

Town of Jamestown

HARBOR MANAGEMENT ORDINANCE

As Adopted by the Jamestown Town Council
June 17, 2004

Jamestown Harbor Management Ordinance
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JAMESTOWN HARBOR MANAGEMENT ORDINANCE

SECTION 1. GOALS

Whereas, the harbor and non-harbor tidal waters described herein within the corporate boundaries of the Town of Jamestown are under the ownership and jurisdiction of the State of Rhode Island, and are held in trust for all the citizens of the State; and whereas the State of Rhode Island grants the Town of Jamestown limited and specific uses of these waters; therefore the Town of Jamestown establishes the following goals for this ordinance:

(1) To regulate uses and activities within the waters of the town, as described herein; to protect the coastal environment; to minimize user conflicts; to maximize the efficient use of both the water space and town-owned waterfront consistent with the other goals expressed herein; and to maintain and improve public access to and from the waters of the town for the benefit of all user groups, including residents and non-residents with or without boats, who seek to use town waters for passive and active recreation.

(2) To distribute equitably the burdens and benefits of harbor management and development among commercial mooring operators, private mooring owners, other groups or individuals with special interests in the water and the waterfront, and the town.

(3) To remain consistent with the authorities granted the town under Sec. 46-4-6.9 of the General Laws of Rhode Island and with the goals, policies, and regulations of the Jamestown Comprehensive Community Plan, the Jamestown Comprehensive Harbor Management Plan, the Rhode Island Coastal Resources Management Program, the Rhode Island Department of Environmental Management, and the United States Army Corps of Engineers.

SECTION 2. DEFINITIONS

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

Anchoring: To secure a vessel temporarily to the bottom of a waterbody by dropping an anchor or anchors or other ground tackle from a vessel.

Channel: Any water areas that are federally maintained and reserved for unobstructed movement of vessels.

Coastal waters: All waters bordering the town from the shore to a distance of five hundred (500) feet seaward not included in the designation "harbor waters."

Commercial mooring: Any mooring that a marina, shipyard, yacht club, or other organization has permission to lease or rent to others.

Commercial vessel: A vessel licensed and used primarily for any type of commercial venture, including but not limited to, fishing, towage, salvage, and the carriage of passengers for hire.

Conservation zones: Those harbor areas specially designated by the town for the protection of water quality, wildlife, and plant habitat values. (Note: These zones may differ from the Type 1 "Conservation Areas" of the Rhode Island Coastal Resources Management Council.)

Developed riparian property: Riparian property improved by the addition of a permanent

structure that has been approved by the building inspector of the town.

Executive director: The member of the town administration nominated by the town administrator and appointed by the town council to supervise the harbor staff and to administer the provisions of this ordinance and any additional regulations subsequently required for the implementation of the ordinance.

Fairway: Any locally designated and/or maintained water areas, usually in harbors or in mooring zones, reserved for the unobstructed movement of vessels.

Guest mooring: A private mooring of a riparian property owner reserved solely for the use of guests.

Harbor commission: The local advisory and regulatory body authorized by the town council to manage the coastal waters and harbor areas of the town.

Harbormaster: The individual, hired on approval of the town council by the town administrator, who is primarily concerned with enforcement and activity on the waters of the town. The harbormaster reports to the executive director.

Harbor waters: The waters in the three harbors of the town: East Harbor, West (Dutch) Harbor, and South (Mackerel Cove) Harbor. The boundaries of these harbors are defined in Section 4 of this ordinance.

Headway speed: the slowest speed at which a vessel can operate and maintain steerage.

Moor: To secure a vessel to the bottom of a waterbody semi-permanently or seasonally.

Mooring: All hardware or tackle used to moor a vessel. For the purposes of this ordinance, a mooring is considered either commercial or private.

Mooring permit: A license authorized by the town of Jamestown granting the permittee the privilege of using an assigned mooring space in the waters of the town for a specified season.

Mooring space: The specific space assigned by the harbormaster to the holder of a valid mooring permit for the placement of a mooring.

Mooring zones: Those harbor areas designated by the town for the placement of moorings, or for transient anchorage if space is available.

Non-resident: Any individual, business, corporation, or association that does not meet the definition of "resident."

Notice: Notice in so far as the holder of a mooring permit is concerned shall be defined as a registered and regular first class mail sent to the address of record on the mooring permit from the harbor clerk.

Personal watercraft: 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.

Private mooring: Any mooring that is not a commercial mooring.

Qualified mooring inspector: Any person or business approved as an inspector of

moorings by the harbor commission upon recommendation of the harbormaster.

Rafting: Two (2) or more vessels, excluding dinghies or other tenders, attached to each other while moored or at anchor.

Recreational vessel: Any vessel designed for self-propelled navigation on the water and used primarily for pleasure.

Resident: Any real property taxpayer, full-time inhabitant, and/or registered voter of the town of Jamestown; any recognized non-profit organization of the town.

Right-of-way: A legal right to use a path or corridor from a public or private thoroughfare or facility that leads to the waters of Narragansett Bay.

Riparian property: A freehold estate of record in land within the town having shorefront directly adjacent to waters bordering the town.

Transient anchorage zones: Those harbor areas designated by the town exclusively for the short-term use of commercial and recreational vessels.

Vessel: Every description of watercraft used, or capable of being used, as a means of transportation on water, with the exception of seaplanes, houseboats, and floating businesses.

Waters of the town: The harbor and coastal waters under town jurisdiction described in Sections 3 and 4 of this ordinance.

SECTION 3. JURISDICTION

The Town of Jamestown hereby assumes management authority for the purposes of this ordinance consistent with the powers, duties, and authorities granted under Sec. 46-4-6.9 of the General Laws of Rhode Island over the following waters:

(a) Harbor waters

The waters of the three harbors--East Harbor, West (Dutch) Harbor, and South (Mackerel Cove) Harbor. The boundaries of these harbors are defined in Section 4 of this ordinance.

