

## Chapter 9 - MARINE ACTIVITIES, AREAS AND STRUCTURES [40]

(40) **Cross reference**— Administration, ch. 2; North Light commission, § 2-101; planning board, § 2-116 et seq.; buildings and building regulations, ch. 4; health and sanitation, ch. 6; littering, § 6-16; deteriorated buildings, junk and dense growth declared nuisance, § 6-18; historical preservation, ch. 7; licenses and business regulations, ch. 8; misappropriation of boat of another, § 10-13; natural resource protection, ch. 11; environmental protection, § 11-36 et seq.; protection of wetlands and certain inland areas, § 11-38; wildlife refuge, § 11-71 et seq.; noise, ch. 12; noise from motorboats or other watercraft, § 12-51; streets, sidewalks and other public places, ch. 15; public places, § 15-76 et seq.; sewer use regulations, § 19-411 et seq.; zoning, app. E; waterfront overlay, app. E, § 318; marinas, app. E, § 414; waterfront uses, app. E, § 415.

(40) **State Law reference**— Waters and navigation, G.L. 1956, title 46; regulation of boats, G.L. 1956, § 46-22-1 et seq.; local regulation of boats, G.L. 1956, § 46-22-14, superseded by special regulatory powers for Town of New Shoreham, G.L. 1956, § 46-4-6.10.

ARTICLE I. - IN GENERAL  
ARTICLE II. - BEACHES  
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ARTICLE IV. - FISHING

### ARTICLE I. - IN GENERAL

**Secs. 9-1—9-15. - Reserved.**

### ARTICLE II. - BEACHES [41]

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

(41) **State Law reference**— Shore Development Act of 1956, G.L. 1956, § 46-3-1 et seq.

**Sec. 9-16. - Commercial enterprises prohibited in certain areas.**

It shall be unlawful for any person or group of persons to sell, offer for sale, rent or offer to rent any merchandise of any kind or nature or to solicit for any business purpose upon the public beach areas situated between the Old Harbor breakwater up to and including Mansion Beach, or the dune areas, parking areas, and rights-of-way, whether public or private, adjacent to such beaches.

(Rev. Ords. 1989, § 9-16)

**Cross reference**— Licenses and business regulations, ch. 8; peddlers and itinerant vendors, § 8-110 et seq.

**Sec. 9-17. - Littering prohibited.**

It shall be unlawful for any person to deposit, leave or discard any cans, bottles, papers, paper or plastic goods, trash or rubbish of any kind, material or nature on any beach of part of the shoreline of the town.

(Rev. Ords. 1989, § 9-17)

**Sec. 9-18. - Fires restricted.**

(a) It shall be unlawful for any person or group of persons to kindle, light, or maintain an open fire on any beach or part of the shoreline of the town without first obtaining a permit from the agent designated by the town to issue the permit.

(b) It shall be unlawful for any person or group of persons, having kindled, lighted, or made use of an open fire on the beaches or any part of the shoreline of the town, to fail to extinguish the fire before leaving the area.

(c) The town council shall designate an agent to be responsible for the issuance of permits required under this section.

(Rev. Ords. 1989, § 9-18)

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

**Sec. 9-19. - Sleeping on beaches prohibited during certain hours.**

It shall be unlawful for any person to sleep, loiter, lounge or remain on any beach and areas adjacent thereto or any other public or private area of the town between the hours of 8:00 p.m. and 8:00 a.m.

(Rev. Ords. 1989, § 9-19)

**Sec. 9-20. - Surfboarding restricted.**

The chief of police or any state or town lifeguard may prohibit the use of surfboards in the area extending northerly from the Old Harbor breakwater to and including Scotch Beach and Mansion Beach when, in the opinion of the chief of police or lifeguard due to congestion of bathers or the conditions of the surf, the use of surfboards would be hazardous or endangering to the person of the bathers or the surfer.

(Rev. Ords. 1989, § 9-20)

**Sec. 9-21. - Exceptions.**

The first warden, the second warden or the chief of police may grant an exception to the provisions of this article to any duly organized or constituted group. The granting of an exception shall be in writing and shall contain the official name of the organization granted the exception, the name of at least one adult who shall be responsible for the orderly conduct and policing of the group, the area to be occupied, the period of time authorized and the name and office of the town officer granting the exception. The exception or permit as completed above shall be kept by the person in charge of the group and exhibited upon request made by any police officer or person owning land adjacent to the occupied area.

