

## Chapter 24

### HARBORS\*

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\* **Cross References:** Use of waterways by model power boats, § 40-23; police officers' duty to assist harbormasters, § 52-3.  
**State Law References:** Authority of city with regard to harbormasters, G.L. 1956, § 46-4-2; duty of harbormasters to give notice of obstructions, G.L. 1956, § 46-6-15; authority of waterfront development and park commission to regulate anchorages and moorings in public waters, and authority of harbormaster in pursuance thereof, P.L. 1965, ch. 219.

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#### **Sec. 24-1. Purpose and applicability.**

(a) *Purpose.* The regulations set forth in this chapter are made in accordance with the city harbor management plan for the purpose of promoting the public health, safety and general welfare of the citizens of the city and the general public at large that uses the city's waterfront. These regulations are designed to implement the harbor management plan, to provide for the safe harbor and use of boats, and to provide for the proper disposal of waste. These regulations are made with reasonable consideration given to the fragile nature of the city's waterfront and with a view to conserving the waterfront while permitting its use and enjoyment.

(b) *Applicability.* The provisions of this chapter, and any rules and regulations adopted pursuant thereto, shall be applicable to and shall govern the use of harbor lands, waters, facilities and activities under the jurisdiction of the city. This chapter shall be subordinate to all existing federal and state statutes and regulations and is not intended to preempt or conflict with any other valid laws.

(c) *Scope.* It is not the intent of this chapter to have the city supersede the powers and duties of the state coastal resources management council or the state department of environmental management. This chapter only sets forth rules and regulations for the use of the waters of the city and the issuance of mooring permits. (Code 1971, § 9-1)

#### **Sec. 24-2. Policy.**

It shall be the policy of the city that:

- (1) The public has the right to use the city's waters and that the city has the right to regulate the waters' use;

- (2) The right of access to the shoreline shall be open and available to all on equal terms;
- (3) Riparian landowners shall be given due consideration in the establishment of new moorings, docks or slip placements;
- (4) Moorings in the city's waters require a permit issued by the city;
- (5) Moorings shall be distributed on a fair and equal basis in federally maintained mooring areas. Priority shall be given to residents in non-federally maintained mooring areas;
- (6) In order to achieve an equitable balance between private and public use of the water resource within type 3 waters, the city promotes a balance of private and public access. The city recognizes the role of marinas as providing public access through private enterprise while reserving for public use federally maintained anchorages;
- (7) Moorings shall not be sold or transferred by an individual;
- (8) Pleasure boating and commercial fishing are a valuable resource for the city;
- (9) The maintenance or upgrading of present water quality designations is essential for the continuation of the commercial fishing and pleasure boating industries;
- (10) Every effort will be made to maintain or upgrade the present water quality designations assigned by the state;
- (11) No discharge of sanitary waste into the waters of the city shall be permitted;
- (12) The use of the water shall be balanced so that its environmental quality is protected;
- (13) The enjoyment of the waters of the city through all types of recreational activity is encouraged;
- (14) The various recreational activities shall be managed by the department of parks and recreation so as to minimize their impact on each other;
- (15) A balance between the demands of the fishing industry and the boating industry must be developed;
- (16) Commercial fishing and shellfishing is a valuable component of the city economy and must be protected and encouraged to grow; and
- (17) Activities of mutual concern will be coordinated with the towns of North Kingstown and East Greenwich and the City of Cranston.

(Code 1971, § 9-2; Ord. No. O-99-17, § I, 4-12-99)

**Sec. 24-3. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings designated in this section. The word "used" includes "designed, intended or arranged to be used."

*Abode* means the principal, nonwater-dependent use of a structure or vessel as a dwelling or home.

*Anchoring* means 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.

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

*Commercial mooring* means the rental, lease, management, maintenance and/or operation of a mooring for an amount in excess of or in addition to the municipal mooring permit fee or for purposes other than private use.

*Commission* means the harbor management commission.

*Department* means the department of parks and recreation.

*Director* means the director of parks and recreation.

*Fairway* means any locally designated and/or maintained water areas reserved for unobstructed movement of vessels.

*Harbor management commission* means the commission established or designated in accordance with this chapter to carry out responsibilities associated with the development, oversight and administration of municipal harbor programs.

*Harbormaster* means an official appointed in accordance with this chapter to carry out the provisions of this chapter. There shall be a chief harbormaster who is responsible for the supervision and direction of all other harbormasters.

*Houseboat* and *floating home* mean a building constructed on a raft, barge or hull that is used primarily for single-family habitation. Houseboats may only be anchored in a permitted marina. Discharge of sanitary waste from houseboats into the waters of the city is prohibited.

