

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 1993-30

No. 625 **AN ORDINANCE** AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE, AS AMENDED.

Approved September 24, 1993

Be it ordained by the City of Providence:

SECTION 1. Chapter 11 of the Code of Ordinances of the City of Providence is hereby amended by deleting the following:

1. Section 11-20 in its entirety.

SECTION 2. Chapter 11 of the Code of Ordinances of the City of Providence is hereby amended as follows:

1. Section 11-21, entitled "Definition of the port district of the Port of Providence," is hereby renumbered to read "Section 11-20."

SECTION 3. Chapter 11 of the Code of Ordinances of the City of Providence is hereby amended by adding a new section, as follows:

Section 11-21. Prohibited Activities On and Within the Waters of the City of Providence.

ARTICLE I. Prohibited Activities

It shall be unlawful for any person operating a motorboat or vessel on and within the waters of the City of Providence to:

- (a) Operate an unregistered and/or unnumbered motorboat or vessel;
- (b) Operate a motorboat or vessel within a water area which has been clearly marked by buoys or some other distinguishing device, as a bathing, swimming or otherwise restricted area; provided, however, that this section shall not apply in the case of an emergency, or to patrol or rescue craft;
- (c)
 - (i) Operate a motorboat or vessel at a speed of greater than five (5) miles per hour no wake within areas designated by the Port Commission;
 - (ii) Operate a motorboat or vessel within non-designated areas at a speed greater than forty-five miles per hour during the hours from sunrise to sunset and twenty-five miles per hour during periods of darkness or other periods of restricted visibility;

No.

CHAPTER
AN ORDINANCE

THE COMMITTEE ON
ORDINANCES

Approves Passage of
The Within Ordinance, *As Amended*

Barbara A. Fairie
Chairman
8/15/93
Clerk

THE COMMITTEE ON
ORDINANCES

Recommends *Be Continued*

Barbara A. Fairie
Clerk
10/22/92
10/28/92
11/17/92

THE COMMITTEE ON
ORDINANCES

Recommends *Continued*

Barbara A. Fairie
Clerk
8/11/93
8/24/93

THE COMMITTEE ON
ORDINANCES

Approves Passage of
The Within Ordinance, *As Amended.*

Barbara A. Fairie
Chairman
4/7/92
Clerk

THE COMMITTEE ON
ORDINANCES

Recommends *Be Continued*

Michael L. Clement
Clerk
3/21/92
3/23/92

IN CITY COUNCIL
Mar. 5, 1992
FIRST READING
REFERRED TO COMMITTEE ON

ORDINANCES

Michael L. Clement CLERK

IN CITY COUNCIL
APR 1992

FIRST READING
REFERRED TO COMMITTEE ON ORDINANCES

Michael L. Clement CLERK

Councilman Agiozzi (By request)

- (d) Operate a motorboat or vessel in a manner which shall unreasonably or unnecessarily interfere with any other motorboat or vessel, or with the free and proper navigation of the waters of the City of Providence;
 - (e) Fail to stop and render assistance in the event of a collision, accident or other casualty, and/or fail to provide identification, in writing, to any person injured and to the owner of any property damaged in the collision, accident or other casualty, so far as the operator of any motorboat or vessel involved in a collision, accident or other casualty can do so without serious danger to his or her own vessel, crew and passengers;
 - (f) Fail to report any accident, casualty, vandalism or theft to the Department of Environmental Management or the police department where such accident, casualty, vandalism or theft involving a motorboat or vessel is in excess of five hundred dollars (\$500.00);
 - (g) Operate a motorboat or vessel with improper:
 - (i) light installation;
 - (ii) use of lights;
 - (iii) sound-producing devices;
 - (iv) personal flotation devices (PFD);
 - (v) fire extinguishers; and
 - (vi) muffling devices.
- as set forth in State Law.
- (h) Operate a motorboat or vessel, or manipulate water skis, surfboards or similar devices in a reckless manner so as to endanger the life, limb or property of another;
 - (i) Operate a motorboat or vessel, or manipulate water skis, surfboards or similar devices 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 or her own expense immediately after his or her arrest, by a physician selected by him or her, and the officer so arresting or so charging that person shall immediately inform that person of this right and afford him or her a reasonable opportunity to exercise the same, and at the trial of that person, the prosecution must prove that he or she was so informed and was afforded such opportunity;