(Rev. Ords. 1989, § 9-21)

**Sec. 9-22. - Motor vehicles and horses restricted.**

- (a) Permit required for motor vehicles. No motor vehicle shall be allowed on the public beaches of the town without a valid updated permit from the coastal resources management council.
- (b) Use restrictions.
  - (1) All motor vehicles or motor-propelled vehicles of any description are prohibited on dunes except on trails marked expressly for vehicular use and on all lands designated open space owned and/or maintained by the town for the benefit of the general public.
  - (2) All horses are prohibited on dunes except on designated passageways.
  - (3) Vehicular use on beaches where not otherwise prohibited or restricted by property owners or by private or public management programs is prohibited at all times for motorcycles, minibikes, mopeds, snowmobiles, all-terrain motorized cycles, tripeds and tricycles except for authorized management-related vehicles.
  - (4) Motor vehicles, or motor-propelled vehicles of any description, and horses are particularly prohibited on the sand dunes on the East Beach in the area between the highway and the beach from Old Harbor breakwater to Mansion Beach, including Surf, Main, Scotch and Mansion Beaches and all areas in between, except on designated passageways.
- (c) Seasonal restrictions. It shall be unlawful for any person to operate or park any motor vehicle or motor-propelled vehicle of any description or ride or walk a horse on the public beaches of the town situated between the Old Harbor breakwater and Mansion Beach, including Surf, Main, Scotch and Mansion Beaches, between the hours of 9:00 a.m. to 6:00 p.m., from May 15 to October 15 of each year.
- (d) Exemption. Town and state vehicles, emergency vehicles and other vehicles used by or for the assistance of incapacitated persons shall be exempt from this section.

(Rev. Ords. 1989, § 9-22)

**Cross reference—** Animals, ch. 3; motorized cycle rentals, § 8-76 et seq.; traffic and motor vehicles, ch. 18; motorized cycles, § 18-21 et seq.

**State law reference—** Coastal resources management, G.L. 1956, § 46-23-1 et seq.

**Secs. 9-23—9-40. - Reserved.**

**ARTICLE III. - HARBORS [42]**

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

(42) **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 harbor master, G.L. 1956, § 46-4-6.10.

- DIVISION 1. - GENERALLY
- DIVISION 2. - HARBORS COMMITTEE
- DIVISION 3. - HARBORMASTER
- DIVISION 4. - REGULATIONS
- DIVISION 5. - PUBLIC ACCESS AND RIGHTS-OF-WAY

**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.
- Assistants 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.
- 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 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, private property owner, 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 16 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 through November 1;
- (5) Any vessel which is not registered with the harbormaster;
- (6) 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;
- (7) Any vessel which is or appears to be abandoned, forsaken, deserted or cast away by the owner; or
- (8) Any vessel which is or appears to be 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.

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.

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-on-board. 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. For the purposes of this article, a mooring is considered either town or private, which are defined as follows:

- (1) Town mooring means any mooring which is rented or leased by the town in a mooring area.
- (2) Private mooring.
  - a. Resident mooring means any private mooring, permitted annually by the town, which is assigned to a vessel, owned by a resident of the town and registered in the state or documented with a home port of Block Island.
  - b. Nonresident mooring means any private mooring, permitted annually by the town, which is assigned to a vessel not owned by a resident of the town.
  - c. Club mooring means any mooring, permitted annually by the town, which is owned or used by a private yacht or boat club which is registered in the corporate, business or club name. It shall be at the discretion of the harbormaster to determine whether or not a private mooring is indeed a private mooring or a club mooring.

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.

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 NAOA nautical charts and as designated by the U.S. Army Corps of Engineers.

Open to all on equal basis means that the town makes no arbitrary distinction or requirement of any kind in allocating use of the mooring areas, ancillary facilities and services to the public except as may be consistent with the purpose for which the project was created. The town will impose no arbitrary fees or arbitrary variations in fees among users. The cost of providing necessary management, ancillary facilities and services may be offset through equitable user fees based on the actual costs incurred.

Outhaul permit means a license granted by the town on annual basis to locate or maintain an outhaul in the waters of the town. This license may be revoked at any time for failure to comply with any provision of this article or the state coastal resources management program (RICRMP).

Outhauls means a non-single-point anchoring device, for the purpose of securing a boat in tidal waters and retrieving it from shore.

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.

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.

Seaplane means aircraft equipped for landing on the water.

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 with 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 [43]**

(43) **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 [44]**

(44) **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 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 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 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 may remove, or cause the removal of, derelict vessels and derelict docks.

(h) 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 private mooring permits and commercial permits granted.

(3) Total number of outhaul permits granted overall.

(4) Total number of grandfathered outhaul permits granted, as provided for in section 9-82(9) and (10).

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

(6) The summary of total vessel characteristics will also list the water type classification and therefore the total number of permits in each water type classification will be reported as total number of vessel characteristics.

(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)

## DIVISION 4. - REGULATIONS

### Sec. 9-82. - Procedures for outhauls.

- (a) Before any outhaul is located or maintained in the coastal waters and harbor areas of the town, a permit must be issued by the harbormaster or assistants. The harbormaster and assistants, having due regard to draft and facility of navigation and the policies of the coastal resources management council program section 300.4, shall designate where outhauls 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 for outhauls.
- (b) Such permits shall be issued by the harbormaster or assistants 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(s) is/are to be permitted to the contiguous waterfront property owner.
  - (2) Up to two outhauls 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-on-boards are not permitted on vessels using an outhaul.
  - (6) Outhaul permits are issued only when consistent with the state coastal resources management program (RICRMP), including the provisions of section 300.18.
  - (7) Permits issued for outhauls by the harbormaster or assistants may be revoked by the harbormaster at any time for failure to comply with any provision of this article or the RICRMP. Permits issued for outhauls by the harbormaster or assistants may be revoked by the coastal resources management council (CRMC), as the CRMC retains the authority to revoke any permits issued by the town if it finds that such permit conflicts with the RICRMP.
  - (8) From November 15 to April 15, when a boat 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.
  - (10) Outhauls which coexisted with a permitted recreational boating facility on the waterfront property, may be grandfathered in their current location upon annual harbormaster documentation that such outhauls and recreational boating facility have been in continuous use at such location since 2004, and the contiguous property owner(s) agree in writing to such, and so long as, the harbormaster determines the outhaul and/or the residential boating facility do not present navigational hazards and are consistent with applicable provisions of the RICRMP.

