make the waiting list available for review at all times. Mooring permits will be issued in the order received based on a ratio of no greater than three residents to one nonresident. All mooring permit applications shall be treated according to the federal open-to-all equal basis mooring allocation policy with the exception for applications from yacht clubs which shall be limited to a total of twenty-three (23) moorings. A one-time fee will be charged for all mooring waiting list applications as set forth in the fee structure of the town. Transfers of waiting list applications are not permitted. Waiting list applicants who are in violation or have past violations of ordinances specific to the waters of Block Island are subject to removal from the waiting list.

(k) Mooring permit application requirements.

(1) All applications for private mooring permits shall contain the following information:

- a. Name, address and telephone number (home and office of owner) or resident or non-resident.
- b. Vessel name, registration number, length (feet), width (feet), draft (feet), type, and color. Vessel registration must be in waiting list applicant's name.
- c. Number of sleeping berths, if any, and type of marine sanitation device (MSD), if any.
- d. Mooring classification, actual-mooring weight.
- e. Appropriate registration fee. Checks must be signed by permit holder.
- f. Area(s) where applicant would like to locate mooring, prioritized.

g. To qualify for a new yacht club mooring permit, or to renew an existing permit in that category, the organization submitting the application must meet six criteria:

(1) The yacht club must submit a current certificate of good standing from the Rhode Island Secretary of State with its application.

(2) The yacht club must have been in existence for at least three years from the date of its legal formation.

(3) The yacht club must have recreational boating as its primary function.

(4) A substantial portion of its members must be owners of cruising or racing vessels that would normally moor or anchor when visiting harbors such as those on Block Island, or hold leases on such vessels.

(5) The organization must file with its application the names and addresses of its officers and directors or members, managers, or partners, as applicable.

(6) The organization must file with its application a list of club members' vessels authorized to use its Block Island mooring.

(2) All applications for waterfront mooring permits (riparian moorings) shall contain the following information:

a. Name, address and telephone number of the property owner. Property owner must match the name and address on the waterfront mooring permit application.

b. Vessel name, registration number, length (feet), width (feet), draft (feet), type, and color. Vessel registration must be in the property owner's name.

c. Number of sleeping berths, if any, and type of marine sanitation device (MSD), if any.

d. Mooring classification, actual-mooring weight.

e. Appropriate registration fee. Checks must be signed by permit holder.

f. Area(s) where applicant would like to locate mooring, prioritized. Riparian rights are limited to the area in the seaward extension of the property's lateral lot lines. If the water area enclosed by the seaward extension of the lateral lot lines does not contain the vessel or is not sufficient to support certain recreational boating facilities, a waterfront mooring permit will not be issued. Riparian rights cannot be transferred to other locations where access is possible.

(l) Moorings records. The harbors department shall keep a detailed record of all moorings, their location, along with the owner's name, home (and business, if applicable) address, telephone number(s), mooring permit number, date mooring was set, last mooring inspection date, and vessel data as detailed above.

(m) No mooring permit will be issued without proof of the owner's current vessel registration and/or documentation and proof of annual inspection of mooring tackle by a qualified inspector. In the case of a waterfront mooring permit, proof of property ownership will be required.

(n) Mooring permits will not be issued, transferred, or otherwise recorded under any corporation, business, trust, or partnership. Applications will be issued to the waiting list applicant only.

(o) Mooring permits will include a permanent mooring sticker to be placed on the upper port corner of the stern of the permitted vessel only.

(Ord. of 3-19-2004, § 9-87; Ord. of 12-19-2005, § 9-87)

**Sec. 9-88. - Mooring areas in Great Salt Pond and Old Harbor.**

(a) The areas indicated on the maps of the Great Salt Pond and the Old Harbor attached to the ordinance from which this article was derived and made a part of this article, are proper areas for temporary moorings, permanent moorings and anchorages. The areas designated on the official maps may be amended or changed by the town council, by amendment of this article and by submission and assent by the state coastal resources management council and U.S. Army Corps of Engineers where applicable. The harbormaster shall determine the exact location for individual moorings within these areas as set forth in section 9-86

(b) All mooring sites in the Great Salt Pond will be in either coastal resources management council classified type 2 or 3 waters or department of environmental management classified SB waters, except replacement of those moorings which were utilizing type 1 or SA waters as of the Great Salt Pond reclassification date. All future moorings will utilize type 2 or type 3 or SB waters with the exception of riparian property owners. There will be no increase in the number of moorings in type 1 or SA waters.

