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**Adopted by the Jamestown Town Council
At a Public Hearing on August 4, 2014**

Attest: _____
Cheryl A. Fernstrom, CMC, Town Clerk

**PUBLIC HEARING
TOWN OF JAMESTOWN**

Notice is hereby given that the Town Council of the Town of Jamestown will conduct a public hearing on **August 4, 2014 at 7:00 p.m. at the Jamestown Town Hall, 93 Narragansett Avenue** on the following proposed amendments to the Code of Ordinances regarding the Harbor Management Ordinance. Opportunity shall be given to all persons interested to be heard upon the matter at the public hearing. The following proposed ordinance amendments are under consideration and may be adopted and/or altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the public hearing. The proposed amendments are available for review and/or purchase at the Town Clerk's Office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Holidays and for review at Jamestownri.net, go to Clerkbases link on the Town's homepage.

The Town Council of the Town of Jamestown hereby ordains:

Section 1. The Jamestown Code of Ordinances is hereby amended by changing the text of the existing Harbor Management Ordinance, as follows:

NOTE: words set as ~~striketrough~~ are to be deleted from the Harbor Management Ordinance; words set in underline are to be added to the ordinance.

The Jamestown Harbor Management Ordinance is amended as set forth in the attached Exhibit A, or as may be amended during the course of the public hearing held pursuant to the proposed amendments.

Section 2. The Town Clerk is hereby authorized to cause said changes to be made to the Town of Jamestown's Code of Ordinances.

Section 3. This Ordinance shall take effect upon its passage.

ALL NOTE: This meeting location is accessible to the physically challenged. Hearing or speech impaired individuals requiring the services of an interpreter should call the Town Clerk at 401-423-7200 or by facsimile at 401-423-7230 not less than 3 business days prior to the meeting.

Ad Date(s): July 24, 2014
Publication Source: Jamestown Press
Hearing Date: August 4, 2014
Action: Adopted
Certified: Cheryl A. Fernstrom, Town Clerk

1 **Sec. 78-21. Goals.**

2 Whereas, the harbor and nonharbor tidal waters described herein within the corporate
3 boundaries of the Town of Jamestown are under the ownership and jurisdiction of the
4 state and are held in trust for all the citizens of the state; and whereas the state grants
5 the Town of Jamestown limited and specific uses of these waters; therefore the town
6 establishes the following goals for this article:

7

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

15

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

20

21 (3) To remain consistent with the authorities granted the town under G.L. 1956, §
22 46-4-6.9 and with the goals, policies, and regulations of the Jamestown Comprehensive
23 Community Plan, the Jamestown Comprehensive Harbor Management Plan, the Rhode
24 Island Coastal Resources Management Program, the Rhode Island Department of
25 Environmental Management, and the United States Army Corps of Engineers.

26

27 **Sec. 78-22. Definitions.**

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

31 *Abandoned Vessel:* A vessel that is inoperable and is left unattended for more
32 than seventy-two (72) hours, or a vessel that has remained illegally in the waters of
33 Jamestown for a period of more than three (3) days.

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

1 *Beach(es)*: Area(s) of the shoreline designated by the harbor commission as
2 suitable for land storage of vessels capable of being removed from the water by
3 manpower alone.

4 *Beach permit*: A license authorized by the Town of Jamestown granting the
5 permittee the privilege of storing a specified vessel at a designated beach for a
6 specified season of April 1 until October 31 of each year.

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

9 *Coastal waters*: All waters bordering the town from the shore to a distance of 500
10 feet seaward not included in the designation "harbor waters."

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

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

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

20 *Developed riparian property*: Riparian property improved by the addition of a
21 permanent structure that has been approved by the building inspector of the town.

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

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

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

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

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

4 *Harbor waters*: The waters in the three harbors of the town: East Harbor, West
5 (Dutch) Harbor, and South (Mackerel Cove) Harbor. The boundaries of these harbors
6 are defined in section 78-24 of this article.

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

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

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

13 *Mooring area*: A bounded area outside the harbor waters in which moorings may
14 be placed. Per CRMC regulation, more than four moorings (the maximum which
15 riparians may have) is considered a mooring area, and must be properly recognized in
16 the harbor ordinance.

17 ~~*Mooring inspector, qualified*: Any person or business approved as an inspector of~~
18 ~~moorings by the harbor commission upon recommendation of the harbormaster.~~

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

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

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

26 *Motorized Vessel*: Every description of a watercraft used, or capable of being
27 used, as a means of transportation on the water and which is propelled by or capable of
28 being propelled by a motor.

29 *Nonresident*: Any individual, business, corporation, or association that does not
30 meet the definition of "resident."

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

4 *Occupation:* "Occupation" of a mooring or outhaul for a "day" as used in
5 subsection 78-26(m)(4) or (5), or 78-26(p)(1) hereof requires that the vessel be secured
6 thereto overnight.

7 *Outhaul:* A non-single-point anchoring device, for the purpose of securing a boat
8 in tidal waters and retrieving it from shore.

9 *Outhaul permit:* A license authorized by the Town of Jamestown granting the
10 permittee the privilege of storing a specified vessel on a specific outhaul for a specified
11 season.

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

16 *Private aid to navigation:* A buoy placed to mark a location in the water, other
17 than government marks. The location of such private aids in Jamestown waters must be
18 approved by the harbormaster. No fees will be charged for such private aids. The
19 parties placing such private aids are responsible for their proper maintenance and for
20 informing appropriate governmental authorities of their placement.

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

22 *Qualified mooring inspector:* Any person or business approved as an inspector of
23 moorings by the harbor commission upon recommendation of the harbormaster.

24 *Rafting:* Two or more vessels, excluding dinghies or other tenders, attached to
25 each other while moored or at anchor.

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

28 *Resident:* Any real property taxpayer, full-time inhabitant, and/or registered voter
29 of the Town of Jamestown; any recognized nonprofit organization of the town.

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

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

3 *Season*: ~~May~~ April 1 to October 4 31 of each year.

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

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

9 *Vessel in need of a mooring*: A vessel that will employ the permitted mooring as
10 the primary securing location of the vessel when not in use. A vessel that displaces less
11 than 150 pounds when empty is presumed not in need of a mooring. A person desiring
12 to apply for a mooring for a vessel that does not meet the foregoing criterion may apply
13 to the harbormaster for permission to do so.

14 *Waters of the town*: The harbor and coastal waters under town jurisdiction
15 described in sections 78-23 and 78-24 of this article.

16
17 **Sec. 78-23. Areas under jurisdiction.**

18 The Town of Jamestown hereby assumes management authority for the purposes of
19 this article consistent with the powers, duties, and authorities granted under G.L. 1956,
20 46-4-6.9 over the following waters:

21 (a) *Harbor waters*. The waters of the three harbors—East Harbor, West (Dutch) Harbor,
22 and South (Mackerel Cove) Harbor. The boundaries of these harbors are defined in
23 section 78-24 of this article.

24
25 (b) *Coastal waters*. All waters bordering the town from the shore to a distance of 500
26 feet seaward not included in the designation "harbor waters" and excluding the "mooring
27 areas" listed below, the boundaries of which are defined in section 78-24 below.

28
29 (c) *Mooring areas*. The waters within three areas defined in section 78-24 below and
30 referred to as Head's Beach, Park Dock, and Cranston Cove.

1 **Sec. 78-24. Harbor and mooring area boundaries.**

2 (See appendix A for a map of the harbor boundaries described below and for a table
3 giving Rhode Island State Plane Coordinates and lat/longs for each boundary point.)

