

**241. AN ORDINANCE AMENDING ORDINANCE #167 “AN ORDINANCE ADOPTING A HARBOR MANAGEMENT PLAN FOR THE CITY OF GROTON” (INITIALLY APPROVED OCTOBER 4, 2021; FINALLY APPROVED NOVEMBER 1, 2021)**

BE IT ORDAINED by the City Council of the City of Groton at a regular meeting thereof duly held on November 1, 2021 :

**WHEREAS**, Ordinance 167 states: “The Harbor Management Fund shall be established, budgeted, and administered in a manner consistent with the procedure contained within the City of Groton Charter and Connecticut General Statutes Section 22a-113s.”; and

**WHEREAS**, Connecticut General Statutes Sec. 22a-113s. Permit fee. The commission may propose a fee schedule for a permit for a mooring or anchorage or any other activity within the scope of the plan to be adopted by vote of the legislative body of each town establishing the commission. The maximum annual fee for a mooring or anchorage shall be two hundred dollars. The harbor master or deputy harbor master for the municipality shall collect such fee. Any fee collected pursuant to this section shall be deposited into a fund maintained by the municipality in which such fee was collected and shall be used for the maintenance and improvement of the harbor for the public and for expenses for personnel and equipment directly related to the function of the commission and the harbor master or deputy harbor master; and

**WHEREAS**, make the appropriate changes as reflected below:

Be it ordained by the City Council of the City of Groton that the City adopt the plan entitled “City of Groton Harbor Management Plan, December 2006 (“Plan”), prepared by the City of Groton Harbor Management Commission, in accordance with sections 22a-113k, et seq. of the Connecticut General Statutes. Said Plan consists of 53 pages of text, and Appendices A-1 through A-14, B-1, C-1 through C-10 and D-1 through D-7.

**Article I: GENERAL PROVISIONS**

Sec. 1 **Title:** This Ordinance shall be known as the City of Groton Harbor Management Ordinance.

Sec. 2 **Applicability:**

**2-1 GENERAL PROVISIONS**

**2-1.1** **Applicability.** The provisions of this chapter and any rules and regulations adopted pursuant thereto shall be applicable, and shall govern the use of harbor lands, waters, and facilities under the jurisdiction of the City of Groton Harbor Management Commission. The ordinance shall be subordinate to all existing federal and state statutes and regulations affecting the City of Groton, and is not intended to preempt any other valid laws. The Harbor Management Commission may from time to time amend the following rules and regulations in accordance with the procedures for harbor plan modifications in the Harbor Management Act.

- 2-1.2** **Authorities.** The City of Groton Harbor Master, or his or her designee, under the direction of the City of Groton Harbor Management Commission, shall have the authority to carry out harbor management directives and enforce all provisions of the Harbor Management Plan, including the ordinance. The Harbor Master, or his or her designee, may cite any alleged violators of the ordinance.
- 2-1.3** **Violations.** Any violation of the ordinance shall be a municipal infraction and a fine not to exceed \$100.00 shall be imposed for each conviction hereunder. Each day in violation shall be considered a separate, repeat offense and subject to separate citations. A fine not to exceed \$100.00 shall be imposed for each repeat offense.
- 2-1.4** **Water Use Plan.** The Water Use Plan, Chapter 5 of the Harbor Management Plan, is hereby incorporated in the ordinance by reference. It indicates the geographic locations where the various provisions of the ordinance apply.
- 2-1.5** **Harbor Management Fund.** A Harbor Management Fund will be created to receive and expend monies for harbor management purposes determined by the Harbor Management Commission. All revenues generated by (1) permits if a fee for mooring permits is approved, and (2) fines levied under the provisions of the Harbor Management Ordinance shall be deposited into this fund. Funds shall be disbursed for purposes directly associated with the management of the waters of the City of Groton and implementation of the City of Groton Harbor Management Plan. Monies from this fund may be allocated to the Harbor Master, or his or her designee, for the purpose of enforcing the provisions of the City of Groton Harbor Management Plan and/or the Harbor Management Ordinance. The Harbor Management Fund shall be established, budgeted, and administered in a manner consistent with the procedure contained within the City of Groton Charter and Connecticut General Statutes Section 22a-113s.
- 2-1.6** **Amendment Procedure.** A modification to the plan may be proposed at any time and shall be approved in the same manner as the original plan. To begin this process, the proposed modification shall be presented to the Harbor Management Commission. The plan shall be reviewed annually by the commission and the commissioners of Environmental Protection and Transportation pursuant to Section 22a-113m of the Harbor Management Act.
- 2-2** **FEES**
- 2-2.1** The Harbor Management Commission shall set a schedule of fees for mooring permits, pursuant to Section 22a-113s of the Connecticut General Statutes.
- 2-2.2** The fee schedule shall be set by the Harbor Management Commission by November 10th. If the schedule is not set by November 10th, the previous year's fee schedule shall govern until the next season.
- 2-2.3** There shall be no fee for properly authorized swimming rafts or governmental moorings.
- 2-2.4** Fees shall be collected by the Harbor Master and deposited to the Harbor Management Fund of the City of Groton.
- 2-2.5** Funding of the Harbor Management Commission shall be provided for in accordance with the budgeting process of the City of Groton.