(c) Mooring placement shall not obstruct shellfish management areas, fishing grounds, recreation, and conservation areas. All reasonable effort shall be undertaken to ensure that mooring areas will not adversely affect fish/shellfish resources, wetlands, submerged aquatic vegetation, or other sensitive aquatic habitat.

(d) Maps will take precedence over written descriptions where discrepancies exist.

(Ord. of 3-19-2004, § 9-88; Ord. of 12-19-2005, § 9-88)

**Sec. 9-89. - Appeals regarding determination as to classification of vessels.**

The harbormaster or assistants shall make the determination as to the classification of each vessel for the purpose of establishing the mooring fee or wharfage charge to be assessed based upon the mooring classifications as defined in section 9-41. Any person aggrieved by the determination of the harbormaster or assistant may appeal such determination to the town council, provided the fee or charge determined shall be paid pending the appeal.

(Ord. of 3-19-2004, § 9-89; Ord. of 12-19-2005, § 9-89)

**Sec. 9-90. - Powers of arrest.**

All powers and rights of arrest and detention are vested in police officers under the laws of the state and this Revision.

(Ord. of 3-19-2004, § 9-90; Ord. of 12-19-2005, § 9-90)

**Sec. 9-91. - Vessel operations and speed within the harbors.**

(a) Operators of any vessel shall not operate their vessel or seaplane at a speed greater than five miles per hour and generate no wake within the entire areas of Old Harbor, within 500 feet of any wharf or pier in either Old Harbor or the Great Salt Pond and specifically in the Great Salt Pond from the #7 can at the harbor entrance through the entire navigational channel and all of Trim's and Harbor Pond.

(b) Areas in Great Salt Pond where speeds above five miles per hour are permitted shall be limited to those designated as recreation, conservation and no anchorage zones. The speed limit within the Great Salt Pond is five miles per hour throughout the harbor, with a recreational area set aside in the north end. The recreation area can only support high-speed uses of water skiing, personal watercraft (jet skis), and windsurfing. Personal watercraft shall not exceed a maximum speed of five miles per hour to taxi in and out of the harbor and when proceeding to and from the designated recreation area in the north end of the harbor and must otherwise conform with G.L. 1956, § 46-27 and any other coastal resources management council regulations. Operators of vessels and seaplanes shall operate at all times in a reasonable manner so as not to endanger or annoy any vessels in the harbor. Operators shall not be permitted to operate their vessels in a reckless manner.

(c) Vessels used alone or engaged in activities including, but not limited to, water skiing, paragliding, and other like uses are not allowed within 200 feet of any designated swimming area, mooring area, shoreside facility, rights-of-way ingress and egress point, launching ramp or navigation fairway. Vessels used in such activities are allowed within 200 feet of shoreside facilities when the sole purpose is to begin or end such activity.

(Ord. of 3-19-2004, § 9-91; Ord. of 12-19-2005, § 9-91; Ord. of 6-2-2008, § 9-91(c))

**Sec. 9-92. - Water skiing, paragliding, and personal watercraft.**

(a) Water skiing, paragliding and use of personal watercraft above headway speed within any part of Old Harbor are prohibited. Water skiing, paragliding, and the use of personal watercraft in the Great Salt Pond are permitted only in the designated recreation area.

(b) Water skiing, paragliding, windsurfing, swimming, and any high-speed activity is prohibited in all anchorage and mooring areas.

(Ord. of 3-19-2004, § 9-92; Ord. of 12-19-2005, § 9-92)

**Sec. 9-93. - Disturbing noises prohibited.**

No person on any vessel anchored, moored or operating in the waters of the Old Harbor or Great Salt Pond shall make loud noises or create disturbances, vocally or by electrical or mechanical means, including fireworks. Chapter 12 of this Revision,



pertaining to noise, shall govern the enforcement of excessive noise.

