

# Town of Harwich Harbor Management Plan



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# Town of Harwich Harbor Management Plan

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## 1.0: PURPOSE

The purpose of these Harwich Harbor Regulations is to: promote the public safety; define proper area usages and mariner awareness of all local By-Law and Harwich Harbor rules and regulations. These regulations are promulgated by the Harbormaster under the authority granted to the Harbormaster granted by MGL Chapter 102; section 21 and are considered as an adjunct to those regulations administered by the Division of Law Enforcement under 323 CMR 2:00: Motorboats and Boating promulgated under and including Chapter 90B in the Massachusetts General Laws. These regulations are also promulgated under the authority granted by MGL Chapter 91, §§ 10A and 10C and are considered as an adjunct to those regulations administered by the Department of Environmental Protection under 310 CMR 9.00. The Town of Harwich, through these regulations, intends to make the assignment of moorings and slips under its jurisdiction fair and equitable. They are subject to update without notice.

## 2:0: DEFINITIONS

**Beam (of a Boat):** For the purpose of determining seasonal and year round dockage fees, the extreme straight line measurement in feet and inches perpendicular to the keel centerline from the port gunwale to the starboard gunwale.

**Board Boats:** For the purposes of these regulations, the following classes of vessels are considered as board boats: inflatables (under 12' feet in length); kayaks; canoes; dinghies; sailing dinghies; windsurfers; sailboards and rafts.

**Boat:** The term "boat" shall have the same meaning as the term "vessel" defined in General Laws, Chapter 90B, Section 1.

**Boating Season:** The boating season shall be defined as commencing at 4:00 a.m. on the Friday of Memorial Day weekend and concluding at 4:00 p.m. on the Monday of Columbus Day weekend.

**Boat Transportation Agent:** An individual or business entity, with liability insurance coverage 1.) Automobile liability coverage of \$1,000,000 minimum, and 2.) Bodily injury, and property damage commercial liability insurance of \$1,000,000 minimum, to qualify for an annual permit to transport, launch and retrieve any boats on the Town ramps. This permit includes the special provisions for stepping and/or removal of masts on sailboats, and any other crane or boom work done on boats at Town-owned properties.

**Charter Fishing Boat Special Permit:** A permit issued by the Harbormaster for one (1) day or one (1) event, not to exceed two (2) days for the purpose of allowing resorts and other organizations to schedule fishing tournaments in the Town of Harwich. The purpose of the Charter Fishing Boat Special Permit is to allow non-Harwich based charter boats to participate in fishing tournaments needing the ability to load, unload and fuel in Harwich. Any organization requesting a Charter Fishing Boat Special Permit shall be responsible for providing the necessary documentation and insurance coverage as outlined under Section 7.0 of the Harbor Management Plan. If applicable, upon issuance of the Charter Fishing Boat Special Permit, the Harbormaster shall send copies to the Waterways Commission and the Board of Selectmen. Charter Fishing Boat Special Permits may be granted only after all other available charter boats have been booked for the day sought. All Charter Fishing Boat Special Permit applications shall be submitted to and approved by the Harbormaster at least twenty four (24) hours prior to the date of event.

**Commercial Fishing Boat:** For the purposes of all contracts, lease agreements, mooring and offloading permits and waiting lists any boat that is exclusively engaged in the long lining, jigging, gillnetting, dragging, or potting of ground fish or crustaceans for sale to an authorized Massachusetts fish dealer only. A commercial fishing boat must be used solely for the purpose for which it is intended. Boats maintained for purposes of corporate entertainment under Internal Revenue Service standards shall not be considered commercial fishing boats for purposes of these regulations and waiting lists.

**Deck:** The surface of a wharf designed as the walkway for persons using same.

**Deep Water Channel:** The area of a water body wherein the depth of water is three (3') feet or more at mean low water.

**Ferry:** A boat that operates as a commercial operation to transport people across a body of water on a regular schedule.

**Floats:** A floating platform designed to rise and fall with the tide anchored in position by pilings, chain, or otherwise and used in conjunction with a wharf to moor and give access to a boat.

**Foreshore:** A strip of land margining a body of water; the part of seashore between high-water and low-water marks.

**Gangway:** A ramp or platform used to provide access between a float or boat and a wharf.

**Harbor Boat Tender Service:** An individual or business entity, with adequate liability insurance (based on the Board of Selectmen's requirements) to qualify for an annual permit to transport people and goods to and from any boat, at any mooring in the Town of Harwich. This "on call service" using telephone and/or VHF radio will be a private service provided in the Town of Harwich. The individuals operating such boats need to have a current USCG license.