(Ord. of 5-1-2007, § 9-82)

### Sec. 9-83. - Outhaul application 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 harbormaster or assistant 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 mail 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 approve or reject outhaul permit applications 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 harbor master that the outhaul is down.

(g) Waiting list.

The harbors division shall maintain waiting lists of all waterfront property owner applications for outhaul permit requests when no outhaul space is available within the coastal waters and harbor areas of the town. Placement of applications on such waiting lists will be recorded from complete outhaul waiting list/policy applications as they are received by the harbors division. The harbors division shall update the waiting list as applications are received and make the waiting list available for review at all times.

(h) 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.

(i) 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.

(j) 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.

(k) No outhaul permit will be issued without proof of the applicant's documentation and/or proof of ownership of waterfront property.

(l) Outhaul inspections.

The harbor master 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 the 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 harbor master 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 harbor master 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. Mooring areas or moorings will not be sited in federally maintained project areas.

(b) Before any mooring is secured in a designated town harbor, a permit must be issued by the harbor master or assistants. The harbor master and assistants, 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 harbor master for moorings. The harbor master or assistants shall issue semi-permanent moorings 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 and club moorings and 100 town rental moorings. The town has permits from the United States Army Corps of Engineers for 100 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." Resident to nonresident mooring allocation policy for all private moorings shall be no greater than three resident

mooring permits to one resident mooring permit. The harbormaster or assistants 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 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 federal channel. The harbormaster or assistants may permit the temporary anchoring or temporary use of a mooring by a vessel in emergency situations or adverse weather conditions. Exceptions shall be made only at the discretion of the harbormaster or assistants.
- (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 may permit the temporary anchoring or temporary use of a 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), or parent (including a stepparent).
  - b. 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.
  - c. 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 2½ 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 2½ 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) The town reserves the right to rent any and all private moorings in New Harbor. Private mooring permit holders must notify, in advance, the use of the mooring by guest or the permit holder prior to the arrival of the vessel(s). Mooring permit holders, whose permit is not in "name only," with mooring tackle with at least a 500-pound mooring, and full inspection certificate, can participate. Notification of the harbors department of mooring availability, in advance, is necessary. The following conditions also 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 pennants, pickup buoys, and mooring balls 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 harbor of refuge 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 process and waiting list procedures.**

(a) No 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 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 mooring permit. To be eligible for a 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 one year.

(c) If the harbors department issues a 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 in accordance with the harbor management plan and this ordinance.

(d) Permit renewals.

(1) Applications for renewal of a 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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 on an open-to-all equal basis. 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.

(j) Mooring permit application requirements. All applications for private mooring permits shall contain the following information:

- (1) Name, address and telephone (home and office of owner). Corporations (except nonprofit educational corporations incorporated on Block Island), trusts, businesses, and partnerships will not be accepted as applicants unless declared as an applicant for a club mooring or a resident commercial fishing enterprise.
- (2) Vessel name, registration number, length (feet), width (feet), draft (feet), type, and color. Vessel registration must be in waiting list applicant's name.
- (3) Number of sleeping berths, if any, and type of marine sanitation device (MSD), if any.
- (4) Mooring classification, actual-mooring weight.
- (5) Appropriate registration fee. Checks must be signed by permit holder.
- (6) Area(s) where applicant would like to locate mooring, prioritized.

(k) 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.

(l) 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.

(m) 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.

(n) 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, and any high-speed activity is prohibited in all anchorage and mooring areas. Swimming from anchored and moored vessels is permitted only directly astern and within ten feet of the vessel.

(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.**

Houseboats and floating businesses as defined in this article and in section 300.5 of the state coastal resources management program are prohibited from berthing, mooring, or operating in the harbors of the town. 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 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 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 removed the derelict vessel or derelict dock, the harbormaster or assistants 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) 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.

(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 5. - PUBLIC ACCESS AND RIGHTS-OF-WAY**

#### **Sec. 9-106. - Public access and rights-of-way.**

(a) The provisions of adequate and high quality public access to the shore have increasingly become an integral element in the development plans of many waterfront communities. Whereas in the past, the provision of access to the water was a function undertaken primarily by the private sector, today this function is by necessity, increasingly in the domain of the public sector. This change may be attributed in part to both heightened interest in waterfront property and water-dependent activities and the subsequent escalations in land prices.

(b) Public access to the shore or waterfront is characterized by an established public right-of-way to the water from an established public (either through ownership or easement) roadway. The access itself may be either more vertical in nature (as in a fishing pier), primarily horizontal in nature (a length of beach, walkway or bicycle path), or a combination of the two. The most important characteristic of public access is that it be of sufficient depth and breadth to serve the intended activities as well as designated corollary activities such as pedestrian access or parking.