(Ord. of 3-19-2004, § 9-93; Ord. of 12-19-2005, § 9-93)

**Cross reference—** Noise, ch. 12.

#### **Sec. 9-94. - Anchorage and mooring prohibited.**

To prevent contamination and/or pollution of shellfish, for the health and protection of the public, and to provide space for water-dependent recreational activities, no vessel of any size having sleeping and living accommodations aboard with or without toilet facilities, shall moor or anchor within the northerly portion of the Great Salt Pond extending east to west, 41.11-36.0 N, 71.34-28.3 W, 41.11-41.6 N, 71.35-18.4 W. from the old marine railway to the end of the Coast Guard dock. Anchorage is prohibited in mooring areas designated as no anchorage areas. Anchoring prohibited west of the main channel, 41.11-41.6 N, 71.35-18.4 W (Coast Guard Dock), 41.11-10.7 N, 71.34 - 41.3 W (adjacent of Nun 14), 41.10-58.5 N, 71.34-31.5 W. Anchoring prohibited in Mooring Field A located east of channel. The harbormaster or assistants may permit the temporary anchoring or mooring by a vessel in emergency situations or adverse weather conditions.

(Ord. of 3-19-2004, § 9-94; Ord. of 12-19-2005, § 9-94; Ord. of 6-2-2008, § 9-94; Ord. of 1-18-2012)

To prevent contamination and/or pollution of shellfish, for the health and protection of the public, and to provide space for water-dependent recreational activities, no vessel of any size having sleeping and living accommodations aboard with or without toilet facilities, shall moor or anchor within the northerly portion of the Great Salt Pond extending east to west, 41.11-36.0 N, 71.34-28.3 W, 41.11-41.6 N, 71.35-18.4 W. from the old marine railway to the end of the Coast Guard dock. Anchorage is prohibited in mooring areas designated as no anchorage areas. Anchoring prohibited west of the main channel, 41.11-41.6 N, 71.35-18.4 W (Coast Guard Dock), 41.11-10.7 N, 71.34 - 41.3 W (adjacent of Nun 14), 41.10-58.5 N, 71.34-31.5 W. Anchoring prohibited in Mooring Field A located east of channel. The harbormaster or assistants may permit the temporary anchoring or mooring by a vessel in emergency situations or adverse weather conditions.

(Ord. of 3-19-2004, § 9-94; Ord. of 12-19-2005, § 9-94; Ord. of 6-2-2008, § 9-94; Ord. of 1-18-2012)

#### **Sec. 9-95. - Antipollution.**

(a) No person on any vessel moored or operating in the waters of Old Harbor or the Great Salt Pond shall throw garbage, waste (solid and/or liquid), including plastics, fuel oils, or derivatives thereof, rubbish, swill, offal or refuse, into the waters of the harbors and shall not dump, pump or discharge waste from marine toilets or holding tanks into the waters of the Old Harbor, Cormorant Cove, the "Hog Pen", Trims Pond, Harbor Pond, or Great Salt Pond. Cleaning of boat bottoms below the water line is prohibited.

(b) Any marina operating in type 3 waters, as that term is defined by the coastal resources management council, in the Great Salt Pond, is required to have a pumpout station on line fully operational, and otherwise having such permits as required by law therefore, no later than nine months from the designation of an area as type 3 waters. Any marina not in compliance with this article is subject to a fine for each and every day after the nine-month period that it is not in compliance. All marinas shall continue to provide and maintain federal-, state- and town-approved pumpout facilities conveniently available for all vessels at their facilities.

(c) The town shall provide a free vessel holding tank pumpout service for all vessels in Great Salt Pond and Old Harbor.

(d) The town maintains an ongoing water quality testing program in the Great Salt Pond.

(e) The harbormaster or assistants shall have authority to routinely inspect all marina pumpout facilities.

(Ord. of 3-19-2004, § 9-95; Ord. of 12-19-2005, § 9-95)

**Cross reference—** Natural resource protection, ch. 11.

#### **Sec. 9-96. - No discharge.**

The United States Environmental Protection Agency (EPA) designated the Great Salt Pond as a no-discharge zone in May 1993 and Old Harbor in August 1998. The discharge of sewage (whether treated or untreated) from a vessel is prohibited. The harbormaster and assistants have the authority to board vessels to inspect and seal heads and administer dye to toilet facilities and holding tanks, and the town authorizes its harbormaster and assistants to the harbormaster to apply G.L. 1956, §§ 46-12-39, 46-12-40, and 46-12-41.