## **2-3 HARBOR REGULATIONS**

These regulations are designed to regulate activities in the waters of the City of Groton. The Harbor Management Commission may from time to time amend the following rules and regulations; however, the Harbor Management Commission cannot amend state regulations.

### **2-3.1 Wake Regulations** *Vessels are to operate in accordance with state regulation Sec. 15-121-B15l. Pine Island Bay and Baker Cove Regulation.*

Effective May 19, 1994

On the waters of Pine Island Bay and Baker Cove, both located in the City of Groton and the Noank section of the Town of Groton bounded on the west by a line extending from the southernmost point of Avery Point to the westernmost point of Pine Island and bounded on the east by a line extending from the southernmost point of the east bank of Baker Cove to the westernmost point of Bushy Point year round.

- (a) All motorboats shall be operated at SLOW - NO - WAKE [with minimum wake, at a speed not to exceed six miles per hour];
- (b) No person shall water-ski and no person shall operate a vessel towing a water-skier.

#### **2-3.1.1 Slow No Wake** A vessel shall not produce more than a minimum wake and shall not attain speeds greater than 6 miles per hour over the ground unless a higher minimum speed is required to maintain steerageway when traveling with a strong current.

### **2-3.2 Speed Regulations** *Vessels are to operate in accordance with state regulations Sec. 15-121-B14. Restricted speed limit.*

Effective November 5, 1991

- (a) [Except as provided in Section 15-121-A15(a)(4), no] NO person shall operate a motorboat at a speed in excess of [six miles per hour] SLOW - NO - WAKE within one hundred feet of shore, or of a dock, pier, float, or anchored or moored vessel, unless such motorboat is approaching such float, dock or shore for the purpose of enabling a person engaged in waterskiing to take off or land.
- (b) The commissioner may temporarily limit vessel speed to SLOW -NO - WAKE in a construction area. Uniform state waterway marking system controlled area regulatory markers may be placed to indicate the SLOW - NO - WAKE area.
- (c) Violation of subsection (a) of this section shall be an infraction.
- (d) This section shall not preempt town ordinances or regulations which are adopted in accordance with Section 15-136 of the Connecticut General Statutes and which have more stringent speed limits or distance from shore limits.

### **2-3.3 Waterskiing Regulations.** Waterskiing is to be performed in accordance with state regulations.

### **2-3.4 Motor Regulations** The use of motors may cause environmental damage or safety hazards in some areas; therefore, characteristics and use of motors are regulated.

Pursuant to Connecticut General Statutes Section 15-136, ordinances pertaining to operation of vessels must be approved by DEEP after local adoption.

**2-3.4.1** Given the fragile nature of the habitat and the potential for wetland destruction, the use of an internal combustion engine to power any vessel is prohibited in Birch Plain Creek, north of the Providence and Worcester railroad bridge, with the exception of Law Enforcement Vessels. The use of battery powered electric motors is permitted.

