

Town of East Lyme Harbor Management Commission

East Lyme Town Hall
108 Pennsylvania Avenue
Post Office Box 519
East Lyme, Connecticut 06357

June 25, 2018

~~(HARBOR MANAGEMENT ORDINANCE)~~ ORDINANCE MODIFYING THE
1994

ORDINANCE FOR THE USE AND ENJOYMENT OF
EAST LYME HARBOR MANAGEMENT AREA

PROPOSED AMENDMENTS

Proposed additions to the Ordinance adopted by the Board of Selectmen effective May 4, 1994 and January 1, 1995 are shown in **bold type**; Proposed deletions are shown as “~~struck through~~.”

Art. I: In General, Sec. 1-7

Art II: Harbor Management Commission, Sec. 8-11

ARTICLE I: IN GENERAL

SECTION 1. PURPOSES

Whereas, the Town of East Lyme has established a Harbor Management Commission which also ~~acts pursuant to laws designated~~ as the Town Shellfish Commission. This Ordinance is a Harbor Management Ordinance and it and the Harbor Management Plan referenced herein shall not be construed as effectuating regulations or procedures applicable to shellfishing or shellfish grounds within the Harbor Management Commission’s jurisdiction when acting as a Shellfish Commission.

Whereas, the Harbor Management Commission has prepared a Harbor Management Plan pursuant to the requirements of Sections 22a-113k through 22a-113s of the Connecticut General Statutes and other related legislation; and

Whereas, the Town of East Lyme desires to manage its harbor resources in the most effective manner and plan for the most desirable use of the East Lyme Harbor Management Area for conservation, recreation, and development;

Therefore, the Board of Selectmen hereby enacts the following ordinance for the management of the East Lyme Harbor Management Area.

SECTION 2. BOUNDARIES

a. Harbor Management Area Boundaries

The overall boundaries of the East Lyme Harbor Management Area include all navigable waters and intertidal areas below the Mean High Water (**MHW**) line of the shoreline of East Lyme and bounded on the east by the East Lyme/Waterford town line; on the south by a straight line running from Millstone Point to Black Point and by a straight line running from Black Point to Hatchetts Point; and on the west by the East Lyme/Old Lyme town line.

b. Shellfish Grounds Boundaries The East Lyme Harbor Management Commission shall have charge of all shellfisheries and shellfish grounds lying in the Town of East Lyme not granted to the Waterford-East Lyme Shellfish Commission by Section 26-287 of the Connecticut General Statutes, Revision of 1958, as amended, and not under the jurisdiction of the commissioner of agriculture, including all rivers, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds (below the **MHW** ~~mean high water~~ line) of the Town.

SECTION 3. DEFINITIONS

Abode: The principal, non-water dependent use of a **floating** structure ~~or vessel~~ as a dwelling or home.

~~**Aids to Navigation:** All markers on land or in the water placed for the purpose of enabling navigators in the Harbor Management Area to avoid navigation hazards and/or fix their position. Aids to navigation include federal aids placed and maintained by the US Coast Guard, and "private" aids placed and maintained by all other government and private interests under permit from the Coast Guard, Corps of Engineers, and Connecticut Department of Environmental Protection. Private aids include any buoys, signs and other markers identifying restricted speed areas.~~

Anchor: a: A heavy device, fastened to a chain or line, and dropped to the bottom of a waterbody to hold a vessel in position ~~including an anchor used to secure a vessel at a mooring. Specifically excluded from this definition are engine blocks and other devices which, when used as anchors, could result in the degradation of water quality or otherwise damage coastal resources.~~ b: To secure a vessel temporarily to the bottom of a waterbody by dropping an anchor or anchors or other **mooring ground** tackle from a vessel. (**See also "Mooring" and "Mooring Tackle."**)

Anchorage: Those water areas designated for anchoring with ground tackle carried on board a vessel.

Channel: Water areas specifically reserved for unobstructed movement of vessels, shown on navigation charts, and marked in-water by aids to navigation.

Coastal Jurisdiction Line (CJL): The line defined by the topographical elevation of the highest predicted tide for the period beginning in 1983 and ending in 2001, calculated for

each coastal municipality for the purpose of defining the regulatory jurisdiction of the Connecticut Department of Energy and Environmental Protection. Proposed work and structures waterward of the coastal jurisdiction line are subject to the DEEP's coastal regulatory authorities, including authorities regulating structures, dredging, and fill. Prior to October 1, 2012, the DEEP's regulatory jurisdiction was marked by the high tide line.

Coastal Site Plan Review: The process whereby specific development plans proposed within the Town's coastal boundary are reviewed by the Planning and Zoning commissions for consistency with East Lyme's Municipal Coastal Program and the Connecticut Coastal Management Act.

Commercial Mooring: A mooring as defined by the Corps of Engineers for which any type of a fee is charged (excepting a fee charged by the Town for a mooring permit issued by the Harbor Master) and which must be authorized by an individual permit from the Corps of Engineers, the State Department of **Energy and** Environmental Protection and the Harbor Master. ~~Commercial moorings include moorings offered by marinas for transient or seasonal rental, and moorings controlled by private clubs if the annual membership fee includes a club controlled mooring.~~

Commercial Vessel: Any vessel, licensed or unlicensed, used or engaged for any type of commercial venture, including but not limited to the carrying of cargo and/or passengers for hire and commercial fishing.

Deputy Harbor Master: The Deputy Harbor Master appointed by the Governor of Connecticut in accordance with Sections 15-1 ~~through 15-10~~ of the Connecticut General Statutes, and who shall carry out his duties under the direction of the Harbor Master.

Emergency: A state of imminent or proximate danger to life or property in which time is of the essence.

Fairway: A specific water area to be kept free of obstructions to ensure safe passage of recreational and commercial vessels to, from, through, and alongside navigation channels, mooring areas, anchorages, and berthing areas.