(c) The town shall incorporate maximizing the potential of existing access and providing new public access points as an integral component of all future planning efforts. Direct acquisition of coastal land and access rights for public usage shall continue to be the principal means of expanding the scope of rights-of-way to the Great Salt Pond and coastal shores of Block Island.

(d) Pursuant to the recommendation of the state department of planning, the 1987 open space bond issue and future state and local open space or recreational initiatives hold great potential for significantly expanding the quantity and quality of public access to the coastline through both local and cooperative local/state purchases.

(e) Adequate public access is necessary to meet the needs of the town. The town will strive to preserve, protect, and enhance all existing public rights-of-way to the waters and public properties of the town. All existing rights-of-way shall be maintained or enhanced as needed and as funds become available. Priorities for maintenance, preservation and/or enhancement shall be determined by type of right-of-way, urgency of protection, type of use, and extent of use.

(Ord. of 3-19-2004, § 9-113; Ord. of 12-19-2005, § 9-106)

**Cross reference—** Streets, sidewalks and other public places, ch. 15.

#### **Secs. 9-107—9-120. - Reserved.**

### **ARTICLE IV. - FISHING <sup>[45]</sup>**

(45) **Cross reference—** Natural resource protection, ch. 11; environmental protection, § 11-36.

DIVISION 1. - GENERALLY  
DIVISION 2. - SHELLFISHING

#### **DIVISION 1. - GENERALLY**

#### **Sec. 9-121. - Purpose.**

This article is presented under the authority of G.L. 1956, § 20-3-7, by the electors of the town. The purpose of this article is to regulate in the public

Interest the taking of shellfish and finfish in the Great Salt Pond for commercial and private use by establishing restrictions as to quantities taken and methods of taking that will allow for the protection, conservation and reproduction of the shellfish, finfish and crab in the Great Salt Pond as authorized by the electors of the town at a town meeting held May 2, 1967, under authority of chapter 171 of the Public Laws of 1896 (G.L. 1956, § 20-17-2) and town meeting July 11, 1983 (G.L. 1956, § 20-3-7).

(Rev. Ords. 1989, § 9-137; Ord. of 2-16-2000, § 9-122; Ord. of 3-7-2011, § 9-122)

**Secs. 9-122—9-136. - Reserved.**

**DIVISION 2. - SHELLFISHING [46]**

(46) **Editor's note**— At the town meeting of June 2, 1967, the electors authorized the town council to adopt ordinances to regulate the taking of shellfish and other uses in the Great Salt Pond.

(46) **State Law reference**— Authority for electors in the town meeting to authorize adoption of regulations on fishing in Great Salt Pond in New Shoreham, penalty, G.L. 1956, § 20-3-7.

**Sec. 9-137. - Definitions.**

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

Bay quahog (quahog) means *Mercenaria mercenaria*.

Bay scallop means *Argopecten irradians*.

Black sea bass means *Centropristes striatus*.

Blue crab means *Callinectes sapidus*.

Blue fish means *Pomatomus saltarix*.

Blue mussel means *Mytilus edulis*.

Bullrake means any curved metal instrument or basket with four or more tines (teeth) which is customarily used to harvest bay quahogs.

Bushel means a standard U.S. bushel, 2,150.4 cubic inches capacity.

Charter boat and party boat mean any vessel that carries passengers for hire to engage in fishing.

Cod means *Gadus morhua*.

Commerce means the transfer of finfish, mollusks, or crustaceans transferred to a dealer, or offered for sale, barter, trade, shipment on consignment, or packed for shipment.

Commercial shellfish license means a license duly issued by the town and the state authorizing an individual to harvest or take shellfish from the Great Salt Pond to be offered for sale.

Conch means a channeled whelk, *Busycotypus canaliculatum*, or a knobbed whelk, *Busycon caria*.

Dealer means a person who is licensed by the state to sell, purchase, barter and/or trade seafood.

Eel means *Anguilla rostrata*.

Fluke (summer flounder) means *Paralichthys dentatus*.

Fork length means the straight linear distance from the tip of the snout to the fork of the tail.

Fyke net means a conical shaped net supported by hoops, which also utilizes a leader to direct fish to the net.

Golden means any person 65 years of age or older.

Great Salt Pond (GSP) means all harbor waters 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.

Green crab means *Carcinus maenas*.

Hinge width means the distance between the convex apex of the right shell and the convex apex of the left shell.

Jonah/northern crab means *Cancer borealis*.

Land and landing mean to enter port with fish on board, to begin offloading the fish, or to offload fish.

Lobster means *Homarus americanus*.

Mechanical power means any source of energy or power other than exclusively human power.

Menhaden means *Brevoortia tyrannus*.

Netting means a meshed fabric which exceeds eight feet in length or width including, but not limited to seines, weirs, fyke nets, otter trawls, and gill nets.

Noncommercial shellfish license means a license duly issued by the town authorizing an individual to harvest or take shellfish from the Great Salt Pond. Shellfish taken under this license cannot be offered for sale or trade. Noncommercial shellfish licenses include taxpayer and/or resident, seasonal (summer) and golden licenses.

Ocean quahog means *Arctica islandica*.