**2-3.5** **Noise Abatement** This prohibition includes, but is not limited to, operating a motor boat without an adequate muffler as provided under Connecticut General Statutes Section 15-129, loud offensive language or behavior, and playing of radios, musical instruments or other noise producing devices so loudly as to constitute a nuisance. No person shall leave a vessel without securing all halyards and other noise producing objects in such a manner as will effectively prevent the production of noise under all reasonably foreseeable conditions.

**2-3.6** **Discharge of Refuse** The provisions of Connecticut General Statutes Section 22a-250, inclusive, shall be strictly enforced with respect to discharge of refuse.

**2-3.7** **Marine Sanitation Devices:** The provisions of Connecticut General Statutes Sections 15-170 through 15-175, inclusive, shall be strictly enforced with respect to marine toilets.

**2-3.8** **Mooring Allocation/Assignment.** Pine Island Bay Mooring Grid is shown on Page 40 of this Plan. Per U.S. Army Corps of Engineer's Permit #1990-00882 and Connecticut DEEP Permit # 199500782-KH, those moorings inside the area shown in their permit are assigned to the Shennecossett Yacht Club for use by their members. Two moorings in the southern portion are to be designated "Transient Moorings". As per U.S. Army Corps of Engineer's Permit # 1982-00251 and Connecticut DEEP Permit # 199600496-SG, those moorings inside the area shown in their permit are assigned to Pine Island Marina for its use by their customers. Individual assignment of these moorings will be controlled by Shennecossett Yacht Club and Pine Island Marina respectively. A single mooring permit is issued by the Harbor Master to Pine Island Marina with the total number of locations assigned to it. No mooring permit is issued by the Harbor Master for any moorings in the Shennecossett Yacht Club assigned areas. All other moorings will be individually assigned to the General Public.

**2-3.8.1** The Eastern Point mooring area, as shown on the Water Use Plan, will be reserved for the general public and a separate waiting list will be established if required.

**2-3.8.2** Moorings location, scope length, and minimum ground tackle shall comply with the minimum mooring tackle requirements in Section 2-3.8.19. Locations where moorings are permitted are shown on the Water Use plan maps.

**2-3.8.3** No mooring is to be placed in the waters of the City of Groton without a permit from the City of Groton Harbor Master. Moorings will be assigned without regard to residency.

**2-3.8.4** Any mooring buoys so permitted by the Harbor Master must be in compliance with the shape, color and layout as required under existing Regulations of Connecticut State Agencies (RSCA) Sec.15-121-A3(a).

- 2-3.8.5** Any mooring permit granted by the City of Groton Harbor Master shall expire on December 15<sup>th</sup> in the year of its issue.
- 2-3.8.6** Application to the Harbor Master must be made on a form provided by the Harbor Master annually.
- 2-3.8.7** Upon granting a mooring permit, the Harbor Master shall send the permit to the applicant at the address shown on the permit application.
- 2-3.8.8** Any time a mooring location is eliminated due to improvements, expansions, etc., the persons holding a General Public Permit on said mooring will immediately move to the top of the mooring waiting list. Those that are Commercial or Yacht Club will absorb the loss without replacement.
- 2-3.8.9** Fees shall be set by the Harbor Management Commission no later than November 10<sup>th</sup> for the following year.
- 2-3.8.10** Applications may be made to the Harbor Master after December 1st. Applications for mooring permits will only be accepted for Connecticut registered vessels or documented vessels with a Connecticut certification decal. Connecticut vessels legally exempt from registration may also be granted mooring permits. Subleasing or long term loaning of a mooring to other than the designated permittee is prohibited.
- 2-3.8.11** Any applicant denied a permit may, at his option, have his name placed on a waiting list which shall be kept by the City Clerk, acting as the agent for the Harbor Master. This list shall be available to the general public during normal working hours.
- 2-3.8.12** No name shall be placed on the waiting list unless an application has been received.
- 2-3.8.13** If a suitable mooring becomes available the Harbor Master will notify the applicant. The applicant will have 30 days to make payment for the mooring permit. Upon payment for the mooring permit the Harbor Master will issue the permit. If the applicant fails to pay for the mooring permit no permit will be issued and the applicant will lose his place on the waiting list and go to the bottom of the list.
- 2-3.8.14** Beginning January 10<sup>th</sup> the Harbor Master shall fill available General Public mooring locations in the following order of priority.
- a. Applications from shorefront property owners whose land abuts the waterway in which the mooring is to be placed. This priority classification is usable for only one mooring per property.
  - b. Previous year permits shall be renewed upon application, unless unused for more than one season by the permittee.
  - c. Applications from private individuals.
  - d. Additional applications from clubs, associations, or marinas whose property abuts the waterway in which the mooring is placed. These permits shall be limited to one year and will not have the rights outlined in section 2-3.8.14 b.