(Ord. of 3-19-2004, § 9-96; Ord. of 12-19-2005, § 9-96; Ord. of 5-3-2006, § 9-96)

**Cross reference—** Natural resource protection, ch. 11.

#### **Sec. 9-97. - Open fires prohibited on docked and moored vessels.**

Open fires, burning wood, coal, charcoal or any similar material in hibachis, charcoal burners or similar portable stoves shall be prohibited on all vessels moored at any private or public dock or marina in either the Great Salt Pond or Old Harbor, including all vessels that may be within the Old Harbor Basin, whether tied directly to a pier, anchored or moored, and including any and all vessels that may be secured in any manner whatsoever to a dock or other vessel in the Great Salt Pond. Fires shall be likewise prohibited on any part of the wooden structure of the town dock within the inner basin of the Old Harbor.

(Ord. of 3-19-2004, § 9-97; Ord. of 12-19-2005, § 9-97)

**Cross reference—** Open fires, § 5-6.

**Sec. 9-98. - Houseboats and floating businesses prohibited.**

Per CRMC regulation 33.5(C)(2-3) Houseboats may be permitted within the boundaries of a marina and floating businesses may be permitted within the boundaries of a marina or a port. No person or entity shall operate a commercial business in or on the waters of the town that would present a safety hazard to their customers or to other members of the public at large. The determination of whether or not a safety hazard will be created shall be the responsibility of the harbormaster who shall report any such hazards to the town manager.

(Ord. of 3-19-2004, § 9-98; Ord. of 12-19-2005, § 9-98)

**Cross reference—** Licenses and business regulations, ch. 8.

**Sec. 9-99. - Derelict vessels and docks.**

(a) *Procedures; penalties.*

(1) No derelict dock shall be deposited upon a beach, public right-of-way, or in the waters under the jurisdiction of the harbormaster.

(2) No derelict vessel shall moor or anchor in waters under the jurisdiction of the harbormaster.

(3) When the harbormaster or assistants determine that a vessel or a dock is derelict, the harbormaster or assistants may take custody and control of such vessel or dock and may remove and/or store it, all at the expense and sole risk of the vessel or dock owner. Notice of such removal and/or storage shall be given in the following manner:

a. The harbormaster or assistants shall affix a notice to the derelict vessel or derelict dock instructing the owner to remove the vessel or dock within 72 hours. In the event that the derelict vessel or derelict dock is not removed within 72 hours, the harbormaster or assistants may take custody and control of such vessel or dock and remove and/or store it.

b. In the event that the harbormaster or assistants removes and/or stores a derelict vessel, the harbormaster or assistants shall give written notice by regular first class mail to the owner of the derelict vessel that the vessel has been removed and/or stored. Such notice shall direct the owner to contact the harbormaster within ten days for purposes of claiming and removing the derelict vessel and paying all costs and fines associated with the removal and/or storage of the derelict vessel. For purposes of providing written notice, the name and address of the owner of a derelict vessel shall be deemed to be:

1. The name and address of the person of record who has been issued a certificate of number for the vessel by the state department of environmental management pursuant to G.L. 1956, § 46-22-4; or

2. The name and address of the person of record of a vessel covered by an identification number, which has been awarded to the vessel pursuant to federal law or a federally approved numbering system of another state.

c. In the event that the harbormaster or assistants removes and/or stores a derelict dock, the harbormaster or assistants shall give written notice by regular first class mail to the owner of the derelict dock that the dock has been removed and/or stored if the name and address of the owner of the dock is known to the harbormaster or assistants. Such notice shall direct the owner to contact the harbormaster within ten days for purposes of claiming and removing the derelict dock and paying all costs and fines associated with the removal and/or storage of the derelict dock.

(4) Notwithstanding the above, if at any time the harbormaster or assistants at the direction of the harbormaster determine that a vessel or dock is likely to damage private or public property, or is a hazard to navigation or the environment, the harbormaster or assistants may immediately remove, or cause to be removed, the vessel or dock. The harbormaster or assistants at the direction of the harbormaster may permit a derelict vessel to remain in place in emergency situations or adverse weather conditions.

