

Town of Portsmouth

Portsmouth Harbormaster Ordinance

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PORTSMOUTH HARBORMASTER ORDINANCE

ARTICLE I. GOALS

The Town of Portsmouth 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 prevent the loss of life and property by, preparing the community for storm events, having a local waters preparedness, response and recovery plan and to integrate harbor hazard mitigation activities with other, on-going local hazard mitigation programs.
- (4) To remain consistent with the authorities granted the town under Sec. 46-4-6.13 of the General Laws of Rhode Island and with the goals, policies, and regulations of the Portsmouth Comprehensive Community Plan, the Portsmouth Harbor Management Plan, the Portsmouth Emergency Operations Plan, the Rhode Island Coastal Resources Management Program, the Rhode Island Department of Environmental Management, the United States Army Corps of Engineers and the US Coast Guard.
- (5) To provide for Harbormaster and Harbor Commission authority and duties.

ARTICLE II. 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 water body by dropping an anchor or anchors or other ground tackle from a vessel.

Approved Mooring Inspector: Shall mean any person or company approved as an inspector of mooring tackle by the Town Council at the recommendation of the Harbormaster..

Assistant Harbormaster: A Portsmouth Police Officer, Reserve Police Officer or civilian appointed by the Portsmouth Chief of Police to assist the Harbormaster.

Boat Owner: Shall mean any owner of a boat.

Channel: Any water areas that are federally, municipally or privately 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 person, marina, shipyard, yacht club, or other organization makes available 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.

Derelict vessel: A vessel of any type which the Harbormaster determines is in a badly deteriorated enough condition to likely cause damage to public or private property or become a hazard to navigation.

Emergency Operations Center (EOC): The site from which Portsmouth officials exercise direction and control operations. In Portsmouth, the EOC is located on the second floor of the Portsmouth Fire Station.

Emergency Operations Plan (EOP): The document which details how Portsmouth will respond to disaster events. The EOP is administered by the Portsmouth Emergency Management Agency and identifies the available personnel, equipment, facilities, supplies and other resources and methods for coordination in the event of a natural or man-made disaster.

Fairway: any designated and/or maintained water areas, usually within, but not limited to harbors or mooring fields, reserved for the unobstructed movement of vessels.

Guest mooring: A private mooring made available by the mooring permit holder for use, at no charge, by a guest vessel that is not owned by the mooring permit holder.

Harbor Commission: The local advisory body appointed by the Town Council to assist in updating the Harbor Management Plan at regular intervals, to implement selected provision of such plan, to assist in updating the Harbormaster Ordinance as needed and to advise the Town Council on waterfront and coastal resource issues within the Town.

Harbormaster: the individual, typically a Portsmouth Police officer, responsible for the enforcement of the provisions of this Ordinance. The Harbormaster reports to the Chief of Police. Candidates for the position of Harbormaster are recommended by the Police Chief to the Town Administrator who in turn makes a final recommendation to the Town Council for approval.

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

Houseboat: A large, flat bottom boat with a superstructure resembling a house, used as a residence.

Moor: To secure a vessel to the bottom of a water body 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 Appeals Committee: A three member sub-committee of the Harbor Commission, approved by the Town Council to sit as the board of appeals to hear any persons aggrieved by a decision of the Harbormaster in the enforcement of the mooring regulations of this Ordinance.

Mooring permit: A license authorized by the Town of Portsmouth 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 Fields: Those harbor areas designated by the Town for the placement of moorings.

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

No Grey Water Discharge Zone: Designated mooring fields in which the discharge of grey water is prohibited.

Notice: Notice in so far as the holder of a mooring permit is concerned shall be defined as registered mail, returned receipt requested and regular first class mail sent to the address of record on the mooring permit from the harbormaster, or e-mail with a read receipt.

Othaul: a non-single-point anchoring device, for the purpose of securing a boat in tidal waters and retrieving it from shore. Referred to as a “pully line” in the previous Ordinance.

Person: shall include individuals, corporations, societies, associations and partnerships.

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.

Pulley Line: See Othaul.

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

Registered Mooring Holder: Any boat owner authorized to have a boat registered to a mooring in the Town.

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

Resident: Any real property taxpayer, or full-time inhabitant, or registered voter of the town of Portsmouth

Right-of-way: An unobstructed path or corridor from a public or private thoroughfare or facility leading to or along the waters of the Town and shoreline areas below the mean high water line.

Riparian property: A deeded parcel of land within the Town having a portion of it border contiguous with the shoreline.

Town Mooring: Shall mean any mooring in Town waters installed and maintained by the Town of Portsmouth.

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.

Town Waters: The harbor and coastal waters under town jurisdiction described in Article III of this Ordinance.

ARTICLE III. JURISDICTION

The Town of Portsmouth hereby assumes management authority for the purposes of this ordinance consistent with the powers, duties, and authorities granted under Sec. 46-4-6.13 of the General Laws of Rhode Island over the following waters:

(a) Harbor waters

The waters of three harbors—Inner Potter’s Cove, Blue Bill Cove, and Cogshell Cove.

(b) Coastal waters

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

(c) Mooring Fields

Portions of any and all designated mooring fields that extend beyond five hundred (500) feet seaward from the shoreline.