(b) Coastal waters

All waters bordering the town from the shore to a distance of five hundred (500) feet seaward not included in the designation "harbor waters."

SECTION 4. HARBOR BOUNDARIES

(See Appendix A for a map of the harbor boundaries described below and for a table giving RI State Plane Coordinates and lat/longs for each boundary point.)

(a) East Harbor

The northern boundary shall be a line extending one thousand (1,000) feet seaward from the eastern extension of Weeden Lane. The eastern boundary shall be a line extending one thousand (1,000) feet seaward of the shoreline. The southern boundary shall be a line

extending from the southern point of the Fort Wetherill Boat Basin to government marker G "9" (Fort Wetherill Gong) thence to government marker G "11" (Bull Point Bell). East Harbor waters are classified as follows:

(1) Mooring zone. All harbor waters from the Newport Bridge to a line extending from: Bull Point to government marker G "11" as bounded and marked by existing moorings of record;

(2) Transient anchorage zone. All harbor waters from the northern boundary to the Newport Bridge in the band of water five hundred (500) to one thousand (1,000) feet from shore; and all harbor waters south of a line extending from Bull Point to government marker G "11";

(3) Conservation zone. All harbor waters from the northern boundary to the Newport Bridge in the band of water from the shore to five hundred (500) feet seaward.

(b) West (Dutch) Harbor

The northern boundary shall be a line extending one thousand (1,000) feet seaward from the western extension of Orchard (Weeden) Lane. The western boundary shall be a line extending from the westernmost end of the northern boundary to the pier at Fort Getty. West (Dutch Island) Harbor Waters are classified as follows:

(1) Mooring zone. All harbor waters from a point on shore due east of the Dutch Island pier ruins to the Fort Getty pier thence to a point at the southern terminus of Maple Avenue;

(2) Transient anchorage zone. All harbor waters from Dutch Island pier ruins to a point due east on shore thence to the Fort Getty pier;

(3) North conservation zone. All harbor waters from the northern boundary to a line extending from the Dutch Island pier ruins to a point due east on shore;

(4) South (Sheffield Cove) conservation zone. All harbor waters south of a line from the pier at Fort Getty to a point at the southern terminus of Maple Avenue.

(c) South (Mackerel Cove) Harbor

The southern boundary shall be a line one thousand (1,000) feet seaward of the swimming beach. All of South (Mackerel Cove) Harbor is classified as a conservation zone.

SECTION 5. RIGHTS-OF-WAY TO THE WATER

(a) No person shall block, barricade, or in any way impede the public use of or access to designated public rights-of-way to the water as defined by the Rhode Island Coastal Resources Management Council or the town of Jamestown.

(b) No person shall park or store a vessel, vehicle, or structure on a designated public right-of-way to the water as defined by the Rhode Island Coastal Management Resources Council or the town of Jamestown, unless granted specific permission by the harbor commission for town shorefront properties under its jurisdiction not designated as rights-of-way by the CRMC.

(c) Any person in violation of this section of the ordinance after due notice shall be subject to a fine in accordance with Section 7(e) of this ordinance ("Regulated Activities"). After due notice town personnel may clear a right-of-way at the violator's expense.

SECTION 6. MOORING REGULATIONS

(a) Permitting.

No mooring shall be located or maintained in the harbor or coastal waters of Jamestown until a permit has been issued for the use of such mooring by the harbormaster. No mooring shall be permitted until the harbormaster has determined that it conforms to the specifications set forth in this ordinance and in any other conditions established by the state or town. The harbormaster is responsible for the precise location of every mooring, with due regard to space available, to the maximizing of available space, and to the safety of the vessel. Individuals holding a permit may renew it annually upon payment of the appropriate fee as long as they comply with all of the conditions of this section. A mooring permit may, upon notice, be revoked at any time for failure to comply with conditions established by this ordinance or by any applicable state or town regulations.

(b) Mooring Density and Allocation.

1) *Harbors waters.* The limit of moorings in the East Harbor and West Harbor Mooring Zones shall be based on available space and the provision of adequate landside facilities. No additional commercial mooring permits shall be assigned in either the East or West harbor mooring zones until private mooring permits constitute 60% of the zone's total number of permits. The precise location of each mooring, commercial or private, within the mooring zones shall be made by the harbormaster, who shall, with the harbor commission, establish appropriate fairways within the zones.

2) *Coastal waters.* No mooring shall be permitted more than five hundred (500) feet from the shore in coastal waters. No commercial moorings are permitted in coastal waters. The precise location of each private mooring shall be made by the harbormaster.

(c) Priority for Private Mooring Permits

The harbor commission shall maintain a chronological list of all applicants requesting a private mooring permit. The list shall be updated at least twice a year and shall be available to the public at all times for inspection. Within the space available, requests shall be treated in accordance with the following priority guidelines:

Class1: Riparian

(a): Owners of riparian property, including individual owners and the owners or directors of profit or non-profit associations, partnerships, corporations or such other legal entities owning riparian property, are entitled to apply, with priority over other mooring permit classes, for up to two moorings per property parcel directly adjacent to the shorefront property parcel. They may apply for additional Class 1 moorings without priority over other mooring permit classes. In both cases applications are subject, as determined by the harbormaster, to the availability of space and to state and local regulations. Contiguous lots under the same ownership shall be considered as one property parcel. An individual owner may designate only immediate family members (the owner or the owner's spouse, children, or parents) or the current lessee of the owner's riparian property as holders of the permitted moorings. An association, partnership, or corporation may designate any of its members in good standing as holders of its permitted moorings. With the approval of the harbormaster, mooring privileges in this category may be granted to owners whose riparian property is adjacent to a town conservation zone.