(5) If the owner fails to remove the vessel or dock within 72 hours of the notice as specified in subsection (a)(3)a of this section, or make acceptable arrangements with the harbormaster or assistants, the owner shall be subject to a fine of \$100.00 per day or imprisonment not to exceed ten days.

(b) *Removal, disposal and sale of derelict vessel or derelict dock.* In the event that the owner of a derelict vessel or derelict dock does not claim and remove the derelict vessel or derelict dock and pay all costs and fines associated with the removal and/or storage of the derelict vessel or derelict dock within 30 days of the date that the harbormaster or assistants at the direction of the harbormaster removed the derelict vessel or derelict dock, the harbormaster or assistants at the direction of the harbormaster may proceed to dispose of or sell the derelict vessel or derelict dock in a manner which the harbormaster determines is appropriate provided that at least 30 days prior to any such disposal or sale the harbormaster shall place a notice in a newspaper of local circulation setting forth that the vessel or dock will be disposed of or sold. In the event that the vessel or dock is sold, the proceeds from the sale shall be used to defray the costs incurred by the town for the removal, storage, disposal and/or sale of the vessel or dock.

(c) *Off-season storage of docks.* The off-season storage of docks on the waters of Old Harbor and the Great Salt Pond is not permitted. Exceptions will be made to those facilities where permitted docks are placed on permitted moorings of same licensing or ownership. The historic practice of off-season storage of docks on Rat Island by commercial marinas will be allowed on an interim basis but that practice will be prohibited after May 2021.

(d) *Liability and enforcement of liens.*

(1) The owner of a derelict vessel or derelict dock removed, relocated, stored or disposed by the harbormaster in accordance with subsection (b) of this section shall be liable to pay the cost and expenses of the removal, relocation, storage, and/or disposal, or to repay the same when paid by the town pursuant to the provisions of G.L. 1956, § 46-4-6.10.

(2) The costs, charges and/or expenses paid by the town for any vessel or dock, removed, relocated, or stored by the harbormaster in accordance with this subsection and subsection (b) of this section, until paid, shall constitute a lien on the vessel or dock in favor of the town. A lien acquired by the town on any vessel or dock by virtue of this section may be enforced by the town through the sale of such vessel/dock, or other property in accordance with the maritime law of the United States, if applicable, or otherwise in accordance with the General Laws of the state.

(Ord. of 3-19-2004, § 9-99; Ord. of 12-19-2005, § 9-99; Ord. of 6-2-2008, §§ 9-99, 9-99-1, 9-99-1.1)

**Sec. 9-100. - Special events.**

Reserved.

(Ord. of 12-19-2005, § 9-100)

**Sec. 9-101. - Right-of-way to the water.**

(a) No person shall block, barricade or impede the public use of or access to designated public rights-of-way to the water as defined by the coastal resources management council or the town.

(b) No person shall store a vessel, vehicle or structure on a designated public right-of-way to the water as defined by the coastal resources management council or the town.

(c) Any person in violation of this section shall be subject to a fine in accordance with this article and/or the applicable provisions of the RICRMP.

(Ord. of 3-19-2004, § 9-101; Ord. of 12-19-2005, § 9-101)

**Sec. 9-102. - Enforcement and failure to stop.**

Vessel operators shall obey lawful directions given to them by the harbormaster or assistants exercising duties lawfully assigned or by any police officer employed by the town police department in enforcement of the provisions of this article, G.L. 1956, title 46, ch. 22, any other applicable state law as well as all boating laws as are covered under the provisions of the Federal Safe Boating Act of 1971 and such amendments as shall have been made thereto. Such vessel operators immediately upon being instructed by the harbormaster, assistants or police officer employed by the police

department, by voice or such sound device as may be used, shall heave to, to allow boarding by such harbormaster, assistants or police officer, and shall comply with the lawful direction of such harbormaster, assistants, or police officer. Checking of all required safety equipment, as well as proper registrations of vessels under power, shall be considered a lawful direction of the harbormaster, assistants or police officer. Any person in violation of this section shall be subject to the fines specified in this article or in G.L. 1956, § 46-22-19.