4
5 (a) *East Harbor*. The northern boundary shall be a line extending 1,000 feet seaward
6 from the eastern extension of Weeden Lane. The eastern boundary shall be a line
7 extending 1,000 feet seaward of the shoreline. The southern boundary shall be a line
8 extending from the southern point of the Fort Wetherill Boat Basin to government
9 marker G "9" (Fort Wetherill Gong) thence to government marker G "11" (Bull Point
10 Bell). East Harbor waters are classified as follows:

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

15
16 (2) *Transient anchorage zone*. All harbor waters from the northern boundary to
17 the Newport Bridge in the band of water 500 to 1,000 feet from shore; and all harbor
18 waters south of a line extending from Bull Point to government marker G "11";

19
20 (3) *Conservation zone*. All harbor waters from the northern boundary to the
21 Newport Bridge in the band of water from the shore to 500 feet seaward.

22
23 (b) *West (Dutch) Harbor*. The northern boundary shall be a line extending 1,000 feet
24 seaward from the western extension of Orchard (Weeden) Lane. The western boundary
25 shall be a line extending from the westernmost end of the northern boundary to the pier
26 at Fort Getty. West (Dutch Island) Harbor Waters are classified as follows:

27
28 (1) *Mooring zone*. All harbor waters from a point on shore due east of the Dutch
29 Island pier ruins to the Fort Getty pier thence to a point at the southern terminus of
30 Maple Avenue;

31
32 (2) *Transient anchorage zone*. All harbor waters from Dutch Island pier ruins to a
33 point due east on shore thence to the Fort Getty pier;

34
35 (3) *North conservation zone*. All waters shoreward of a line extending from the
36 western extension of Orchard (Weeden) Lane to point R on the map provided as
37 appendix A-1 of the article, thence to point Q on that map;

38

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

3
4 (c) *Head's Beach mooring area*. The waters within the quadrangle defined by the
5 following points:

6 (1) 41⁰ 32. 276N 71⁰ 23. 233W

7 (2) 41⁰ 32. 293N 71⁰ 23. 391W

8 (3) 41⁰ 32. 457N 71⁰ 23. 333W

9 (4) 41⁰ 32. 449N 71⁰ 23. 216W

10
11 (d) *Park Dock mooring area*. The waters within the quadrangle defined by the following
12 points:

13 (1) 41⁰ 33. 805N 71⁰ 21. 671W

14 (2) 41⁰ 33. 799N 71⁰ 21. 602W

15 (3) 41⁰ 33. 962N 71⁰ 21. 648W

16 (4) 41⁰ 33. 962N 71⁰ 21. 725W

17
18 (e) *Cranston Cove mooring area*. The waters within the quadrangle defined by the
19 following points:

20 (1) 41⁰ 32. 228N 71⁰ 21. 811W

21 (2) 41⁰ 32. 222N 71⁰ 21. 743W

22 (3) 41⁰ 32. 516N 71⁰ 21. 686W

23 (4) 41⁰ 32. 472N 71⁰ 21. 835W

24
25 (f) *Setbacks*. No moorings shall be placed less than 100 feet from the mean low water
26 mark on shore, nor within 50 feet or three times the control depth of water, whichever is
27 greater, from all federal navigation channels, navigation fairways, shellfish management
28 areas, or shoreside structures.

29
30 **Sec. 78-25. Rights-of-way to the water.**

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

34
35 (b) No person shall park or store a vessel, vehicle, or structure on a designated public
36 right-of-way to the water as defined by the RICRMC or the Town of Jamestown. Vessels
37 may be stored on the ground at designated beaches or in racks on town property
38 constructed with permission of the harbor commission. The harbor clerk shall issue

1 permits for doing so at fees to be set by the harbor commission and shall maintain
2 waiting lists for these privileges if appropriate.

3
4 (c) Any person in violation of this section of the ordinance after due notice shall be
5 subject to a fine in accordance with section 78-27 of this article ("regulated activities").
6 After due notice town personnel may clear a right-of-way at the violator's expense.
7

8 **Sec. 78-26. Mooring and outhaul regulations.**

9 (a) *Permitting.* No mooring or outhaul shall be located or maintained in the harbor or
10 coastal waters of Jamestown until a permit has been issued for the use of such mooring
11 or outhaul by the harbormaster. No mooring or outhaul shall be permitted until the
12 harbormaster has determined that it conforms to the specifications set forth in this
13 article and in any other conditions established by the state or town. The harbormaster is
14 responsible for the precise location of every mooring or outhaul, with due regard to
15 space available, to the maximizing of available space, and to the safety of the vessel.
16 Individuals holding a permit may renew it annually upon payment of the appropriate fee
17 subject to compliance with all of the conditions of this section. A mooring or outhaul
18 permit may, upon notice, be revoked at any time for failure to comply with conditions
19 established by this article or by any applicable state or town regulations.
20

21 (b) *Mooring density and allocation.*

22
23 (1) Harbor waters. The limit of moorings in the east harbor and west harbor
24 mooring zones shall be based on available space and the provision of adequate
25 landside facilities. No additional commercial mooring permits shall be assigned in
26 either the east or west harbor mooring zones until private mooring permits constitute
27 60 percent of the zone's total number of permits. The precise location of each
28 mooring, commercial or private, within the mooring zones shall be made by the
29 harbormaster, who shall, with the harbor commission, establish appropriate
30 fairways within the zones.
31

32 (2) Coastal waters. No mooring shall be permitted more than 500 feet from the
33 shore in coastal waters. No commercial moorings are permitted in coastal waters.
34 The precise location of each private mooring shall be made by the harbormaster.
35

36 (3) Mooring areas. Private moorings may be established in mooring areas. No
37 commercial moorings are permitted in mooring areas. The density and placement of
38 such moorings shall be established by the harbormaster.
39

40 (4) No moorings shall be established in conservation zones.

1
2 (c) *Priority for private mooring permits.* The harbor commission shall maintain a
3 chronological list of all applicants requesting a private mooring permit. The list shall be
4 updated at least twice a year and shall be available to the public at all times for
5 inspection. Within the space available, requests shall be treated in accordance with the
6 following priority guidelines:

7
8 *Class 1: Riparian.*

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

24 Guest moorings: Only owners of riparian property may have guest moorings. Only one
25 of the two moorings permitted class 1a permit holders may be a guest mooring, except
26 that nonfamily associations, partnerships, or corporations owning developed riparian
27 property may designate as guest moorings one or both of their permitted moorings.
28 Guest moorings may not be rented or leased. The harbormaster may on application
29 permit a single vessel to occupy a guest mooring on a seasonal basis. Applications for
30 private guest moorings must specify the length of the largest vessel able to occupy the
31 mooring under normal conditions.