Floating Home: Any structure constructed on a raft, barge or hull, moored or docked in any water that is used primarily ~~for single or multiple family habitation or that is used for the domicile of any individual(s) for a period of more than 2 weeks~~ **as an abode. (see "Abode.")**

Harbor Management Act: The legislation contained within the State of Connecticut General Statutes, sections 22a-113k through 22a-113t, as may be amended from time to time, and which authorizes municipalities to establish harbor management commissions and prepare harbor management plans.

Harbor Management Area: The area of jurisdiction of the East Lyme Harbor Management Commission as defined in the Harbor Management Plan and Section 2 of this Ordinance.

Harbor Management Commission: The duly appointed body of the Town of East Lyme with responsibilities for carrying out the Harbor Management Plan as set forth under the Harbor Management Act and any other duties granted by state **law and town** ordinance including having

charge of all shellfisheries and shellfish grounds lying in the town not granted to the Waterford-East Lyme Shellfish Commission and not under the jurisdiction of the State Commissioner of Agriculture.

Harbor Management Consistency Review Process: The process authorized by Section 22a-113p of the Connecticut General Statutes and described in the Harbor Management Plan whereby the Harbor Management Commission shall review for consistency with the Harbor Management Plan, specific development proposals submitted to, or proposed by, Town of East Lyme commissions and departments and state and federal agencies.

Harbor Management Account: A Town account, within the Town's General Fund, as authorized by Section 22a-113s of the Connecticut General Statutes into which shall be deposited all fees for mooring and anchorage permits and other activities within the scope of the Harbor Management Plan and which shall be used **exclusively** for the maintenance and improvement of the East Lyme Harbor Management Area for the public and for expenses for personnel and equipment directly related to the function of the Harbor Management Commission and the Harbor Master or Deputy Harbor Master.

Harbor Management Ordinance: This Ordinance establishing rules and regulations for the use and enjoyment of the East Lyme Harbor Management Area as recommended by the East Lyme Harbor Management Commission and adopted by the East Lyme Board of Selectmen.

Harbor Management Plan: A plan for the **safe, beneficial, and** balanced use of East Lyme's Harbor Management Area for recreational and other purposes and for the protection of environmental resources as prepared by the Harbor Management Commission, adopted by the Board of Selectmen and approved by the Connecticut **Commissioner** ~~departments of~~ **Energy and Environmental Protection and the Connecticut Port Authority Transportation** in accordance with Sections 22a-113k through 113t of the Connecticut General Statutes and Article II of this ordinance.

Harbor Master: The Harbor Master **who is nominated by the Harbor Management Commission for appointment** ~~appointed~~ by the Governor of Connecticut in accordance with Sections 15-1 ~~through 15-10~~ of the Connecticut General Statutes, and who shall: advise the Harbor Management Commission with respect to matters concerning the waters under the jurisdiction of the Town of East Lyme; **serve as an ex-officio member of the Commission; and have special responsibilities for implementing the Harbor Management Plan subject to the direction of the Harbor Management Commission; and conduct all of his or her duties in a manner consistent with the Plan.**

Hazard to Navigation: An obstruction, usually sunken, that presents sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal, or redefinition of a designated waterway to provide for navigational safety.

Individual-Private Mooring: A mooring belonging to an individual, **partnership, or corporation** and authorized for use by a mooring permit issued by the Harbor Master. **Individual-private moorings shall not be leased or rented to a third party.**

Inspection Service: Any person or business known to the Harbor Master who has equipment and knowledge suitable for making mooring tackle inspections.

Marine Facility: Any facility (including but not limited to docks, floats, piers, ramps, hoists, parking areas, concessions, and service facilities), either publicly or privately owned, intended primarily to be used by or for the service of vessels and located within the Harbor Management Area.

Mean High Water (MHW) Line: The average height of the maximum elevation reached by each rising tide over a nineteen-year period immediately preceding the current year. Proposed work and structures seaward of the ~~MHW mean-high-water~~ line are subject to federal regulatory authorities carried out by the U.S. Army Corps of Engineers as well as state regulatory authorities. (State regulatory authorities also extend above the ~~MHW mean-high-water~~ line to the **coastal jurisdiction high-tide** line which is defined by a higher elevation than the ~~MHW mean-high-water~~ line.) All land and water areas seaward of the ~~MHW mean-high-water~~ line are subject to the Public Trust Doctrine and held in trust by the State of Connecticut for public use. The ~~MHW mean-high-water~~ line also marks the seaward boundary of the jurisdiction of East Lyme's Planning and Zoning Commissions.

Moor: To secure a vessel to the bottom of a water body by the use of mooring tackle.

Mooring: **A mooring shall mean a structure as defined in the most recent version of the Office of Long Island Sound Programs General Permit for Harbor Moorings GP-LIS-002.** ~~A semi-permanent anchorage installation consisting of a heavy anchor, (usually of the mushroom type), chain, a mooring buoy, and other equipment so designed that, when the attachment of such equipment to a vessel is terminated, some portion of the equipment remains below the surface of the water and is not under the control of the vessel or its operator.~~

Mooring Area: An area designated by the Harbor Management Commission, and including Special Anchorage Areas designated by the U.S. Coast Guard, within which vessels may be moored provided a valid permit for such mooring is obtained from the Harbor Master.

Mooring Location: A place where a buoyant vessel is ~~permanently~~ secured to the bottom of a waterbody by mooring tackle and **in accordance with a by permit issued by** ~~from~~ the Harbor Master.

Mooring Tackle: The chain, anchor, buoys, and other equipment used to moor a vessel, **including anchoring equipment commonly known as mushroom, dead weight, pyramid, or helical embedment anchors.** Specifically excluded from this definition are engine blocks and other devices which, when used as anchors, could result in the degradation of water quality or otherwise damage coastal resources.

Obstruction to Navigation: Anything that restricts, endangers, or interferes with navigation.

~~Personal Watercraft: A vessel propelled by machinery which satisfies one or both of the following criteria: a) has a width not greater than twenty four inches; 2) is capable of carrying at least one individual who while operating the vessel has no means of steerage other than shifting his or her body weight.~~

Personal Watercraft: As defined by State statute, any inboard powered vessel less than sixteen feet in length which has an internal combustion engine powering a water-jet pump as its primary source of motor propulsion and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.