**2-3.8.15** Commercial moorings require a Corps of Engineers Permit under Section 10 of the Rivers and Harbors Act of 1899 and a Connecticut Department of Environmental Protection Permit. The Harbor Master will use his judgment in cases where he considers that mooring locations are a threat to public safety. Private moorings that are located in Federal Navigation Projects, associated with any boating facility or that may interfere with navigation need to be approved by the Corps of Engineers.

**2-3.8.16** In granting applications, the Harbor Master shall consider:

- a. The priority list
- b. Whether a suitable mooring location is available as to length of boat, type of boat, weight of boat, displacement and draft of boat.
- c. The Harbor Master will be afforded reasonable discretion in enforcing these allocations/assignments for unusual or special circumstances such as extremely deep draft, use by handicapped and abutting property owners.

**2-3.8.17** Available moorings shall be offered to the senior applicant on the mooring list, subject to the constraints contained in these regulations. If the 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 or her 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 or her vessel in the opinion of the Harbor Master, the person shall be moved to the bottom of the waiting list.

**2-3.8.18** Moorings in Pine Island Bay shall be set on the grid points of the plan contained in the Harbor Management Plan and made part of this ordinance by reference. The grid points are on 75 foot centers. The scope length must be 45 feet.

**2-3.8.19** Minimum mooring tackle requirements.

- a. Minimum size for anchors and chains are given in the following table of specifications:

Boat Length Overall	Minimum Mushroom Weight	Min Size of 1 <sup>st</sup> of Chain	Min Size of 2 <sup>nd</sup> of Chain	Min Size of 15 ft Polyester Pendant Diameter
Under 15'	75#	1/2"	1/4"	3/8"
15' to 20'	100#	5/8"	5/16"	3/8"
20' to 25'	150#	3/4"	3/8"	1/2"
25' to 30'	200#	7/8"	7/16"	5/8"
30' to 35'	250#	1"	1/2"	3/4"
Over 35'	300#	1"	1/2"	7/8"

- b. Minimum scope length is set by the Harbor Management Commission for mooring grid purposes or six times the depth at the anchor at mean low water at the discretion of the Harbor Master.
- c. These minimum requirements do not mean that the required tackle is adequate for any boat. They are intended to provide a minimum standard reasonable for most conditions, but not to guarantee safety under extreme conditions. The City assumes no responsibility for these requirements.
- d. Newer type anchoring systems may be used in lieu of a mushroom anchor with the approval of the Harbor Master.

**2-3.8.20** All mooring tackle shall be inspected to ascertain that adverse impacts to the benthic environment and organisms, including eel grass beds, are minimized. The inspection of moorings in Pine Island Bay will be at a time interval determined by the Harbor Master. Method of inspection of mooring will be as deemed appropriate by the Harbor Master. Possible solutions to problems found during inspection include removal of the offending mooring, alternate tackle (such as a screw mooring), or relocation of the mooring to avoid the adverse impact to eelgrass. Primary responsibility for compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his authorized agent.