*Immediate family* means husband, wife, father, mother, son, daughter, brother, sister, grandparent, grandchild or stepchild, except in federally maintained mooring areas where immediate family means spouse only.

*Moor* means to permanently secure a vessel to the bottom of a water body by the use of mooring tackle.

*Mooring* means a place where buoyant vessels are secured to the bottom of a water body by mooring tackle in accordance with this chapter and which has received a permit from the municipality.

*Mooring area* means any area designated in the harbor management plan for the location of moorings,

except Mooring Area Number Two in Warwick Cove, which is 75 feet to the north of its location as established by the 1989 plan.

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

*Private mooring* means any mooring registered to an individual and used exclusively for his/her recreational purposes.

*Resident* means any person whose legal residence or place of principal operation is the city.

*Transient anchorage* means any area reserved and designated on the 1989 harbor management plan, as amended from time to time, for the exclusive shortterm use of commercial and recreational vessels and any vessels seeking emergency shelter.

*Transient mooring (commercial)* means a mooring reserved and designated by a commercial mooring operator for shortterm use by a person who does not typically lease from the commercial mooring operator.

*Vessel* means every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water. Specifically excluded by this definition are floating homes or houseboats.

*Wake* means a wave generated by a vessel.

(Code 1971, § 9-3; Ord. No. O-96-27, § I, 11-12-96; Ord. No. O-99-17, § I, 4-12-99; Ord. No. O-99-48, § I, 9-27-99)

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 24-4. Area of jurisdiction.**

(a) All waterfront areas, as detailed in the Harbor Management Plan, shall fall under the jurisdiction of the city and shall be governed by this chapter and any rules and regulations adopted by the city. More specifically, it is that area of the waters of the city encompassed by the following description: beginning at the line between the City of Warwick and the Town of North Kingstown at a point on Forge Bridge; thence proceeding down the centerline of the Potowomut River to a location halfway between Marsh Point and Pojac Point; from this point easterly to Round Rock Buoy "1"; then northeasterly to R "8" bell; thence northerly to the G "19" buoy on the channel to Providence; then along the southwesterly edge of the channel known as the Conimicut Point Reach to buoy "23"; then along the westerly edge of the channel know as the Bullock Point Reach to buoy "33"; then westerly to buoy RN "2" at the beginning of the channel to Pawtuxet Cove; then westerly to buoy N "6," N "8" and then to RN "10"; then running northerly and westerly through the center of the channel and the Pawtuxet River to the bridge on Route 1A.

(b) Excluded from the waters of the city is that portion of Greenwich Cove south and west of the municipal boundary line established by the P.L. 1986, ch. 354, that is located in the Town of East Greenwich. (Code 1971, § 9-4; Ord. No. O-96-27, § I, 11-12-96; Ord. No. O-99-17, § I, 4-12-99)

#### **Sec. 24-5. Administration and enforcement; harbor management commission.**

The city may regulate uses and activities within the tidal waters of the state that are within the corporate boundaries of the city consistent with the authorities granted the city by G.L. 1956, § 46-4-1 et seq., to minimize user conflicts and to maximize the efficient use of both the water space and the city-owned waterfront. In order to regulate the uses and activities within the city's tidal waters, enforcement of the provisions of this chapter shall be completed as follows:

- (1) *Department of parks and recreation.* The department of parks and recreation shall be the local regulatory body for the waters of the city. The department shall enforce this chapter promulgated by the city council and may adopt any rules and regulations, subject to CRMC approval, for the implementation of this chapter and perform all acts necessary and consistent with the purpose of this chapter. The department shall operate the harbor management fund in accordance with this chapter. In addition to the duties and responsibilities delegated to the department by this chapter, the department is hereby authorized and empowered to develop, operate and administer parks and shoreline recreational facilities, waterfront business facilities, harbors and coves; to carry on a general beach and bathhouse business; to purchase, construct, maintain and operate or lease thereon buildings, wharves, piers, walks, parking facilities and swimming pools; to furnish business buildings and accommodations on or near the waterfront for lease or hire; to furnish bathing accommodations and facilities to the public and to make reasonable rules and regulations for the use of same; and to charge suitable fees and/or rents therefor, as may be adopted from time to time by the city council.
- (2) *Harbormasters.*
  - a. *Chief harbormaster.* There shall be a chief harbormaster for the city, who shall be appointed by the mayor and who shall serve at the pleasure of the mayor. The chief harbormaster shall report to the director of parks and recreation and shall have the power and duties delegated to him/her by the director.
  - b. *Assistant chief harbormaster:* There shall be an assistant chief harbormaster who will act in the chief harbormaster's stead. The assistant chief harbormaster will act at the discretion of the chief harbormaster and the director of parks and recreation, and will fulfill the duties of the chief harbormaster in his/her absence.
  - c. *Other harbormasters:* There shall be a harbormaster for each cove or harbor within the city and other harbormasters as needed, who shall be appointed by the mayor and who shall serve at the pleasure of the mayor. The harbormaster(s) shall work for the chief harbormaster and shall have the power and duties delegated to them by the director.
  - d. *Compensation:* The chief harbormaster and the harbormaster(s) shall receive an annual stipend and shall be compensated for expenses incurred in the performance of their duties. All compensation shall be included in the department's budget, and acted upon by the city council.
- (3) *Harbor management commission.* There is hereby created a harbor management commission, which shall consist of seven members. The commission shall consist of one representative from each of the following groups: the recreational boating community, the commercial fishing