Persons: Those, including individuals, corporations, societies, associations and partnerships, using the facilities and areas within the Harbor Management Area and subject to the provisions of this ordinance.

Qualified Inspector: Any person approved as an inspector of mooring tackle by the Harbor Master.

Slip: Berthing space for a single vessel alongside a pier, finger float, or walkway.

Shall and May: "Shall" is mandatory; "May" is permissive.

Special Anchorage Area: A water area designated by the Coast Guard, identified on navigation charts, and where vessels may be anchored or moored. Within such areas, vessels less than 65 feet are not required to display anchorage lights.

State: The State of Connecticut.

Stray Vessel: An abandoned vessel, a vessel with unknown owner, or a vessel underway without a competent person in command.

~~Transient: A person traveling to the Harbor Management Area by boat and staying for a temporary period of time.~~

Transient Anchorage: Any area reserved and designated **by the Harbor Management Commission in the Harbor Management Area** for the exclusive short term use (not to exceed seven consecutive days) of commercial and recreational vessels and any vessels seeking emergency shelter.

Vessel: As defined by State statute, every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water, including personal watercraft.

SECTION 4. GENERAL PROVISIONS

a. Applicability

The provisions of this Ordinance and any rules and regulations adopted pursuant thereto shall be applicable, and shall govern the use of the harbor management lands, waters, and facilities under the jurisdiction of the East Lyme Harbor Management Commission. This Ordinance shall be subordinate to all existing federal and state statutes and regulations affecting the East Lyme Harbor Management Area, and is not intended to preempt any other valid laws.

b. Invalidity of Provisions

Should any provision or provisions of this Ordinance be held invalid or inoperative, the remainder shall continue in full force and effect.

c. Authorities and Enforcement

The East Lyme Harbor Master or his designee, **subject to the authority** ~~under the direction~~ of the East Lyme Harbor Management Commission, shall ~~have the authority to~~ carry out harbor management directives and enforce all provisions of the Harbor Management Plan and, ~~including~~ **this ordinance, to the extent provided by and consistent with all other applicable laws, regulations, and ordinances, including the Connecticut General Statutes.**

The Harbor Master or his designee may cite any alleged violators of this ordinance. Any police officer or constable of the Town of East Lyme shall have authority to enforce the provisions of this ordinance, **and shall work cooperatively with the Harbor Master to achieve effective enforcement of any orders by the Harbor Master pursuant to the Connecticut General Statutes, including but not limited to orders concerning the stationing of any vessel in the Harbor Management Area.**

d. Violations and Penalties

Any person who violates any section of this ordinance in any portion of the Harbor Management Area shall be liable to a fine of \$50.00 for each offense. Each day that a violation continues after seven (7) days following notification of the offending party or, if the offending party is not known, after notice has been posted for that time on any vessel, mooring tackle or other object that is the cause of the violation, shall be considered a separate offense. The provisions of this section are in addition to and do not supersede any penalties resulting from simultaneous violations of state or federal laws. Fines levied under the provisions of this ordinance shall be collected by the Town of East Lyme and deposited into the East Lyme Harbor Management Account (See section 4.e.)

Any person who obstructs, resists, or willfully refuses to obey the order of the Harbor Master or Deputy Harbor Master for the stationing of a vessel in accordance with this Ordinance shall be subject to the fines and penalties set forth in Sec. 15-8 and other applicable sections of the Connecticut General Statutes, enforceable by any duly authorized police officer of the Town of East Lyme.

Any violation of the provisions of this Ordinance relating to mooring permits may, **after due notice**, result in revocation of the mooring permit **by the Harbor Master**. **Any party aggrieved by any decision pertaining to an action by the Harbor Master may submit a**

request in writing to the Harbor Management Commission to review that decision with respect to this Ordinance and the Harbor Management Plan. Such request shall be submitted within 30 days of the date of the decision. The Commission shall review the decision and render a finding on the matter within 60 days of receipt of the aggrieved party's written request.

~~by majority vote of the Harbor Management Commission at a duly held meeting after written notice of the time, place and purpose of such meeting has been given to the permit owner at his or her residence address more than fifteen (15) days before such meeting. At such meeting, the permit owner shall be heard and shall be permitted to present evidence to the Commission. A vote of the Commission to revoke a mooring permit shall be subject to an appeal to the Superior Court for the Judicial District of New London by trial de novo within sixty (60) days after the permit owner receives notice of the vote of the Commission to revoke his or her permit. If no appeal is filed within said sixty (60) days period, the permit shall be revoked and the Harbor Master may thereafter cause such mooring to be removed from its location.~~

e. Harbor Management Account

As authorized by the Connecticut General Statutes, a Harbor Management Account is hereby created in the Town's General Fund to receive and expend monies for harbor management purposes determined by the Harbor Management Commission. All revenues generated by (1) mooring permits, (2) fines levied under the provisions of this Harbor Management Ordinance as it applies to the Harbor Management Area, and (3) fees generated by designation of oyster, clam and shellfish beds pursuant to Connecticut General Statutes, Section 26-240 et seq., shall be deposited into this account. Other funds generated or allocated specifically for harbor management shall also be deposited in this account. Funds shall be disbursed for purposes directly associated with the management of East Lyme's Harbor Management Area and implementation of the East Lyme Harbor Management Plan. Monies from this account may be allocated to the Harbor Master or his designee for the purpose of carrying out the provisions of the East Lyme Harbor Management Plan and/or the Harbor Management Ordinance.

f. Compensation of Harbor Personnel

The Harbor Master, Deputy Harbor Master and administrative personnel may receive compensation to be determined by the Harbor Management Commission. Additionally, monies from the Harbor Management Account may be used to reimburse the Harbor Master, Deputy Harbor Master and administrative personnel for necessary expenses incurred in the performance of their duties. Monies from this account may also be used to compensate contractors hired to perform work as may be deemed necessary by the Harbor Management Commission or the Harbor Master.

g. Coordination with Other Governmental Laws and Regulations

Nothing hereon contained shall bar or prevent the Harbor Master or Deputy Harbor Master from performing those duties which have been assigned to them under the General Statutes of the State.