Guest moorings: Only owners of riparian property may have guest moorings. Only one of the two moorings permitted Class 1a permit holders may be a guest mooring, except that

non-family associations, partnerships, or corporations owning developed riparian property may designate as guest moorings one or both of their permitted moorings. Guest moorings may not be rented or leased, or be used by the same vessel on a continuous basis. Applications for private guest moorings must specify the length of the largest vessel able to occupy the mooring under normal conditions.

(b): On coastal waters, property owners holding a freehold estate of record with a deeded right of access to riparian property owned by a non-profit association, partnership, or corporation of which they are members in good standing are entitled to apply for a single mooring permit per property directly adjacent to that riparian property. The privilege of a mooring permit in this category is subject to the reasonable availability of mooring space as determined by the harbormaster. Moorings shall be limited to the area created by a parallel extension of the boundaries of the riparian water frontage into the coastal waters. This category of riparian mooring is not permitted in harbor waters, is dependent on available parking, may not be placed in a town conservation zone, and may not be a guest mooring.

Class 2: Rights-of-way

(a): Non-riparian property owners holding a freehold estate of record with a deeded private right-of-way or easement to coastal waters granted in an original property subdivision are entitled to apply, per property, for a single mooring permit directly adjacent to that right-of-way or easement. The privilege of a mooring permit in this category is subject to the reasonable availability of space as determined by the harbormaster. Moorings shall be limited to the area created by a parallel extension of the boundaries of the right-of-way into the coastal waters. This category of mooring is not permitted in harbor waters, is dependent on available parking, may not be placed in a town conservation zone, and may not be a guest mooring.

(b): Non-riparian property owners holding a freehold estate of record within one thousand (1,000) feet of a public right-of-way to coastal waters are entitled to apply, per property, for a single mooring permit per property directly adjacent to that right-of-way. The privilege of a mooring permit in this category is subject to the reasonable availability of space as determined by the harbormaster. Moorings shall be limited to the area created by a parallel extension of the boundaries of the right-of-way into the coastal waters. This category of mooring is not permitted in harbor waters, is dependent on available parking, may not be placed in a town conservation zone, and may not be a guest mooring.

Class 3: General

All other applications for moorings, resident and non-resident, will be considered in the order in which they are received. Notwithstanding, when the ratio of non-resident holders of private mooring permits to resident holders of mooring permits (riparian permits excluded) reaches 1:3 harbor commission shall establish guidelines to maintain the ratio at that level.

(d) Private Mooring Application Procedures.

1) *New mooring applications.* Every applicant, riparian and non-riparian, for a new private mooring permit shall submit a mooring permit waiting list application form. This form shall contain the name, mailing address, resident status, and relevant telephone numbers of the applicant and the desired location of, and point of access to, the proposed mooring. The harbormaster or executive director shall notify the applicant and the harbor clerk in writing within five (5) days whether, given the availability of space, the applicant may apply on the same schedule and on the same application form as renewal applicants or must be placed on a waiting list. To be placed and kept on the waiting list, applicants must, on an annual basis, fill out a brief waiting-list renewal form and pay any waiting list fees requested.

2) *Renewal permit applications.* Mooring permits must be renewed annually. Every

applicant for a private mooring permit must show ownership, or the right of exclusive use, of a vessel in need of a mooring, except for the guest moorings of owners of riparian property as granted in Section 6(c), above. The harbor clerk shall mail renewal permit applications in March to existing individual permit holders with a return deadline of May 15. The completed application forms shall contain at least the following information: i) the name, summer and winter mailing address, [and] resident status, and relevant telephone numbers of the applicant; ii) the type of vessel and whether it is recreational or commercial; iii) the length, beam, draft, displacement, sanitation system, and name of the vessel; iv) a copy of the vessel's registration or documentation certificate (and in addition, for leased vessels, a copy of the lease agreement); v) the size, type, proof of inspection, and precise location of the existing mooring; vi) the point of access to the mooring; vii) if applicable, the storage location of the dinghy; and viii) the date the vessel is expected to be on the mooring. With the approval of the harbor commission and upon public notice to all applicants the harbor clerk may from time to time amend the mooring permit application.

3) General. A private mooring permit may not be held by more than one individual or by more than one association, partnership, or corporation, or any other legal entity at a time. All applications must be accompanied by the appropriate fee and shall be received at the harbor office. No private mooring shall be granted for any vessel that has another private mooring in the harbor or coastal waters of Jamestown. Non-resident yacht clubs or other organizations applying for private moorings to be used by more than one vessel during a season must list the names of all vessels eligible to use the mooring and shall be charged an appropriately higher fee.

(e) Commercial Mooring Application Procedures.

1) New permit applications. New applications for commercial mooring permits in harbor waters must be approved by the Rhode Island Coastal Resources Management Council, the Army Corps of Engineers, and the harbor commission. They must conform to the percentage limitations for harbor waters stated in Sec. 6(b), above.

2) Renewal permit applications. Commercial mooring operators who have approved permits from the Rhode Island Coastal Resources Management Council and the Army Corps of Engineers will be considered to have made renewal applications for the purposes of this ordinance. For vessels on moorings to be leased seasonally commercial mooring operators must provide the harbor office by June 15 with the registration number, name and length of each vessel and the name of each owner. For moorings leased seasonally after June 15 they must provide the information as soon as reasonably practicable. Commercial operators shall provide the size, type, proof of inspection, and precise location of their existing moorings. Commercial mooring operators shall reach a mutually satisfactory arrangement with the harbor commission for the deadlines for payment of the appropriate fees.

3) General. Commercial moorings are prohibited in coastal waters. In harbor waters commercial mooring operators must fulfill the requirements of Section 300.4.E.1 (a) & (b) of the Rhode Island Coastal Resources Management Program as they relate to the provision of sanitary facilities and parking. They must also fulfill any additional requirements of the harbor commission and this ordinance, or any amendments thereof.