industry, the commercial mooring operators and the environmental community. In addition, there shall be on the commission three citizens at large who are not affiliated with any of the above groups.

- a. *Term of office.* Members shall be appointed by the mayor for five-year terms.
- b. *Vacancies.* All members shall serve until their successors are duly appointed. If a vacancy occurs, the mayor shall appoint a member to fill the remainder of the unexpired term.
- c. *Chairperson.* The chairperson, vice-chairperson and secretary shall be elected by the members of the commission. Meetings shall be called by the director or at the request of three members of the commission. The chairperson shall conduct the meetings of the commission. In the absence of the chairperson, the vice-chairperson shall assume those responsibilities. The secretary shall keep minutes of all meetings.
- d. *Powers and duties.* The commission shall be the primary advisory group for the management of the waters of the city. The commission shall adopt rules of procedure and operation for its meetings and is authorized to:
  1. Recommend to the department of parks and recreation for adoption rules, fees and penalties for activities which may be necessary to fulfill the goals of the city harbor management plan and the requirements of this chapter;
  2. Assist in preparing an annual budget and capital improvement program in cooperation with the department and in accordance with the provisions of the city to expend monies in the harbor management fund;
  3. Sit as a board of appeals to hear any person aggrieved by any decision, act or failure to act by the department of parks and recreation or the chief harbormaster in the enforcement of this chapter and any rules and regulations adopted by the city pursuant to this chapter; and
  4. Review and revise as necessary the harbor management plan for city council and CRMC approval. The plan shall be reviewed and revised at least once every five years.
- e. *Ex officio members.* There may be one nonvoting ex officio member from the Cranston, East Greenwich and North Kingstown harbor commissions on the Warwick commission, enabling the commission to coordinate issues of mutual concern.
- f. *Compensation of members.* Commission members may be compensated for their time and for expenses incurred in the performance of their duties.

(Code 1971, § 9-5; Ord. No. O-94-27, § I, 11-14-94; Ord. No. O-99-17, § I, 4-12-99)

**Cross References:** Boards and commissions, ch. 6.

## **Sec. 24-6. Regulated activities.**

(a) *Moorings.* The size, type, location and use of all anchorages and moorings within and on the public water within the city are hereby regulated. A permit from the department of parks and recreation is required for all moorings within and on the public waters within the city except those installed by the city. No permit for a mooring shall be issued unless the mooring shall conform to the requirements of this chapter and the mooring is set in the place assigned by the department. The department of parks and recreation shall determine whether the applicant has complied with the requirements of this section.

(1) *Mooring standards.*

a. General standards.

1. All moorings installed after the effective date of this chapter and any existing mooring that must be replaced for any reason shall conform to the requirements of the following table:

**MOORING SIZES BASED ON 20-FOOT WATER DEPTH**

	Registered Boat Length (feet)	Mushroom Anchor Size (pounds)	Heavy Chain Size (inches)	Light Chain Size (inches)	Pennant Size (inches)	(Nylon) Length to Eye
	Up to 20	150	5/8	3/8	5/8	
	21 to 25	200	3/4	3/8	3/4	
	26 to 30	250	3/4	7/16	3/4	3 times
	31 to 35	350	3/4	1/2	7/8	bow height
	36 to 40	500	3/4	1/2	1	above water
	41 to 45	800	1	5/8	11/4	

2. Any boat with a registered length over 45 feet shall comply with the standards set when the permit is issued.
  3. The total scope of the chain shall be 2 1/2 times the depth of the water at high tide. The heavy chain shall be 1 1/2 times the water depth.
  4. As a minimum, commercial moorings shall be capable of handling a registered boat length of 25 feet.
- b. All transient rental moorings shall consist of a 500-pound mushroom anchor and one-inch heavy chain and one-half-inch light chain. The weight of the anchor shall be clearly painted on the mooring ball. All commercial moorings shall have specially designated mooring buoys.
- c. The maximum length of the pennant shall be 2 1/2 times the distance from the bow chock to the water plus the distance from the bow chock to the mooring cleat or post.
- d. All pennant lines running through a chock or any other object where chafing may occur shall have adequate chafe guards. A second pennant shall be fastened to moorings made

of cable or chain and used in case of heavy weather. All pennant lines shall be the responsibility of the boat owner.