- (j) Dock or otherwise make fast any motorboat or vessel to any pier, channel marker, buoy, wharf or other shore structure without the consent of the owner, except in the case of an emergency;
- (k) Operate a motorboat or vessel on and within the

waters of the City of Providence for towing a person or persons on water skis, or a surfboard or similar device unless there is in the motorboat or vessel (i) a person at least twelve (12) years of age, in addition to the operator, in a position to observe the progress of the person or persons being towed; (ii) at least one (1) personal flotation device (PFD) for each person being towed;

- (l) Operate a motorboat or vessel on and within any waters of the City of Providence towing a person or persons on water skis, a surfboard or similar device beginning at one (1) hour after sunset and ending at one (1) hour before sunrise;
- (m) Engage in water skiing, surfboarding, or similar activity at any time between the hours beginning at one (1) hour after sunset and ending at one (1) hour before sunrise, or within areas in which said activities are prohibited;
- (n) Operate or manipulate any motorboat, vessel, tow rope or other device by which the direction or location of water skis, a surfboard, 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;
- (o) Conduct a regatta, motorboat, or other boat race, marine parade, tournament, or exhibition, except on the terms and conditions specifically set forth by the Port Commission;
- (p) Refuse to move or stop on oral command of the harbormaster, assistant harbormaster, or police officer operating from a patrol boat identified as such, and exercising the duties lawfully assigned to him or her;
- (q) Engage in scuba diving, skin diving, or snorkeling in an area where power or motorboats are operated, unless the proper warning flags, as set forth in State Law, are posted;
- (r) Operate a motorboat or vessel within fifty (50) feet of any warning flag as set forth in State Law;
- (s) Construct and/or place a mooring without a permit issued by the Port Commission;
- (t) Throw, dispose of, deposit, or cause to be thrown, disposed of, 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 of Providence;
- (u) Deposit or abandon a vessel or structure upon the shore, a public right-of-way or on and within the waters of the City of Providence. When any vessel or structure is deposited or abandoned in the waters of the City of Providence, the same may be removed by the Police Department, or its lawfully authorized agent.

- (i) Notice of Removal of Vessel/Harbor Structures - If the person who owns, has an interest in, or exercises any control over the vessel or structure, or otherwise is known, the Chief of Police, or his lawfully designated agent, shall give written notice by certified mail to said person to remove the vessel or structure within a specified time.
- (ii) Removal of Vessel/Harbor Structures - 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 Chief of Police, or his lawfully designated agent, or if no such person is known to the Chief of Police, or his lawfully designated agent, upon whom the notice can be served, then the Chief of Police, or his lawfully designated agent, may proceed to remove, or cause the vessel or structure to be removed, in a manner and to a place the Chief of Police, or his lawfully designated agent, shall deem appropriate.
- (iii) Liability - In the event that such person identified in Article I, Paragraph (u), Subparagraph (1), shall allow a vessel or structure to be removed by the Chief of Police, or his lawfully designated agent, in accordance with this ordinance, then such person 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 expense 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 ninety (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 ordinance.
- (v) Engage in rafting on a single mooring or anchor, unless such rafting does not unreasonably interfere with any adjacent single moorings or anchorages. Motorboats and/or vessels in a raft shall be manned at all times;
- (w) Operate a marine toilet at any time so as to cause or permit to pass or to be discharged into harbor waters, any untreated sewage, or other waste matter or contaminant of any kind, and/or dumping of holding tanks containing anything other than fresh water or sea water into harbor waters;
- (x) Moor or anchor a houseboat unless such mooring or anchoring is done within designated areas.

Article II. Miscellaneous Provisions

Anytime the Chief of Police, or his lawfully designated agent, directs that a motorboat or vessel be towed pursuant to this ordinance, there shall be a fee assessed to the owner of said motorboat or vessel for said towing. Said fee shall be one hundred dollars (\$100.00) and shall be subject to annual revision by the Commissioner of Public Safety, or his lawfully designated agent. Should the towing be performed by a commercial towing service, this fee shall be in addition to the towing fee charged by the towing service.

