

CHAPTER 2017-5

**No. 93 AN ORDINANCE AMENDING THE CODE OF ORDINANCES TO ADD
SECTION 11-1.1, ENTITLED: "HARBOR MOORINGS AND
ANCHORAGES"**

Approved February 22, 2017

Be it ordained by the City of Providence:

SECTION 1. The Code of Ordinances is hereby amended by adding Section 11-1.1 as follows:

Sec. 11-1. - Harbormaster.

- (a) *Appointment.* In accordance with R.I.G.L. § 46-4-2, the city council shall appoint a harbormaster for the harbor of the city, defined as all the public waters westerly of the easterly sides of the ship channels in the Seekonk River, Providence River and Harbor and Narragansett Bay from the Pawtucket-Providence city line southerly to the point of intersection of the ship-channel side with a straight line drawn from Rumstick Point on the east shore to Rocky Point on the west shore, excluding that area subject to the jurisdiction of Cranston. The harbormaster shall report to the commissioner of public safety.
- (b) *Powers and duties.* The powers and duties of the harbormaster shall include, but are not limited to, administering and enforcing the harbor management plan, enforcing all federal, state, and local laws pertaining to activity in the harbor, recommending rules, regulations, and ordinances pertaining to the harbor to the city council, serving as an ex-officio member of the harbor commission, and carrying out all other powers and duties authorized to the harbormaster under various state and federal marine laws.

Sec. 11-1.1 Harbor Moorings and Anchorages.

- (a) **Harbor Moorings and Anchorages Program.** There is hereby established a mooring and anchorages program for the harbor of the city, as defined in Section 11-1(a) above, to be administered and supervised by the Harbormaster.
- (b) **Definitions.** For purposes of this section, the following definitions shall apply:
 - (1) "Applicant" means a person, whether an individual, partnership or corporation, seeking to obtain usage of a mooring or anchorage pursuant to this chapter. An Applicant must own 50% or greater of the vessel which would have use of the mooring or anchorage.
 - (2) "Anchorage" or "Transient anchorage" means that location and mooring tackle within the harbor available for use by transient boaters to moor vessels for up to three (3) consecutive days at a time.
 - (3) "Moor" means to secure a vessel to the bottom of a waterbody by the use of mooring tackle.
 - (4) "Mooring" or "permanent mooring" means that location within the harbor duly permitted by the City, by and through the harbormaster, and registered to the applicant.

- (5) "Mooring permit" means the official permit issued by the Harbormaster to allow the use of a mooring in the harbor.
- (6) "Mooring tackle" means all hardware used to secure a vessel at a mooring.
- (7) "Outhaul" means a non-single-point anchoring device, for the purpose of securing a boat in tidal waters and retrieving it from shore.
- (8) "Resident" means any permanent, full-time inhabitant of the City. In order to enable the City to comply with state law governing assignment of moorings to residents and non-residents, proof of residence shall be required at the time of application for a mooring permit and shall be established by presentation of a driver's license or equivalent identification.
- (9) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(c) **Allocation of Moorings.** Moorings shall be allocated by the Harbormaster.

- (1) Permits will be allocated each year on March 1st or, if this is deemed not practicable by the Harbor Management Commission, permits will be allocated on a date determined in a publicly noticed meeting of the Harbor Management Commission held prior to March 1st. For the purposes of this ordinance, this date shall be known as the "Allocation Date." Each permit will be valid for a three (3) year period, provided that:
 - (i) Moorings may be occupied only during the period March 1 through November 30 of any calendar year.
- (2) All persons wishing to apply for a mooring permit shall file an application, on a form approved by the Harbor Management Commission, and obtained from the Harbormaster. Applications shall be filed by February 1st, or if this is deemed not practicable by the Harbor Management Commission, by a date determined in a publicly noticed meeting of the Harbor Management Commission held prior to February 1st. For the purposes of this ordinance, this date shall be known as the "Application Deadline."
- (3) All applications must be accompanied by a non-refundable application fee of \$25.00, payable to the City of Providence. The harbormaster shall not accept an application unless payment is rendered at the time the application is submitted.
- (4) In the event the applications for mooring permits as of the Application Deadline, as defined in subsection 11-1.1(c)(2) exceed the number of moorings available, then mooring permits shall be assigned by a lottery system, operated by the harbormaster in accordance with the following guidelines.