ARTICLE IV. HARBOR, MOORING FIELD AND RELATED BOUNDARIES

a) Harbor Boundaries

(1) Inner Potter’s Cove – The shoreline of Potters Cove on Prudence Island to a line running from the eastern tip of Gull Point in a southwestward direction to the facility commonly known as “The Rossi Family Dock.”

(2) Blue Bill Cove – The shoreline of the waters commonly known as “The Cove” in Island Park to a line running from the southern tip of Hummock Point southward to the northern tip of Almy Point (under “the Escape Bridge”).

(3) Cogshell Cove – Bounded by the eastern shore of Patience Island on the west, the western shore of Prudence Island on the east, a line running from the southern tip of Patience Island to the nearest point on Prudence Island on the south, and a line running from the easternmost point of Patience Island to the nearest point on Prudence Island on the north.

b) Mooring Field Boundaries – See Section 2.3.3 of the Portsmouth Harbor Management Plan.

c) No Grey Water Discharge Zone Boundaries – See Appendix A.

d) Portsmouth Basin – The expanse of water between Portsmouth and Tiverton, south of the navigational aid, Can “17,” and north of the Stone Bridge Abutment.

ARTICLE V. THE HARBOR COMMISSION

a) Powers and Duties

1) The Harbor Commission shall be the local advisory body authorized by the Town council to assist in management of the coastal waters and harbor areas of the Town through the implementation of the Harbor Management Plan and to advise the Town Council on waterfront and coastal resource issues. The Harbor Commission shall adopt rules of procedure and operation for its meetings and, among its powers and duties, is authorized to:

- a) Review and make recommendation for revisions as necessary to the Harbor Management Plan for Town Council and Rhode Island Coastal Resources Management Council approval. The Harbor Management Plan shall be reviewed and updated at least once every five (5) years.
- b) Review and make recommendation for revisions as needed to the provisions, rules, regulations, fees, and penalties as set forth in the Harbormaster Ordinance as needed.
- c) Carry out selected action items delegated to the commission in the implementation schedule of the Harbor Management Plan.
- d) Assist Town officials in the preparation of the annual harbormaster budget, including recommendations for moorings fees.
- e) Monitor the condition of town-owned waterfront structures such as docks, bulkheads, rights-of-way and boat ramps generally and, at least annually, recommend to the Town Administrator and the Town Council plans for the use, maintenance, repair, and improvement of said features, as needed.

(b) Composition

1) The Harbor Commission shall consist of 9 to 12 qualified electors of staggered terms, appointed by the town council after qualification review. In order to achieve diversity in the commission, preference shall be given to representatives of each of the following groups:

- (a) Environmental advocates;
- (b) Marine operator/water related business owners;
- (c) Commercial and/or sport fishermen;
- (d) Those with technical expertise applicable to the commission's goals;
- (e) Concerned citizens;
- (f) Boat owners;
- (g) Riparian land owners.
- (h) Maritime Lawyer.

2) The Town Council may appoint up to two (2) auxiliary members of the Harbor Commission to serve for three (3) year terms, said terms arranged to fit the staggered term system as provided herein. Said auxiliary member or members shall sit as active members when and if a temporary vacancy or vacancies so require, upon request of the chairman of the commission.

3) The Harbormaster shall act as a non-voting member. The Town Council shall have one or more of its members act as liaisons to the Commission and the Town Planning Department shall staff the Commission as needed.

(c) Terms

Harbor Commission members shall be appointed for overlapping three-year terms so that 2 or more 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. There are no term limits, but members must re-apply upon their term expiration.

(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 a simple majority of members.

(e) Finances; Budget

All revenues from harbor operations, including but not limited to mooring permit fees and other fees of this Ordinance as well as fines levied under the authority of this Ordinance shall be held in a segregated harbor management account maintained by the town finance department. Funds shall be dispersed for purposes directly associated with the management and implementation of the Harbor Management Plan and this Ordinance. Non-budgetary expenditures from the harbor management account, including additional staff support, must be authorized by the Chief of Police and must be approved by the Town Administrator and the Town Council. The harbor management account shall be established, budgeted and administered in a manner consistent with the procedures of the Town of Portsmouth.

(f) Compensation

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

ARTICLE VI. THE HARBORMASTER

There shall be a Harbormaster for the town who shall be an employee of the Portsmouth Police Department, serving at the pleasure of the Chief of Police. The Harbormaster shall function in the capacity of a peace officer, and have the authority to investigate and enforce provisions of federal and state laws and regulations and the provisions of this Ordinance. The harbormaster shall cooperate in connection with enforcement with such federal, state and local agencies as may, from time to time, be charged with similar or related responsibilities. The harbormaster shall have the following duties:

- 1) Be responsible for the administration and enforcement of the provisions of this Ordinance; all state laws regulating the speed, management and control of vessels; and the size, type, location and use of all moorings within the waters under the jurisdiction of the Town of Portsmouth.
- 2) Process applications for the issuance of mooring permits and assign proper placements of moorings in accordance with this Ordinance.
- 3) Keep proper records of all mooring application information including the location of moorings, mooring owners and vessel usage of mooring, type (name, motor or sail) and size of vessel using the mooring, type of marine sanitation device (if applicable) on board, copy of current boat registration, and amount of payment for mooring permit application. These records shall be available for public review at the Portsmouth Town Hall.
- 4) Prepare, keep current, and make available on request a waiting list for mooring permits in accordance with the provisions of this article if the demand for available mooring permits is greater than the number of available mooring locations in any given year. The waiting list shall be available for public review at the Portsmouth Police Department.
- 5) Ensure the inspection of mooring tackle in accordance with the provisions of this Ordinance, including the approval of all mooring inspectors.
- 6) Submit a quarterly report to the Harbor Commission, to be forwarded to the Town Council, indicating all harbormaster activities that have gone on during the period including, but not limited to, mooring permit processing and the movement/inspection/removal of all moorings, total town moorings by class, number of vessel stops and violations issued.