(f) Relocation of Existing Permitted Mooring

1) All requests for relocation of existing permitted moorings must be submitted in a written request to the harbormaster. Information for such a request must meet the requirements for a mooring permit application, as well as show proof of a valid mooring permit issued for the previous or current year. The reasons for a mooring relocation must be clearly stated in the request. To be placed and kept on the relocation list, applicants must, on an annual basis, fill out a brief relocation-list renewal form and pay any waiting-list fees requested.

2) Action on the relocation request will be taken by the harbormaster based upon policies--written and fully available to the public--established by the harbor commission, the availability of space, the requirements of this ordinance, and the type and size characteristics of the vessel. The harbor commission shall maintain a chronological list of all applicants requesting a mooring relocation. The list shall be updated at least twice a year and shall be available to the public at all times.

3) Any request received by the harbormaster that is not complete shall be returned to the applicant and no action will be taken on the matter until a completed form is returned.

(g) Occupancy; Transfer

1) *Private mooring permits: occupancy:* Private permit holders may not allow any vessel other than that described in the application to use the mooring permitted for more than seven (7) consecutive days; provided, however, that i) the harbormaster may permit the temporary use of a mooring by another vessel upon the written request of the mooring permit holder and ii) the harbor commission, if it deems the action appropriate, may waive the restriction more generally and for a longer period. Private permit holders are prohibited from charging a fee for the temporary use of their moorings. The harbormaster shall have the authority to move or cause to be moved any vessel violating the provisions of these regulations, at the expense and risk of the vessel owner.

2) *Private mooring permits: transfer:* No private mooring space assignment shall be sold, assigned, or transferred by a mooring permit holder, except that on written notice to the harbor commission a permit holder or a person on the waiting list may transfer a mooring permit (unless it falls under Section 6-m, below) or a place on the waiting list to a spouse or child. Any assigned mooring space given up by a permit holder reverts to the harbor commission for assignment, by the harbormaster, to the next person on the relocation or waiting list whose vessel fits the mooring space, the appropriate mooring class involved, and the relevant shoreside requirements. In exceptional cases permit holders may apply to the harbor commission for relief from this provision.

3) *Commercial mooring permits* may be leased or transferred to other businesses subject to review and approval by the harbor commission. The standard for review shall be the ability of the proposed transferee to comply with all the provisions of section 6(e) as a commercial operator.

(h) Fees

The harbor commission shall annually recommend to the town council a proposed schedule of fees as part of its annual budget; and the town council shall establish such rates not later than March 15 each year. The commission may charge fees for all mooring permits; for dock, outhaul, and beach permits on town-owned property; and for waiting and relocation list applicants. Higher fees may be charged for non-resident and commercial moorings and for other special situations. The commission may assess late penalty fees provided these are indicated on, or enclosed with, the appropriate application forms. For billing purposes the harbor clerk may establish informal classification codes for moorings grouped by different levels of fee.

(i) Marking

The holder of a mooring permit shall mark the mooring buoy with the mooring sticker issued by the harbor commission and the permit holder's surname, vessel name, or sticker number in letters no less than three inches high. After (fourteen) 14 days notice of delinquency the harbormaster may fine the owner five (\$5.00) dollars a day for any mooring not properly

marked.

(j) Mooring specifications

1) *Responsibility for moorings:* Although the town sets the following minimum standards for moorings and mooring inspections for all moorings in the waters of the town, owners of moorings shall be solely responsible for the safety and reliability of their moorings. Heavier tackle and more frequent inspections than the required minimum are strongly recommended in all cases. This is especially so where moorings are in exposed locations or are holding vessels of greater than average displacement.

2) *Anchors:* Mushroom anchors (in mud or soft sandy bottoms) or concrete or granite blocks shall be used for moorings in the waters of the town, unless otherwise authorized by the harbormaster or mandated by state or federal agencies. Authorization must be in writing; and the harbor office will maintain records of any mooring anchor deviations authorized in accordance with this provision.

The approximate shape of block anchors shall be square, both top and bottom, with tapered sides (trapezoidal). The block shall not be allowed to become a hazard. The link shall be of material not less than one (1) inch in diameter and shall be securely imbedded in the block. All shackles shall be one size heavier than the chain. All shackles shall be load-rated, properly seized, and shall be forged (not cast).

3) *Length and type of chain:* Total minimum length of chain (both bottom and top) shall be determined as follows: Depth of water at mean high tide, plus five (5) feet for storm surge, times two (2). Normally, a minimum of fifty percent (50%) of the total length of chain shall be heavy chain, with the remainder being light chain, as indicated in the table below. (Where appropriate, a rode of nylon may be substituted for the light chain. Systems using rode in place of top chain shall have a minimum of 3:1 scope.) A higher percentage of heavy chain is recommended in exposed areas of relatively shallow depth. Use of greater scope is strongly recommended, especially in exposed areas and where there is sufficient space for vessels to swing without endangering each other. A lower percentage of heavy chain may be appropriate for moorings of greater scope.

4) *Mooring float/buoy:* The mooring float carrying the weight of the mooring chain (or chain and rode) must be of sufficient size and buoyancy so that at least fifty percent (50%) of it is visible above the surface of the water.

5) *Pennants:* Pennant length shall be determined as follows: take the distance from the chock to the waterline, multiply this distance by two (2) and add the distance from the bow chock to the bow cleat. The result is the minimum pennant length.

6) *Chafeguards:* All pennant lines running through a chock or any other object where chafing may occur shall have adequate chafeguards.