SECTION 5. USE OF THE HARBOR MANAGEMENT AREA

a. Vessel Speed and Wake

The operation of any vessel, including personal watercraft, within the East Lyme Harbor Management Area shall proceed in a manner which protects all persons and property from any damage caused by a wake.

In no event shall any vessel under power exceed a speed limit of 6 mph within: 1) the federal navigation channel; 2) 200 feet of shore in the Upper Niantic River north of the federal navigation channel; 3) the Pattagansett River Estuary Restricted Speed Area as marked by state speed limit signs; and 4) 100 feet of shore or any dock, pier, float or anchored or moored vessel in any other part of the Harbor Management Area.

b. Obstruction of Channels, Fairways and Berthing Space

No vessel shall be moored or anchored so as to interfere with the free and unobstructed use of any channel, fairway or berthing space within the Harbor Management Area.

c. Swimming and Underwater Diving

Swimming and underwater diving are prohibited in all designated channels except in an emergency or for inspection purposes.

d. Fishing

Fishing from vessels and shellfishing shall not occur in any designated channels, fairways and anchorages in a manner that poses a hazard to navigation. The placement of lobster pot floats and fixed fishing nets is prohibited in all channels marked by U.S. Coast Guard channel markers, within any fairway as designated in the Harbor Management Plan, and within any mooring area designated in the Harbor Management Plan.

e. Waterskiing

Waterskiing is prohibited in all designated channels, and in anchorages and mooring areas in the Harbor Management Area when vessels are anchored or moored therein. Waterskiing is prohibited within 200 feet of shore in the Upper Niantic River north of the federal navigation channel; within the Pattagansett River Restricted Speed Area as marked by state speed limit signs; and within 100 feet of shore or any dock, pier, float or anchored or moored vessel in any other part of the Harbor Management Area.

f. Personal Watercraft

Use of personal watercraft shall be in accordance with all applicable statutes and regulations concerning the operation of vessels. Use of personal watercraft is prohibited in all designated channels except as necessary to reach personal watercraft activity areas, and within designated anchorages and mooring areas when vessels are anchored or moored therein.

g. Board Sailing **and Paddle Boarding**

Board sailing **and paddle boarding** are prohibited within designated channels, ~~anchorages and mooring areas~~ except as necessary to cross **said channels** ~~a designated channel, anchorage or mooring area~~ in a manner that does not pose a hazard or **obstruction** ~~inconvenience~~ to navigation.

h. Public Docks and Boat Launch Ramps

The use of any public dock and boat launch ramps shall be in accordance with rules and regulations established by the Harbor Management Commission. No vessel shall remain at a public dock or boat launch ramp for a period longer than the time limit posted at the dock. If a vessel is left unattended for a period of time in violation of the posted limit, then the vessel's owner of record shall be held responsible.

i. Use of Vessels as Abodes or Floating Homes

The use of any **floating structure** ~~or vessel~~ in the East Lyme Harbor Management Area as an abode or floating home is prohibited. **Sleeping Living** aboard vessels ~~on a temporary basis~~ is allowed **on a seasonal basis** as a secondary use to the vessel's principal **water-dependent recreational or commercial** use.

j. Identification of Vessels

All vessels moored, **anchored**, or tied up to wharves, piers, or docks in the Harbor Management Area, ~~except those on temporary call~~, shall **display maintain a valid federal documentation name or state registry number** ~~identification~~ legible without boarding the vessel, ~~in one of the following forms:~~ **in accordance with Connecticut General Statutes.**

- ~~(1) Federal or state registry number as reported to the Harbor Master or Deputy Harbor Master.~~
- ~~(2) A boat name reported to the Harbor Master or Deputy Harbor Master.~~
- ~~(3) The name and address or telephone number of the owner.~~

k. Derelict or Abandoned Vessels and Structures

No vessel, mooring **tackle**, mooring float or other object within the Harbor Management Area shall be abandoned or sunk or placed where it may constitute a danger to navigation or to the safety of persons or property or where it may prevent optimum use of the area. Any vessel, mooring tackle, or other object abandoned or sunk or so placed may be removed or relocated by direction of the Harbor Master, if corrective action is not taken by the owner, if known, within seven (7) days after notification, or, if not known, after notice has been posted for that period on

the vessel, mooring, or object. Nothing herein contained shall prevent the Harbor Master **or his designee** ~~or Deputy Harbor Master~~ from taking measures ~~with or without notice~~, if, in ~~his their~~ judgment, it is necessary in order to provide for the safety of persons or property. The expense of such removal or relocation and any liability arising from injury to person or property incurred thereby shall be the responsibility of the owner **of record**.

SECTION 6. MOORING AND ANCHORING VESSELS

a. Mooring Permits Required

(1) **In accordance with state law and the East Lyme Harbor Management Plan, and in** ~~in~~ order to provide for adequate access for vessels, for the safety of persons and property, **for the protection of coastal resources**, and for the optimum use of the Town's Harbor Management Area, **no vessel shall be moored in the Harbor Management Area without a valid permit from the Harbor Master.** ~~the Harbor Master must approve the location of all mooring within the East Lyme Harbor Management Area. The Harbor Master shall issue a permit for each approved location. It shall be a violation of this Ordinance for any person to moor any vessel or place any individual/private or commercial mooring tackle in the Harbor Management Area without a permit from the Harbor Master.~~

(2) No provision contained in this section shall limit the powers of the Harbor Master to station and remove vessels as provided in ~~Sections 15-8 and 15-9, and Section 22a-113r~~ of the Connecticut General Statutes.

b. Rules, Regulations, and Administrative Procedures

The mooring and anchoring of all vessels in the Harbor Management Area shall be in accordance with any rules, regulations, and administrative procedures adopted by the Harbor Management Commission.