- 7) With the Harbor Commission, recommend amendments to the provisions, rules, regulations, fees, and penalties as set forth in the Harbormaster Ordinance as needed.
- 8) Coordinate the maintenance and repair of patrol boats and related equipment.
- 9) Assist the Chief of Police, the Harbor Commission, the Town Administrator and the Director of Finance in preparing and implementing the harbormaster operational budget.
- 10) Carry out all other powers and duties authorized to the harbormaster under various state and federal marine laws including, but not limited to, Marine Sanitation Devices (MSD) inspection and discharge responsibility afforded through the U.S. Coast Guard, Marpol Annex V, section 312 (33 USC 1251 et seq.) of the Clean Water Act, G.L. 1956, § 46-22-1 et seq., and future laws yet to be enacted.

ARTICLE VII. MOORING AND OUTHAUL REGULATIONS

(a) Mooring Location and Density

- 1) No person shall place or cause to be placed a mooring within town waters without receiving a mooring permit for the placement thereof by the Harbormaster, issued in strict compliance with the provisions of this Ordinance. Any such mooring placed without the approval of the Harbormaster may be removed and any such expenses incurred shall be charged to such person placing the mooring. The Harbormaster may order the removal of any mooring which in his or her determination constitutes a hazard to navigation, a danger to the public or a violation of the provisions of this ordinance. The Harbormaster shall determine the precise location of every mooring, with due regards to mooring field location and space available, to the maximizing of available space, and to the safety of the vessel.
- 2) Except for riparian moorings, all moorings and moored vessels must be located and at all times remain within the perimeter of a mooring field established in Article IV of this Ordinance. The precise location of each mooring, commercial or private, within the mooring fields shall be made by the Harbormaster, taking into consideration appropriate fairways within the mooring fields. Placement of private or commercial moorings in federal navigation projects is prohibited.
- 3) No mooring shall be permitted more than five hundred (500) feet from the shore unless it falls in a designated mooring field.

(b) Moorings associated with Riparian Properties

Riparian property owners shall be allowed one mooring in those waters immediately adjacent to the waterfront property. The mooring owner must comply with all mooring permit application procedures and requirements and receive a mooring permit as described in this Ordinance. If shoreline or other considerations preclude the placement of a mooring immediately adjacent to the waterfront property, the mooring shall be placed in the nearest mooring field with priority consideration being given to the proximity of the waterfront owner.

(c) Guest Moorings

Owners of riparian property shall be allowed one guest mooring to be located in waters immediately adjacent to the waterfront property. The mooring owner must comply with all mooring permit application procedures and requirements and receive a mooring permit as described in this Ordinance. If shoreline or other considerations preclude the placement of a mooring immediately adjacent to the waterfront property, the mooring shall be placed in the nearest mooring field, however private non-guest moorings shall be given priority over guest moorings in regards to placement. Guest moorings may not be rented or leased, or be used by the same vessel for more than fourteen (14) days in a calendar month. Applications for private guest moorings must specify the length of the largest vessel able to occupy the mooring under normal conditions. Existing guest moorings issued under the previous ordinance may be renewed on a yearly basis provided they comply with all application procedures, mooring tackle specifications and inspection schedules described in this ordinance.

(d) Mooring Permit Allocation

The Harbormaster shall maintain a chronological waiting list of all applicants requesting a private, commercial, riparian or guest mooring permit. The waiting list shall be updated at least twice a year and shall be available to the public at all times for inspection. All applications for moorings, resident and non-resident, will be considered in the order in which they are received. Notwithstanding, when the ratio of resident holders of private mooring permits (riparian and guest permits excluded) to non-resident holders of private mooring permits is consistent with CRMC's no greater than 3:1 requirement, mooring permits will be granted by the Harbormaster in order to maintain the ratio at that level. Full-time Prudence Island residents with registered vessels will receive first priority of available moorings in inner Potters Cove (IPC mooring field).

(e) Private Mooring Application Procedures

1) *New mooring applications* - Every applicant, both riparian and non-riparian, for a new private mooring permit shall submit a mooring permit 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 shall notify the applicant 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 required waiting list fees.

2) *Renewal permits 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. The harbormaster or his appointee shall mail renewal permit applications in January to existing individual permit holders with a return deadline of March 15. The completed application forms shall contain at a minimum the following information: i) the name, summer and winter mailing address, [and] resident status, email address, and relevant telephone numbers of the applicant; ii) the type of vessel and whether it is power or sail; 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. In consultation with the Harbor Commission, the harbormaster may from time to time amend the mooring permit application.

3) 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 Portsmouth. 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 the commercial mooring fee.

(f) Commercial Mooring Application Procedures

1) *New permit applications* - New applications for commercial mooring permits by clubs, businesses and organizations in harbor waters must be approved by the Harbormaster and must conform to the percentage limitations for harbor waters stated in Article VII, Section d, above.