Article III. Definitions.

As used in this Section, unless the context clearly requires a different meaning:

- (a) "Vessel" means every description of watercraft other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- (b) "Motorboat" means any vessel whether or not the vessel is propelled by machinery. For the purposes of this chapter, motorboat shall not include houseboats as defined in the General Laws of Rhode Island, any ferry, canoes and rowboats twelve (12') feet in length or less.
- (c) "Operate" means to navigate or otherwise use a motorboat or vessel.
- (d) "Person" means an individual, partnership, firm, corporation, association, or other entity.
- (e) "Houseboat" means a building constructed on a raft, barge or hull that is used primarily habitation.

Article IV. Enforcement Authority.

- (a) The City or its lawful agent shall have the authority to enforce the provisions of this Section and in the exercise thereof, shall have the authority to stop and board any motorboat or vessel subject to this Section.
- (b) Such enforcement authority as set forth in (a) above shall be concurrent with that possessed by the department of environmental management, pursuant to Section 46-22-17 of the General Laws of Rhode Island.

Article V. Penalties for Violation.

(a) The general penalties provided for by Section 1-10 of the Code of Ordinances shall apply to violations of this Chapter, except that any person electing to appear before the clerk of the court, or in lieu of a personal appearance electing to enter an appearance by mail, and admitting the violations charged shall be punished by a fine as set forth for each violation as follows:

- (i) Any person who violates any provision of Article I, Paragraph (c), Sub paragraph (i); Paragraph (g) or Paragraph (r) of Section 11-21 shall be subject to a fine of fifty dollars (\$50.00) for each violation.
- (ii) Any person who violates any provision of Article I, Paragraphs (a), (e), (g), (o) or (p) of Section 11-21 shall be subject to a fine of one hundred dollars (\$100.00) for each violation.
- (iii) Any person who violates any provision of Article I, Paragraphs (k), (l), (m) or (n) of Section 11-21 shall be subject to a fine not to exceed two hundred dollars (\$200.00) for each violation.
- (iv) Any person who violates the provisions of Article I, Paragraph (c), Subparagraph (ii),

shall be subject to the following fines:

<u>MPH In Excess of Speed Limit</u>	<u>Fine</u>
1-10	\$ 25.00
11-15	50.00
16-20	75.00
21-25	100.00
26 and above	5.00 per mile in excess of speed limit.

- (v) Any person who violates the provisions of Article I, Paragraph c, Subparagraph (ii) shall be required to attend a boating safety course in addition to the payment of any fine.

In the event a fine as set forth for each violation is not paid or a plea of not guilty is not entered by any person charged with any violation prior to the fourteenth day after the date of the violation, said fine shall be doubled. In the event a fine as set forth for each violation is not paid or a plea of not guilty is not entered subsequent to the fourteenth day after the date of violation, said fine shall be tripled.

- (b) Any person who violates any provision of Article I, Paragraphs (f),(s),(t),(u),(v) or (w) of Section 11-21 shall be guilty of a petty misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00), or imprisonment not to exceed thirty (30) days, or both for each violation.
- (c) Any person who violates any provision of Article I, Paragraphs (b),(d),(h),(i),(j) or (x) of Section 11-21 shall be guilty of a misdemeanor and shall be subject to a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment not to exceed one (1) year, or both for each violation.
- (d) Any person charged with any violation set forth in Article I, Paragraph (c), Subparagraphs (i),(ii); Paragraphs (e),(g),(k),(l),(m),(n),(o),(p),(q) or (r) and notified in writing by a police officer to appear to answer such charge before the Providence Municipal Court may, in lieu of such appearance, elect to appear in person or by one duly authorized by him in writing, before the clerk of said court, admit the truth of said charge, and pay to said clerk the designated fine; provided that such appearance, admission and payment be made at the office of said clerk during regular business office hours, within sixty (60) days of such notification, and failure to so appear shall be deemed a waiver of the right to dispose of such charge without personal appearance in court.
- (e) In those cases where mail is used for payment of such fine, the payment shall be by check or by money order, and in those cases where payment is attempted with a check drawn against insufficient funds, an additional payment of twenty-five dollars (\$25.00) shall be imposed against the violator to

defray administrative costs.

