

## STONINGTON HARBOR AND WATERS ORDINANCE

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### **I. Jurisdiction**

The rules and regulations of the Stonington Harbor and Waters Ordinance shall apply to activities occurring within or directly affecting the area within Stonington Harbor and Stonington Waters.

### **II. Harbor Committee.**

- A. **Appointment.** The Board of Selectmen shall appoint a committee of seven (7) individuals familiar with Stonington Harbor and Stonington Waters. All members of the committee shall be Stonington residents, one of whom shall be a member of the Stonington Board of Selectmen. The Selectmen may remove, after due notice and hearing, any committee member who misses three consecutive meetings or is repeatedly disruptive of committee meetings.
- B. **Powers.** The Harbor Committee shall:
- 1) Plan the development and recommend policy for Stonington Harbor and Stonington Waters.
  - 2) Make recommendations to the Selectmen for improvements in the operations of the Harbor.
  - 3) Assist in resolving conflicts which may arise in Stonington Harbor and Stonington Waters.
  - 4) Recommend annually to the selectmen changes in regulations and fees pertaining to the Harbor, Stonington Waters, Fish Pier and the Public Landing.
  - 5) Recommend individuals to the Town Manager and Board of Selectmen for the position of Harbormaster.
  - 6) Provide assistance when requested by the Harbormaster in the performance of his duties.
  - 7) Have the authority, with the approval of the Selectmen, to modify the Stonington Harbor and Waters Ordinance, the Commercial Fish Pier Ordinance, and the Public Landing Ordinance in an effort to solve immediate problems arising during the year, subject to ratification by the next annual Town Meeting.
- C. **Term.** Each member shall be appointed for a two year term. Appointments made to fill a mid-term vacancy shall be for the remainder of that term.
- D. **Meetings.** The Committee shall meet the second Tuesday of the month, unless the Committee agrees to meet more frequently.
- E. **Quorum.** A majority of the members appointed to the Committee shall constitute a quorum.

- F. **Vote.** The Committee decisions will be made by vote of a majority of the members present and voting.

**III. Harbormaster.**

- A. **Appointment.** The Harbormaster shall be appointed by the Board of Selectmen upon recommendation by the Town Manager and Harbor Committee.
- B. **Duties and Powers.** The duties and responsibilities of the Harbormaster are prescribed by Title 38 M.R.S.A. In addition, the Harbormaster, acting under orders of the Town Manager and Board of Selectmen, shall have full authority in the interpretation and enforcement of all regulations affecting Stonington Harbor and Stonington Waters. The Harbormaster shall regularly attend the Harbor Committee meeting's and inform the Committee of his/her activities as well as provide such available information as may be required by the Committee for the execution of its duties. The Harbormaster shall, pursuant to state law, designate the areas of the Stonington Harbor and Stonington Waters to be used for moorings and anchorages.
- C. **Term.** The Harbormaster shall serve at the pleasure of the Town Manager for a one-year-term.
- D. **Compensation.** The Board of Selectmen shall set the Harbormaster's compensation.
- E. **Appeals From Harbormaster Decisions.** Any and all persons aggrieved directly or indirectly by a decision, order, rule or act, or the failure to act of the Harbormaster may appeal said decision, order, rule, act, or failure to act. The appeals shall be directed as follows:
- 1) Where the appealed action or decision involves moorings or other lawful decisions by the Harbormaster, the appeal shall be to the Harbor Committee;
  - 2) Where the appealed action or decision is essentially a personnel matter, the appeal shall be to the Town Manager;
  - 3) On appeal, the Selectmen may review and modify any decision made by the Harbor Committee or Town Manager;
  - 4) Summons issued by the Harbor Master can only be contested or appealed in court.