2) *Renewal permits applications* – All Commercial mooring permits shall be renewed annually. In any mooring field where proposed or existing commercial moorings exceed 20% of the mooring field capacity as of April 1st of the season ahead, no commercial mooring permits shall be renewed if issuance or renewal will result in denial of an application or renewal of a residential mooring permit in said mooring field. Commercial operators shall provide the size, type, proof of inspection, and precise location of their existing moorings on an annual basis. For vessels on moorings to be

leased seasonally commercial mooring operators must provide the harbor office with the registration number, name and length of each vessel and the name of each owner by June 15 of each year. For moorings leased seasonally after June 15 they must provide the information as soon as reasonably practicable.

3) *General* - 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.

(g) Relocation of Existing Permitted Mooring

1) All non-riparian existing permitted moorings not located in a mooring field as established in Article IV of this Ordinance shall be relocated at the direction of the harbormaster. The harbormaster shall develop a list of those moorings needing to be relocated, notify the mooring permit holder at the time of permit renewal and establish specific dates for mooring relocation based on the two-year mooring inspection schedule, with moorings being relocated at the time of the required inspection. The harbormaster shall determine the precise location of the relocated mooring and verify that the mooring has been relocated on schedule. All relocation activity shall be reported to the Harbor Commission which will in turn notify the Rhode Island Department of Environmental Management of said activity until such time as all existing non-riparian moorings are located in designated mooring fields.

2) No existing permitted mooring shall be relocated either by the mooring permit holder or another person without the approval of the Harbormaster.

3) 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. The Harbormaster shall respond to the request within 15 days. 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.

4) The Harbormaster 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.

(h) Mooring Occupancy and Transfer

1) Private mooring permit holders may request permission from the Harbormaster to allow any vessel other than that described in the application to use the mooring permitted for more than seven (7) consecutive days. The harbormaster may permit the temporary use of a mooring by another vessel for a longer period upon receiving a written request

by the permitted mooring owner. Private permit holders are required to obtain authorization from the Harbormaster prior to the permitting a larger vessel in the assigned mooring space. 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) If a mooring should remain unoccupied by its permit holder for a period of one season, the Harbormaster shall inquire in writing as to the permit holder's future intentions. If the permit holder does not intend to place a boat on the mooring, the Harbormaster may choose not to renew the permit holder's permit. The permit holder shall have the right to appeal such a decision to the Mooring Appeals Committee as stipulated in Article IX- Appeals.

3) No private mooring space assignment shall be sold, assigned, or transferred by a mooring permit holder, except that on written notice to the Harbormaster a permit holder or a person on the waiting list may transfer a mooring permit or a place on the waiting list to an immediate family member. "Immediate family member" is limited to a brother, sister, mother, father, spouse, child or grandchild. The transfer shall be on a one time basis and the mooring permit transferee shall be prohibited from subsequently transferring that private mooring permit under any circumstance. All private mooring permits that are forfeited by or not renewed by the transferee shall be made available to individuals on the waiting list.

4) Any assigned mooring space given up by a permit holder reverts to the Harbormaster for assignment to the next person on the relocation or waiting list.

5) Commercial mooring permits may be leased or transferred to other businesses subject to review and approval by the Harbormaster. The standard for review shall be the ability of the proposed transferee to comply with all the provisions of Article VII, Section f(3) as a commercial operator.

(i) Fees

The Harbor Commission and Harbormaster shall annually recommend to the Town Council a proposed schedule of fees as part of the Town's annual budget. The Town Council shall establish such rates no later than November 15th of each year. The Town Council may charge fees for all mooring permits, mooring inspector applications and for waiting and relocation list applicants. Higher fees may be charged for non-resident and commercial moorings. The Town Council may assess late penalty fees provided these are indicated on, or enclosed with, the appropriate application forms.

(j) Mooring Markings

1) Each mooring in town waters will be assigned a number by the Harbormaster. This number will be displayed in contrasting color on each mooring buoy, pick-up buoy, chain-through ball and winter marker in block letters at least four (4) inches in height. It is the responsibility of the registered mooring holder to maintain these marking in clear and readable fashion.

2) In the event the Harbormaster discovers an unnumbered mooring, buoy, ball or marker he or she shall attach thereto a tag ordering the owner thereof to submit to the Harbormaster the information concerning the owner thereof and vessel making use thereof. 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 and/or remove said mooring, buoy, ball or marker. Any vessel inappropriately moored and considered a hazard to navigation may be removed immediately.”

(k) Mooring specifications

1) *Responsibility for moorings:* Although the town sets the following minimum standards for moorings and inspection 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, Helix or concrete 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 Harbormaster will maintain records of any mooring anchor deviations authorized in accordance with this provision. The size and weight of helix or block anchors shall be determined by the Harbormaster and calculated according to the equivalent holding power of a mushroom anchor in the same situation. The approximate shape of block anchors shall be square, both top and bottom, with tapered sides (trapezoidal) to reduce bottom chain chafe. The block shall not be allowed to become a hazard. The link or links shall be of material not less than one (1) inch in diameter and shall be securely imbedded in the block. All shackles shall be grade 40 or better, hot-dipped, forged, and one size heavier than the chain or equivalent. All shackles shall be properly seized.