- e. All shackles, swivels and other hardware used in the mooring hookup shall be proportional in size to the chain used.
  - f. All shackles shall be properly seized.
  - g. It is recommended that the pennant be spliced or shackled into the bitter end of the top chain below the buoy so the strain is not carried by the buoy.
  - h. The department may approve installation of other types of moorings if they are deemed equivalent to these standards.
  - i. The chief harbormaster shall have full authority and discretion to specify one-inch size heavy chain for moorings in locations deemed by him to be in nonsheltered waters under his jurisdiction.
- (2) *Numbering and description of moorings.* Each mooring shall be issued a registration number. The mooring buoy or float must be white and legibly marked in black block letters at least four inches in height with its assigned number.
- a. Each mooring shall have a city of Warwick "registration sticker" attached to the mooring ball by May 15. Said sticker shall be issued by the harbormaster's office to mooring holders that have filed an application, are current in their inspections, and have paid the necessary fees.
  - b. Any mooring ball that does not have the registration sticker attached by May 15 shall be deemed an illegal mooring and subject to removal by the harbormaster and/or his agents at the owner's expense as outlined in the ordinance.
- (3) *Winter mooring spars.* Winter mooring spars shall be readily visible in a vertical position above the water at all times and shall be removed not later than June 1 of the next succeeding year. Winter spars shall not be set until, on, or after October 1 of each calendar year.
- (4) *Occupation of mooring areas.* No vessel shall occupy a mooring other than the one for which it is registered. The chief harbormaster shall have authority to move any vessel violating the provisions of this chapter, and such movement shall be at the owner's expense and risk. At no time shall any vessel be tied to a mooring inconsistent with the mooring tackle standards attached hereto.
- (5) *Illegal moorings.* Any mooring located on or maintained in the public waters within the city which does not have a valid permit and/or valid "registration sticker" or does not comply with the provisions of this chapter shall be deemed an illegal mooring and shall be removed at the owner's expense.

- a. *Notice to remove; removal by city.* The director or his/her agents shall cause illegal moorings to be removed by notifying, in writing, and by certified mail, the person who has built, deposited, owns, maintains or uses the illegal mooring to remove such mooring within 30 days. If the illegal mooring is not removed within 30 days of the notice, or if no such person is known to the director upon whom notice can be served, the director may remove the illegal mooring, or cause the same to be done, in such manner and to such place as the director shall deem best.
- b. *Liability for payment of costs.* The owner (or such other person) of the illegal mooring removed by the director, harbor master or his staff, or his agent, in accordance with this chapter, shall be liable to pay the cost and expense of such removal and storage, or to repay the same when paid out by the city. This expense may be recovered by the city solicitor against such persons.

Upon mooring removal, the city and/or its agents shall hold said mooring for 30 days for the owner to reclaim it. If the owner does reclaim the tackle, the city and/or its agents shall be compensated for the removal of the illegal mooring. If the owner does not reclaim it in the 30 days, the city and/or its agents may sell unclaimed tackle. The money received shall go to the city and/or its agents for costs incurred in the removal and storage of said tackle.

- (6) *Guest anchorage.* A boat may anchor on its own anchor up to 48 hours in the public waters of the city. Written consent of the chief harbor master is necessary for extended visits of more than 48 hours. No vessel will be allowed to anchor in the city waters utilizing his/her own ground tackle and be left unattended. The owner or operator and party may go ashore, but shall not leave the area. They shall be available to tend to the vessel in the event of heavy weather. When anchoring in a combination mooring and anchoring area, it shall be the anchored vessel's responsibility to remain clear of all moored vessels, including a change of wind or tide situation.
  - (7) *Emergency anchorages.* Within close proximity to all fueling stations within the coves of the city, there shall be an emergency mooring. This mooring shall be supplied and maintained by the proprietor of said fueling station. The mooring shall meet the requirements of transient rental moorings and shall consist of an 18-inch white cylindrical float with red lettering to read "Emergency Use Only." The exact location of such emergency mooring shall be determined and approved by the chief harbor master. It shall be a violation of this chapter for anyone to use such emergency moorings other than in a genuine emergency situation.
  - (8) *Mooring setback.* All moorings shall be set back a minimum of 25 feet from a channel, fairway or existing structure, and the boat shall swing clear of the channel, fairway or existing structure.
  - (9) *Hazardous mooring.* Any mooring determined by the department to interfere with the safe movement of boats within waters of the city may be removed in accordance with subsection (a)(5) of this section.
- (b) *Transient berthing space.* Berthing space for transient boats may be designated by the city. Such transient berthing space shall not be occupied for more than a one-hour interval without the written consent of