Offloading means to begin to remove, to remove, to pass over the rail, or otherwise take away fish from any vessel.

Oyster means *Crassostrea virginica*, *Ostrea edulis*.

Peck means one-fourth of a bushel.

Person means an individual, corporation, partnership, or other legal entity.

Pollock means *Pollachius virens*.

Possession means the exercise of dominion or control over the resource commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. Such a decision must be made at the first practical opportunity.

Quart means 1/32 of a bushel.

Resident.

(1) For purposes of this division 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.

Rock crab means *Cancer irroratus*.

Scup means *Stenotomus chrysops*.

Sea scallops means *Placopecten magellanicus*.

Seine means any net used to catch fish by encirclement or herding, including haul seines, beach seines, and purse seines; haul seines may not exceed 600 feet in length.

Shellfish, finfish and crab means all species of mollusk and crustacea, including and without limitation, oysters, clams, soft-shell clams, sea clams, scallops, mussels, quahogs, crabs either blue, sand or rock, and flounder both winter and summer, and all other finfish naturally found in the Great Salt Pond.

Soft-shell clam means *Mya arenaria*.

Striped bass means *Morone saxatilis*.

Surf clam or sea clam means *Spisula solidissima*.

Take and taking mean the process and each of the activities in that process undertaken to remove the resource from its natural habitat until the time at which possession begins.

Tautog means *Tautoga onitis*.

Tongs means any shellfishing implement constructed with heads attached to stales (handles) and pinned at a pivot point to allow the opening and closing of the basket mouth formed by the two.

Transfer means to convey, pass, or remove something from one person, place, and/or vessel to another.

Trawl device means any type of fishing apparatus drawn behind a vessel which consists of otter doors and/or ground cables, ropes, and/or netting. This will apply to, but not be limited to, beam trawls, otter trawls, Scottish trawls, and pair trawls.

Trip limit (possession limit) means the maximum quantity of marine products/species that may be possessed by a vessel; vessels are only allowed one trip limit in possession.

Vessel means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Wet storage means the temporary storage, by a dealer, of shellfish from areas in approved classification or in open status of the conditionally approved classification, in containers or floats in natural bodies of water or tanks containing natural or synthetic seawater. Wet storage shall be practiced only by a licensed shellfish dealer in strict compliance with the provisions in the written approval for the wet storage given by the state department of health.

Winter flounder means *Pseudopleuronectes americanus* (common name: black flounder flatfish).

Witch flounder (gray sole) means *Glyptocephalus cynoglossus*.

Yellowtail flounder means *Limanda ferruginea*.

(Rev. Ords. 1989, § 9-136; Ord. of 2-16-2000, § 9-136; Ord. of 3-7-2011, § 9-136)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

### **Sec. 9-138. - Shellfish commission.**

(a) There is hereby established a shellfish commission to assist the town council in accomplishing the purposes of this division. The commission shall consist of no less than five nor more than nine members representative of all persons interested in shellfishing to be appointed by the town council. The members shall be appointed during the month of December for a term of three years. Any member may be reappointed for additional terms. In the event of the death, resignation or removal of a member, a successor shall be appointed to serve the remainder of the member's unexpired term.

(b) The commission shall organize annually in the month of January by electing a chairman, a vice-chairman and a secretary. The secretary need not be a member of the commission. The commission may adopt bylaws subject to approval of the town council.

(c) The commission shall perform all such other functions as may from time to time be referred or delegated to it by the town council. The commission may recommend a fee for shellfish licenses to be acted upon by the town council.

(Rev. Ords. 1989, § 9-138; Ord. of 2-16-2000, § 9-138; Ord. of 9-4-2002, § 9-138; Ord. of 3-7-2011, § 9-138)

**Cross reference—** Boards, committees, commissions, § 2-51 et seq.

**Sec. 9-139. - License required for taking shellfish.**

No person 14 years of age or older shall take any shellfish from the Great Salt Pond in the town by any method whatsoever without first having obtained a shellfish license from the agency or person designated as empowered by the town council to issue such licenses. Shellfish taken by persons under 14 years of age cannot be offered for sale or trade.

(Rev. Ords. 1989, § 9-139; Ord. of 2-16-2000, § 9-139; Ord. of 3-7-2011, § 9-139)

**Sec. 9-140. - Issuance of shellfish licenses; license categories; fee; term.**

The shellfish commission, the town clerk, the harbors dept., N.S.P.D. and such other persons as may be designated by the town council are empowered and authorized to issue shellfish licenses, as follows:

(1) Commercial. An applicant for a commercial shellfish license, or a renewal thereof, shall have maintained a principal residence within the town continuously for no less than 12 consecutive months prior to the date of application or renewal. The annual fee for this license is on file in the town clerk's office. Applicants must hold a valid state commercial shellfish license with an appropriate shellfish endorsement, or multipurpose commercial license. Applications shall be made to the shellfish commission, who will then recommend action to the town council together with proof of residence. The maximum number of Block Island commercial shellfish licenses to be sold in a given year (January 1 through December 31) shall not exceed 20 and no more than one Block Island nonresidential commercial shellfish license shall be issued. All said licenses are nontransferable. Commercial licenses shall be for a period of one year, January 1 through December 31. Any existing license not renewed by the town council prior to January 1 of each year, and not issued by the town clerk in exchange for receipt of the required fee prior to February 1 of each year shall be forfeited.