7) MINIMUM TACKLE SPECIFICATIONS FOR THE WATERS OF THE TOWN

| <u>Boat Length</u> | <u>Mushroom Anchor</u> | <u>Block Anchor</u> | <u>Bottom Chain</u> | <u>Top Chain</u> or <u>Top Rode</u> | <u>Pennant</u> | |
|--------------------|------------------------|---------------------|---------------------|-------------------------------------|----------------|--------|
| Up to 16' | 150 lbs | 500 lbs | 1/2" | 3/8" | 5/8" | 1/2" |
| 16 to 18' | 200 | 800 | 1/2" | 3/8" | 5/8" | 1/2" |
| 19 to 21 | 250 | 1500 | 5/8" | 3/8" | 5/8" | 1/2"x2 |
| 22 to 24 | 300 | 1500 | 5/8" | 3/8" | 5/8" | 1/2"x2 |
| 25 to 29 | 400 | 2000 | 5/8" | 1/2" | 5/8" | 1/2"x2 |
| 30 to 34 | 500 | 2000 | 5/8" | 1/2" | 3/4" | 5/8"x2 |

| | | | | | | |
|----------|------|-------------------|------|------|------|-----------|
| 35 to 39 | 600 | 3000 or 2x1500 | 3/4" | 1/2" | 3/4" | 3/4"x2 |
| 40 to 49 | 800 | 4000 or 2x2000 | 3/4" | 1/2" | 7/8" | 3/4"x2 |
| 50 to 59 | 1000 | 4000 or 2x2000 | 1" | 1/2" | 1" | 1-1/4" x2 |

The above sizes are minimums. Use of at least one size larger for all components is strongly recommended for greater safety. On written application, the harbormaster may permit or require variances from these mooring tackle specifications in individual cases and, more generally, in specific areas, if the stated specifications seem clearly inappropriate for the area in which a mooring will be located.

(k) Mooring inspections

1) *New moorings:* All new moorings in the waters of the town shall be inspected and approved by the harbormaster or the harbormaster's designee prior to setting the mooring.

2) *Maintenance of existing moorings:* All permit holders shall be required to maintain their moorings in safe condition. Any chain, shackle, swivel, or other tackle that has become warped or has become worn by one-third its original 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 ordinance. The harbormaster or the harbormaster's designee may inspect any moorings at any time to determine compliance with this section of the ordinance. Any mooring washed ashore or having moved so as to endanger another vessel shall be inspected by the harbormaster or the harbormaster's designee before it is reset.

3) *Schedule of inspections:* All moorings shall be inspected at least once every three years and the results of such inspection certified by the inspector and reported to the harbor office by 15 June of the year of inspection. This inspection shall determine compliance with the minimum mooring and tackle standards of this ordinance. Inspections may be made either by raising the mooring or by underwater inspection. The harbor clerk shall establish a schedule for each mooring and indicate it clearly on the mooring application.

4) *Compliance:* Any mooring or component of a mooring reported not in compliance with this section of the ordinance shall be replaced by the owner within thirty (30) days of such notice. Within forty-five (45) days after the noncompliance is reported a second mooring inspection must be completed to determine if the violation has been corrected. The results of this second mooring inspection shall be reported to the harbormaster. Failure to correct the violation within that period shall cause the mooring to be deemed unsafe and, as a violation of this ordinance, shall be cause for revocation of the mooring permit and removal of the mooring from the waters of the town at the risk and expense of the mooring owner. When the harbormaster deems it necessary, for the safety of a vessel or of vessels nearby, to remove a vessel immediately from a non-complying mooring, and the owner is unable or unwilling to do so, the harbormaster or the harbormaster's designee may remove the vessel at the owner's risk.

5) *Costs:* All costs of any mooring inspection, of any relocation of vessels as a result of non-compliance, or of any repairs or replacements required under the provisions of this ordinance shall be the responsibility of the mooring owner.

6) *Mooring inspectors:* Use of qualified and insured mooring inspectors is strongly recommended. Owners may inspect their own moorings upon written approval of the harbormaster.

(l) Forfeiture of Mooring Space

Any holder of a mooring permit for a mooring located in the coastal or harbor waters of the town shall be subject to forfeiture of that permit by reason of the following:

- 1) Failure to comply with any of the requirements of this ordinance.
- 2) Failure to respond to the harbormaster's and/or harbor commission's notice that i) the mooring does not comply with the mooring specifications herein set forth, or ii) that the mooring has been displaced or moved from its permitted location.
- 3) Failure to resurface, repair, or replace mooring tackle within sixty (60) days after being advised to do so by the harbormaster.
- 4) Occupying a mooring with the vessel permitted for that mooring for a total of fewer than fourteen (14) days during the course of a season.
- 5) Any holder of a mooring permit for a mooring located in the coastal or harbor waters of the town shall be fined one hundred (100) dollars per month for : a) failure to renew an existing valid mooring permit by June 15 of any year; b) failure to commission a mooring by July 1. If the holder takes no action to comply with these requirements, the permit will be forfeited on October 1.

On written request the harbormaster may grant exceptions to clauses 3, 4, and 5, above.

No mooring will be deemed forfeited until notice has been first mailed to the holder of the permit by registered mail, return requested and regular first class mail. If an appeal is not made within thirty (30) days of the issuance of the notice, the mooring must be removed by its owner from the mooring area at the owner's expense. If the owner fails to remove the mooring within thirty (30) days upon order of the harbormaster, the owner will be billed for the cost of the mooring removal. If a vessel is tied to the mooring, the vessel will be removed and stored at the owner's expense.

(m) Implementation of Changes in Mooring Space Assignments

- 1) All private mooring permits and applications shall be reclassified according to the criteria established in Section 6-c (above).
- 2) All regulations concerning mooring permits and applications shall be applied on the basis of the above reclassification.
- 3) All mooring permits disallowed under this ordinance shall be deemed permitted non-conforming moorings. Rights to such moorings and use in accordance with the ordinance and town rules and regulations may continue by the present owner only unless the mooring is surrendered or revoked.

(n) Implementation of Changes in Mooring Tackle Requirements

- 1) All new moorings shall meet the new minimum standards.
- 2) All moorings in place shall meet the new minimum standards on the regular schedule of mooring inspections required by the harbor commission.