(Ord. of 3-19-2004, § 9-102; Ord. of 12-19-2005, § 9-102; Ord. of 6-2-2008, § 9-102)

**Sec. 9-103. - Penalty and fines; payment procedure; appeals.**

(a) *Penalty and fines for violations.* Pursuant to this article and the powers granted by G.L. 1956, § 46-4-6.10, and G.L. 1956, title 46, ch. 22, and other General Laws of the state, the harbormaster, assistants or any police officer employed by the town police department are authorized to issue a form and a summons to any person who violates any provision of this article. Any person issued a form and a summons shall be subject to penalties and fines as set forth in this article, unless otherwise established by the state statute in accordance with the penalties ascribed to those violations. Any fine for a violation not specifically set forth in this article or otherwise established by state statute shall not exceed \$100.00 per day or imprisonment not to exceed ten days. Each day a violation continues shall be deemed a separate offense subject to an additional penalty and fine.

(b) *Informal procedure for the payment of fines.*

(1) *Payment without personal appearance.* The harbormaster, assistants or police officers employed by the New Shoreham police department, who charge any person with an offense under this article, shall issue a form and a summons for the offense. The form and a summons shall allow the offender to dispose of the charge without the necessity of appearing before the district court of the state, or such other courts as are designated in the summons; provided, however, that any offender who has been guilty of a third or subsequent violation within 12 months of the first offense must appear before the district court on the date specified on the summons, and may not dispose of the third or subsequent offense administratively.

(2) *Method of payment.* An offender electing to dispose of the charge without personally appearing before the district court shall execute the form indicated and return it to the New Shoreham police station not later than 14 days from the date of the summons either by mailing or delivering the form and summons accompanied by a check or money order in the amount indicated by the schedule of fines on the form. The fine shall be doubled if not paid within 14 days and tripled if not paid within 21 days.

(3) *Failure to answer.* An individual who fails to execute the form and mail or deliver the form and summons accompanied by a check or money order in the amount indicated by the schedule of fines on the form within 21 days of the date of the summons, shall be deemed to have waived the right to dispose of the notice of

violation without personal appearance and must appear before the District Court on the date specified on the summons.

(c) *Procedure for appeals of fines and penalties.* Any person aggrieved by any issuance of a fine or penalty by the harbormaster, assistants or by any police officer employed by the New Shoreham police department made under this article, may appeal by appearing before the district court on the date specified on the summons.

(Ord. of 3-19-2004, § 9-103; Ord. of 12-19-2005, § 9-103; Ord. of 6-2-2008, §§ 9-103, 9-103-1, 9-103-2)

**Sec. 9-104. - Local jurisdiction.**

In accordance with G.L. 1956, § 46-22-14, as amended, the town shall have the authority to enforce all applicable sections.

(Ord. of 3-19-2004, § 9-104; Ord. of 12-19-2005, § 9-104)

**Sec. 9-105. - Amendments.**

Proposed amendments to this article require review by the harbors commission and the town council.

(Ord. of 3-19-2004, § 9-105; Ord. of 12-19-2005, § 9-105)

**DIVISION 6. – DOCK USE AND ACCESS**

**Sec. 9-121. - Procedures for Old Harbor Town Dock.**

(a) Use of Piers.

(1) No vessel shall berth at any of the Town docks without proper authorization from the Harbors Department.

(2) Applications and waiting lists for berths for commercial and charter vessels are available and maintained by the Harbors Department.

(3) A vessel owner whose application has been approved and has been so notified by registered and regular mail shall pay the required dockage fee and any arrearages owed prior to the issuance of a berthing permit. If such payment is not received within twenty (20) days after applicant's receipt of notice of approval of an application, the Town shall deem the approval withdrawn, and consider other applications.

(4) A vessel owner who holds a berthing permit and who is not in arrears on any payment to the Town and meets all the requirements herein shall have his permit

automatically renewed for the following year provided that all documentation requested by the Harbors Department has been provided by April 1<sup>st</sup> annually. Berth holders who have their permits revoked lose all seniority rights and cannot be reinstated in the harbor or be placed on a waiting list for entry into the harbor until all past due amounts are paid in full plus any interest due.