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. 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. Color shall be white with blue stripe.
- 5) *Pennants*: The minimum mooring pennant length shall be twice the distance from the bow chock to the waterline plus the distance from the bow chock to the bow cleat.
- 6) *Chafe guards*: All pennant lines running through a chock or any other object where chafing may occur shall have adequate chafe guards.
- 7) Winter mooring spars shall be set in all mooring spaces for the period which the ball has been seasonally removed. All winter mooring spars shall be constructed of non-leaching rigid material.
- 8) See Appendix X for minimum tackle specifications for the waters of the town.

(I) 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 an approved mooring inspector under the direction of the Harbormaster 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 an approved mooring inspector under the direction of the Harbormaster before it is reset.
- 3) *Schedule of inspections*: All moorings shall be inspected at least once every two years and the results of such inspection certified by either the Harbormaster or an approved mooring inspector and reported to the harbormaster by August 1 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.
- 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 by an approved mooring inspector 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 and expense.

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) *Approved Mooring Inspectors:* All mooring inspectors shall be approved by the Portsmouth Town Council upon recommendation by the Harbormaster. In consultation with the Harbor Commission, the Harbormaster shall develop and set standards for the requirements and qualifications of approved mooring inspectors and develop an application form to be completed by potential mooring inspectors. At a minimum, an approved mooring inspector must demonstrate to the satisfaction of the Harbormaster the ability to perform an end-to-end visual and hands-on inspection of every piece of mooring equipment either by underwater means or the capability to safely pull all of the mooring equipment out of the water onto a work boat or barge. All approved mooring inspectors must be familiar with the minimum mooring tackle specifications of this Ordinance.

7) The Harbormaster shall keep a list of all approved mooring inspectors and shall make this list available to holders of mooring permits available at the Portsmouth Police Department and the Portsmouth Harbormaster website.

8) Any person or business appointed as an approved mooring inspector shall be insured in the amount of not less than \$1,000,000 for liability and provide proof of such to Portsmouth Director of Finance on an annual basis. All approved mooring inspectors must reapply for approved status by March 15 of each year.

(m) 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 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 repair, or replace mooring tackle within sixty (60) days after being advised to do so by the Harbormaster.
- 4) Any holder of a mooring permit for a mooring located in the coastal or harbor waters of the town shall be fined one hundred a \$100 late fee for failure to file a renewal permit application by March 15th. Failure to renew the mooring by June 15 of same calendar year will result in revocation of the mooring.
- 5) On written request the Harbormaster may grant exceptions to clauses 2, 3 and 4, above.
- 6) No mooring or outhaul will be deemed forfeited until notice has been first mailed to the holder of the permit by registered mail, return receipt requested and regular first class mail, or emailed with a read receipt. If an appeal is not made within thirty (30) days of the issuance of the notice, the mooring or outhaul must be removed by its owner at the owner's expense. If the owner fails to remove the mooring or outhaul within thirty (30) days upon order of the Harbormaster, the owner will be billed for the cost of the mooring or outhaul removal and the mooring or outhaul will be deemed abandoned. If a vessel is secured to the mooring or outhaul, the vessel will be removed and stored at the owner's expense.

(n) Outhauls

- (1) No person shall place or cause to be placed an outhaul (see Article II – Definitions) within town waters without receiving an outhaul permit for the placement thereof by the Harbormaster, issued in strict compliance with the provisions of this Ordinance. Any such outhaul placed without the approval of the Harbormaster may be removed and any such expenses incurred shall be charged to such person placing the outhaul. The Harbormaster may order the removal of any outhaul which in his or her discretion constitutes a hazard to navigation, a danger to the public or a violation of the provisions of this Ordinance. The Harbormaster shall determine the precise location of all permitted outhauls.
- 2) Except as provided below, up to two outhauls are permitted to the contiguous waterfront (riparian) property owner.
- 3) Outhauls are not permitted on properties which contain a recreational boating facility.
- 4) Outhaul permits are issued only consistent with the Rhode Island Coastal Resources Management Plan, including the provisions of Section 300.18 and all such

outhaul permits acknowledge that the Coastal Resources Management Council retains the authority to revoke any permits issued by the Harbormaster if it finds that such permit conflicts with the Rhode Island Coastal Resources Management Plan.

5) Vessels may be secured to an outhaul on an annual basis from April 16 to November 14 only. From November 15 to April 15, when the device is not securing a boat, the outhaul cabling system must be removed.

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

7) Outhaul Specifications

(a) All outhauls must be located as close as possible to the centerline of the property.

(b) Maximum boat size allowed shall be 14 feet.

(c) Minimum tackle size shall be two inches galvanized iron pipe on the outboard end. The pipe shall extend at least four feet above the mean high tide level. The inboard end of the outhaul system shall be placed above the mean high tide line with allowances to public access at low tide. The minimum line size will be three-eighths inch with an appropriately sized pulley. All boats must be securely fastened to the line at either the bow or stern. The harbormasters office shall provide a plaque to be placed on the outboard end of the outhaul facing seaward. A sticker showing the outhaul's number and expiration date of the permit placed on the plaque will identify the outhaul. Tackle requirements may be adjusted at the reasonable discretion of the harbormaster.

(d) Outhauls shall be inspected by June 15 in years ending in a 5 or 0 by an approved mooring inspector. Reporting on the inspections shall be identical to that of mooring inspections.

(e) Overall length of the outhaul cannot exceed 50 feet seaward of mean high water without approval of the harbormaster.