SECTION 7. REGULATED ACTIVITIES

(a) **General.**

The purpose of this section is to regulate the speed, management, and control of vessels and the use of all anchorages, moorings, and town-owned waterfront facilities within the jurisdiction of the Town of Jamestown as stated in Section 3 and as authorized by Rhode Island General Law 46-4-6.9.

(b) **Management and Control of Vessels.**

(1) *Vessel operation.* Every person operating a vessel within the waters of the town shall navigate in a careful and prudent manner, so as not to endanger the life, limb, or property of another and not to interfere with or damage other vessels or property.

(2) *Failure to stop.* It shall be a violation of this ordinance for any person to refuse to move, slow to headway speed, or stop when directed by the harbormaster or any other duly authorized enforcement officer.

(3) *Prohibited areas.* No person shall operate or cause to be operated a vessel within any area marked prohibited on the harbor map, except as otherwise provided for in the ordinance.

(c) **Vessel Speed and Operation.**

1. Operators of vessels within the coastal and harbor waters of the Town of Jamestown shall comply with all state and local laws and regulations on vessel speeds and wakes that establish a maximum speed for vessels of five (5) miles per hour, no wake (GRLI 46-22-9) in the mooring zones of harbor waters.

2. Vessel operation, mooring, or anchorage within two hundred (200) feet of the shore where marked on the harbor map or by buoys is prohibited, except when a vessel is directly approaching or leaving the shore, a town-approved launching ramp, or beach storage area for dinghies when the sole purpose is to begin or end such activity.

3. In all designated channels, fairways, and mooring zones of harbor waters para-gliding, para-sailing, windsurfing, water skiing, jet skiing, tubing, knee boarding, and similar activities are limited to a five (5) miles per hour maximum speed. In coastal waters and in the transient and conservation zones of harbor waters, the named activities are prohibited within two hundred (200) feet of the shore and within one hundred (100) feet of any vessels moored or anchored. Any person who violates these regulations, inclusive of Rhode Island General Law 46-27-2, shall be subject to penalties under this ordinance.

4. Seaplanes and other airborne watercraft are prohibited from surface operation within mooring zones or within two hundred (200) feet of the shore; they are prohibited from taking off or landing in the waters under town jurisdiction as stated in Section 4 of this ordinance.

5. No vessel shall be moored or anchored so as to interfere with the free and unobstructed use of channels, fairways, or berthing spaces within the areas under town jurisdiction as defined in Section 4 of this ordinance.

(d) **Prohibited Discharges.**

(1) *Discharge of Refuse.* The discharge of any waste, refuse, garbage, plastic, chemicals, petroleum products or by-products, paint, varnish, dead animals, or any other debris

or litter into the waters of the town is prohibited under this ordinance. The town adopts Rhode Island General Law 46-12-39 as part of its ordinance. Any person who violates this provision shall be subject to penalties provided by Rhode Island General Law 46-12-40.

(2) *Discharge of Sewage.* No person shall cause or permit to pass or to be discharged into the waters of the town any untreated sewage or other waste matter or contaminant of any kind. The town shall monitor and report annually to the Department of Environmental Management on the effectiveness of its pumpout operations.

(e) Other Activities.

(1) *Swimming and diving.* Swimming, diving, or fishing off town-owned piers, floating docks, wharfs, and jetties is prohibited unless otherwise authorized and posted by the town council.

(2) *Property Damage.* It shall be unlawful to destroy, damage, disturb or interfere with, willfully or carelessly, any public or private property in the waters or waterfront areas of Jamestown.

(3) *Litter.* Littering is prohibited on town property. Any person who violates this law shall be subject to penalties under this ordinance as provided for by local and state law.

(f) Abandoned Vessels and Structures.

When, in the opinion of the harbormaster, a vessel or structure has been abandoned in the waters of the town, the harbormaster may take custody and control of such vessel and remove it, store it, or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of such disposal shall be publicly given. The harbormaster shall assume all of the duties and powers of the commissioner of wrecks and shipwrecked goods as delineated in the Rhode Island General Law Sec. 46-10-1 to 13.

(g) Anchoring

1) *Overnight anchoring:* is permitted in all town waters on a space available basis. The crew may go ashore, but shall not leave the area. They shall be available to tend to the vessel in the event of heavy weather. It shall be the anchored vessel's responsibility to remain clear of all moored vessels. No vessel shall be anchored more than three (3) days without the permission of the harbormaster.

2) *Rafting:* Vessels are permitted to raft on a mooring or at anchor provided that the rafted vessels do not endanger any other moored or anchored vessels and that they do not intrude into any channel or thoroughfare. Each rafted vessel must be manned at all times. Rafting is not permitted when Coast Guard small craft advisories or other severe weather warnings are in effect; rafted vessels must separate when these conditions are announced or at the request of the harbormaster.

(h) Use of Vessels as Abodes

In accordance with the Rhode Island Coastal Resources Management Program, Section 300.5, houseboats or floating businesses, as defined therein, are prohibited from mooring or anchoring unless within the boundaries of a marina. Houseboats or floating businesses shall tie into fixed marina pumpout facilities. Applicants for floating businesses shall fulfill the additional Category "B" requirements of Section 300.5. Applicants for either houseboats or floating businesses shall meet all the pertinent standards given in "Recreational Boating Facilities" (Section 300.4) under standards for residential docks, piers, and floats.

(i) Penalties; fines

Pursuant to this ordinance and the powers granted in the enabling legislation, Rhode Island General Law 46-4-6.9 and the general laws of the State of Rhode Island, a person who violates any law as stated therein shall be subject to penalties and fines as set forth in the attached Appendix B, unless otherwise established by the General Laws of the State of Rhode Island. Each day a violation continues shall be deemed a separate offense subject to an additional penalty. The district court of the State of Rhode Island, or such other courts as are designated in the summons, shall have jurisdiction for the enforcement of regulated activities.