**High Use Plug-In:** When used in reference to long term electric power usage is defined as follows: for those boats needing permanent hookup to 110 volts with single plugs or split harnesses and having any of the following electric appliances, including: stoves, heaters (baseboard or portable), air conditioners, microwave ovens, ice maker or any other high energy use item(s).

**Horsepower:** The aggregate rated horsepower of the propellant machinery at maximum operating revolutions per minute.

**Length Overall (L.O.A.):** For the purpose of determining seasonal and year round dockage fees and/or mooring classification, the extreme fore-aft measurement of a boat in feet and inches in a straight line parallel to the centerline from the top of transom to the foremost extension (includes pulpits or sprits).

**Marina:** The town-owned harbor marina and any person authorized to represent it shall be referred to herein as "the marina."

**Marine Construction Maintenance Business:** A business that includes but is not limited to the service of docks and moorings, building piers and bulkheads, towing boats, salvage and underwater services.

**Mooring:** Lines, cables, chains, mushrooms and anchors that hold a boat in place on the water and any floats, shackles, hardware associated therewith.

**Mooring, Boatyard Transient:** Moorings, of a transient nature, assigned to waterfront boatyards on an annual basis to accommodate the sale, repair & maintenance of watercraft. A boatyard, after the assignment of the specific number of annual mooring sites by the Board of Selectmen, can manage boatyard transient mooring sites as part of their normal business activities. The mooring inspection process would be the same as any other mooring in the Town of Harwich. Upon any change in ownership of the foregoing corporations, the new corporate entity may apply for the related mooring permits however; control of the moorings does not automatically transfer.

**Mooring Hardware Supplier:** Any individual or other business entity, that is in the business of selling or renting marine hardware.

**Mooring Servicing Agent:** An individual or corporation or other business entity with adequate liability insurance to qualify for an annual permit to perform mooring services and inspections in the Town of Harwich. In the Town of Harwich, a mooring servicing agent is an individual or corporation in the business of supplying, servicing and/or renting mooring hardware in the Town of Harwich for fresh and salt water boating use. This individual or corporation must have the required equipment to retrieve, inspect, repair, upgrade and replace the individual mooring to the assigned site (using GPS WAAS navigation). In addition the individual or corporation must certify that the proper mooring tag and mooring, permit sticker and client's name was in compliance with the Town of Harwich Waterways Regulations. This individual or corporation is required to apply for a Mooring Servicing Agent Permit for a term of three years, renewed annually by the Board of Selectmen. The issuance of a permit, to become a mooring servicing agent requires proof of the sufficient marine insurance to protect the Town from liability of the services provided. The Town of Harwich Harbormaster retains authority to manage all mooring activities, permits, inspections and fees, even where a Mooring Servicing Agent has primary responsibility and liability for management of a Mooring Servicing Field. Boat yards, yacht clubs or related commercial enterprises cannot inspect their own moorings; the Harbormaster or another mooring servicing agent must perform this function.

**Mooring Servicing Fields:** The mooring servicing fields are defined as follows: Allen Harbor; Wychmere Harbor (inner and outer); Pleasant Bay; Round Cove; Herring River. All mooring servicing fields shall be assigned a mooring servicing agent and alternates after a public process. In the event of a dispute between a mooring permit holder and a mooring servicing agent, the Harbormaster may elect to provide required mooring services, at fair market value and at the expense of the mooring permit holder.

**Mooring, Special Purpose:** A mooring within the mooring field granted to a yacht club or other business, by the Board of Selectmen. Special purpose moorings are meant to promote water sports and/or boating education. The fee for special purpose moorings shall be the same as the resident mooring fees. As of January 1, 2004, there are twenty-seven (27) special purpose moorings which are as follows (See Appendix A):

Stone Horse Yacht Club – Inner Harbor:	Three (3)
Stone Horse Yacht Club – Outer Harbor:	Three (3)
Allen Harbor Yacht Club:	Four (4)
Wequassett Inn – Round Cove:	Two (2)
Wequassett Inn – Pleasant Bay:	Five (5)
Rental Fleet at Pleasant Bay:	Ten (10)

Upon any change in ownership of the foregoing entities, the new entity may apply for the related mooring permits however; control of the moorings does not automatically transfer. It is intended that special purpose moorings be used only for boats owned, leased or used by special purpose mooring permit holders, or by their patrons, customers or members.