32
33 b. On coastal waters, property owners holding a freehold estate of record
34 with a deeded right of access to riparian property owned by a nonprofit association,
35 partnership, or corporation of which they are members in good standing are entitled to
36 apply for a single mooring permit per property directly adjacent to that riparian property.
37 The privilege of a mooring permit in this category is subject to the reasonable availability
38 of mooring space as determined by the harbormaster. ~~Moorings shall be limited to the~~
39 ~~area created by a parallel extension of the boundaries of the riparian water frontage into~~
40 ~~the coastal waters.~~ This category of riparian mooring is not permitted in harbor waters,
41 ~~is dependent on available parking,~~ may not be placed in a town conservation zone, and

1 may not be a guest mooring. All moorings in this category shall be counted toward
2 complying with the CRMC no greater than 3:1 resident to non-resident mooring
3 allocation requirement. ~~If the This area is delineated as a mooring area and where~~
4 ~~public access is available members of the general public shall be entitled to apply for a~~
5 ~~mooring permit there.~~

6
7 ~~This area is delineated as a mooring area and is available to members of the general~~
8 ~~public.~~

9
10 The Town shall provide delineation of ~~each such~~ mooring areas to contain all Class 1b
11 moorings; Class 1b moorings existing as of April 22, 2014 shall be considered
12 “grandfathered”. Each such mooring area is available to members of the general public.
13 This does not imply any right to trespass on private property.

14
15 ~~If more than four moorings are so permitted, the area must be delimited as a mooring~~
16 ~~area, and, where public access is available, members of the general public shall be~~
17 ~~entitled to apply for mooring permits therein.~~

18
19 *Class 2: Rights-of-way.*

20
21 ~~Existing Class 2a and 2b areas should be considered grandfathered and no similar~~
22 ~~parallel extensions of ROW boundaries onto coastal waters should be established to~~
23 ~~create mooring sites for non-riparian property owners in either of these classes.~~

24
25 The Town shall provide delineation of ~~each such~~ mooring areas to contain all Class 2a
26 and 2b moorings; Class 2 a and 2b moorings existing as of April 22, 2014 shall be
27 considered “grandfathered”. Each such mooring area is available to members of the
28 general public. This does not imply any right to trespass on private property.

29
30
31 a. Nonriparian property owners holding a freehold estate of record with a
32 deeded private right-of-way or easement to coastal waters granted in an original
33 property subdivision are entitled to apply, per property, for a single mooring permit
34 directly adjacent to that right-of-way or easement. The privilege of a mooring permit in
35 this category is subject to the reasonable availability of space as determined by the
36 harbormaster. ~~Moorings shall be limited to the area created by a parallel extension of~~
37 ~~the boundaries of the right of way into the coastal waters.~~ This category of mooring is
38 not permitted in harbor waters, ~~is dependent on available parking,~~ may not be placed in
39 a town conservation zone, and may not be a guest mooring. All moorings in this
40 category shall be counted toward complying with the CRMC no greater than 3:1
41 resident to non-resident mooring allocation requirement. ~~If the area is delineated as a~~

1 ~~mooring area and where public access is available members of the general public shall~~
2 ~~be entitled to apply for a mooring permit there.~~

3
4 ~~This area is delineated as a mooring area and is available to members of the general~~
5 ~~public.~~

6
7 ~~The Town shall provide delineation of each such mooring area. Each such mooring area~~
8 ~~is available to members of the general public. This does not imply any right to trespass~~
9 ~~on private property.~~

10
11 b. Nonriparian property owners holding a freehold estate of record within
12 1,000 feet of a public right-of-way to coastal waters are entitled to apply, per property,
13 for a single mooring permit per property directly adjacent to that right-of-way. The
14 privilege of a mooring permit in this category is subject to the reasonable availability of
15 space as determined by the harbormaster. ~~Moorings shall be limited to the area created~~
16 ~~by a parallel extension of the boundaries of the right of way into the coastal waters. This~~
17 ~~category of mooring is not permitted in harbor waters, is dependent on available~~
18 ~~parking, may not be placed in a town conservation zone, and may not be a guest~~
19 ~~mooring. All moorings in this category shall be counted toward complying with the~~
20 ~~CRMC no greater than 3:1 resident to non-resident mooring allocation requirement~~
21 ~~Where there are four or more such moorings adjacent to a given right of way no new~~
22 ~~moorings shall be permitted. If the area is delineated as a mooring area and where~~
23 ~~public access is available members of the general public shall be entitled to apply for a~~
24 ~~mooring permit there.~~

25
26 ~~This area is delineated as a mooring area and is available to members of the general~~
27 ~~public.~~

28
29 ~~The Town shall provide delineation of each such mooring area. Each such mooring area~~
30 ~~is available to members of the general public. This does not imply any right to trespass~~
31 ~~on private property.~~

32
33
34 *Class 3: General.* All other applications for moorings, resident and nonresident,
35 will be considered in the order in which they are received. Notwithstanding, when a ratio
36 of no greater than 3:1 of resident holders of private mooring permits to non-resident
37 holders of mooring permits (riparian and commercial permits excluded) is attained, the
38 Jamestown Harbor Commission shall establish guidelines to maintain the ratio at that
39 level. ~~the ratio of nonresident holders of private mooring permits to resident holders of~~
40 ~~mooring permits (riparian and commercial permits excluded) reaches 1:3 harbor~~
41 ~~commission shall establish guidelines to maintain the ratio at that level.~~

1 All new class 3 private moorings must be located within a mooring area or harbor
2 waters as specified herein. Moorings outside such mooring areas that were permitted
3 prior to the adoption of this amendment of this article by the town council on June 17,
4 2004, shall be renewed as long as the application therefor is made in the name of the
5 then owner, a spouse, sibling, or children.

6
7 (d) *Mooring area siting standards.* All designated mooring areas sited within the coastal
8 waters and harbor areas of the town shall be setback as follows:

9
10 (1) From riparian moorings and shoreline rights-of-way, a distance sufficient to
11 allow ingress and egress and to prevent interference with the exercise of private and
12 public rights.

13
14 (2) Fifty feet from all residential or commercial docks, piers, floats and public
15 launching ramps.

16
17 (3) Public mooring areas shall be setback from federal navigation projects at
18 least three times the U.S. Army corps of Engineers authorized project depth from
19 federal navigational projects.

20
21 (4) All moorings shall be prohibited in federal navigation projects.

22
23 (5) All new and significantly expanded mooring areas shall be sited to ensure that
24 tides and currents aid in flushing the mooring area.

25
26 (6) All new and significantly expanded mooring areas shall be sited to avoid
27 adverse effects on water quality.

28
29 (7) Mooring areas shall be sited so as to not substantially interfere with
30 designated shellfish management areas, traditional fishing grounds, public recreational
31 areas and conservation areas.

32
33 (8) Mooring areas shall be sited so as to not significantly affect finfish and or
34 shellfish resources, wetlands, submerged aquatic vegetation and aquatic habitat.

35
36 (9) Moorings areas shall be adequately serviced and pump out stations shall be
37 accessible and operationally maintained.

38
39 (10) The Army Corps of Engineers (ACOE)"open to all" policy supersedes any
40 Town or State regulation, policy, ordinance, or statute.