c. ~~b.~~ Mooring Records

(1) The Harbor Master shall keep a detailed records of **all mooring permits, moored vessels, and a list of any persons waiting for a mooring location. Said records shall include information satisfactory to the Harbor Management Commission.** ~~each mooring, its location, and the owner's name, resident and business address, and telephone number; date mooring was set; and name, length, registration number or documentation; and type of vessel to be attached hereto.~~

(2) **A list of current mooring assignments and a list of any persons waiting for a mooring permit/location in the Harbor Management Area shall be maintained by the Harbor Master. The Harbor Master shall provide annually a copy of said lists to the Secretary of the Harbor Management Commission not later than September 30 of each year and said lists shall be made available for public review upon request in a public place during regular business hours.** ~~The Harbor Master shall maintain in a public place a waiting list for mooring space in the Harbor Management Area, as necessary, and a list of mooring~~

~~permittees. These lists shall be updated annually or at any more frequent interval that may be appropriate.~~

d. e. Allocation of Moorings

~~(1) The Harbor Master shall establish and post in a public place, an allocation procedure and priority list for moorings in the Harbor Management Area.~~

(1) ~~(2)~~ In allocating mooring locations, the Harbor Master shall give first priority to those persons applying for the renewal of permits granted in the preceding year, second priority to relocation requests in order of application, and third priority to new applicants in order of application.

(2) ~~(3)~~ In allocating mooring locations, the Harbor Master shall, to the extent possible, assign priority for mooring allocations to shorefront property owners who apply for moorings **locations** offshore of their property.

~~(4) In allocating mooring locations, the Harbor Master shall give consideration to size, draft, and type and use of vessels, including use for commercial purposes.~~

(3) ~~(5)~~ Within the limits of type and size of vessels, available mooring locations shall be offered to the senior applicant on the mooring waiting list, subject to the requirements of this Ordinance. If an available mooring location is not suitable to accommodate the senior applicant's vessel or specific needs, it shall be offered to the next senior qualified applicant. The senior applicant shall retain his place on the waiting list in this case. The Harbor Master shall continue efforts to provide a suitable mooring location for the senior applicant. If the senior applicant refuses a mooring location which is suitable for his vessel **and his specific needs** in the opinion of the Harbor Master, that applicant shall be moved to the bottom of the waiting list. ~~In order to obtain the most effective utilization of mooring areas, lists of applicants will be maintained to include date of application and type or size of vessel. These lists will be available for public inspection at a public place during regular office hours.~~

(4) ~~(6)~~ No one individual shall be allocated more than one mooring location and no one household, partnership, or corporation shall be allocated more than two mooring locations without annual written permission from the Harbor Management Commission. Only one mooring space shall be allocated to any one vessel.

(5) ~~(7)~~ Mooring permits shall be issued by the Harbor Master only to those applicants owning a vessel properly registered in accordance with laws of the State of Connecticut.

e. d. Application for Mooring Permit

(1) Any person, including associations, corporations, or other **duly established** group, may apply for a mooring permit by completing in full the application provided for that purpose and submitting the completed application **and all required documents and fees** to the Harbor Master.

(2) The Harbor Master shall accept **new applications at any time for consideration.** ~~approval or renewal of moorings by 31 March of each year.~~

f. e. Mooring Permits Valid for One Year Only

Any mooring ~~Mooring~~ permits granted by the Harbor Master shall be consistent with the **East Lyme Harbor Management Plan and shall expire on the thirty-first day of December next following its issuance.** ~~are valid for a period not to exceed one year unless renewed in accordance with the provisions of this ordinance. The permit expiration date shall be entered on the permit.~~

g. f. Renewal of Mooring Permits

The Harbor Master shall notify all current mooring permit holders of the requirements for mooring permit renewal. All All completed renewal applications and required documents and fees shall be due on or before the first day of March of each year. Renewal applications submitted after the thirty-first day of March shall be subject to a late fee equal to and in addition to the annual permit fee. ~~March 1 of each calendar year so as to allocate new mooring locations in unrenewed locations. At least thirty days before the renewal due date, notice of such date shall be published in a newspaper having circulation in the town.~~

h. g. Annual Mooring Permit Fee

~~All applications for a new mooring permit or renewal of an existing permit shall be accompanied by an appropriate fee as may be established by the Harbor Management Commission and adopted by the Board of Selectmen. All applications for renewal of moorings permits shall be accompanied by the appropriate fee (not to exceed the maximum amount authorized by the Connecticut General Statutes) as may be established by the Harbor Management Commission and adopted by Board of Selectmen. payable to the Town of East Lyme before the application shall be processed. Said fee, payable to the Town of East Lyme, shall accompany the application.~~ In the event an application is not approved or the applicant is placed on a waiting list, the fee shall be returned to the applicant within **thirty (30)** ~~ten~~ days after notice of denial ~~of such application~~ or placement **of the applicant** on a waiting list. ~~New applications may be charged at the time they are granted permission for a mooring.~~ **All Any fees collected pursuant to this section shall be deposited in the Town's Harbor Management Account Fund and shall be used exclusively for maintenance and improvement of the purposes directly associated with management of the East Lyme Harbor Management Area for the public and for expenses for personnel and equipment directly related to the function of the Harbor Management Commission and the Harbor Master or Deputy Harbor Master.**

i. h. Mooring Permits Non-Transferable

(1) No transferable rights shall be conferred as the result of the approval of a mooring location. Whenever the holder of a mooring permit sells ~~transfers title or interest in~~ or otherwise parts with possession of the **mooring tackle** vessel identified in the mooring permit to ~~another person~~, by any arrangement whatsoever, the mooring permit shall expire. The new possessor, transferee, or owner shall have no right to use the mooring space covered by the mooring permit **but may apply for a new permit in his or her own name.**

(2) **If a mooring permit holder sells or otherwise parts with possession of the vessel identified in the mooring permit application, he or she may, upon approval by the Harbor Master, retain the mooring location** ~~The original holder of the mooring permit may, upon written application to and approval by the Harbor Master, retain the mooring space~~ assigned under the mooring permit provided that another vessel owned by the permittee is moved onto the mooring within thirty (30) days (unless the period is extended by the Harbor Master because of special circumstances ~~such as seasonal constraints~~). If the replacement vessel is significantly smaller, larger or of different draft or type, the Harbor Master shall have the right to relocate the vessel to another, more suitable **location mooring** if one is available.