**Mooring/Slip Assignments:** With the exception of boat yards, yacht clubs and selected special purpose businesses that have a special purpose mooring assignment, all individuals, business entities (or a combination of the two) and individual families having the same address, are limited to a maximum of two (2) mooring/slip assignments. This shall mean two (2) moorings; two Town (2) slips; or one (1) mooring and one (1) slip. Except as otherwise provided in these regulations, and absent a showing of good cause for non-renewal, individuals or business entities assigned a mooring in one calendar year, shall be offered the same mooring site in the following calendar year. Mooring sites that are assigned but not occupied by mooring tackle and sites that are assigned and occupied by mooring tackle but are unoccupied by a boat for greater than 1 (one) year, shall surrender/lose said site. Any vacated moorings, moorings not renewed, or new moorings that may be added may only be assigned to an individual or corporation or other business entity who obtained such assignment via the Town of Harwich mooring waiting list process.

**Mooring, Working:** Moorings assigned to a boatyard or a marine construction maintenance business for the purposes of operating their businesses and servicing their customers. Working moorings are separate and distinct from boatyard transient moorings. It is intended that working moorings be used only for boats owned, operated or being serviced by the boatyard to which they are assigned. Upon any change in ownership of the foregoing entity, the new entity may apply for the related mooring permits; however control of the moorings does not automatically transfer. See Appendix A for Working Mooring Assignment List.

**Motor Boat:** Any boat propelled by machinery whether or not such machinery is the principal source of propulsion.

**Owner:** The owner of any boat berthed or using the marina or the authorized representative of the owner.

**Piling:** A column of material (wood, concrete, etc.) used to support the deck or other structural member of a wharf or to serve as a mooring spar or dolphin for boats or floats.

**Plug-In, High Use:** Electric power usage for those boats requiring permanent hookup to 110 volts with single plugs or split harnesses and having any of the following electrical appliances, including: electrical stove, electrical heating (either baseboard or portable), air conditioning, microwave oven, ice maker or any other high electrical energy use item.

**Plug-In, Permanent:** Electric power usage for those boats requiring 110 volt hookup on a permanent basis or living aboard on a one day or more per week basis and maintaining basic electrical needs limited to a small refrigerator and electrical lighting or a consta-volt charging system. Used in reference to long term electric power usage.

**Resident:** For the purpose of these regulations, residents shall be defined as:

- A. Property owners who reside year-round in Harwich
- B. Property owners who reside part-time in Harwich
- C. Current year-round leaseholders in Harwich

Proof of residency shall be determined by an applicant providing a Harwich property tax bill or current year-round lease in Harwich and a Massachusetts driver's license or other photo ID (permanently sealed in plastic).

**Slip:** An extension out into the water that serves as a place for landing or repairing boats.

**Slip, Special Purpose Ferry:** The Ferry Slip in Saquatucket Harbor is granted to an entity – corporate or otherwise – by the Board of Selectmen. This special purpose slip is meant to promote and maintain the continuity of the Ferry service in Harwich. Upon any change in ownership of the foregoing entity – corporate or otherwise – the new entity purchasing/owning the Ferry may apply for the related Ferry Slip, however, this slip does not automatically transfer. Special Note: The continuity of the Ferry Service between Harwich and Nantucket Island is well known to be of considerable/significant benefit to the Town of Harwich, the public and many businesses in the Town.

**Town:** The Town of Harwich and its authorized representatives.

**Vessel:** The term vessel shall have the same meaning as the term boat, as defined by these regulations

**Waterfront Boatyard:** A yard fronting or abutting a body of water where boats are built, repaired, and stored and often sold or rented.

**Wharf:** Any structure built along or at an angle from the shore and extending seaward beyond the mean high water mark so that the boats may lie alongside to receive and discharge passengers or cargo for use as a promenade and shall include structures commonly referred to as docks or piers.

**Yacht:** Recreational boat or vessel propelled by sail or motor-driven power, used especially for pleasure cruising, racing, etc.

**Yacht Club:** A club established for the promotion and support of yachting, boating and related activities.

### 3.0 MOORING AND SLIP PERMITS AND REGULATIONS

The demand for moorings and slips in the Town of Harwich significantly exceeds the supply. In order to be fair and equitable in the assignment of moorings and slips, and to maximize the use of available moorings and slips, the following regulations shall be in effect:

#### 3.1 General

All persons owning, leasing, or providing moorings for boats wherein such moorings shall be situated within 400 yards from the mean low water mark of the foreshores of the Town of Harwich, in waters salt or fresh unless otherwise exempt, shall be required to pay for individual mooring permits to be issued by the Harbormaster annually for the period April 1<sup>st</sup> through 31<sup>st</sup> of March of the following year. In an effort to keep an accurate accounting of the number of moorings to open prior to each season, and to allow the Harbormaster's office sufficient time to offer open moorings to applicants on the waiting list, all mooring permit applications shall be sent out by the Harbormaster's Office no later than February 1<sup>st</sup> of each year and must be returned to said office by March 15<sup>th</sup> with payment of the appropriate fee as defined in Appendix B – Marine Fee Schedule. All persons requiring such permits shall further be required to execute in full, a mooring application which shall be submitted to the Harbormaster with the annual payment. No permit shall be issued by the Town without payment and the permit application each executed in full. The burden to provide a completed application and full payment on or before March 15<sup>th</sup> rests with the applicant. Failure to meet the March 15<sup>th</sup> deadline will result in immediate forfeiture of the mooring. It is also the responsibility of any mooring holder to provide the Harbormaster with their accurate mailing address.