**2-3.8.21** Moorings may not be located in a Federal Navigational Channel or other channels fairways under the control of the Harbor Master. Private moorings that are located in Federal Navigation Projects, associated with any boating facility or that may interfere with navigation, need to be approved by the Corps of Engineers.

**2-3.8.22** The Harbor Master may order any unpermitted mooring, or mooring interfering with a fairway, channel or other permitted mooring, removed at the owner's expense. If ownership of said removed mooring is undetermined ninety (90) days after removal, the Harbor Master may sell said mooring tackle with the receipt being deposited to the Harbor Management Fund after expenses are paid.

**2-3.8.23** **Correcting an Unsafe Anchorage or Mooring.** If any vessel shall be found in the judgment of the Harbor Master to be anchored or moored within any harbor or maritime facility in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property or cause water pollution, the Harbor Master shall order and direct necessary measures to eliminate such unsafe or dangerous condition. Primary responsibility for compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his authorized agent; in the absence of such owner or agent, said responsibility shall rest with the authorized operator of the vessel or the facility at which the vessel is anchored or moored. In an emergency situation and in the absence of any such responsible person, the Harbor Master shall forthwith board such vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the Harbor Master or his agents in effecting such correction.

**2-3.8.24** **Unseaworthy Vessels:** No person shall secure or permit to be anchored or moored in a harbor, waterway, or maritime facility a vessel of any kind whatsoever which the Harbor Master considers unseaworthy or in a badly

deteriorated condition, or which is likely to sink or to damage docks, wharfs, floats, and/or other vessels, or cause water pollution, or which may become a menace to navigation. Such vessels shall be removed from the water and/or be otherwise disposed of as directed by the Harbor Master per Connecticut General Statutes Section 15-11a.

**2-3.8.25** There are to be no general public moorings placed in Baker Cove, Calf Pasture Cove, or Birch Plain Creek for reasons of navigation and potential environmental damage. However, to allow shorefront property owners to retain use of their property for boats that may not be appropriately stationed at a pier or dock, shorefront property owners along Baker Cove may be allowed 1 mooring to be placed directly in front of their property, if this is the most appropriate means of riparian or littoral access. This mooring may only be used if the swing of the moored boat does not interfere with riparian access by adjacent shorefront property owners.

## **2-4 TRANSIENT BOATS**

Two Shennecossett Yacht Club moorings are designated for transient use.

Transients may anchor or use transient moorings as they become available. The Harbor Master will monitor demand for transient moorings and will recommend to the Harbor Management Commission the number of required moorings and the areas they should be placed on an annual basis. All anchorages and moorings for transients are on a first come, first serve basis and may be assessed a usage fee for use of a mooring, if so established by the Harbor Management Commission.

**2-4.1** **Transient Moorings** May be used for three consecutive days or extended with approval of the Harbor Master.

**2-4.2** Both Shennecossett Yacht Club and Pine Island Marina, through their respective dock masters, provide mooring facilities for transient boaters by utilizing moorings that are not occupied by the assigned vessel for short periods.

## **2-5 DEFINITIONS**

**2-5.1** **Anchoring**: A boat is anchored when it “rides” or “lays” to a single anchor rode, although it is conceivable to have 2 anchors in tandem on that rode.

**2-5.2** **Channel**: refers to any water areas officially marked and maintained to permit unobstructed movement of vessels.

**2-5.3** **Coastal Boundary**: Refers to the boundary as defined in Connecticut General Statutes (CGS Section 22a-94 (current January 1, 2003)). Within the coastal area, there shall be a coastal boundary which shall be a continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands mapped under section 22a-20, whichever is farthest inland; and shall be delineated on the seaward side by the seaward extent of the jurisdiction of the state.

**2-5.4** **Commercial Mooring**: refers to those moorings that are rented or leased.

**2-5.5 Dockmaster:** refers to the official designated by the owner[s] or decision-making body of a public, private or commercial enterprise that offers dock space or moorings.

**2-5.6 Fairway:** The parts of a waterway kept open and free of all moorings and reserved for the unrestricted movement of vessels. This is a locally designated fairway and not federally designated nor protected by government policies.