1 (11) All moorings and boats shall be located within the mooring areas, except for
2 riparian moorings, and moorings permitted through a Right-of-Way (ROW), where no
3 more than four (4) moorings are permitted via each ROW.
4

5 (e) *Private mooring application procedures.*

6
7 (1) *New mooring or outhaul applications.* Every applicant, riparian and
8 nonriparian, for a new private mooring or outhaul permit shall submit a mooring permit
9 waiting list application form. This form shall contain the name, mailing address, resident
10 status, and relevant telephone numbers of the applicant and the desired location of, and
11 point of access to, the proposed mooring or outhaul. The harbormaster or executive
12 director shall notify the applicant and the harbor clerk in writing within five days whether,
13 given the availability of space, the applicant may apply on the same schedule and on
14 the same application form as renewal applicants or must be placed on a waiting list. To
15 be placed and kept on the waiting list, applicants must, on an annual basis, fill out and
16 return a brief waiting-list renewal application sent to the applicant by the harbor clerk
17 and pay any waiting list fees requested. If the renewal application and fee are not
18 received by a date set in the renewal application, a second notice will be sent; if there is
19 no response within 30 days, the applicant will be deleted from the waiting list.
20

21 (2) *Renewal permit applications.* Mooring or outhaul permits must be renewed
22 annually. Every applicant for a private mooring or outhaul permit must show ownership
23 of a vessel in need of a mooring, except for the guest moorings of owners of riparian
24 property as granted in subsection [78-26\(c\)](#), above. The harbor clerk shall mail renewal
25 permit applications in March to existing individual permit holders with a return deadline
26 of May 15. The completed application forms shall contain at least the following
27 information: i) the name, summer and winter mailing address, [and] resident status, and
28 relevant telephone numbers of the applicant; ii) the type of vessel and whether it is
29 recreational or commercial; iii) the length, beam, draft, displacement, type of sanitation
30 system, and name of the vessel; iv) a copy of the vessel's registration or documentation
31 certificate in the name of the applicant or a person to whom the permit may be
32 transferred under [subsection] [78-26\(h\)\(2\)](#); v) the size, type, proof of inspection, and
33 precise location of the existing mooring; vi) the point of access to the mooring or
34 outhaul; vii) if applicable, the storage location of the dinghy; and viii) the date the vessel
35 is expected to be on the mooring or outhaul. With the approval of the harbor
36 commission and upon public notice to all applicants the harbor clerk may from time to
37 time amend the mooring permit application.
38

39 a. *Leased vessels.* An applicant may apply for a mooring based upon a lease of
40 a vessel providing the applicant the exclusive use of the vessel for at least the period of
41 the season. Such applicants may not permit the actual owner or another third party to

1 use the leased vessel on a regular basis. The harbormaster is directed to regularly
2 monitor usage of any such leased vessel to ensure compliance with this section.

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

13
14 (f) *Commercial mooring application procedures.*

15
16 (1) *New permit applications.* New applications for commercial mooring permits in
17 harbor waters must be approved by the Rhode Island Coastal Resources Management
18 Council, the Army Corps of Engineers, and the harbor commission. They must conform
19 to the percentage limitations for harbor waters stated in subsection 78-26(b), above.

20
21 (2) *Renewal permit applications.* Commercial mooring operators who have
22 approved permits from the Rhode Island Coastal Resources Management Council and
23 the Army Corps of Engineers will be considered to have made renewal applications for
24 the purposes of this article. For vessels on moorings to be leased seasonally
25 commercial mooring operators must provide the harbor office by July 15 with the
26 registration number, name and length of each vessel and the name of each owner. For
27 moorings leased seasonally after July 15 they must provide the information as soon as
28 reasonably practicable. Commercial operators shall provide inspection reports tri-
29 annually of their existing moorings, providing the same information required in
30 subsection 78-26(l)(3) below of inspection reports of private moorings. The inspection
31 reports provided by commercial operators may be provided in spreadsheet format.
32 Commercial mooring operators shall reach a mutually satisfactory arrangement with the
33 harbor commission for the deadlines for payment of the appropriate fees.

34
35 (3) *General.* Commercial moorings are prohibited in coastal waters. In harbor
36 waters commercial mooring operators must fulfill the requirements of Section 300.4.E.1
37 (a) and (b) of the Rhode Island Coastal Resources Management Program as they relate
38 to the provision of sanitary facilities and parking. They must also fulfill any additional
39 requirements of the harbor commission and this article, or any amendments thereof.

40
41 (g) *Relocation of existing permitted mooring.*

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

9
10 (2) Action on the relocation request will be taken by the harbormaster based
11 upon policies—written and fully available to the public—established by the harbor
12 commission, the availability of space, the requirements of this article, and the type and
13 size characteristics of the vessel. The harbor commission shall maintain a chronological
14 list of all applicants requesting a mooring relocation. The list shall be updated at least
15 twice a year and shall be available to the public at all times.

16
17 (3) Any request received by the harbormaster that is not complete shall be
18 returned to the applicant and no action will be taken on the matter until a completed
19 form is returned.

20
21 (h) *Occupancy; transfer.*

22
23 (1) Private mooring permits and permits for outhauls on Town owned property
24 outhaul permits on town property : occupancy. Private permit holders may not allow any
25 vessel other than that described in the application to use the mooring or outhaul
26 permitted for more than seven consecutive days; provided, however, that i) the
27 harbormaster may permit the temporary use of a mooring or outhaul by another vessel
28 upon the written request of the mooring permit holder and ii) the harbor commission, if it
29 deems the action appropriate, may waive the restriction more generally and for a longer
30 period. Private permit holders are prohibited from charging a fee for the temporary use
31 of their moorings or outhaul. The harbormaster shall have the authority to move or
32 cause to be moved any vessel violating the provisions of these regulations, at the
33 expense and risk of the vessel owner. The vessel and/or owner of the vessel granted
34 the temporary use of a mooring may only request the temporary use of a mooring for
35 one season. In subsequent years, the vessel and/or vessel owner may not be the
36 recipient of another temporary use exemption, except by order of the harbor
37 commission.

38
39 (2) Private mooring permits, permits for outhauls on Town owned property and
40 wait list position transfer: No private mooring holder permit, outhaul space assignment
41 or wait list position, shall be sold, assigned or transferred (unless it falls under Section

1 78-26(m), below) except on a one time only basis to an immediate family member-
2 limited to sibling, parent, spouse, children or grandchildren. The immediate family
3 member to whom the permit was transferred may, under no circumstances,
4 subsequently transfer the permit. Private mooring and outhaul permits: transfer. No
5 private mooring or outhaul space assignment shall be sold, assigned, or transferred by
6 a mooring or outhaul permit holder, except that on written notice to the harbor
7 commission a permit holder or a person on the waiting list may transfer a mooring or
8 outhaul permit (unless it falls under subsection 78-26(n), below) or a place on the
9 waiting list to a spouse, sibling, or child on a one time only basis. Any assigned mooring
10 or outhaul space given up by a permit holder reverts to the harbor commission for
11 assignment, by the harbormaster, to the next person on the relocation or waiting list
12 whose vessel fits the mooring or outhaul space, the appropriate mooring or outhaul
13 class involved, and the relevant shoreside requirements. In exceptional cases permit
14 holders may apply to the harbor commission for relief from this provision.

15
16 (3) Commercial mooring permits and outhaul permits permits for outhauls on
17 Town owned property may be leased or transferred to other businesses subject to
18 review and approval by the harbor commission. The standard for review shall be the
19 ability of the proposed transferee to comply with all the provisions of [subsection] 78-
20 26(f) as a commercial operator.

21
22 (i) *Fees.* The harbor commission shall annually recommend to the town council a
23 proposed schedule of fees as part of the annual operating and capital budget; and the
24 town council shall establish such rates not later than March 15 each year. The
25 commission may charge fees for all mooring permits; for dock, storage rack, outhaul,
26 and beach permits on town-owned property; for outhauls on riparian property, and for
27 waiting and relocation list applicants. Higher fees may be charged for nonresident and
28 commercial moorings and for other special situations. The commission may assess late
29 penalty fees provided these are indicated on, or enclosed with, the appropriate
30 application forms. For billing purposes the harbor clerk may establish informal
31 classification codes for moorings grouped by different levels of fee.