8) Outhaul Permitting Process

(a) *Grandfathered Outhauls* – Owners of existing outhauls wishing to have their outhauls deemed "grandfathered" under the provisions of this Ordinance shall notify the Harbormaster and fill out an outhaul permit application form. There

shall be no fee for this process. Subsequent annual permit renewal shall be consistent with the renewal permit process detailed in Section 9) below.

(b) *New outhaul applications* - Every applicant for a new outhaul permit shall submit a outhaul permit application form. This form shall contain the name, mailing address, resident status, and relevant telephone numbers of the applicant and the desired location of the outhaul and shall be accompanied by the annual outhaul permit fee.

9) Outhaul Renewal Process

(a) *Renewal permits applications* - Outhaul permits must be renewed annually. Every applicant for an outhaul permit must show ownership of contiguous waterfront (riparian) property in the form of a property tax bill. The harbormaster or his appointee shall mail renewal permit applications in January to existing outhaul permit holders with a return deadline of March 15. The completed application forms shall contain at least the following information: i) the name, summer and winter mailing address, [and] resident status, email address, and relevant telephone numbers of the applicant; ii) the type and length of the vessel to be secured by the outhaul; iv) a copy of the vessel's registration , if applicable); iii) the tackle specifications, proof of inspection, and precise location of the existing outhaul; and iv) whether the outhaul is considered “grandfathered” under the provisions of this ordinance. In consultation with the Harbor Commission, the harbormaster may from time to time amend the outhaul permit application.

(b) A renewal application for an outhaul permit, accompanied by the appropriate fee and proof of contiguous waterfront (riparian) property ownership, must be received by the harbormaster on or before March 15. After March 15, a late fee of \$100.00 will be applied until June 15. If the renewal application and payment are not received by June 15 by the harbormaster, the outhaul permit is forfeited. On or about June 16 notice of forfeiture, accompanied by an appeals form, will be sent to the outhaul permit holder via certified mail according to Article VII, Section m (6)

(c) It shall be the responsibility of the permit holder to notify the harbormaster of any change of address.

ARTICLE VIII. REGULATED ACTIVITIES

(a) General

The purpose of this Article 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 Portsmouth as described in Article III of this Ordinance and as authorized by Rhode Island General Laws 46-4-6.13 Town of Portsmouth – Powers conferred, 46.22 Regulation of Boats and 46-12 Water Pollution. For applicable fines, see schedule of fines in Appendix B.

(b) Vessel Operation

Vessels used alone or engaged in activities including, but not limited to, water skiing, personal watercraft, paragliding, sailboarding, surfboarding and other similar uses that involve the use of a vessel moving in excess of ten miles per hour shall not be allowed within 200 feet of any swimming area, mooring field, anchorage area, shore side facility, right-of-way ingress and egress points, launching ramp, federal navigation channels, navigation fairways and small unpowered vessels vulnerable to swamping or tipping due to wakes (i.e. canoes, kayaks, etc.) Vessels used in these manners are allowed within 200 feet of shore side facilities when the sole purpose is to begin or end such activity.

- (1) No vessel operating upon the tidal waters of this Town shall pass closer than 200 feet of an outer marker of a public swimming area. Public safety vessels, emergency vessels are exempt from this subsection.
- (2) No person shall operate any vessel in a reckless or negligent manner so as to endanger the life, safety or property of oneself or another. No vessel shall operate within 50 feet of any fixed object in the water unless the vessel is utilizing the fixed object for a permitted use.
- (3) The Inland Navigation Rules and Regulations shall apply in all of the tidal waters of the town. Any violation of the Inland Rules and Regulations shall be considered as negligent operation of a vessel and a violation of this Ordinance.
- (4) No person shall operate a vessel with more passengers than the manufacturer maximum recommendation.
- (5) No passenger in a vessel shall ride in any position so as to interfere with the driver's view ahead or to the sides, or to interfere with the drivers control over the driving mechanism of the vessel.
- (6) No operator or passenger shall have in their possession an unsealed alcoholic beverage container while the vessel is underway. No unsealed alcoholic beverage containers are permitted on deck or in the area of the helm. Unsealed alcoholic beverage containers may be secured in a galley or in an enclosed cabin while the vessel is underway.

(7) Except as otherwise set forth herein, water skiing and/or the operation of personal watercraft are prohibited in the following areas:

- A. Portsmouth Basin
- B. Blue Bell Cove, north of Hen Island and south of Spectacle Island
- C. Within Two Hundred (200) feet of any shoreline.

Personal watercraft may operate within said proscribed areas only at the slowest speed at which the craft can be operated and maintain steerage way.

(8) All vessels must meet the existing standards for muffling devices as stated in G.L. 1956, § 46-22-8.

(c) Boating Activities in Shallow Water Habitat

Where significant shallow water habitat is identified in the Portsmouth Harbor Management Plan or by CRMC, the harbormaster shall restrict boating activities as necessary to decrease turbidity and physical destruction of such habitat.

(d) Vessel Speed

(1) The operation of any vessel within the tidal waters of the town shall proceed in a manner which protects all persons and property from damage caused by waves, wakes, and operation. Operators of vessels within the coastal waters and harbor waters of the town shall comply with federal, state and local regulations on vessel speed and wake.

(2) *Federal navigation channels:* Vessels speed shall not exceed five miles per hour in any federal navigation channel located within the town.

(3) *Navigation fairways:* Vessels speed shall not exceed five miles per hour nor create more than minimal wake in any navigation fairway as established and described in this section.