(5) Berthing permits shall not be transferred with the sale of any vessel. The berthing permit will remain with the permit holder provided that a new vessel is purchased within one (1) year and all fees remain paid in full. The sale of more than 50% of ownership of a vessel, stock or otherwise, shall be deemed to be the sale of the vessel with the same prohibition on the transfer of berthing rights as described above.

(6) Upon death of berthing permit holder, the decedent's estate shall be allowed to hold the permit for the current season and must participate in the yearly renewal process.

(7) Fees shall be as ordered by the Town Council of the Town of New Shoreham annually.

(8) Residency for Charter and Commercial slip holders: Residency is defined in Chapter 2, Article I, Section 2-2 of the Ordinances of the Town of New Shoreham and Article 3 Section 9-41 of the Harbor Management Plan. A person shall live on Block Island for 9 months out of the year and also be a registered Block Island voter. Fees shall be as ordered by the Town Council of the Town of New Shoreham annually. Slip holder residency will be reviewed annually.

(9) All fees are due to the Harbors Department when renewal applications are due on April 1<sup>st</sup>. The Town shall have a lien upon the boat for any monies due for fees which are in default more than 90 days. Said lien may be enforced by sale of boat in accordance with the procedure set forth in Title 34, Chapter 35, of the General Laws of 1956 and any amendments thereto. The owner of the boat or his agent shall be subject to penalties set forth in Title 46, Chapter 22 of the General Laws of 1956, and any amendments thereto. For purposes of Section 9 (e) of said Chapter, a failure to pay all fees when due shall effect an automatic withdrawal of any consent by the Town of New Shoreham.

(10) Any Berthing permit is specific to a vessel and may not be transferred without written approval of the Harbormaster.

(11) Dumping of garbage, oil, refuse, fish offal, waste, or other substances in public tidewaters of the Town is prohibited by State and Federal Laws and shall be considered cause for revocation of a berthing permit and other penalties prescribed by law.



(12) Open fires, wood burning, coal, charcoal, or portable stoves are prohibited on vessels moored anywhere at Old Harbor Docks, and any wooden portions of the docks

(13) Trash disposal (boat owner's only) is provided at the dumpster next to Old Harbor Dock Office.

(14) Berths for the sole use of live aboard vessels are prohibited. Considerations for hired hands / mates can be made by written request of the slip holder, to the Harbormaster and or Harbor Committee.

(b) Charter Vessels.

(1) Charter vessels shall be defined as any vessel carrying passengers for hire.

(2) Six (6) slips are provided for charter vessels in Old Harbor.

(3) Charter slips will only be issued for those vessels which are, and will be, actively engaged as charter boats during the year for which the slip is issued.

(4) Applicants must provide to the Harbors Department, proof of vessel ownership, copy of current Coast Guard License to carry passengers for hire for applicant and each operator. In the event a permit holder is a corporation, the slip holder must provide a copy of the annual report for their corporation with their permit application or renewal.

(5) Applicants must meet all State of Rhode Island requirements for licenses for charter boats and provide copies to the Harbors Department annually with the application.

(6) Applicants must demonstrate that they will be engaged in carrying passengers for hire by certifying that:

a. Vessels are documented and properly registered in the State of Rhode Island.

b. Vessels are used for carrying passengers for hire on **at least 30 days** of the previous year from Memorial Day to Columbus Day.

c. New applicants must provide documentation of purchase of new vessels and all necessary documentation in compliance with the permit application.

(7) The season runs May 1<sup>st</sup> to April 30<sup>th</sup>. Renewal applications will be sent out February 1 with a deadline date of March 1.

(8) The Town of New Shoreham reserves the right to use any or all charter slips if deemed necessary by the Harbormaster in emergency situations or for safety purposes.

(9) Signs shall not be larger than 2 ft. x 3 ft. and shall not be permanently affixed to the dock. Signage is subject to the Harbormasters approval and must conform to the Towns Historic District signage regulations.

(10) Dock area for each charter slip shall be kept clean and free of fish debris, scales, etc. No equipment shall be left on the dock overnight other than fish cleaning tables and fresh water hoses.

(11) A permit for berthing does not otherwise include the right to occupy land on the waterfront or dock in any manner, or permit vending of goods of any kind.