(f) The payment of a fine to the clerk of the municipal court as herein provided for any violation set forth in Article I, Paragraph (a); Paragraph (c), Subparagraph (i); Paragraphs (e), (g), (k), (l), (m), (n), (o), (p), (q) and (r) shall operate as a final disposition of the charge.

(g) Notice of any violation set forth in Article I, Paragraph (a); Paragraph (c), Subparagraph (i); Paragraphs (e), (g), (k), (l), (m), (n), (o), (p), (q) and (r) shall indicate the offense charged, a schedule of fines for such violation, the time within which such fine by mail may be exercised, the place to which such fine may be mailed and such other information as will enable the person charged to take advantage of the provisions hereof.

Article VI. Severability

(a) If any of the provisions of this Ordinance or the application of such provision to any person or under any circumstances shall be held unconstitutional or otherwise invalid or inoperative by a decision of any court of competent jurisdiction, or if any action performed under any provision of this Ordinance is restrained or enjoined by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be deemed impaired or affected thereby but shall be deemed to remain in full force and effect.

SECTION 4. This Ordinance shall take effect upon its passage.

IN CITY COUNCIL
SEP 2 1993
FIRST READING
READ AND PASSED
Michael R. Clement CLERK

IN CITY COUNCIL
COUNCIL
SEP 16 1993
FINAL READING
READ AND PASSED
James A. ... PRESIDENT
Michael R. Clement CLERK

APPROVED
SEP 24 1993
Vincent A. Cianci
MAYOR

CHAPTER

AN ORDINANCE AMENDING CHAPTER 11
OF THE CODE OF ORDINANCES OF THE
CITY OF PROVIDENCE, AS AMENDED





PORT OF PROVIDENCE

Thomas F. O'Connor, Jr.
Executive Director
(401) 781-4717
Fax 461-6240

April 1, 1993

Councilman David V. Igliazzi
Chairman, Committee on Ordinances
% Office of the City Clerk
City Hall
Providence, Rhode Island 02903

RE: HARBOR ORDINANCE

Dear Councilman Igliazzi:

At the Port Commission meeting of December 17, 1992, the Commission voted to recommend passage of the Harbor Ordinance as previously amended to reflect the concerns of the Commission as presented by Commissioner and City Councilwoman Rita Williams. It was the consensus of the Commission that the Ordinance language is sufficient to ensure some Commission control and input to the process.

Please accept my apologies for any inconvenience that may have ensued by the delayed submission of this correspondence. Enclosed you will find a copy of the minutes reflecting the Commission's vote on this matter.

If there is any need for further clarification, please contact me directly.

Sincerely,

Thomas F. O'Connor
Executive Director

Enclosure: 2

TFO/sdp

**PORT COMMISSION MEETING
DECEMBER 17, 1992**

The Port Commission Meeting of Thursday, December 17, 1992, convened at 9:05 a.m. in the Marine Terminal Building, Port of Providence. Chairman William H.D. Goddard conducted the meeting. Director Thomas O'Connor introduced new Commission member Stephen Giannini and new Port secretary Sheila Delpico to the Commission.

A motion was made and seconded to approve the minutes of the November meeting.

Operations Report

Director O'Connor expressed his pleasure with continued positive revenue flow here at the Port. Steel and lumber show a slight increase and plywood is climbing steadily with two ships rumored to come in within the next couple of months. Petroleum is doing well, due to the resolution of the Sun Oil Contract. Of the \$151,000, arrearages amounted to \$123,000 which were due upon completion of the contract. Additional arrearages will be contained in the December report; generally, petroleum shows a slight to moderate increase over last year. The same is true for cement and propane. Caustic and latex also show slight increases, with latex expected to do very well due to the new tanks that were installed. Scrap and bulk paper continue to hold their own. Director O'Connor made mention that we also collect revenue from storage fees on the bulk paper. Discussion ensued on topic of "bad debt". Mr. O'Connor stated that City Hall was aware of situation and that the companies involved were PTA, John Orr, and the paper people, amounting to approximately \$330,000. This reflects period of 1988 forward. Propane which is generally a winter commodity is also up slightly from last year but will be better reflected on the December report.