(4) *Mooring fields:* Vessel speed shall not exceed steerageway, nor create wake in any designated mooring field or anchorage as established and described in this section.

(5) No vessels of any description shall be navigated or operated at a speed in excess of five (5) miles per hour, or in such a manner to cause an excessive wake, within the following areas:

- a. Within the waters of the Portsmouth Basin, so called being that expanse of water between Portsmouth and Tiverton, south of the Navigational Aid, Can 17 and north of the Stone Bridge Abutment.
- b. That expanse of water in Potter's Cove between Navigational Aid Nun Buoy 4 and the shore.
- c. That expanse of water in Blue Bill Cove north of Hen Island and South of Spectacle Island, between the escape bridge and the state boat ramp.

(e) Navigation fairways

Navigational fairways within Town waters are located at:

- 1) New England Boat Works
- 2) Hinckley Yacht Services
- 3) Brewers Sakonnet Marina – North Yard
- 4) Brewers Sakonnet Marina – South Yard
- 5) Pirate Cove Marina
- 6) Stonebridge Marina
- 7) McCorrie Point
- 8) Blue Bill Cove boat ramp
- 9) Carnegie Abbey Yacht Club
- 10) Weaver's Cove boat ramp
- 11) South end T-Wharf Prudence Island
- 12) South end Boat Ramp Prudence Island
- 13) Stone Dock Boat Ramp, west side Prudence Island
- 14) Sand Point Dock Prudence Island
- 15) Homestead Ferry landing Prudence Island
- 16) Homestead Boat Ramp Prudence Island
- 17) Potters Cove Dock Prudence Island
- 18) Potters Cove Boat Ramp Prudence Island

See Section 5.0, Map 2 of the Portsmouth Harbor Management Plan for further details.

(f) Obstruction of channels, fairways, and berthing space

- 1) No vessel shall be moored or anchored so as to interfere with the free and unobstructed use of all federal, state and locally designated navigation channels, fairways, or berthing spaces within the waters under Town jurisdiction.
- 2) The placement of lobster pots, pot floats, fish nets or conch pots or floats are prohibited in all federal, state and locally designated navigation channels, fairways, and mooring fields.

(g) Personal watercraft

Operation of all personal watercraft upon the waters under the jurisdiction of the Town shall be regulated under the provisions of RIGL § 46-27-1 et seq., and all similar federal laws rules and regulations. The harbormaster shall have the authority to enforce all provisions of RIGL § 46-27-1 et seq.

(h) Anchoring and Rafting

1) *Anchoring* - Vessels are permitted to anchor in all town waters on a space available basis except in federal navigation channels, navigation fairways, swimming areas, rights-of-way ingress and egress areas and launch ramp areas. 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 seven (7) days without the permission of the Harbormaster. When anchoring in a designated mooring field, it shall be the owner of the anchored vessel's responsibility to remain clear of all moored vessels, taking into account all possible changes of tide and weather.

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 fairway. Rafting at a mooring shall be limited to the boat properly registered to that mooring or to the boat of a person authorized to use said mooring. It is the responsibility of the registered mooring holder or authorized person to ensure that the outermost boats drop anchor to avoid dragging the mooring or encroaching on other mooring spaces or navigational channels. 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.

(i) Boat Standards

Every vessel entering waters under the jurisdiction of the Town shall be equipped as required by RIGL § 46-22-1 et seq., and all similar federal laws rules and regulations. The harbormaster shall have the authority to enforce all provisions of RIGL § 46-22-1 et seq.

All vessels moored in mooring fields BBC – 1 and BBC – 2 in Blue Bill Cove are required to be equipped with grey water collections systems, if applicable. No mooring permits will be issued or renewed without inspection and certification by the Portsmouth Harbormaster or his/her designee that such a system, if applicable, has been installed.

(j) Abandoned Vessels and Structures

1) Upon his/her determination, the Harbormaster may take custody and control of abandoned or derelict vessels and structures located in the coastal waters and harbor areas of the Town and remove, store, or otherwise dispose of such vessel or structure at the expense and sole risk of the owner of the abandoned vessel or structure. Reasonable notice of such disposal shall be publicly given. In addition to any cost incurred by the Town in carrying out the above activities, a fine of \$500.00 shall be collected from the vessel owner for such Harbormaster action. The owner is responsible for all expenses incurred.

2) The harbormaster shall assume all of the duties and powers of the commissioner of wrecks and shipwrecked goods as detailed in Rhode Island General Law Sec. 46-10-1 to 13. Any monies that would be paid to the harbormaster as the commissioner of wrecks would be instead paid to the Harbor Management Fund to avoid a possible conflict of interest.

(k) 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 pump out 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.

(l) Prohibited Discharges

1) *Discharge of Sewage.* In order to ensure there are no adverse effects on water quality, 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 adopts Rhode Island General Law 46-12-39 pertaining to the discharge of sewage from a boat 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) No discharge certificate decal – Required. Per Rhode Island General Law Subsection 45-12-39.1, no person shall operate or moor for more than thirty (30) days, a boat in the waters of the state, that has a permanently installed marine toilet unless such boat displays in a prominent position a Rhode Island Department of Environmental Management- approved "no discharge certificate decal." This requirement shall not apply

to any vessel carrying a valid certificate of inspection issued by the U.S. Coast Guard pursuant to title 46 of the U.S. Code.