- i. Between the Application Deadline and the Allocation Date, the Harbormaster will conduct a lottery by which numbers will be randomly drawn to assign each applicant a position on a list. Moorings will be allocated according to the applicants' randomly drawn numbers, beginning with number 1. After all available mooring are allocated, a wait list will be developed following the same randomly drawn numbers.
 - ii. The lottery shall be held at a publicly noticed meeting of the Harbor Management Commission. Notice shall be posted in accordance with the Open Meetings Act, including but not limited to posting in the Office of the Clerk and on the website of the Secretary of State.
 - iii. Moorings shall be allocated to both residents and non-residents of the City. In accordance with the regulations of the State Coastal Resources Management Council ("CRMC"), the ratio of resident permit holders to non-resident permit holders may not exceed 3:1.
 - iv. Permits may not be transferred. If a permit holder does not wish to maintain a permit for the full three-year period, the permittee shall return the permit to the Harbormaster, who shall re-assign the permit to the next on the wait list. Should there be no wait list remaining, a special lottery will be held to re-assign the permit.
- (5) All permit holders must re-apply for a new three-year permit. Each year, the mooring allocation process set forth in this ordinance shall be repeated for any moorings unallocated from the prior year and any moorings whose three-year permit has expired.

(d) Forfeiture of mooring space. Any permit holder shall be deemed to have forfeited his mooring space by reason of any one of the following:

- (1) Failure to comply with any of the requirements of this Section 11; or
- (2) Failure to respond to the harbormaster's notice that the mooring does not comply with the mooring tackle standards set forth in the Harbor Management Plan, and any applicable state or federal regulations; or
- (3) The mooring has been displaced or moved from its permitted location without approval, or
- (4) Failure to display the mooring sticker on the mooring buoy, or
- (5) Failure to resurface, repair or replace mooring tackle within 60 days after being advised to do so by the harbormaster.

(e) Occupancy of mooring. No vessel shall occupy a mooring other than the one for which it has been permitted. The harbormaster shall have the authority to move or cause to be moved any vessel violating the provisions of this section, at the expense and risk of the vessel owner.

- (f) **Temporary guest use.** The holder of a mooring permit may allow temporary guest use of a mooring by a vessel other than the one permitted, provided that the following conditions are met:
- (1) The mooring owner, or his agent, must notify the harbormaster upon the vessel's arrival at the mooring.
 - (2) No guest may use a mooring for more than fourteen (14) days.
- (g) **Transient Anchorages.** The Harbormaster shall assign City-owned transient anchorages to vessels on a first to arrive basis. The maximum length of stay on a transient anchorage is three (3) consecutive days.
- (h) **Outhauls.** Any outhauls shall be subject to the regulatory jurisdiction of the CRMC.
- (i) **Fees.** The following fees shall apply:
- (1) Application fee pursuant to section 11-11.1(c) above: \$25.00
 - (2) Annual fee for three-year mooring permit: \$350.00
 - (3) Fee for use of a City-owned transient anchorage: \$75.00 per day (24-hour period).

All fees shall be payable to the City of Providence, and shall be submitted to the Harbormaster. The mooring permit fee shall not be pro-rated if a permittee returns the permit to the Harbormaster prior to the expiration of the permit, or vacates, abandons, or fails to utilize a mooring. Annual payment is due on or before issuance of a mooring permit.

- (j) **Fines.** In addition to any other penalties provided for by law, the following violations shall be subject to fines for each day the violation occurs and continues:
- (a) unauthorized use of a City-owned transient mooring: \$150.00 per day
 - (b) unauthorized use of a permitted annual-use "permanent" mooring: \$150.00 per day
- Fines shall be assessed by the Harbormaster, and shall be paid to the City of Providence.

- (k) **Establishment of Fund.** All fees and fines due and payable under this Section 11-1.1 shall be placed in a separate fund in the City Treasury, which is hereby established. The fund shall be used for the implementation, operation and maintenance of the moorings and anchorages programs established by this Section 11-1.1, subject to the supervision and approval of the Harbor Management Commission. All expenditures and accountings shall be made in accordance with the provisions of the City's Home Rule Charter and Code of Ordinances.

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL
FEB 02 2017
FIRST READING
READ AND PASSED

Lois R. Dwyer CLERK

IN CITY
COUNCIL
FEB 16 2017
FINAL READING
READ AND PASSED

Anna L. Martineau PRESIDENT
Lois R. Dwyer CLERK

I HEREBY APPROVE

[Signature]
Date: 2/02/17