~~i. Mooring Locations~~

~~(1) Vessels may be moored within the East Lyme Harbor Management Area in designated mooring areas as established by the Harbor Management Commission and identified in the Harbor Management Plan; and other safe and suitable locations. No mooring permits shall be granted for areas in which mooring is prohibited by the Harbor Management Plan, and all permits granted shall be consistent with all provisions of the Harbor Management Plan.~~

~~(2) Moorings shall under no circumstances interfere with the free use of channels or fairways.~~

~~j. Mooring Placement~~

~~When an applicant has been registered for a mooring within the Town's Harbor Management Area, the Harbor Master shall assign a specific location. No moorings shall be placed or maintained in any portion of the Harbor Management Area until the location of such mooring shall have been approved by the Harbor Master or Deputy Harbor Master.~~

~~j. k. Transient Anchoring~~

(1) The Harbor Management Commission may designate transient anchorage areas free from the placement of any moorings. These areas, reserved for the exclusive, short-term use of recreational vessels shall be available on a first-come, first-served basis for a period not to exceed seven (7) consecutive days, **nor for a total of more than 14 days in any calendar year unless expressly approved by the Harbor Master.**

(2) The Harbor Master may require any person anchoring in the Harbor Management Area to display for inspection ~~for~~ anchors, chains and other equipment used at such anchoring for soundness of condition.

k. l. Abandonment of Mooring

~~(1) Any mooring tackle left unused for more than one calendar year without written permission of the Harbor Management Commission may be considered abandoned and subject to removal or relocation by the Harbor Master at the expense of the last permitted owner.~~

~~Any mooring not used in a calendar year may be considered abandoned and subject to removal or relocation. No mooring may be left unused for more than one calendar year without written permission of the Harbor Management Commission.~~

~~(2) Any registered owner who owns mooring tackle and is abandoning their mooring space may offer to sell the tackle occupying such space to the next person assigned that space. Failure of the registered owner to remove such tackle shall constitute the abandonment thereof, and such tackle may be removed by the Harbor Master at the expense of such registered owner.~~

l. m. Secure Berthing and Anchoring of Vessels

(1) The owner of any vessel moored or anchored within the Harbor Management Area shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent breakaway and resulting damage, and shall thereafter provide for periodic inspection **of the mooring tackle or anchoring equipment** as the Harbor Master deems necessary. ~~Each vessel owner is deemed to be the owner of the mooring tackle he uses.~~

(2) **The owner of any vessel moored within the Harbor Management Area shall agree to indemnify and hold harmless the Town of East Lyme and its officers, agencies, agents, and employees for any and all claims, damages, or losses of any kind, including legal costs arising out of use of the mooring location assigned to that owner.**

(2) **All mooring permit holders shall comply with required minimum standards for mooring tackle provided by the Harbor Management Commission and shall recognize that minimum standards may not guarantee safety under all conditions.** ~~Utilization of proper mooring tackle is necessary to secure vessels adequately at their moorings. Recommended guidelines for mooring tackle may be provided by the Harbor Management Commission but these guidelines shall be advisory only.~~ Storms, wind, waves, tides, currents, and **surge wash shall** ~~must~~ be considered when selecting appropriate mooring tackle **for each vessel.** ~~Any~~ ~~Each~~ person mooring a vessel within the East Lyme Harbor Management Area is responsible for ~~any~~ damage to that vessel or to any other vessel or property caused by the failure of **his or her** ~~the~~ mooring tackle ~~used to secure that vessel.~~

m. n. Mooring Inspection

(1) ~~The Harbor Master may require that all Mooring tackle shall be inspected by the Harbor Master or an approved Inspection Service at least once every three years new moorings, anchors, chains, and other equipment used in connection with such moorings in the Harbor Management Area shall be submitted to the Harbor Master or to an inspector so designated by the Harbor Master or Harbor Management Commission for inspection to~~

determine soundness of condition. **An inspection verification form provided by the Harbor Management Commission shall be completed by the inspector and filed with the Harbor Master to document each required inspection.** ~~An official inspection form shall be filed with the Harbor Master by the owner at least once every three years.~~

~~(2) — No more than once each calendar year the Harbor Master may require any person who holds a mooring permit in the Harbor Management Area to display for inspection the anchor, chains, and other equipment used at such mooring for soundness of condition. Each mooring shall be subject to inspection by the Harbor Master at the discretion of the Harbor Master. A list of mooring inspection services shall be made available to the mooring permit holder by the Harbor Master. An official inspection form shall be filed with the Harbor Master by the owner once every three years.~~

~~(2) (3) The Harbor Master shall maintain a record of each inspection for a period of three years. If, as the result of such inspection it shall be determined that any chain, shackle, swivel or other piece of mooring tackle has become unsafe or otherwise inadequate, such piece all such chain, shackle, swivel or other piece of mooring tackle shall be replaced accordingly. Failure to make such replacement shall be grounds for revocation of the mooring permit by the Harbor Master.~~

n. e. Marking and Identification of Approved Moorings

All mooring buoys shall be white with a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the waterline in accordance with federal and state regulations. ~~The Harbor Management Commission Master may require additional marking for identification purposes shall establish and maintain reasonable standards for the marking of mooring buoys of all approved moorings buoys. in the Harbor Management Area. Notice of such standards shall be provided in writing to all owners of mooring permits at their record resident address.~~

o. p. Relocation and Removal of Moorings Tackle

(1) The Harbor Master may require any mooring or vessel to be moved to a new location whenever, in his judgment, the safety of any other vessels or optimum use of the mooring area so requires.