the department. The department shall mark such areas with signs which shall designate the area shortterm berthing and shall contain the warning "TOW ZONE: HOUR LIMIT." Any vessel violating the conditions of said berthing shall be subject to removal at the owner's expense and shall be subject to the issuance of a notice to move. Said notice shall include the time issued, the time at which the vessel was first observed at the berth, the state registration number of the vessel, and the name and signature of the chief harbormaster issuing the notice. Said notice shall give the owner or operator of the vessel one hour from the time of issuance to move said vessel and shall advise the owner that he/she has violated an ordinance of the city and is subject to the penalties of that ordinance.

(c) *Boat speed.* A speed maximum limit of five miles per hour and no wake zones are established for boats operating within the areas designated on the cove maps (figures 5 and 9) which are part of the Harbor Management Plan.

(d) *Littering and dumping.* No person shall throw, dispose or deposit, or cause to be thrown, disposed or deposited, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, refuse or debris of any nature, or any noxious substance, in or upon any of the waters within the city.

(e) *Operation on the waters.*

- (1) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard, sailboard, or similar device in a reckless manner so as to endanger the life, limb or property of another.
- (2) No person shall operate any motorboat or vessel or manipulate any water skis or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana. A person arrested and charged with operating any motorboat or vessel, or manipulating any water skis, surfboard or similar device, while under the influence of intoxicating liquor or narcotic or habit-forming drugs shall have the right to be examined at his/her own expense immediately after his/her arrest by a physician selected by him/her, and the officer so arresting or so charging such person shall immediately inform such person of his/her right and afford him/her a reasonable opportunity to exercise the same, and at the trial of such person the prosecution must prove that he/she was so informed and was afforded such opportunity.
- (3) Waterskiing, surfboarding, sailboarding, personal watercraft or similar activities are prohibited in Greenwich Cove, Apponaug Cove, Warwick Cove, Potowomut Cove and Pawtuxet Cove, in any designated mooring areas and may not operate within 200 feet of swimmers, divers, shore, or moored vessels, except at headway speed.
- (4) Waterskiing, surfboarding, sailboarding or similar activities are prohibited from one hour after sunset to one hour before sunrise.
- (5) When towing a person or persons on water skis, surfboards, sailboards or similar devices, there must be one person, in addition to the operator of the boat, who is at least 12 years of age to observe the progress of the person(s) being towed. In addition, there shall be one life preserver, life belt, or ring buoy for each person on the boat and for each person being towed. The provisions of this section do not apply to a performer engaged in a professional exhibition or a

person or persons engaged in any activity authorized under G.L. 1956, § 46-22-13, as amended.

- (6) No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis or a surfboard, sailboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard or similar device, or any person thereon, to collide with or strike against any object or person.

(f) *Abandoned vessels or harbor structures.* No person shall deposit or abandon a vessel or structure upon a beach, upon a public right-of-way or in the waters of the city. Any person violating this section shall be subject to punishment in accordance with the provisions in section 24-9. When any vessel or structure is deposited or abandoned in the waters of the city, the director is authorized and empowered to remove the same or cause the same to be removed.

- (1) *Notice to remove.* If the person who owns, has an interest in, or exercises any control over the vessel or structure is known, the director shall give written notice by certified mail to said person to remove the vessel or structure within a specified time.

- (2) *Removal by city.* If the vessel or structure is not removed within the time specified in the notice and in a manner and to a place satisfactory to the director, or if no such person is known to the director upon whom the notice can be served, the director may proceed to remove or cause the vessel or structure to be removed in a manner and to a place the director shall deem best.

- (3) *Liability for payment of costs.* The owner (or such other person notified) of a vessel or structure removed by the director in accordance with this chapter shall be liable to pay the cost and expenses of the removal and storage, or to repay the same when paid by the city. The expenses may be recovered in an action brought by the city solicitor against the owner(s). If the owner(s) are unknown or the vessel or structure is unclaimed within 90 days of the removal, the city may sell the vessel or structure. The proceeds from the sale shall be used to defray the cost the city incurred in the removal and storage of the vessel or structure and in the administration of this chapter.