(j) Informal Procedure for the payment of Boating Fines

1) *Payment without personal appearance.* The harbormaster or any other duly authorized enforcement officer who charges any person with an offense under this ordinance, in addition to issuing a summons for the offense, may provide the offender with a form that shall allow the offender to dispose of the charge without the necessity of appearing before the district court; provided that any offender who has been guilty of a third or subsequent violation within twelve (12) months of the first offense must appear before the 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, or other, court shall execute the form indicated and return it to the Jamestown police station not later than fourteen (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 fourteen (14) days and tripled if not paid within twenty-one (21) days.

3) *Failure to answer:* An individual who fails to answer within twenty-one (21) days shall have waived the right to dispose of the summons without personal appearance and must appear before the district court on the date specified on the summons.

(k) Enforcement

The primary responsibility for enforcement of regulated activities, including detention, arrest, and issuance of summonses for violations is delegated to the harbormaster and the Jamestown Police Department. Police officers and the harbormaster of the Town of Jamestown shall have the power and authority to enforce the rules and regulations of this ordinance and of the General Laws of the State of Rhode Island.

SECTION 8. HARBOR COMMISSION

(a) Authority, Powers, and Duties

The harbor commission shall be the local advisory and regulatory body authorized by the town council to manage the coastal waters and harbor areas of the town through the implementation of the Comprehensive Harbor Management Plan and subsequent ordinances. The harbor commission shall enforce the provisions and ordinances of the Harbor Management Plan as well as adopt additional policies, rules, and regulations for the implementation of the Harbor Management Plan and such ordinances, subject to the approval of the town council and the Rhode Island Coastal Resources Management Council.

The harbor commission shall adopt rules of procedure and operation for its meetings and, among its powers and duties, is authorized to:

- 1) Recommend to the town council the adoption of rules, regulations, fees, penalties and other amendments to the Comprehensive Harbor Management Plan and its subsequent ordinances that may be necessary to fulfill the goals and objectives of that plan and meet the requirements of its ordinances.
- 2) Recommend additional authorities and duties for the harbor staff, herein detailed, with the approval of the executive director and the town council.
- 3) Assist in the preparation of the annual budgets in accordance with the provisions of the town and this ordinance to expend monies in the harbor funds.
- 4) Sit as a board of appeals to hear any person aggrieved by any decision, act, or failure to act of the executive director or harbor staff in the enforcement and implementation of this ordinance, with the exception of Section Seven (7) of this ordinance ("Regulated Activities").
- 5) Review and revise as necessary the comprehensive harbor management plan and its subsequent ordinances for the town council and the Rhode Island Coastal Resources Management Council approval. The comprehensive harbor management plan shall be reviewed and revised at least once every five (5) years.
- 6) Monitor the condition of town-owned waterfront facilities generally and, at least annually, recommend to the town administrator plans for the use, maintenance, repair, and improvement of town-owned waterfront structures, such as docks, bulkheads, and boat ramps.

(b) Composition

The harbor commission shall consist of seven (7) qualified electors and residents of the town, appointed by the town council, chosen from a list of interested parties maintained by the town administrator, after duly advertising the availability of these positions. To achieve diversity, preference shall be given to representatives of each of the following groups:

- (1) The non-riparian recreational boating community;
- (2) The non-riparian recreational boating community;
- (3) Riparian property residents (harbor waters);
- (4) Riparian property residents (coastal waters);
- (5) The commercial fishing industry;
- (6) The commercial mooring operators;
- (7) A non-boating resident.

The commission shall have, among its members, representatives of both East and West

Harbors.

Ex-officio member: The executive director shall be an ex-officio, nonvoting member of the Commission, and shall not count as part of the quorum.

Liaisons: The town council, the conservation commission, and the planning commission shall each appoint one liaison to the harbor commission. Liaisons may sit with the commission, and may participate in all discussions, but may not vote and do not count as part of the quorum.

(c) Terms

Commission members shall be appointed for overlapping three-year terms so that approximately one-third of the membership terms will expire each year. In the event of a vacancy during a term, the town council shall appoint a new member from the same category of member, if feasible, to fill the remainder of the term.

(d) Organization

A chair and vice-chair of the commission shall be chosen annually from the membership by vote of the commission. The chair shall be responsible for calling and conducting all meetings of the commission. In the absence of the chair, the vice-chair shall assume those responsibilities. A quorum shall be defined as four (4) voting members.

(e) Finances; budget

The executive director and the commission, in collaboration with the town administrator, shall be responsible for the preparation of the annual harbor management budget to be submitted to the town council for approval. All revenues from harbor operations, including but not limited to mooring fees and harbor management fines, shall be held in a segregated harbor management account maintained by the town finance department. The harbor management account shall be maintained exclusively for the management and development of harbor management programs, except that the harbor commission shall contribute annually not more than ten percent (10%) of its annual budget as a contribution towards the town harbor/waterfront facilities capital account. This contribution may be reduced or suspended if projected infrastructure expenditures do not require the revenue. Non-budgetary expenditures from the harbor management account, including additional staff support, must be authorized by the executive director with agreement of the commission and must be approved by the town administrator and the town council.

The executive director and the commission, in collaboration with the town administrator, shall be responsible for the preparation of the annual harbor/waterfront capital facilities budget to be submitted to the town council for approval. The harbor/waterfront facilities capital account, primarily funded by lease income from town-owned waterfront facilities, shall be maintained by the town finance department as a capital improvement account for harbor and waterfront facilities. Expenditures from this account shall be recommended by the executive director and the commission to the town administrator and managed by the town administrator's office.

(f) Compensation

Commission members shall serve without pay, but may be compensated for expenses incurred in the performance of their duties.

SECTION 9. ADMINISTRATION

(a) Executive Director

The executive director shall be a member of the town administration, nominated by the town administrator and appointed by the town council to supervise the harbor staff and to administer the provisions of this ordinance and any additional regulations subsequently required for the implementation of the ordinance.