(2) Taxpayer and/or resident. An applicant for a taxpayer and/or resident shellfish license, or renewal thereof, shall be a person who is a real estate taxpayer and/or resident. Taxpayer and/or resident licenses shall be for a period of one year; May 16 through May 15 of each year. The fee for this license is on file in the town clerk's office. Shellfish taken under this license cannot be offered for sale or trade.

(3) Combined total licenses not to exceed cap; exception. The combined total sale of the weekly, monthly and seasonal (this does not apply to town residents) shellfish licenses shall not exceed the cap set forth by the town council. The cap is based on the recommendation of the shellfish commission. The cap will be kept on file in the harbormaster's office.

(4) Seasonal (summer). Any person may obtain a seasonal license valid during the period May 16 through October 15 of each year. The fee for this license is on file in the town clerk's office. This license is offered on a weekly, monthly and seasonal basis. Shellfish taken under this license cannot be offered for sale or trade.

(5) Golden license. Any person 65 years of age or older may obtain a golden shellfish license valid during the period May 16 through May 15 of each year. The license fee is one dollar and must be renewed annually. Shellfish taken under this license cannot be offered for sale or trade.

(6) Golden commercial license. The town council may, at its will, issue this license to any person 65 years of age or over. This person must meet all requirements as described in subsection (a)(1) of this section, pertaining to commercial shellfish licenses.

(b) The shellfish commission shall recommend to the town council the maximum number of licenses to be issued.

(Rev. Ords. 1989, § 9-140; Ord. of 6-18-1997, § 9-140; Ord. of 2-16-2000, § 9-140; Ord. of 6-20-2005; Ord. of 3-7-2011, § 9-140; Amd. of 6-4-2012)

**Editor's note—** Amd. of June 4, 2012, changed the title of § 9-140 from issuance of shellfish licenses; license categories; fee; term to shellfish licenses.

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

**Sec. 9-141. - Form of shellfish license; exhibition; conditions.**

(a) A license is required at age 14. Photo ID is required at age 16 or older when applying for and accepting a shellfish license. The licenses shall be in such form and style as the town council may prescribe. It shall be kept on the person of the licensee at all times as the licensee shall be engaged in shellfishing, transporting shellfish or any activity concerned therewith. It shall be exhibited upon request to any officer of the town. No person shall dig, catch or take any shellfish from the areas of the Great Salt Pond except during the hours between sunrise and sunset.

(b) All persons applying for and accepting a shellfish license agree and the acceptance of such license shall constitute such agreement that he or she shall at any time or place when requested by a shellfish warden, harbor department employee or police officer of the town, permit the officer to inspect any pail, bucket, box, crate, boat or any other vessel, receptacle or container suitable for containing shellfish belonging to him or her or under his control, and shall permit the officer to board any vessel or enter any vehicle or building under his control for such purposes as inspection. Any person refusing to permit such inspection shall immediately forfeit and surrender his shellfish license to the officer and shall not be entitled to a license for the remainder of the year.

(Rev. Ords. 1989, § 9-141; Ord. of 2-16-2000, § 9-141; Ord. of 3-7-2011, § 9-141)

**Sec. 9-142. - Quantities and restrictions.**

(a) The following are the daily possession limits for each category as long as the waters are certified by the state department of environmental management for the direct harvest of shellfish:

(1) From sunrise of the third Monday in September through sunrise of the last Saturday in June:

Quantity Limits	Commercial	Taxpayer/Resident	Seasonal
Oysters (in season)	8 quarts	8 quarts	None
Soft-shell clams	1 bushel	8 quarts	8 quarts
Quahogs	4 bushels	8 quarts	8 quarts
Sea clams (skimmers)	4 bushels	8 quarts	8 quarts
Mussels	8 quarts	8 quarts	8 quarts

Scallops (in season)      2 bushels      2 bushels      None

(2) From sunrise of the last Saturday in June through sunrise of the third Monday in September the following are the quantity limits for each license category, but under no circumstances can any person take more than two bushels of shellfish in any one day of the season.

Quantity Limits	Commercial	Taxpayer/Resident	Seasonal
Oysters (in season)	None	None	None
Soft-shell clams	4 quarts	4 quarts	4 quarts
Quahogs	2 bushels	4 quarts	4 quarts
Sea clams (skimmers)	2 bushels	4 quarts	4 quarts
Mussels	4 quarts	4 quarts	4 quarts
Scallops (in season)	None	None	None

(b) No person shall take and/or possess any oysters and scallops from the Great Salt Pond between June 1 and the first Saturday in November except as allowed by the town/CRMC in permit sites in open waters.

(c) No person having a noncommercial license shall take more than eight quarts in total of the various shellfish listed in subsection (a) of this section. No commercial licensee shall take more than four bushels in a total of the quantities set out in subsection (a) of this section in any one day. No person shall take, retain in his possession or offer for sale any hard shell clams with less than a one-inch hinge width, or soft-shell clam or mussel less than two inches at the longest dimension and oysters no less than three inches at the longest dimension.