32
33 (j) *Marking.* The holder of a mooring permit shall mark the mooring buoy with the current
34 mooring number thereto in letters no less than three inches high. After 14 days' notice of
35 delinquency the harbormaster may fine the owner \$5.00 a day for any mooring not
36 properly marked.

37
38 (k) *Mooring specifications.*

39
40 (1) *Responsibility for moorings.* Although the town sets the following minimum
41 standards for moorings and mooring inspections for all moorings in the waters of the

1 town, owners of moorings shall be solely responsible for the safety and reliability of their
2 moorings. Heavier tackle and more frequent inspections than the required minimum are
3 strongly recommended in all cases. This is especially so where moorings are in
4 exposed locations or are holding vessels of greater than average displacement.
5

6 (2) *Anchors.* Mushroom anchors (in mud or soft sandy bottoms) or concrete or
7 granite blocks shall be used for moorings in the waters of the town, unless otherwise
8 authorized by the harbormaster or mandated by state or federal agencies. Authorization
9 must be in writing; and the harbor office will maintain records of any mooring anchor
10 deviations authorized in accordance with this provision.
11

12 The approximate shape of block anchors shall be square, both top and bottom,
13 with tapered sides (trapezoidal). The block shall not be allowed to become a hazard.
14 The link shall be of material not less than one inch in diameter and shall be securely
15 imbedded in the block. All shackles shall be one size heavier than the chain. All
16 shackles shall be load-rated, properly seized, and shall be forged (not cast).
17

18 (3) *Length and type of chain.* Total minimum length of chain (both bottom and
19 top) shall be determined as follows: Depth of water at mean high tide, plus five feet for
20 storm surge, times two. Normally, a minimum of 50 percent of the total length of chain
21 shall be heavy chain, with the remainder being light chain, as indicated in the table
22 below. (Where appropriate, a rode of nylon may be substituted for the light chain.) A
23 higher percentage of heavy chain is recommended in exposed areas of relatively
24 shallow depth. Use of greater scope is strongly recommended, especially in exposed
25 areas and where there is sufficient space for vessels to swing without endangering each
26 other. Excessive scope, as determined by the harbormaster, will not be allowed. A lower
27 percentage of heavy chain may be appropriate for moorings of greater scope.
28

29 (4) *Mooring float/buoy.* The mooring float carrying the weight of the mooring
30 chain (or chain and rode) must be of sufficient size and buoyancy so that at least 50
31 percent of it is visible above the surface of the water.
32

33 (5) *Pennants.* Pennant length shall be determined as follows: take the distance
34 from the chock to the waterline, multiply this distance by two and add the distance from
35 the bow chock to the bow cleat. The result is the minimum pennant length.
36

37 (6) *Chafeguards.* All pennant lines running through a chock or any other object
38 where chafing may occur shall have adequate chafeguards.
39

40 (7) Minimum tackle specifications for the waters of the town.
41

Boat Length (feet)	Mushroom anchor (pounds)	Block anchor (pounds)	Bottom Chain (inches)	Top		Pennant (inches)
				Chain or Rode (inches)		
Up to 16	150	500	½	3/8	5/8	½
<u>16</u> to 18	200	800	½	3/8	5/8	½
<u>19</u> to 21	250	1,500	5/8	3/8	5/8	½ × 2
<u>22</u> to 24	300	1,500	5/8	3/8	5/8	½ × 2
25 to 29	400	2,000	5/8	½	5/8	½ × 2
<u>30</u> to 34	500	2,000	5/8	½	¾	5/8 × 2
35 to 39	600	3,000 or 2 × 1,500	¾	½	¾	¾ × 2
40 to 49	800	4,000 or 2 × 2,000	¾	½	7/8	¾ × 2
<u>50</u> to 59	1,000	4,000 or 2 × 2,000	1	½	1	1¼ × 2

- 1
- 2 The above sizes are minimums. Use of at least one size larger for all components is
- 3 strongly recommended for greater safety. On written application, the harbormaster may
- 4 permit or require variances from these mooring tackle specifications in individual cases
- 5 and, more generally, in specific areas, if the stated specifications seem clearly
- 6 inappropriate for the area in which a mooring will be located.
- 7

1 (8) *Elastomeric mooring tackle.* The harbormaster is directed to encourage the
2 use of mooring tackle including elastomeric members in lieu of chain where appropriate
3 in view of the lesser scope required for such systems, with appropriate attention to be
4 paid to the requirement of corresponding anchors to be employed.

5
6 (l) *Mooring inspections.*

7
8 (1) *New moorings.* All new moorings in the waters of the town shall be inspected
9 and approved by the harbormaster or the harbormaster's designee prior to setting the
10 mooring.

11
12 (2) *Maintenance of existing moorings.* All permit holders shall be required to
13 maintain their moorings in safe condition. Any chain, shackle, swivel, or other tackle that
14 has become warped or has become worn by one-third its original diameter shall be
15 replaced. Failure to maintain a safe mooring shall be cause for revocation of the
16 mooring permit and shall be deemed a violation of this article. The harbormaster or the
17 harbormaster's designee may inspect any moorings at any time to determine
18 compliance with this section of the ordinance. Any mooring washed ashore or having
19 moved so as to endanger another vessel shall be inspected by the harbormaster or the
20 harbormaster's designee before it is reset.

21
22 (3) *Schedule of inspections.* All moorings shall be inspected by a qualified
23 mooring inspector on behalf of the applicant at least once every three years and the
24 results of such inspection certified by the inspector and reported to the harbor office by
25 15 June of the year of inspection. The inspection process is to be carried out using the
26 "Guidelines for Establishing a Verified Mooring Location" procedure approved by the
27 Jamestown Harbor Commission on February 8, 2005. This inspection shall determine
28 compliance with the minimum mooring and tackle standards of this article. Inspections
29 may be made either by raising the mooring or by underwater inspection. The harbor
30 clerk shall establish a schedule for each mooring and indicate it clearly on the mooring
31 application. The harbor clerk shall provide a form on which information pertaining to the
32 inspection shall be provided, and such form shall be submitted by the applicant together
33 with the application and fee. The information to be reported shall include the following:
34 water depth, size and type of mooring buoy, adequacy of length, diameter and number
35 of pennant(s), adequacy of chafe guard(s), type, size and number of anchor(s), length
36 and size of bottom and top chains or top rode, number and size of shackles, the location
37 of the anchor, and the general condition of the mooring. The location of the anchor is to
38 be reported in decimal degrees, e.g., 41.234567 N, 71.456789 W. The inspection report
39 shall be signed and dated by the inspector. Commercial operators may submit multiple
40 inspection reports in spreadsheet form, but they must include all information specified
41 above.