**2-5.7 Federal Emergency Management Agency National Flood Insurance Program:**

AE Zones	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
X Zones	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.
VE Zones	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

**2-5.8 General Public Mooring:** refers to those moorings reserved for the general public.

**2-5.9 HMA. The Harbor Management Act:** The legislation contained within the State of Connecticut General Statutes, Sections 22a-11k through 22a-113t and as may be amended.

**2-5.10 HMC. The Harbor Management Commission:** The local municipal commission established under and carrying out the responsibilities authorized by the Connecticut Harbor Act.

**2-5.11 Harbor Master:** : a person appointed by the Governor pursuant to Connecticut General Statutes Section 15-1, who is charged with the general care and supervision of their waters of jurisdiction under the supervision of the Department of Transportation. Among their main responsibilities, is keeping channels and established fairways clear of obstructing vessels. The Harbor Masters authority to issue mooring permits is derived from Connecticut General Statutes Section 15-8. Harbor Masters are ex officio members of any Harbor Management Commission, and are required to exercise their authority consistent with an approved Harbor Management Plan, adopted pursuant to Connecticut General Statutes Section 22a- 113m, where one exists.

**2-5.12 Moor:** To secure a vessel to a mooring.

**2-5.13 Mooring:** Permanent moorings are variations on the anchoring theme wherein the boat is secured in place by means of a ground tackle which is normally not part of the boat's on-board equipment. The single point mooring concept is similar to anchoring in that the boat is allowed to swing with wind and current, but it has the convenience of the operator' or crew not having to handle heavy ground tackle on board the boat.

**2-5.14 Mooring Tackle:** refers to the hardware and cordage used to secure a vessel at a mooring.

**2-5.15 Open-to-All on Equal Terms:** Federal navigation projects must be managed in the general public interest and must be accessible and available to all on equal terms. Any number of approaches may be used to assure that all citizens desiring mooring or other

access to the projects are treated impartially; it is not the Federal Government's intention to prescribe specific procedures.

A management system shall be considered acceptable provided that it:

- Makes no arbitrary distinction or requirement of any kind in allocating use of the project and ancillary facilities and services to the public except as may be consistent with the purpose for which the project was constructed.
- Does not impose arbitrary fees or arbitrary variations in fees among users. The cost of providing necessary management and ancillary facilities and services may be offset through equitable user fees based on the actual costs incurred.
- Information pertinent to harbor management - including but not limited to rules and regulations, lists of mooring holders, waiting lists, and fee schedules - shall be readily available to the public at all times

**2-5.16 Small Craft:** a vessel 65 feet or less in length.

**2-5.17 Special Anchorage Area:** areas where vessels under 20 meters in length are not required to exhibit anchor lights, day shapes, or sound fog signals as required by the Inland Rules.

**2-5.18 Speed:** The rate which a vessel transits the water.

**2-5.19 Transient Anchorage:** refers to any area reserved and designated on the Water Use Plan for the exclusive short term use of commercial and recreational vessels.

**2-5.20 Vessel:** refers to every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water.

**2-5.21 Wake:** Waves caused by the passage of a vessel through the water. These waves are a function of water displaced by the vessel and are generally unrelated to excessive speed.

**2-5.22 Water-dependent uses:** means those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including but not limited to; Marinas, recreational and commercial fishing and boating facilities, finfish and shellfish processing plants, waterfront dock and port facilities, shipyards and boat building facilities, water-based recreational uses, navigational aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an inland site and uses which provide general public access to marine or tidal waters.

**WHEREAS**, this Ordinance was published in The Day, a newspaper having general circulation in the City of Groton on November 6, 2014 and November 7, 2014; and

**WHEREAS**, the amendments to this Ordinance shall be effective upon passage;

**THEREFORE, BE IT RESOLVED** that the Mayor and Council finally approve an amendment to Ordinance #167 “An Ordinance adopting a Harbor Management Plan for the City of Groton”.