(g) *Pump-out facilities.* No person shall operate a marine toilet at any time so as to cause or permit to pass or to be discharged any sewage into the waters of the city, excluding Greenwich Bay, Narragansett Bay and the Providence River.

(h) *Towing.* Any time the chief harbormaster or the director directs that a vessel be towed pursuant to this chapter or any rules and regulations of the commission, there shall be a fee for said towing. Said fee shall be set annually by the director of parks and recreation.

(i) *Operation of unnumbered motorboats prohibited.* Every motorboat on, in, or within the waters of the city shall be numbered. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered in accordance with state law, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless the certificate of number awarded to such motorboat is in full force and effect and the identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

(j) *Obedience to orders of enforcement officers.* It shall be a violation of this chapter for any person to refuse to move or stop on oral command or order of the chief harbormaster, harbormaster(s) or police officer operating from a patrol boat identified as such and exercising the duties lawfully assigned to him/her.

(k) *Boat standards.* Every vessel entering the waters of the city shall be equipped as required by G.L. 1956, § 46-22-5, as amended.

(l) *Rafting.* Rafting on a single mooring will only be allowed if it does not interfere with adjacent single moorings or anchorages. Boats in a raft shall be manned at all times.

(m) *Rights-of-way to the waters.*

(1) No person or persons shall block, barricade or in any way impede the public use of or access to designated public rights-of-way to the waters of the city.

(2) No person or persons shall store a vessel, vehicle or structure upon a designated public right-of-way to the waters of the city.

(3) Any person violating this section shall be subject to punishment in accordance with section 24-9. (Code 1971, § 9-6; Ord. No. O-94-8, §§ I, II, 4-18-94; Ord. No. O-99-17, § I, 4-12-99)

#### **Sec. 24-7. Mooring permit.**

(a) *Required.* No mooring shall be located in the waters of the city until a permit has been received from the department. No mooring shall be located and no mooring shall be maintained unless the owner of the mooring has a valid permit for the mooring and the mooring conforms to the specifications set forth in this chapter and in the permit.

(b) *Application for renewal.* Applications for renewal of a valid mooring permit shall be submitted to the department, on the forms provided, by May 15 of each year. An application shall be accompanied by the required fee and shall be received by May 15 in the offices of the department. Failure to submit a complete and accurate application by May 15 shall result in loss of mooring space. The department shall mail application forms during the month of February to all persons who held valid permits at the end of the prior calendar year to the address listed on their last permit. It shall be the burden of the permit holder to notify the department of any change of address. The department shall approve or reject the permit within ten days of receipt of the complete application.

(c) *Application for new mooring or relocation.*

(1) All requests for new or relocated moorings shall be made on the forms supplied by the director and meet the application requirements of this chapter. To be eligible for any new mooring permit, the applicant must own a boat or be a commercial mooring operator. To apply for relocation of a mooring, the applicant must hold a permit from the preceding year and, as part of the application, shall specify the reasons for the relocation request along with the existing mooring space registration number and size and type of boat. Based on availability of spaces and the requirements of this chapter, action will be taken on the application. Any application received

by the department that is incomplete shall be returned to the applicant and no action shall be taken on the application.

(2) The department shall perform an evaluation of all coves and harbors within the city to determine the appropriate number of boats. This determination shall be based on water quality certification formulas and regulations of the department of environmental management, division of water resources, as may be established from time to time. If any cove or harbor is determined to have more boats moored or docked than justified by the water quality certification regulations, no new moorings shall be issued unless appropriate remedial action is taken by the permit applicant or the city to ensure water quality certification compliance.

(3) The application process for a new or relocated mooring is as follows:

a. *Preapplication to department.* An application in accordance with subsection (d) of this section shall be filed with the department. The department, upon determining that there is space for the mooring, shall issue a preliminary permit advising the applicant that a space is available and that, upon receipt of any necessary state and federal approval, a full permit may be issued.

b. *Federal/state approval.* Once a preliminary permit is issued, the applicant shall seek appropriate federal and state permits.

c. *Final application.* Upon receipt of any necessary state and/or federal approvals, if necessary, a final application shall be filed with the department.

d. *Issuance of permit.* The department shall approve or deny the final application within ten days of receipt. If within said ten-day period a permit is not issued, then the application shall be deemed denied.