1) The terms of appointment shall be established by the town council in consultation with the town administrator.

2) The executive director supervises the harbor staff and reports both to the commission and to the town administrator.

(b) Harbor Administrative Staff

The harbor administrative staff shall consist of a harbormaster, a harbor clerk, and additional personnel as needed who are hired on approval of the town council by the town administrator.

The responsibilities of the harbor staff under the supervision of the executive director include the following:

1) Administering and enforcing the provisions of the harbor management plan and its ordinances;

2) Processing applications for the issuance of mooring permits and assigning placements of moorings in accordance with this ordinance;

3) Keeping proper records of all mooring application information, including the locations of moorings, mooring owners and vessel usage of moorings, types of vessels using moorings, etc;

4) Preparing, keeping current, and making available a waiting list for mooring permits in accordance with the provisions of this ordinance when the demand for available mooring permits is greater than the number of available mooring locations in any given year.

5) Inspecting moorings in accordance with the provisions of Section 6(k) of this ordinance;

6) Monitoring moorings in accordance with the provisions of Section 6(g) and 6(l) of this ordinance.

7) Carrying out all other powers and duties authorized to the harbormaster under various state and federal marine laws, including but not limited to marine sanitation device (MSD) inspection and discharge responsibilities afforded through the U.S. Coast Guard, MARPOL ANNEX V, Section 312 of the Clean Water Act, Title 46-22 of the General Laws of Rhode Island, and future laws yet to be enacted.

SECTION 10. APPEALS

In matters other than violations of Section Seven (7) of this ordinance, the harbor commission shall sit as the board of appeals to hear any person aggrieved by a decision of the executive director or the harbormaster. The aggrieved party shall file a written appeal with the harbor clerk within thirty (30) days following the notice of the decision. Upon receipt of the appeal, the harbor clerk shall schedule a hearing at the next regularly scheduled commission meeting, with written notice given to the appellant of not less than fourteen (14) days.

The harbor commission may hear an appeal filed out of time provided the appellant demonstrates: 1) the matter from which the appeal is taken occurred within the past one hundred and eighty (180) days; and 2) for just reasons, failure to timely file the appeal was due to mistake, inadvertence, excusable neglect; or 3) would result in a substantial injustice to the appellant rights as provided for under this ordinance.

Any party aggrieved by a decision of the harbor commission may make a final appeal to the town council. Notice of appeal shall be made in writing and filed with the town clerk within twenty (20) days of the mailing date of the decision. The town clerk shall obtain the record of the commission's proceedings and schedule a hearing with notice to the appellant.

SECTION 11. LIABILITY

Persons using the waters of the town shall assume all risk of personal injury and damage or loss to their property. The town assumes no risk on account of accident, fire, theft, vandalism or acts of God.

SECTION 12. SEVERABILITY

If any provisions of this ordinance are held invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provisions had not been made.

SECTION 13. EFFECTIVE DATE

This ordinance shall take effect upon its passage by the town council with respect to provisions that do not require approval of the Coastal Resource Management Commission.

APPENDIX A

Waters Under the Jurisdiction of the Town of Jamestown
- [Map Jamestown Harbor Boundaries](#)

APPENDIX B

Fines Schedule

The penalties for violations of the enumerated sections correspond to fines described. The following violations may be handled administratively through the method as prescribed in this ordinance, provided however this list is not exclusive and jurisdiction may be conferred with regards to other violations.

Town Ordinances

| <u>Statute</u> | | <u>Fine</u> |
|--------------------|--|--------------------|
| Section 5(a)(b)(c) | Rights of Way to Waters | \$50.00 pbm * |
| Section 6(j)(2) | Anchorage Restrictions – Moorings | \$50.00 pbm * |
| Section 7(b)(1) | Vessel Operation | \$75.00 pbm * |
| Section 7(b)(1) | Excessive Speed | |
| | 1 – 10 mph | \$25.00 pbm * |
| | 11 – 15 mph | \$50.00 pbm * |
| | 16 – 20 mph | \$75.00 pbm * |
| | 21 – 25 mph | \$100.00 pbm * |
| | 26+ | add \$5.00 per mph |
| Section 7(b)(2) | Obedience to Order of Harbormaster or Police | \$100.00 pbm * |
| Section 7(b)(3) | Operation within Prohibited Area | \$75.00 pbm * |
| Section 7(c)(1) | No Wake and Vessel Speed in Mooring Zone | \$75.00 pbm * |
| Section 7(c)(2) | Operation Near a Public Bathing Area | \$50.00 pbm * |
| Section 7(c)(3) | Water Skiing Violations | \$50.00 pbm * |
| Section 7(c)(6) | Unauthorized Use of Mooring | \$50.00 pbm * |
| Section 7(d)(1-2) | Pollution, Discharge, or Dumping into Waters | \$100.00 pbm * |
| Section 7(e) | Prohibited Use of Town Floats and Docks | \$50.00 pbm * |
| Section 7(g) | Anchorage Restrictions – Vessels | \$50.00 pbm * |

General Laws of Rhode Island

| | | |
|----------------|--------------------------------------|----------------|
| RIGL 46-22-3 | Numbers not Displayed | \$50.00 pbm * |
| RIGL 46-22-5 | Required Equipment | \$50.00 pbm * |
| RIGL 46-22-8 | Excessive Noise | \$50.00 pbm * |
| RIGL 46-22-9 | Passing Vessels (reasonable care) | \$50.00 pbm * |
| RIGL 46-22-9.2 | Flotation Devices – Children | \$50.00 pbm * |
| RIGL 46-22-9.8 | Approved Boating Safety Course | \$50.00 pbm * |
| RIGL 46-22-22 | Failure to Submit an Accident Report | \$100.00 pbm * |
| RIGL 46-22-24 | Interference in Diving Area | \$100.00 pbm * |

* pay by mail