(2) If directions given by the Harbor Master with respect to removing unauthorized moorings, changing the location of existing moorings, ~~for the purpose of ensuring safety and optimum use of the mooring area~~ or replacing mooring tackle determined to be inadequate are not taken by the owner, if known, within **seven (7)** ~~fourteen (14)~~ days after notification, or, if not known, after notice has been posted for that period on the vessel or mooring, the Harbor Master may cause such moorings to be removed or changed or may drop the same to the bottom. Nothing herein contained shall prevent the Harbor Master or his designee from taking measures with or without notice, if, in his judgment, it is necessary in order to provide for the safety of persons or property. The expense of such mooring removal or relocation and any liability arising from injury to person or property incurred thereby shall be the responsibility of the mooring **owner. permit holder.**

(3) Any mooring tackle removed from the East Lyme Harbor Management Area in accordance with the provisions of this Ordinance shall be held at the direction of the Harbor Master for a period of thirty (30) days from the date of removal. A reasonable effort shall be made to contact the owner of the mooring tackle, if known, by telephone, email, letter, or any other reasonable means in order to provide an opportunity for the owner to claim the mooring tackle upon payment of the expense of removal and any applicable mooring permit fees. If the owner of the mooring tackle cannot be identified, does not respond to the contact attempts, or refuses to pay the reclamation cost and required permit fees within the 30-day period, the mooring tackle owner will be presumed to have relinquished ownership and the Harbor Master may dispose of the removed tackle at the Harbor Master's discretion.

p. ~~g~~ Designation of Channels or Fairways to be Kept Free of Moorings

For the purpose of this section, and in order to provide safe navigation access to all parts of the Harbor Management Area, the Harbor Management Commission, with the advice of the Harbor Master, is empowered to designate the location of channels or fairways within which approved moorings shall not be located, and to make changes in such designations where conditions or needs require. ~~These channels or fairways shall be identified in the Harbor Management Plan.~~

q. ~~f~~ Suspension of Requirements and Imposition of Emergency Requirements

In order to most effectively respond to any emergency as may be caused by a severe storm or other natural or man-made conditions, the Harbor Master is empowered to suspend the requirements of this section and/or impose additional requirements in the interest of public safety.

SECTION 7. MARINE SANITATION

a. Littering and Discharge of Pollutants Prohibited

No person shall place, throw, deposit or discharge or cause to be placed, thrown, deposited, or discharged into the Harbor Management Area any litter or other materials, including but not limited to, any refuse or waste matter, sewage petroleum products or by-products, paint, varnish, dead animals or debris of any kind which renders the waters unsightly, noxious, unwholesome, or otherwise detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes. **Applicable** ~~The provisions of Section 22a-250 of the Connecticut General Statutes shall be strictly enforced with respect to discharge of refuse in the Harbor Management Area.~~

b. Marine Toilets

Pursuant to the designation of all Connecticut waters as a "no discharge" area pursuant to the Federal Clean Water Act, n ~~No person shall discharge sewage from a vessel at any time into the Harbor Management Area. operate a marine toilet at any time so as to cause or permit to pass or be discharged into the Harbor Management Area any untreated sewage or other waste matter or contaminant of any kind. Any discharge shall be in compliance with current federal~~

~~standards concerning Marine Sanitary Discharge and state and Town Health Code regulations. No discharge requirements set forth in state and federal laws and regulations. The provisions of Sections 15-170 through 15-175 of the Connecticut General Statutes shall be strictly enforced. with respect to marine toilets.~~

c. Responsibility for Sanitation of Facilities

The owner, lessee, agent, manager or person in charge of any waterfront development or facility adjacent to the Harbor Management Area shall at all times, maintain the premises under his charge in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials.

ARTICLE II: HARBOR MANAGEMENT COMMISSION

SECTION 8. ESTABLISHMENT, JURISDICTION AND MEMBERSHIP

a. Establishment of the Harbor Management Commission

There is ~~constituted~~ an existing seven-member Harbor Management Commission established by an Ordinance dated June 14, 1986 and re-established by an Ordinance effective May 4, 1994 which shall continue to have the powers and duties conferred on such commissions by Chapter 444a of the Connecticut General Statutes, Revision of 1958, as amended, and the Harbor Management Commission ~~is designated~~ shall continue as the East Lyme Shellfish Commission and shall ~~further continue to~~ have all of the authority and responsibility granted to local shellfish commissions by Chapter 492 of the Connecticut General Statutes, Revision of 1958, as amended, except to the extent that the Waterford-East Lyme Shellfish Commission has been granted powers and duties by Section 26-287 of said statutes.

b. Jurisdiction

The Commission shall continue to have jurisdiction over the navigable waters as defined in subsection (b) of Section 15-3a of said Statutes within the East Lyme Harbor Management Area as defined in Section 2 of this ordinance. The Commission shall ~~also continue to~~ have charge of all the shellfisheries and shellfish grounds lying in the town not granted to the Waterford-East Lyme Shellfish Commission by Section 26-287 of the Connecticut General Statutes, Revision of 1958, as amended, and not under the jurisdiction of the commissioner of agriculture, including all river, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds (below the mean high water line) of the Town.

c. Membership and Terms of Service

The members of the Harbor Management Commission shall continue to be appointed by the Board of Selectmen in the following manner: four terms were filled by appointment for four year terms until the first Monday of January, 2020, and three for terms to expire on the first Monday of January, 2022, at which time they will continue to be filled by appointment for terms of four years, ~~four for terms to expire on the first Monday of January, 1988, and three for terms to expire on the first Monday of January, 1990.~~ Upon expiration of each of the initial terms,

~~appointment shall be made to fill such terms~~ for terms of four years. Vacancies shall be filled by the Board of Selectmen in accordance with Chapter 4 of the Charter. The Harbor Master shall continue to be a non-voting ex-officio member of the Commission, and if there shall be a vacancy in the office of the Harbor Master, the Deputy Harbor Master shall so serve until the vacancy is filled.