(c) Commercial Vessels.

(1) Permits will be issued only for those vessels which are and will be actively engaged as commercial fishing, as regulated by Federal or State Regulations, during the year for which the permit is issued. The Harbormaster or Dockmaster will assign slips and re-assign slips as deemed necessary.

(2) Applicants for permits must be holders of a State or Federal Commercial Fishing License.

(3) Applicants for renewal must demonstrate that they have been, and will be, engaged in commercial fishing on **at least 50 days** of the previous year or as regulated/restricted by Federal and/or State regulations by providing copies of Log Books and Landings for the previous season; or

a. If the vessel is new or was purchased within 6 months, the applicant has the ability to comply with 1, 2, and 3a. Applicants must provide documentation of purchase of new vessel.

b. Waivers for this cause due to health and or illness will be considered by written request to the Harbormasters Office.

(4) Annual wharfage fees are to be included with the application renewal that is due by April 1. Annual wharfage period is from July 1 to June 30.

(5) Renewal applications will be sent out February 1 and are due back by April 1. Permit holders must annually provide copies of the following to the Harbors Department:

- a. Vessel registration and documentation.
- b. A Federal or State commercial fishing license.
- c. Proof of hull insurance for registered vessel.

(6) The bait dock located on the north end of the West Dock shall be used by commercial fishing vessels only. The Harbormaster and or Dockmaster shall have the discretion to temporarily put non-commercial vessels on the bait dock when deemed necessary for safety.

(7) No gear, barrels, nets, equipment, or other material shall be allowed to remain on a pier or on land adjacent to and providing access to the pier for more than 7 days. Plastic 35-gallon to 50 gallon bait barrels are permissible on the bait dock or immediately behind each slip. No gear, barrels, nets, or other equipment/materials shall be allowed to remain on the loading ramp for more than 48 hours.

(8) All bait storage shall be on the bait dock exclusively.

- a. Storage of un-refrigerated bait must be in sound (no leaks) plastic barrels with tight fitting lids.
- b. Barrels must be covered at all times and shall not obstruct passage on the docks.

(9) A permit for berthing space does not include the right to occupy land on the waterfront in any manner.

(10) Commercial slip holders which carry passengers for hire are subject to annual charter boat wharfage fees.

**Sec. 9-122. – Berthing Application, Permitting Process and Waiting List Process for Old Harbor Town Dock.**

(a) The Harbors Division shall maintain waiting lists commercial and charter vessel requests when no berthing space is available. Commercial and charter vessel waiting list applications are available from the Harbors Department and must be returned to the Harbors Department completed with the following information;

- (1) Name, address, and telephone (home and office) of owner;
- (2) Vessel name, registration and documentation number, length (feet), width (feet), draft (feet), type, make and color; vessel registration/ documentation must be in waiting list applicants name.

(b) To qualify for a charter slip, applicants must meet the qualifications specified in Section B of this document.

(c) To qualify for a commercial slip, applicants meet the qualifications as specified in Section C of this document.

(d) It shall be the burden of the applicant to notify the Harbormaster's Office of any change of address. Your name will be removed from the list if any notifications are returned in the mail.

**Sec. 9-123 - Appeals for Old Harbor Town Dock Use.**

The harbormaster or assistants shall make the determination as to the classification of each vessel for the purpose of establishing berthing or wharfage charges to be assessed based upon the vessel classifications as defined in section 9-121. Any person aggrieved by the determination of the harbormaster or assistant may appeal such determination to the town council, provided the fee or charge determined shall be paid pending the appeal.

**Sec. 9-124. - Procedures for New Harbor Dinghy Dock.**

**(a) Use of Dinghy Dock.**

(1) Vessels over 14 feet are not permitted to dock.

(2) Vessels are permitted to dock for no more than 24 hours. Vessels located on the dock for more than 24 hours will be removed by the Harbormaster.

(3) The dinghy dock is open seasonally from April 15<sup>th</sup> to October 15<sup>th</sup>. The Town may remove any dinghy left on Town property after October 30<sup>th</sup>. In this case, the dinghy would be considered a derelict vessel and procedure and penalties would follow Section 9-99. – Derelict Vessels and Docks.