1
2 (4) *Compliance.* Any mooring or component of a mooring reported not in
3 compliance with this section of the ordinance shall be replaced by the owner within 30
4 days of such notice. Within 45 days after the noncompliance is reported a second
5 mooring inspection must be completed to determine if the violation has been corrected.
6 The results of this second mooring inspection shall be reported to the harbormaster.
7 Failure to correct the violation within that period shall cause the mooring to be deemed
8 unsafe and, as a violation of this article, shall be cause for revocation of the mooring
9 permit and removal of the mooring from the waters of the town at the risk and expense
10 of the mooring owner. When the harbormaster deems it necessary, for the safety of a
11 vessel or of vessels nearby, to remove a vessel immediately from a noncomplying
12 mooring, and the owner is unable or unwilling to do so, the harbormaster or the
13 harbormaster's designee may remove the vessel at the owner's risk.
14

15 (5) *Costs.* All costs of any mooring inspection, of any relocation of vessels as a
16 result of noncompliance, or of any repairs or replacements required under the
17 provisions of this article shall be the responsibility of the mooring owner.
18

19 (m) *Forfeiture of mooring space.* Any holder of a mooring or outhaul permit for a
20 mooring located in the coastal or harbor waters, or in a mooring area of the town shall
21 be subject to forfeiture of that permit or the right to renew the permit by reason of any
22 the following:
23

24 (1) Failure to comply with any of the requirements of this article.
25

26 (2) Failure to respond to the harbormaster's and/or harbor commission's notice
27 that i) the mooring does not comply with the mooring specifications herein set forth, or ii)
28 that the mooring has been displaced or moved from its permitted location.
29

30 (3) Failure to resurface, repair, or replace mooring tackle within 60 days after
31 being advised to do so by the harbormaster.
32

33 (4) Occupying a mooring or outhaul with the vessel permitted for that mooring for
34 a total of fewer than 20 days during the course of a calendar year. If the vessel occupies
35 the mooring or outhaul exclusively outside the period of the season it shall be the
36 responsibility of the mooring or outhaul holder to establish to the satisfaction of the
37 harbormaster or harbor commission that the mooring or outhaul has been occupied for
38 at least 20 days.
39

40 (5) Any holder of a mooring or outhaul permit for a mooring located in the coastal
41 or harbor waters of the town shall be fined \$100.00 per month for: a) failure to renew an

1 existing valid mooring or outhaul permit by June 15 of any year; b) failure to commission
2 a mooring or outhaul by July 1; c) failure to occupy the mooring or outhaul for a least 20
3 days during the year. If the holder takes no action to comply with these requirements,
4 the permit will be deemed forfeited on October 1 and will not be subsequently renewed.

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

8
9 No mooring or outhaul will be deemed forfeited until notice of the violation has been first
10 mailed to the holder of the permit by registered mail, return receipt requested and
11 regular first class mail. If an appeal is not made within 30 days of the receipt of the
12 notice, the harbormaster will issue an order requiring that the mooring or outhaul be
13 removed at the owner's expense. If the owner fails to remove the mooring or outhaul
14 within 30 days upon order of the harbormaster, the owner will be billed for the cost of
15 the mooring or outhaul removal. If a vessel is tied to the mooring or outhaul, the vessel
16 will be removed and stored at the owner's expense.

17
18 *(n) Implementation of changes in mooring space assignments.*

19
20 (1) All private mooring permits and applications permitted prior to initial adoption
21 of the Harbor Management Ordinance by the town council on June 17, 2004, shall be
22 reclassified according to the criteria established in subsection 78-26(c) (above).

23
24 (2) All regulations concerning mooring permits and applications shall be applied
25 on the basis of the above reclassification.

26
27 (3) All mooring permits disallowed under this article shall be deemed permitted
28 nonconforming moorings. Rights to such moorings and use in accordance with the
29 ordinance and town rules and regulations may continue by the present owner only
30 unless the mooring is surrendered or revoked.

31
32 *(o) Implementation of changes in mooring tackle requirements.*

33
34 (1) All new moorings shall meet the minimum standards.

35
36 (2) All moorings in place shall meet the new minimum standards on the regular
37 schedule of mooring inspections required by the harbor commission.

38
39 *(p) Outhauls.*

40

1 (1) *On town property.* Outhauls may be established on town property where
2 recommended as appropriate by the harbor commission and approved by the town
3 council. Outhauls in existence as of the adoption of this article shall be deemed
4 conforming. Permits for the use of outhauls shall be issued by the harbor office in
5 accordance with a waiting list. If an outhaul is not occupied for a minimum of 20 days
6 during the course of the year the permit shall be deemed forfeited and will not be
7 renewed. No outhaul will be deemed forfeited until notice of the violation has been first
8 mailed to the holder of the permit by registered mail, return receipt requested and
9 regular first class mail. If an appeal is not made within 30 days of the receipt of the
10 notice, any vessel secured thereto will be removed and stored at the owner's expense.

11
12 (2) *On private property.* Up to two outhauls may be installed per riparian property.
13 Outhauls on private property may not exist in conjunction with a residential boating
14 facility on the same property. CRMC reserves the right to revoke any outhaul permit
15 that is not issued according to RICRMP. Outhauls shall be grandfathered in their
16 current location upon annual harbormaster documentation that such outhauls have
17 been in continuous use at such location since 2004, and, the contiguous property
18 owner(s) agree in writing to such, however, such "grandfathering" is extinguished
19 whenever a recreational boating facility is approved at the location.

20
21 (3) *In general.* The harbormaster shall have the power to direct that outhauls
22 deemed inadequate or unsafe be repaired or replaced. Placement of anchors for
23 outhauls is subject to approval by the harbormaster. The outhaul cabling system for all
24 riparian outhauls shall be removed between November 15 and April 15.

25
26 (q) *Miscellaneous.* Water-borne structures and anchors not specifically addressed
27 herein, such as but not limited to anchors for breast lines, are subject to approval of the
28 harbormaster.

29
30 **Sec. 78-27. Regulated activities.**

31 (a) *General.* The purpose of this section is to regulate the speed, management, and
32 control of vessels and the use of all anchorages, moorings, and town-owned waterfront
33 facilities within the jurisdiction of the Town of Jamestown as stated in section 78-23 and
34 as authorized by G.L. 1956, 46-4-6.9.

35
36 (b) *Management and control of vessels.*

37
38 (1) *Vessel operation.* Every person operating a vessel within the waters of the
39 town shall navigate in a careful and prudent manner, so as not to endanger the life,
40 limb, or property of another and not to interfere with or damage other vessels or
41 property.

1
2 (2) *Failure to stop.* It shall be a violation of this article for any person to refuse to
3 move, slow to headway speed, or stop when directed by the harbormaster or any other
4 duly authorized enforcement officer.
5

6 (3) *Prohibited areas.* No person shall operate or cause to be operated a vessel
7 within any area marked prohibited on the harbor map, except as otherwise provided for
8 in the article.
9

10 (c) *Vessel speed and operation.*
11

12 (1) Operators of vessels within the coastal and harbor waters of the Town of
13 Jamestown shall comply with all state and local laws and regulations on vessel speeds
14 and wakes that establish a maximum speed for vessels of five miles per hour, no wake
15 (G.L. 1956, 46-22-9) in the mooring zones of harbor waters.
16

17 (2) Vessel operation, mooring, or anchorage within 200 feet of the shore where
18 marked on the harbor map or by buoys is prohibited, except when a vessel is directly
19 approaching or leaving the shore, a town-approved launching ramp, or beach storage
20 area for dinghies when the sole purpose is to begin or end such activity.
21

22 (3) In all designated channels, fairways, and mooring zones of harbor waters,
23 paragliding, parasailing, windsurfing, water skiing, jet skiing, tubing, knee boarding, and
24 similar activities are limited to a five miles per hour maximum speed. In coastal waters
25 and in the transient and conservation zones of harbor waters, the named activities are
26 prohibited within 200 feet of the shore and within 100 feet of any vessels moored or
27 anchored. Any person who violates these regulations, inclusive of G.L. 1956, 46-27-2,
28 shall be subject to penalties under this article.
29

30 (4) Seaplanes and other airborne watercraft are prohibited from surface
31 operation within mooring zones or within 200 feet of the shore; they are prohibited from
32 taking off or landing in the waters under town jurisdiction as stated in section 78-24 of
33 this article.
34

35 (5) No vessel shall be moored or anchored so as to interfere with the free and
36 unobstructed use of channels, fairways, or berthing spaces within the areas under town
37 jurisdiction as defined in section 78-24 of this article.
38

39 (6) Where significant shallow water habitat is identified, boating activities shall
40 be restricted as necessary to decrease turbidity and physical destruction of such
41 habitat.