#### **IV. Moorings**

- A. **Applications.** Applications for moorings shall be submitted to the harbormaster. Mooring privileges are granted for a one-year period and must be renewed each January, subject to the requirements set forth in this ordinance.
- B. **Mooring fees.** Mooring fees shall be reviewed by the Harbor Committee each November. The selectmen shall set mooring fees upon recommendation from the harbor committee. Bills will be sent during the month of January of each year. Payment must be received within thirty days of the date bills are mailed. Failure to pay boat excise tax as required by state law shall result in loss of mooring privileges. The Harbormaster shall not renew any mooring until all outstanding boat excise tax for prior years for the boat on that mooring is paid in full.
- C. **Mooring assignment priorities.** Assignments for the privilege of maintaining a mooring in Stonington Waters and Stonington Harbor shall be made in the order received according to the following ordered priorities:
- 1) Fulltime commercial fishing vessel
  - 2) Part-time commercial fishing vessel.
  - 3) Commercial Vessel.
  - 4) Pleasure Vessel.
  - 5) Guest Mooring/Rental Mooring.
- Whenever practicable, request of riparian owners for moorings adjacent to their uplands shall be honored.
- D. **Houseboats and Floating Businesses.** Houseboats and floating businesses are not classified as water-dependent, since it is not their primary purpose to serve as a means of water transportation, recreation or commercial fishing. The Town of Stonington considers that the placement of houseboats and floating businesses in tidal waters as a low priority use of any coastal water body. Houseboats and floating businesses shall be assigned moorings in limited numbers and in specific areas designated by the Harbormaster.
- E. **Assignment of Location.** On approval of an application, the harbormaster shall mark a suitable location for the applicant vessel. The Harbormaster shall assign a mooring registration number for the mooring and advise the applicant of that number. Moorings must be set at the mooring locations designated by the Harbormaster. Initial placement and any relocation of moorings must be approved by the Harbormaster. Any change in the size of boat moored at a location must be approved by the Harbormaster.
- F. **Waiting List Procedure.** The Harbormaster shall establish a waiting list whenever there are more applicants for a mooring assignment than there are

mooring spaces available. The waiting list will be renewed on an annual basis and posted at the Town Office and the Harbormaster's Office. In order to be placed on the waiting list, applicants must: a) provide documentation that they own a boat for which they seek a mooring; and b) not already be assigned a mooring in the area for which they seek a mooring assignment.

**G. Minimum Mooring Tackle Specifications.** The following shall be the minimum specifications for all moorings located in Stonington Harbor and Stonington Waters. No wooden spars or dolphins may be installed. Use of a mooring by a boat larger than that permitted for the installed mooring equipment may result in loss of the mooring privilege. At no time shall the total scope of moorings be greater than 3-1.

LENGTH BOAT	WEIGHT BOAT	WEIGHT BLOCK	SIZE CHAIN LINKS
22'	1,500	500lbs	1/2" or better
26'	5,000	1,000lbs	1/2" or better
30'	8,000	2,500lbs	1" or better
35'	12,000	3,000lbs	1" or better
40'		4,000lbs	1" or better
45'		4,500lbs	1" or better
50' – 60'		12,000lbs	1 1/2" or better

Note: The above specifications are subject to variation, as local conditions require.  
 Example: Webb's Cove may require more weight due to severe tide conditions.

**H. Mooring Tackle Inspection.** All moorings shall meet the minimum mooring tackle specifications. The float/pick-up buoy or ball attached to said mooring line shall be of sufficient size and buoyancy to remain afloat when not attached to the vessel. Each float/pick-up buoy or ball shall be marked with the mooring registration number of its assigned mooring permit in permanent legible numbers not less than 3" high. A qualified mooring inspector shall inspect moorings every two years. Mooring owners who choose to inspect his/her own mooring may do so; in such cases, the registered mooring owner must complete and sign the same "mooring inspection form" required of an approved mooring inspector. A "qualified mooring inspector" shall mean a person including a scuba diver, who satisfies the harbormaster that he/she is qualified to inspect mooring tackle as to condition and size. The harbormaster may in his/her discretion cause a mooring to be hauled for inspection at any time at the owner's expense if the mooring has not been inspected as required by this ordinance or the harbor master has reasonable cause to believe the mooring is unsafe.

**I. Neglecting to remove, repair or replace moorings.** In case of the neglect or refusal of the master or owner of any vessel to remove his/her mooring or to replace it by one of different character when so directed by the harbor master, the harbormaster shall cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom or shall make such change in the character of

the mooring as required, and collect from the owner of that mooring the sum of \$100 for either of those services rendered and the necessary expenses.

- J. **Rentals.** Mooring assignments may not be rented unless the provision for rental was approved by the Harbormaster in the original mooring application. In accordance with federal laws, all rental moorings or moorings that are used as part of a marine business for their own vessels or the vessels of customers (e.g. boat yards, marinas, etc.) as well as mussel rafts, bait floats, lobster cars, floats, docks and ramps must obtain approval from the US Army Corps of Engineers in addition to the Harbormaster.
- K. **Transfers.** Mooring assignments may not be transferred except for the following specific circumstance: at the request or death of the assignee, only to a member of the assignee's family and only if the mooring will continue to be used for commercial fishing purposes. For the purpose of this section, "member of assignee's family" means an assignee's parent, child or sibling, by birth or adoption, including a relation of the half blood or an assignee's spouse.
- L. The holder of a registered mooring must notify the Harbormaster if the mooring will not be utilized for any significant time period (e.g. 60 days or more)
- M. Mooring locations not used in the proceeding year may be reassigned.