SECTION 9. POWERS, DUTIES AND RESPONSIBILITIES

a. Rules and Regulations

The Commission ~~may shall~~ adopt and publish such rules and regulations as may be required to implement its responsibilities as herein provided, **including but not limited to responsibilities for managing the mooring and anchoring of all vessels in the Harbor Management Area.**

(1) Prior to adopting any such rules and regulations, the Commission shall conduct a public hearing for the purpose of considering their adoption. Notice of the time and place of such public hearing, which notice shall include the title and summary of the rules or regulations proposed, shall be published twice in a local newspaper having substantial circulation in the Town of East Lyme at least five (5) days, but not more than fifteen (15) days, prior to the date of said hearing. A copy of the full text of the proposed regulation or rules shall be filed in the Office of the Town Clerk for public inspection at least ten (10) days prior to such hearing.

(2) Following such public hearing, the Commission shall act upon such rules **and regulations** and may make such changes or alterations in the form or content of the proposed rules or regulations as seen appropriate or necessary as a result of the public hearing held in connection therewith. Such changes, additions or alterations shall not require further public notice.

(3) Such rules **and regulations**, if adopted by the Commission and after approval by the Board of Selectmen of the Town of East Lyme, shall become effective after publication once in a local newspaper having substantial circulation in the Town of East Lyme within twenty-one (21) days following Board of Selectmen approval.

b. Harbor Management Plan

The Harbor Management Commission shall implement the East Lyme Harbor Management Plan, as amended in 2018 and as adopted by the Harbor Management Commission and Board of Selectmen effective as of May 4, 1994 _____, and approved by the State of Connecticut in accordance with Section 22a-113m of the Connecticut General Statutes. The Commission shall provide for review of the Plan and shall make any additions and/or modifications to the Plan that may be deemed appropriate subject to the process set forth in Sections 22a-113m

through 22a-113o of the Connecticut General Statutes or other subsequent harbor management legislation **that may be** enacted by the Connecticut General Assembly.

c. Harbor Management Ordinance

The commission shall review Town ordinances affecting harbor management and recommend any necessary changes. The Commission shall submit **recommendations for the** ordinances required to implement the **Harbor Management Plan** ~~plan~~ to the Board of Selectmen for adoption.

d. Review of Development Proposals

The Commission shall have the authority to review and make recommendations on proposals affecting real property **on, in or and** contiguous to the Town's Harbor Management Area as submitted to or proposed by any commission or department of the Town **and any agency of the State of Connecticut and Federal Government. Such review shall be in accordance with requirements set forth in this Ordinance and in state and federal laws, regulations, and other requirements, including but not limited to the harbor management provisions of the Connecticut General Statutes.**

d. Operating Budget

The Commission shall prepare and present to the Board of Selectmen an annual operating budget. The operating budget shall include a section reflecting estimated revenues and a section covering requested expenses by project or activity.

SECTION 10. CONSULTATION AND COORDINATION WITH OTHER TOWN BOARDS AND COMMISSIONS AND STATE AND FEDERAL AGENCIES

a. Harbor Management Plan Consistency Review

A Town "Harbor Management Consistency Review" process shall be carried out by the Harbor Management Commission to ensure effective implementation of the Harbor Management Plan and to provide coordinated, efficient and comprehensive review of the proposed projects and activities affecting the Harbor Management Area.

b. Coordinating With Other Town Boards and Commissions

As authorized by Section 22a-113p of the Connecticut General Statutes, the Harbor Management Commission may review, and make recommendations consistent with the Harbor Management Plan, on any proposal affecting the real property on, in or contiguous to the Harbor Management Area as submitted to, or proposed by, all other Town commissions and departments, including, but not limited to:

Planning Commission

Zoning Commission
 Zoning Board of Appeals
 Water and Sewer Commission
 Department of Public Works
 Parks & Recreation Commission
 Economic Development Commission
 Conservation Commission

c. Proposals Subject to Consistency Review

The Harbor Management Commission may review for consistency with the Harbor Management Plan: 1) all development proposals subject to the Town's Coastal Site Plan Review process and located on parcels contiguous to the Harbor Management Area, with the exception of one- and two-family dwellings; 2) all proposed uses or activities occurring **waterward of below the Coastal Jurisdiction Line Mean High Water Line, including, but not limited to, proposed uses or activities subject to state and federal coastal regulatory programs**; and (3) all proposed revisions and amendments to Town plans, rules and regulations affecting the Harbor Management Area and **the real property on, in or lands** contiguous to the Harbor Management Area, including, but not limited to, proposed revisions and amendments to the Zoning Regulations and Plan of **Conservation and Development**, regulations for use of the Town beaches and boat launching facilities, and regulations governing tidal wetlands and flood and erosion control.

d. Referral Schedule

(1) The town boards and commissions identified in subsection b above shall send to the Harbor Management Commission a copy of any proposal subject to the Harbor Management Consistency Review process at the request of the Commission. The Commission shall be notified of any such proposal at least thirty-five (35) days prior to the commencement of any hearings thereon or, where no hearing is held, at least thirty-five (35) days prior to the taking of any final action on the proposal.

(2) **Review of applications to state and federal governmental agencies shall be in accordance with the schedules set forth in the applicable state and federal regulatory programs.**

e. Determination of Consistency

The Harbor Management Commission shall determine the consistency of proposed projects with the Harbor Management Plan and make recommendations to the appropriate board, ~~or~~ commission, **or state or federal agency**. The local agency authorized to act on the proposal shall consider the recommendations of the Commission. A two-thirds vote of all the members of the local agency having authority to act on the proposal shall be required to approve a proposal

which has not received a favorable recommendation from the Commission, provided that the provisions of this section shall not be deemed to alter the authority of the agency having primary jurisdiction over the proposal to deny, modify or condition the proposal. Failure of the Commission to submit a recommendation **to another Town agency acting on a proposal affecting the real property on, in, or contiguous to the Harbor Management Area** shall be deemed to be approval of the proposal.

~~SECTION 11. PRIOR ORDINANCES RESCINDED AND EFFECTIVE DATE~~

~~a. — All prior ordinances relating to the East Lyme Harbor Management Commission and the East Lyme Shellfish Commission are hereby rescinded.~~

~~b. — This ordinance shall become effective ten (10) days after publication, except Section 6 which shall be effective on January 1, 1995.~~

Effective [add effective date] ~~May 4, 1994, Section 6 January 1, 1995~~
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