1
2 (d) *Prohibited discharges.*

3
4 (1) *Discharge of refuse.* The discharge of any waste, refuse, garbage, plastic,
5 chemicals, petroleum products or by-products, paint, varnish, dead animals, or any
6 other debris or litter into the waters of the town is prohibited under this article. The town
7 adopts G.L. 1956, 46-12-39 as part of its ordinance. Any person who violates this
8 provision shall be subject to penalties provided by G.L. 1956, 46-12-40.

9
10 (2) *Discharge of sewage.* No person shall cause or permit to pass or to be
11 discharged into the waters of the town any untreated sewage or other waste matter or
12 contaminant of any kind. The town shall monitor and report annually to the department
13 of environmental management on the effectiveness of its pumpout operations.

14
15 (e) *Other activities.*

16
17 (1) *Swimming, diving and fishing.* Swimming, diving, or fishing off town-owned
18 piers, floating docks, wharfs, and jetties is prohibited unless otherwise authorized and
19 posted by the town council. Water skiing is prohibited in harbor waters and in mooring
20 areas. Swimming and diving are prohibited in mooring areas and mooring zones more
21 than 150 feet from shore from sunset to sunrise or in periods of impaired visibility,
22 except in the immediate vicinity of a moored or anchored vessel, when accompanied by
23 an escort vessel, as part of a sanctioned swimming event, or as necessary to perform
24 service or maintenance to a vessel or mooring.

25
26 (2) *Property damage.* It shall be unlawful to destroy, damage, disturb or interfere
27 with, willfully or carelessly, any public or private property in the waters or waterfront
28 areas of Jamestown.

29
30 (3) *Litter.* Littering is prohibited on town property. Any person who violates this
31 law shall be subject to penalties under this article as provided for by local and state law.

32
33 (f) *Abandoned vessels and structures.* When, in the opinion of the harbormaster, a
34 vessel or structure has been abandoned in the waters of the town, the harbormaster
35 may take custody and control of such vessel and remove it, store it, or otherwise
36 dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of
37 such disposal shall be publicly given. The harbormaster shall assume all of the duties
38 and powers of the commissioner of wrecks and shipwrecked goods as delineated in the
39 G.L. 1956, 46-10-1 to [46-10-]13.

1 (g) *Anchoring.* Vessels shall not anchor or raft in a location that interferes with a moored
2 vessel. The harbormaster may direct a vessel to move or relocate.

3
4 (1) Overnight anchoring is permitted in all town waters, except conservation
5 zones, on a space available basis. The crew may go ashore, but shall not leave the
6 area. They shall be available to tend to the vessel in the event of heavy weather. It shall
7 be the anchored vessel's responsibility to remain clear of all moored vessels. No vessel
8 shall be anchored more than three days without the permission of the harbormaster. No
9 anchoring of any kind is permitted in Conservation Zones.

10
11 (2) Rafting. Vessels are permitted to raft on a mooring or at anchor provided that
12 the rafted vessels do not endanger any other moored or anchored vessels and that they
13 do not intrude into any channel or thoroughfare. Each rafted vessel must be manned at
14 all times. Rafting is not permitted when Coast Guard small craft advisories or other
15 severe weather warnings are in effect; rafted vessels must separate when these
16 conditions are announced or at the request of the harbormaster.

17
18 (h) *Use of vessels as abodes.* In accordance with the Rhode Island Coastal Resources
19 Management Program, Section 300.5, houseboats or floating businesses, as defined
20 therein, are prohibited from mooring or anchoring unless within the boundaries of a
21 marina. Houseboats or floating businesses shall tie into fixed marina pumpout facilities.
22 Applicants for floating businesses shall fulfill the additional Category "B" requirements of
23 Section 300.5. Applicants for either houseboats or floating businesses shall meet all the
24 pertinent standards given in "Recreational Boating Facilities" (Section 300.4) under
25 standards for residential docks, piers, and floats.

26
27 (i) *Penalties; fines.* Pursuant to this article and the powers granted in the enabling
28 legislation, G.L. 1956, 46-4-6.9 and the general laws of the State of Rhode Island, a
29 person who violates any law as stated therein shall be subject to penalties and fines as
30 set forth in the attached appendix B, unless otherwise established by the General Laws
31 of the State of Rhode Island. Each day a violation continues shall be deemed a
32 separate offense subject to an additional penalty. The district court of the State of
33 Rhode Island, or such other courts as are designated in the summons, shall have
34 jurisdiction for the enforcement of regulated activities.

35
36 (j) *Informal procedure for the payment of boating fines.*

37
38 (1) *Payment without personal appearance.* The harbormaster or any other duly
39 authorized enforcement officer who charges any person with an offense under this
40 article, in addition to issuing a summons for the offense, may provide the offender with a
41 form that shall allow the offender to dispose of the charge without the necessity of

1 appearing before the district court; provided that any offender who has been guilty of a
2 third or subsequent violation within 12 months of the first offense must appear before
3 the court on the date specified on the summons, and may not dispose of the third or
4 subsequent offense administratively.

5
6 (2) *Method of payment.* An offender electing to dispose of the charge without
7 personally appearing before the district, or other, court shall execute the form indicated
8 and return it to the Jamestown police station not later than 14 days from the date of the
9 summons either by mailing or delivering the form and summons accompanied by a
10 check or money order in the amount indicated by the schedule of fines on the form. The
11 fine shall be doubled if not paid within 14 days and tripled if not paid within thirty (30) 24
12 days.

13
14 (3) *Failure to answer.* An individual who fails to answer within thirty (30) 24 days
15 shall have waived the right to dispose of the summons without personal appearance
16 and must appear before the district court on the date specified on the summons.

17
18 (k) *Enforcement.* The primary responsibility for enforcement of regulated activities,
19 including ~~detention, arrest, and the~~ issuance of summonses for violations is delegated
20 to the harbormaster and the Jamestown Police Department. Police officers and the
21 harbormaster of the Town of Jamestown shall have the power and authority to enforce
22 the rules and regulations of this article and of the General Laws of the State of Rhode
23 Island.

24
25 **Sec. 78-28. Harbor commission.**

26
27 (a) *Authority, powers, and duties.* The harbor commission shall be the local advisory
28 and regulatory body authorized by the town council to manage the coastal waters and
29 harbor areas of the town through the implementation of the comprehensive harbor
30 management plan and subsequent ordinances. The harbor commission shall enforce
31 the provisions and ordinances of the harbor management plan as well as adopt
32 additional policies, rules, and regulations for the implementation of the harbor
33 management plan and such ordinances, subject to the approval of the town council and
34 the Rhode Island Coastal Resources Management Council.

35
36 The harbor commission shall adopt rules of procedure and operation for its meetings
37 and, among its powers and duties, is authorized to:

38
39 (1) Recommend to the town council the adoption of rules, regulations, fees,
40 penalties and other amendments to the comprehensive harbor management plan and

1 its subsequent ordinances that may be necessary to fulfill the goals and objectives of
2 that plan and meet the requirements of its ordinances.