(d) Any person taking more than the prescribed quantity within one day or taking or having in his possession shellfish under the minimum size shall, in addition to the fines set out in section 9-147, be fined upon conviction no less than \$100.00 nor more than \$200.00 for each quart or part thereof exceeding the prescribed quantity, or be imprisoned for not more than ten days.

(e) Wet storage shall be prohibited except by a licensed shellfish dealer in strict compliance with provisions as written and approved by the state department of health. No other type of wet storage is permitted.

(Rev. Ords. 1989, § 9-142; Ord. of 3-3-1992; Ord. of 9-16-1992; Ord. of 5-15-1996; Ord. of 2-16-2000, § 9-142; Ord. of 2-2-2005, § 9-142; Ord. of 3-7-2011, § 9-142)

**Sec. 9-143. - Method and time of taking shellfish.**

(a) Daylight hours only; nondestructive methods only. Shellfish may only be taken during daylight hours from sunrise to sunset. No person shall take or possess any shellfish from the areas of the Great Salt Pond by any method more destructive to the beds than by hand, oyster tongs, clam forks or rakes, or dip nets. Taking shellfish by dredge rakes or other apparatus operated by mechanical power/sail or hauled by boats is prohibited.

(b) Scuba. No person making use of scuba diving equipment or underwater breathing apparatus shall take shellfish from the Great Salt Pond.

(c) Tongs. No person shall take shellfish or attempt to take shellfish with or have in his possession while in the Great Salt Pond, any tongs constructed with teeth less than one inch apart on the bar or having heads constructed with wires, rods, crossbars, or reinforcement that will form a rectangle smaller than one inch by 2½ inches.

(d) Bullrakes. No person shall take shellfish, or attempt to take shellfish, or have in his possession, any bullrake, the teeth or tines and basket construction of which are closer than one inch apart or having crossbars or reinforcement that will form a rectangle smaller than one inch by 2½ inches. A tolerance of 1/16 of an inch less than the allowable limit will be permitted as a variance in construction. For the purpose of this regulation, a bullrake shall be defined as any curved metal instrument or basket with four or more metal tines (teeth) which is primarily used to harvest bay quahogs.

(Rev. Ords. 1989, § 9-143; Ord. of 2-16-2000, § 9-143; Ord. of 3-7-2011, § 9-143)

**Sec. 9-144. - Taking finfish.**

At all times the taking of finfish in the Great Salt Pond is prohibited except by hand line or rod and reel or licensed minnow/eel trap or spear. From March 1 until May 15 of any calendar year, the taking of blackback or winter flounder by any means is prohibited anywhere in New Harbor (Great Salt Pond) inside a line from the Block Island Coast Guard dock extending northwest across the channel to Beane's Point and encompassing all of the Great Salt Pond. The size of the fish will be dictated by state law. The size and possession limits of all marine finfish species implemented by the state department of environmental management shall be in effect within the Great Salt Pond. Except when fishing as a licensed commercial vessel, each person fishing from a vessel licensed by the United States Coast Guard to carry passengers for hire and while the vessel is carrying passengers for hire may not possess more than the daily allowed limit of the finfish species possessed set by the department of environmental management for the species. Compliance aboard vessels will be determined by dividing the number of fish on board a vessel by the number of recreational fishermen on board such vessel. Such fish shall not be offered for sale.

(Rev. Ords. 1989, § 9-144; Ord. of 2-16-2000, § 9-144; Ord. of 3-7-2011, § 9-144)

**Sec. 9-145. - Temporary prohibitions by council.**

(a) The town council may at any time and from time to time by special order, suspend and prohibit the taking of any one or several types or species of shellfish or finfish for the purpose of conservation and protection of the specified species and to protect the public health. Such order may be made by the council without notice, provided that public notice thereafter shall be made in an appropriate manner. Persons taking or possessing shellfish and/or finfish in violation of this prohibition shall be punished as specified in section 9-147

(b) The town council may at any time, from time to time by special order, upon recommendation from the shellfish commission, increase or decrease the quantity or size of the taking, of any one or several types or species of shellfish or finfish based on local conditions.

(Rev. Ords. 1989, § 9-145; Ord. of 2-16-2000, § 9-145; Ord. of 3-1-2006, § 9-145; Ord. of 3-7-2011, § 9-145)

**Sec. 9-146. - Enforcement.**

The provisions of this division shall be enforceable by the town's harbormaster, assistant/seasonal harbormasters, shellfish wardens, assistant/seasonal shellfish wardens, the town police department officers, and any other person duly appointed and sworn by the town council for such purpose. Any one of such duly appointed and sworn officers may in view of the commission of any offense against the provisions of this division arrest the offender without

warrant and detain him for prosecution not exceeding 24 hours.

(Rev. Ords. 1989, § 9-146; Ord. of 2-16-2000, § 9-146; Ord. of 3-7-2011, § 9-146)

**Sec. 9-147. - Penalty for violation.**

Any person violating any provisions of this division may be fined up to \$200.00 and imprisoned for up to three months for any one offense.