(d) *Application requirements.* The following requirements are set for applications for mooring permits:

(1) *Private moorings.* Private moorings shall be permitted only in approved mooring area designated as part of the Harbor Management Plan. An application for private moorings permit shall be made on the form supplied by the department and shall contain the following:

a. Name, address and telephone number (work and home) of owner;

b. Vessel name, length in feet, breadth in feet, draft in feet, type, registration or documentation number, color, and type of sanitary facility;

c. Mooring classification and actual mooring weight;

d. Appropriate registration fee; and

e. Area where applicant would like to locate the mooring.

- (2) *Riparian landowners or lessors of riparian lands.* Riparian landowners or lessors of riparian land, which at the discretion of the harbormaster, may be permitted a mooring within a proven reasonable proximity of their property, as long as said mooring does not give them advantage over others in any federally maintained mooring area.
- (3) *Commercial moorings.* Commercial moorings shall be permitted in approved mooring areas designated as part of the Harbor Management Plan. An application for a commercial mooring permit shall be made on the form supplied by the department and shall contain the following:
  - a. Name, address and telephone number of applicant;
  - b. Name, address and telephone number of manager, if different from applicant;
  - c. The number of moorings requested, a breakdown of the moorings requested by size and a listing of moorings by their assigned number and size; and
  - d. A plan, stamped by an engineer or land surveyor registered in the state, showing the boundaries of the mooring field, the location of each mooring, the mooring's number, size and type of sanitary facility, and all moorings located within a 200-foot radius of the boundaries of the mooring field.

(e) *Waiting list.* The chief harbormaster shall maintain waiting lists of applications for private and commercial mooring spaces. The waiting lists shall consist of the existing waiting lists, minus all applicants who fail to file a new application and fee by April 1, 1989. Thereafter, the waiting list shall be added to as completed applications are received. The waiting list shall be available for public review.

(f) *Permit ratio for private and commercial moorings.* For every six permitted private moorings, there may be no more than four permitted commercial moorings.

(g) *Appeal of denial.* Upon denial of a permit by the department of parks and recreation, the applicant may, within ten days of such denial, appeal the denial to the commission by filing in the office of the director a written notice of his/her claim of appeal.

(h) *Mooring placement.*

- (1) No mooring shall be placed in the waters of the city without inspection and approval of the chief harbormaster. The chief harbormaster must direct the placement of the mooring.
- (2) No vessel so moored or anchored shall extend beyond the mooring and anchorage areas into designated channels.
- (3) The chief harbormaster shall keep a detailed record of all moorings, their location and the owner's name, telephone number, home and business address, the date the mooring was set, and the name, length and type of boat to be attached thereto. Registration numbers will also be required if applicable.

- (4) All assignments of mooring space shall be made by the chief harbormaster in cooperation with the director. Moorings shall be assigned in chronological order of receipt of completed applications.
- (5) Mooring tackle must be installed within 30 days of the permit issuance or the permit will be revoked.
  - (i) *Maintenance of moorings; inspections.*
    - (1) *Responsibility for maintenance.* Every permit holder shall be required to maintain his/her mooring in safe condition. Any chain, shackle, swivel or other tackle which has become warped or worn by one-third its normal diameter shall be replaced. Failure to maintain a safe mooring shall be cause for revocation of the permit and shall be deemed a violation of this chapter. The chief harbormaster or the harbormaster(s) may inspect any mooring at any time to determine compliance with this section.
    - (2) *Inspections generally; correction of violations.* All moorings in the waters of the city shall be inspected at least once every three years by a qualified inspector. Any mooring washed ashore during a storm shall be inspected by the chief harbormaster and harbormaster(s) before it is reset. The cost of any inspection required by this chapter shall be borne by the mooring owner. The inspection shall be made by raising the mooring or by an underwater inspection. The purpose of the inspection is to determine compliance with the mooring standards of this chapter. Any mooring or component of a mooring that violates the requirements of this chapter shall be replaced within 30 days. Within 45 days after a mooring has been found to violate the requirements of this chapter, a second inspection by a qualified inspector must be completed to determine if the violation has been corrected. Failure to correct the violation shall cause the mooring to be deemed an illegal mooring. The director may remove the mooring in accordance with the provisions of section 24-6 and the owner shall forfeit the mooring permit.
    - (3) *Inspection schedule.* Moorings shall be inspected every three years. The report of the qualified inspector on the condition of the mooring shall be filed with the application for a permit renewal. New moorings permitted after April 1, 1990, shall be inspected every three years from the date the permit was first issued.
    - (4) *Qualified inspectors.* Any person certified by the YMCA or similar organization as a qualified diver or any person who is an operator or employee of a boatyard and is familiar with the requirements of this chapter and the rules and regulations of the commission may apply to the commission to be designated as an inspector. Application shall be made on the form provided by the department of parks and recreation and must be accompanied by the annual application fee. A qualified inspector must reapply by July 1 of each year. The commission may designate as many inspectors as it feels are necessary, shall set standards for the inspectors to follow, and shall establish criteria for qualifying as an inspector. Any inspector who does not possess the necessary qualifications or who has failed to exercise diligence in the exercise of his/her duty shall have his/her inspector's license revoked.