3 (2) Recommend additional authorities and duties for the harbor staff, herein
4 detailed, with the approval of the executive director and the town council.
5

6 (3) Assist in the preparation of the annual budgets in accordance with the
7 provisions of the town and this article to expend monies in the harbor funds.
8

9 (4) Sit as a board of appeals to hear any person aggrieved by any decision, act,
10 or failure to act of the executive director or harbor staff in the enforcement and
11 implementation of this article, with the exception of section 78-27 of this article
12 ("regulated activities").
13

14 (5) Review and revise as necessary the comprehensive harbor management
15 plan and its subsequent ordinances for the town council and the Rhode Island Coastal
16 Resources Management Council approval. The comprehensive harbor management
17 plan shall be reviewed and revised at least once every five years.
18

19 (6) Prepare the Harbor Commission's Asset Inventory List (Approved by the
20 Commission on 02.12. 2014 and the Town Council on 04.07.2014). Monitor the
21 condition of town-owned waterfront facilities generally and develop with the town
22 engineer an annual and five year capital maintenance, replacement and improvement
23 plan. The plans will include maintenance, repair, and improvement of town-owned
24 waterfront structures, such as docks, bulkheads, and boat ramps. No budget will be
25 approved without the capital improvement plan.
26

27 (b) *Composition.* The harbor commission shall consist of seven qualified electors and
28 residents of the town, appointed by the town council, chosen from a list of interested
29 parties maintained by the town administrator, after duly advertising the availability of
30 these positions. To achieve diversity, preference ~~shall~~ may be given to representatives
31 of each of the following groups:
32

33 (1) The nonriparian recreational boating community; (two persons)

34 ~~(2) The nonriparian recreational boating community;~~

35 ~~(3) (2) Riparian property residents (harbor waters);~~

36 ~~(4) (3) Riparian property residents (coastal waters);~~

37 ~~(5) (4) The commercial fishing industry;~~

38 ~~(6) (5) The commercial mooring operators;~~

39 ~~(7) (6) A nonboating resident.~~
40

1 The commission shall have, among its members, representatives of both East
2 and West Harbors.

3
4 *Ex-officio member:* The executive director shall be an ex-officio, nonvoting
5 member of the commission, and shall not count as part of the quorum.

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

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

14
15 (d) *Organization.* A chair and vice-chair of the commission shall be chosen annually
16 from the membership by vote of the commission. The chair shall be responsible for
17 calling and conducting all meetings of the commission. In the absence of the chair, the
18 vice-chair shall assume those responsibilities. A quorum shall be defined as four voting
19 members.

20
21 (e) *Finances; budget.* The executive director and the commission, in collaboration with
22 the town administrator, shall be responsible for the preparation of the annual harbor
23 operating and capital facilities budgets to be submitted to the town council for approval.
24 All revenues from harbor operations, including but not limited to mooring, beach permits
25 and outhaul fees and harbor management fines and penalties, shall be held in a harbor
26 enterprise fund maintained by the town finance department. The harbor enterprise fund
27 shall be maintained exclusively for the management and development of harbor
28 programs and maintenance and expansion of capital infrastructure. Nonbudgetary
29 expenditures from the harbor management account, including additional staff support,
30 must be authorized by the executive director with agreement of the commission and
31 must be approved by the town administrator and the town council. Annual lease
32 revenue from the properties at East Ferry, West Ferry, and Fort Wetherill shall be held
33 in a separate capital improvement fund and may be used to fund any waterfront
34 facilities, structures and assets owned by the Town, but not necessarily limited to those
35 listed in the Harbor Commission Asset Inventory List. At the end of the fiscal year,
36 unexpended harbor operating and capital budget appropriations shall be placed in a
37 harbor and waterfront capital reserve account. The executive director and the
38 commission, in collaboration with the town administrator, shall be responsible for the
39 preparation of the annual harbor/waterfront capital facilities budget to be submitted to
40 the town council for approval.

1
2 (f) *Compensation*. Commission members shall serve without pay, but may be
3 compensated for expenses incurred in the performance of their duties.
4

5 **Sec. 78-29. Administration.**

6 (a) *Executive director*. An executive director may be appointed by the town council to
7 supervise the harbor staff and to administer the provisions of this article and any
8 additional regulations subsequently required for the implementation of the article.
9

10 (b) *Harbor administrative staff*. The harbor administrative staff shall consist of a
11 harbormaster, a harbor clerk, and additional personnel as needed who are hired on
12 approval of the town council by the town administrator.
13

14 The responsibilities of the harbor staff under the supervision of the executive director
15 include the following:
16

17 (1) Administering and enforcing the provisions of the harbor management plan
18 and its ordinances;
19

20 (2) Processing applications for the issuance of mooring permits and assigning
21 placements of moorings in accordance with this article;
22

23 (3) Keeping proper records of all mooring application information, including the
24 locations of moorings, mooring owners and vessel usage of moorings, types of vessels
25 using moorings, etc;
26

27 (4) Preparing, keeping current, and making available a waiting list for mooring
28 permits in accordance with the provisions of this article when the demand for available
29 mooring permits is greater than the number of available mooring locations in any given
30 year, and maintaining a waiting list with respect to outhauls on town property;
31

32 (5) Keeping current and making available waiting lists for dinghy dock space and
33 outhauls on town property operated by commercial operators;
34

35 (6) Inspecting moorings and outhauls in accordance with the provisions of
36 section 78-26 of this article;
37

38 (7) Monitoring moorings and outhauls in accordance with the provisions of
39 subsections 78-26(h), (m), and (p) of this article.
40

1 (8) Carrying out all other powers and duties authorized to the harbormaster under
2 various state and federal marine laws, including but not limited to marine sanitation
3 device (MSD) inspection and discharge responsibilities afforded through the U.S. Coast
4 Guard, MARPOL Annex V, Section 312 of the Clean Water Act, G.L. 1956, tit.[ch.] 46-
5 22, and future laws yet to be enacted.

6
7 (9) Any other duties specified by the harbor commission or executive director.

8
9 (c) *Conflicts of interest.* All members of the harbor administrative staff shall adhere to
10 the requirements of the Rhode Island Code of Ethics, set forth at G.L. 1956, tit. 36, ch.
11 14, as amended, and all regulations promulgated by the Rhode Island Ethics
12 Commission.

13
14 **Sec. 78-30. Appeals.**

15 In matters other than violations of section 78-27, the harbor commission shall sit
16 as the board of appeals to hear any person aggrieved by a decision of the executive
17 director or the harbormaster. The aggrieved party shall file a written appeal with the
18 harbor clerk within 30 days following the notice of the decision. Upon receipt of the
19 appeal, the harbor clerk shall schedule a hearing at the next regularly scheduled
20 commission meeting, with written notice given to the appellant of not less than 14 days.

21 The harbor commission may hear an appeal filed out of time provided the
22 appellant demonstrates:

23 1) The matter from which the appeal is taken occurred within the past 180 days;
24 and

25
26 2) For just reasons, failure to timely file the appeal was due to mistake,
27 inadvertence, excusable neglect; or

28
29 3) Would result in a substantial injustice to the appellant rights as provided for
30 under this article.

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

36 **Sec. 78-31. Liability.**

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

4 **Sec. 78-32. Severability.**

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

8 **Sec. 78-33. Effective date.**

9 This chapter shall take effect upon its passage by the town council with respect
10 to provisions that do not require approval of the coastal resource management
11 commission.