(m) Marine debris

The discharge of any waste, garbage, refuse, plastic, petroleum product or byproduct, paint, varnish, dead animals, fish, or any other debris into the waters is prohibited under this Ordinance.

(n) Grey Water Discharge in Blue Bill Cove

In order to ensure there are no adverse effects on water quality in the waters of Blue Bill Cove, there shall be no grey water discharge from vessels whose owners hold mooring permits for mooring fields BBC-1 and BBC-2 in Blue Bill Cove. See Appendix A for the boundaries of designated mooring fields included in this zone. The Harbormaster shall have the right to inspect vessels moored in these mooring fields in order to enforce this provision.

(o) Swimming

- 1) Swimming and diving off town-owned piers, floating docks, wharfs, and jetties is prohibited unless otherwise authorized and posted by the Town Council.
- 2) Skin or scuba diving, in all navigation channels, fairways, and mooring fields is prohibited except when necessary to repair a moored vessel.
- 3) All persons skin or scuba diving in the towns waters shall properly mark their diving areas.

(p) Flotation Devices – Children

Any person transporting a child under thirteen (13) years of age in a recreational vessel less than sixty-five (65) feet in length on the waters of this state shall require that the child wear a personal flotation device approved by the United States Coast Guard when underway, unless below deck or in a closed cabin.

(q) Rights-of-Way to the Water

- 1) 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 Portsmouth. See Section 5.0, Map 5 of

the Portsmouth Harbor Management Plan for a map of CRMC-designated and other rights-of-way to the shore.

2) 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 Portsmouth.

3) Any person in violation of this section of the Ordinance after due notice shall be subject to a fine (See Appendix B). After due notice Town personnel may clear a Town or CRMC designated right-of-way at the violator's expense.

(r) 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.

(s) False Distress or Hoax Calls

1) Whoever, knowing it to be false, transmits or causes to be transmitted by radio, telephone, use of emergency flares or other means of communication, the alleged occurrence or impending occurrence of an emergency situation which threatens the life, or safety of a person and/or the loss of property, to any state, federal or local law enforcement or other public safety agency shall be guilty of transmitting a false distress or hoax call.

2) Any person charged with the commission of the foregoing shall, upon conviction, be subject a fine not to exceed one thousand dollars (\$1,000). In addition to any other fines or penalties imposed under this section, the person or persons convicted shall pay restitution for any cost related to the emergency response to the false or hoax call.

(t) 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 Portsmouth Police Department. Police officers and the Harbormaster of the Town of Portsmouth 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.

(u) Towing and moving of vessels

1) Moored in violation - any vessel berthed, moored or anchored in waters under the jurisdiction of the Town found to be in direct violation of any provisions of this Ordinance, the Harbormaster is authorized to move, relocate or tow such vessel. In

addition to any fine for such violation, a fee of one hundred dollars (\$100.00) shall be collected from the vessel owner for such harbormaster actions.

- 2) Disabled – If any vessel requires an assistance tow from the Harbormaster, the owner shall be charged \$100 plus costs.

(v) Penalties and Fines

Pursuant to this ordinance and the powers granted in the enabling legislation, Rhode Island General Law 46-4-6.13 and the Rhode Island General Laws, a person who violates any part of the ordinance 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 Municipal Court of the Town of Portsmouth has jurisdiction to hear violations of any of the provisions of this Ordinance. Matters not resolved by payment of the required fine pursuant to the mail as set forth below will require an appearance in the Municipal Court for violations this Ordinance and before District Court for violations of Rhode Island General Laws.

(w) Informal Procedure for the payment of Boating Fines

- 1) 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 Municipal 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) An offender electing to dispose of the charge without personally appearing before the Municipal Court shall execute the form indicated and return it to the Portsmouth 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) An individual who fails to answer after twenty-one (21) days shall have waived the right to dispose of the summons without personal appearance and must appear before the Municipal Court on the date specified on the summons.

ARTICLE IX. APPEALS

1) In matters pertaining to Article VII Mooring Regulations, the Mooring Appeals Committee shall sit as the board of appeals to hear any person aggrieved by a decision of the Harbormaster. The aggrieved party shall file a written appeal with the Harbormaster within thirty (30) days following the notice of the decision. Upon receipt of the appeal, the Harbormaster shall schedule a hearing at the next regularly scheduled Mooring Appeals Committee meeting, with written notice given to the appellant of not less than fourteen (14) days.

2 Any party aggrieved by a decision of the Mooring Appeals Committee may make a final appeal to the Municipal Court. 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 Mooring Appeals Committee's proceedings and schedule a hearing with notice to the appellant.

ARTICLE X. STORM PREPAREDNESS

The Town will maintain an ongoing, coordinated effort involving the Town's citizens and local and state emergency management officials to anticipate, prepare for and respond to storm events damaging to life and property along the shoreline and in the waters under its jurisdiction. See Appendix X for the Town's Harbor Hazard Mitigation Plan.

ARTICLE XI. LIABILITY

Persons using the waters under the jurisdiction 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.

ARTICLE XII. 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.

ARTICLE XIII. EFFECTIVE DATE

This ordinance shall take effect upon its passage by the Town Council. .

APPENDIX A – Map of No Grey Water Discharge Zones

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APPENDIX B – Fees & Fines Schedule

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APPENDIX C – Mooring Tackle Specifications

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APPENDIX D – Harbor Hazard Mitigation Plan

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