(Rev. Ords. 1989, § 9-147; Ord. of 5-15-1996; Ord. of 2-16-2000, § 9-147; Ord. of 3-7-2011, § 9-147)

**State law reference—** Maximum fine, G.L. 1956, § 20-3-7.

**Sec. 9-148. - Prohibited digging in closed areas.**

(a) No person shall dig, rake or otherwise take shellfish from any area of the town waters that have been closed by the town or any state or federal agency.

(b) Storing or hanging shellfish in any containment system is prohibited in closed waters of the town.

(c) Possession and/or use of shellfish gear in a closed area is prohibited. While transiting a closed area, all shellfish gear must be properly stowed.

(d) Any person violating any provision of this section may be fined up to \$200.00 and/or imprisoned for up to three months for each offense.

(e) The shellfish warden, harbormaster, assistant harbormaster or other duly appointed town official can turn any closed area shellfish violation over to the state department of environmental management conservation officers at his/her discretion.

(f) Fees and fines are on file in the town hall.

(Ord. of 2-16-2000, § 9-148; Ord. of 3-7-2011, § 9-148)

**Secs. 9-149—9-199. - Reserved.**

**Sec. 9-200. - Permits to conduct activities in the Great Salt Pond.**

(a) Background and purpose.

(1) In 1887, the Rhode Island General Assembly ceded to the town all of the right, title, and interest of the state in and to the Great Salt Pond, and all of the land covered thereby (1887 Rhode Island Acts & Resolves, ch. 617, § 1). The town therefore has a direct interest, as owner of Great Salt Pond and the land beneath its surface, in any proposal by any abutting landowner or other person to conduct activities or perform construction or alterations in or on the Great Salt Pond.

(2) All alterations or other activity that may have any environmental effect on the Great Salt Pond are subject to regulation and permitting by state and federal agencies, including the coastal resources management council, the department of environmental management, and the United States Army Corps of Engineers. The town, as the owner of the Great Salt Pond and the land beneath its surface, shall be an applicant for any permit or license to conduct activities or alterations within the Great Salt Pond. The purpose of this section is to provide that the town must be a co-applicant for any permit or license to conduct any activity or alteration on or in the Great Salt Pond that is subject to state or federal regulation, and to provide a procedure by which any persons who or which desire to conduct such alterations or activity may request the town's approval and participation as a co-applicant with such person.

(3) For the purposes of this chapter, the Great Salt Pond shall be defined as all tide-flowed lands, and the overlying waters, up to the line of mean high tide, contained interior to a line drawn from the end of the jetty at the south side of the breachway to the closest point of land on the opposite, north side of the breachway.

(b) Request. Any person wishing to place any structure in, make any alteration to, or conduct any activity within the Great Salt Pond, which placement, alteration, or activity is subject to the regulatory authority of any agency of the state or federal government (hereinafter, "proposed activity"), shall file a written request with the town manager.

(c) Request requirements. A request filed pursuant to subsection (b) of this section shall be in writing, signed by the requesting party, and must include the following:

(1) A detailed written description of the proposed activity;

(2) A copy of all the applications to be filed for the proposed activity with any applicable local, state, or federal regulatory board or agency, including all documents to be filed in support of the applications;

(3) A detailed assessment of the relationship and compatibility of the proposed activity with the town's comprehensive community plan, harbor management plan, and zoning ordinances, as applicable.

(d) Administrative action.

(1) The town manager shall forward the request, when complete, to the planning board, conservation commission, harbors commission, shellfish commission and the harbormaster (hereinafter, "municipal authorities") for review. In connection with their review of the request, the municipal authorities may request additional information from the applicant.

(2) Each of the municipal authorities shall, within 60 days of receipt of the request, provide the town manager an advisory opinion regarding the request. The advisory opinion shall be limited to assessment of the consistency of the proposed activity with the town's comprehensive community plan, harbor management plan, zoning ordinance (appendix E to this Revision), or such other municipal ordinances within the town's police power for the protection of the health, welfare, and safety of the public as are applicable to the proposed activity and within the purview of such municipal authority.

(3) The town manager shall submit the request and all advisory opinions of municipal authorities to the town council, and place the matter on the agenda of the next regular meeting of the town council.

(4) For any request to conduct maintenance or repairs to existing uses or structures, which request does not include any extension, expansion, enlargement or increase in any existing structure, use or conditions, the town manager may waive subsection (d)(1), (2) and (3) of this section and is authorized to sign such application, without town council action.

(e) Town council action.

(1) The council's review of the request shall be limited to ensuring consistency of the proposed activity with the town's comprehensive community plan, harbor management plan, zoning ordinance (appendix E to this Revision), or other municipal ordinance within the town's police power for the protection of the health, welfare, and safety of the public, as may be applicable to the proposed activity. The town council may vote to approve the request as filed, to approve the request with specified modifications, or deny the request. The town council's decision on a request shall include findings of fact and conclusions of law.

(2) A vote to approve the request as filed or with modifications shall empower the town manager to sign as co-applicant all applications for the proposed activity, consistent with the town council's vote, with any state or federal regulatory agency having jurisdiction over the proposed activity.

(f) Fees. The town council may adopt a fee to be imposed on requesting parties under this section.

(Ord. of 1-21-2009, §§ 9-200—9-205; Ord. of 5-5-2009)

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