Overtime Report

Reflecting the months of July thru November, was received and reviewed by the Commission. Mr. O'Connor explained that the rise in August was due to several vacancies in security and due to illness and transfer; we are shorthanded. He believes that a hire has been made based on seniority; therefore, the situation will soon be rectified.

PTA Update

Mr. O'Connor stated that he met with Pat McLaughlin of the Solicitor's Office and Jim DiPrete and have agreed to the language of the contract and are prepared to send it to the City Council through the Solicitor's Office and the Committee on Public Property and it should be heard sometime in January.

Strategy Update

Mr. O'Connor stated that he has spoken to Planning & Development regarding the extension of Strategy's contract. Mr. O'Connor has also spoken with Tony Ventatuolo who is aware of the situation and who will be meeting with the administration.

Port Consolidation

Chairman Goddard and Director O'Connor met with the Governor and gave their presentation and recommendations. Mr. O'Connor also met with George Prete of DED and Bill Collins of the Mayor's Office to tour the port. He agreed to send all pertinent documents to them and would get together for a nuts and bolts meeting to plan for January's big meeting. Mr. O'Connor stated that we need a direct link to the Governor's Office and would like to get one of his staff people directly involved.

Hudson Oil Lease

A proposal had been made by Hudson to rent Brewsters' at 25¢ per sq. ft. We countered this offer at 70¢ per sq. ft. with comment that we do not intend to sell the property. Mr. O'Connor and Mr. Goddard met with representatives from Hudson and discussed their positions, with Hudson stating that they would get back to us. To date there has been no response.

Harbor Ordinance

After much discussion concerning general terms used in Article 11, it was decided that the language was sufficient; it gives the Port Commission some control. A motion was made, seconded and passed to accept the Ordinance with recommendation for passage by the City Council. It is expected to pass in Council by the end of February.

Bryant College Import/Export Center

We have identified \$3,500 in the Port Budget and are in need of an additional \$1,000 from the City. A motion was made and seconded to utilize the Port Trust Fund for the sum. Discussion followed and Mr. O'Connor noted that the \$3,500 may need Council approval to be moved from one line item to another. Motion passed contingent to obtaining approval on transfer of funds (\$3,500) by the City Council.

Port Lighting

This project was approved over a year ago and is expected to be completed by mid January. Mr. O'Connor stated that he is satisfied with the progress thus far, as there will be substantially more night lighting on berths 3 and 4.



PORT OF PROVIDENCE
Port Administration Building
Municipal Wharf
Providence, Rhode Island 02905

Councilman David V. Igliazzi
Chairman, Committee on Ordinances
% Office of the City Clerk
City Hall
Providence, Rhode Island 02903

ATTENTION: BARBARA POIRIER

4-2

Barlow,

This was dropped
off by Art Berlin
(port).

Anna

PORT OF PROVIDENCE

Thomas F. O'Connor, Jr.
Executive Director
(401) 781-4717
Fax 461-6240



April 1, 1993

Councilman David V. Igliazzi
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% Office of the City Clerk
City Hall
Providence, Rhode Island 02903

RE: HARBOR ORDINANCE

Dear Councilman Igliazzi:

At the Port Commission meeting of December 17, 1992, the Commission voted to recommend passage of the Harbor Ordinance as previously amended to reflect the concerns of the Commission as presented by Commissioner and City Councilwoman Rita Williams. It was the consensus of the Commission that the Ordinance language is sufficient to ensure some Commission control and input to the process.

Please accept my apologies for any inconvenience that may have ensued by the delayed submission of this correspondence. Enclosed you will find a copy of the minutes reflecting the Commission's vote on this matter.

If there is any need for further clarification, please contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Thomas F. O'Connor".

Thomas F. O'Connor
Executive Director

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TFO/sdp

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