**V. Floats, docks, wharves.** Permission to build floats, docks, wharves, and other similar structures must be approved by the Harbormaster, Stonington Code Enforcement Officer (and/or the Planning Board) and the US Army Corps of Engineers.

- VI. Prohibited Acts.** The following actions are violations of this ordinance:
- A. To moor watercraft in Stonington Waters or Stonington Harbor except at its registered mooring location unless permission is received from both the Harbormaster and the mooring equipment owner.
  - B. To fail to equip or maintain a mooring in compliance with this ordinance.
  - C. To refuse to obey a lawful order of the Harbormaster.
  - D. To refuse to conform to any Harbor regulation or ordinance.
  - E. To operate a vessel at a speed greater than headway speed while within Stonington Harbor or within a marina or an approved anchorage except while actively fishing. For this section, headway speed means the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving.
  - F. To operate a watercraft in prolonged circling, informal racing, wake jumping or other types of continued and repeated activities that harass another person.
  - G. To tow a person or persons on water-skis, surfboards, aquaplanes or similar devices within Stonington Harbor.

- H. For transient vessels/watercraft to moor at locations other than those specifically designated by the Harbormaster for their use.
- I. To drop anchor within Stonington Harbor or Stonington Waters without the permission of the Harbormaster.

**VII. Penalty/Enforcement** The provisions of this ordinance shall be enforced by state, county or local law enforcement as well as the Harbormaster of the Town of Stonington. Personnel, services, and equipment of any other federal or state agency may be utilized for enforcement of this ordinance. An officer having vested authority shall, pursuant to authority provided by law and with or without warrant or other process, arrest or summons any person if he/she has reasonable cause to believe such person has committed an act as prohibited by this ordinance.

**VIII. Fines and Other Penalties:** Failure to comply with or violation of any of the provisions of this ordinance will result in a fine of not less than twenty five dollars (\$25.00) nor more than two hundred dollars (\$200.00) to be recovered in District Court, Ellsworth, plus all court costs and attorneys fees. The District Court may enter restraining orders or prohibitions and/or minimum fines of \$25.00 and maximum fines of \$200.00 in each instance. In addition, failure to comply with the Harbormaster's lawful orders may result in the removal of vessels from the Public Landing at the owners/operators expense.

**IX. Definitions.**

- A. Stonington Harbor. Stonington Harbor is bounded to the east by the eastern end of Dow Ledge to a point on the land known as Ames Brook and to the west by the Monument Blinker to a point on the land known as Billings Diesel and Marine Boat Storage Shed. A straight line drawn from the monument blinker to the eastern end of Dow Ledge defines the Southern boundary.
- B. Stonington Waters. Stonington Waters as described in this ordinance shall include all waters within the Stonington Town Limits except Stonington harbor.
- C. Commercial Fishing Vessel. A commercial fishing vessel is a vessel used to harvest marine resources.
- D. Commercial Vessel. A commercial vessel is any vessel used to produce income.
- E. Pleasure Vessel. A Pleasure vessel is any vessel used for activities which do not produce a significant portion of the vessel-user's/owners income.
- F. Riparian Owner. A riparian owner is any person who owns shore property (upland) in Stonington.

- G. Guest Mooring/Rental Mooring. A Guest Mooring/Rental Mooring is a mooring used by vessels not owned by the mooring equipment owner.
- H. Houseboats. A building constructed on a raft, barge or hull that is used primarily for single or multifamily habitation; if used for transportation, this use is secondary.
- I. Floating business. A building constructed on a raft, barge or hull that is represented as a place of business, including but not limited to waterborne hotels, restaurants, marinas or marina-related businesses.

**X. Harbor Management Reserve Fund** A Harbor Management Reserve Fund is hereby established. All fees and penalties collected under this ordinance and all boat excise tax collected in Stonington are hereby appropriated to this reserve fund to be used as authorized by the Selectmen with recommendations from the Harbor Committee for the operation, maintenance and improvement of Stonington Harbor and Stonington Waters. No additional action by Town Meeting is needed in order for the Selectmen to use these fees and penalties, provided they comply with all relevant provisions of state law.

**XI. Severability.** In the event that any section, subsection, or portion of this ordinance shall be declared, by any court having jurisdiction, to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this ordinance.