(5) *List of inspectors.* The director shall keep a list of all qualified inspectors and shall make this list available to holders of mooring permits.

(j) *Forfeiture of mooring space.* Any owner shall be deemed to have forfeited his/her mooring permit by reason of the following:

- (1) Removal of tackle and notification to the chief harbormaster that the space is available.
- (2) Failure to reapply for the mooring permit by May 15 of any season or failure to replace any piece of mooring tackle not complying with the mooring tackle standards hereinafter set forth.
- (3) Failure to resurface or replace mooring within 60 days after being advised by the chief harbormaster that the mooring is down.
- (4) Failure to comply with any of the requirements of this chapter.

(k) *Abandoned moorings.* Failure to renew an existing permitted mooring by May 15 of any given year shall result in the registered owner's abandonment of all his/her rights and interest in said mooring. The director may remove the abandoned moorings at the registered owner's expense, which may be recovered in an action brought by the city solicitor against such person, or the director may assign the mooring location to a new permit holder. If the mooring location is assigned, the permit holder shall have the mooring inspected in accordance with this chapter.

(l) *Determination of number of available spaces.* As of May 15 of each year, the chief harbormaster shall determine the number of moorings available for new mooring space as the sum of all authorized mooring spaces for which acceptable applications for renewal were not received. These spaces shall be allocated to those on the waiting list.

(m) *Transfer of moorings.* A mooring shall not be transferred from person to person, other than to a member of the immediate family as the same is hereinbefore defined.

(Code 1971, § 9-7; Ord. No. O-99-17, § I, 4-12-99)

#### **Sec. 24-8. Fees; harbor management fund.**

(a) *Fees.*

(1) *Mooring permit.* All applications for mooring permits shall be accompanied by the appropriate fee as provided in chapter 18. All such fees shall be nonrefundable. These fees shall be set annually by the department of parks and recreation in cooperation with the harbor management commission and shall be approved as part of the department's budget submittal to the city council.

(2) *Waiting list fees.* Upon submitting your application to the waiting list for a permit, the appropriate fee must be included. This fee shall be payable each year to continue to hold your place on the waiting list.

(3) *Application to become inspector.* All applications to become a qualified inspector shall be accompanied by a filing fee as provided in chapter 18.

(b) *Harbor management fund.* A harbor management fund is hereby created to receive and expend monies for harbor management purposes determined by the city. All revenues generated by boat launch ramp fees, mooring permits, and fines levied under the provisions of the harbor management ordinance shall be deposited into this fund. Funds shall be disbursed for purposes directly associated with the management and implementation of the harbor management plan. Monies from this fund may be allocated to the chief harbormaster or his/her designee for the purpose of enforcing the provisions of the harbor management plan and/or the harbor management ordinance. The harbor management fund shall be established, budgeted and administered in a manner consistent with the procedure contained within the city Charter and funded through the department's annual budget as a line item.

(Code 1971, § 9-8; Ord. No. O-99-17, § I, 4-12-99)

**Cross References:** Mooring permit fee, § 18-7.

#### **Sec. 24-9. Penalty.**

Any violation of this chapter or of the rules and regulations of the department of parks and recreation shall be punishable as provided in section 1-4. Each day the violation exists shall be deemed a new violation.  
(Code 1971, § 9-9)

#### **Sec. 24-10. Disclaimer of liability.**

Persons using the waters of the city shall assume all risk of personal injury and damage or loss to their property. The city assumes no risk on account of accident, fire, theft, vandalism or acts of God.  
(Code 1971, § 9-10)

#### **Sec. 24-11. Oakland Beach boat ramp--Parking restrictions.**

Parking in the area adjacent to the Oakland Beach Boat Ramp shall be only for persons using the boat ramp. Parking in said area shall be limited to 48 hours on any one occasion. Signs providing notice of the parking restrictions shall be posted in the parking area.  
(Ord. No. O-99-41, § I, 8-11-99)

#### **Sec. 24-12. Same--Tie-up time restriction.**

Persons using the Oakland Beach Boat Ramp shall be limited to a tie-up time of thirty minutes within any one six hour period.  
(Ord. No. O-99-42, § I, 8-11-99)