### Deposit:

A non-refundable deposit on all dockage for the upcoming season shall be due no later than December 1<sup>st</sup>. If not paid by December 1<sup>st</sup>, the result will be slip forfeiture. The deposit is 1/3 of the annual fee.

### Final Payment:

Final Balance on both seasonal and year round dockage is due March 1<sup>st</sup>. This balance is equal to 2/3 of the annual fee. Any account not paid in full by March 1<sup>st</sup> will result in slip forfeiture.

### 3.2 Mooring and Slip Assignment and Mooring and Slip Waiting Lists

The Harbormaster shall maintain and make available to the public one, and only one, town-wide comprehensive list of all mooring assignments and slip assignments segmented by geographic location. The Harbormaster shall maintain and make available to the public one, and only one, comprehensive mooring waiting list and one town slip waiting list. All applicants who have properly filed with the Harbormaster for the mooring waiting list and/or the separate town slip waiting list for salt water in the Town of Harwich shall be listed. These lists shall be organized according to the specific location desired. Any individual/entity which reaches the top of the mooring and/or slip waiting list may elect to "pass" on an assignment twice per list. If the individual/entity passes on the third offer, they shall be removed from the relevant list without recourse. This is referred to as a "three strikes and you're out" policy.

Wychmere Inner Harbor Mooring Field has reached the saturation point for boats able to fit in the physical space of the harbor. The Wychmere Inner Harbor mooring assignments shall be frozen once the 2006 boats are assigned to their respective moorings. For boats on moorings in the Inner Harbor, the maximum size shall be 36' feet.

The Waiting List and Mooring Assignments for Wychmere Inner Harbor shall be subdivided into four (4) size classes (Length Over All = LOA) as follows:

- 1.) Under 20'
- 2.) 20' – 25'
- 3.) 26' – 30'
- 4.) 31' – 36' maximum

LOA is defined as the furthest extension of the bow on deck to the furthest extension astern (including aft extension of outboard motors when tipped up and or anchor davits).

Any changes in size of existing boats on existing moorings must be approved by both the Harbormaster and the Mooring Servicing Agent prior to placement of the boat on the mooring. The Harbormaster shall have the final determination as to whether a larger boat may be accommodated. Special Purpose Moorings are excluded from classification.

### 3.3 Eligibility for Mooring or Slip Assignment and/or Mooring or Slip Waiting List

Any person wishing to have his/her name placed on either the slip or mooring waiting list must do so annually prior to April 1<sup>st</sup>, so advise the Harbormaster in writing and pay the applicable fee to the Town of Harwich.

### 3.4 Harwich Slip and Mooring Assignment List

All moorings and all town-owned slips in salt water in the Town of Harwich, which are assigned for the current boating season, shall be listed on the Harwich slip assignment list and the separate Harwich mooring assignment list annually. Each of these lists shall identify the current boat occupancy status according to the specific location assigned. No individual, business entity or combination would be allowed to have more than two moorings and/or two Town of Harwich owned boat slips unless awarded under the Town of Harwich boatyard transient and/or special purpose mooring categories. This means a maximum of two (2) moorings; two (2) town-owned slips or one (1) mooring and one (1) town-owned slip.

### 3.5 Fee Exempt Status

The following are exempt from mooring and/or dockage fees:

- A. A skiff, board boat, or similar boat or vessel, left on the private foreshores or designated Town-owned launching areas as described in the Town of Harwich Bylaw.
- B. Any boat or vessel moored at a private or club slip or dock within the foreshores of the Town of Harwich.
- C. Any boat or vessel anchored with its own tackle, or anchor for a continuous period less than 48 hours.
- D. Any boat or vessel moored in the waters of a freshwater pond or lake within the Town of Harwich.

### 3.6 Fee Classification

- A. Boats under 25' feet length overall shall pay a mooring fee for Class 3 boat.
- B. Boats over 25' feet length overall and under 35 feet length overall shall pay a mooring fee for a Class 2 boat.
- C. Boats over 35' feet overall shall pay a fee for a Class 1 boat.

### 3.7 Mooring Assignments

- A. The Harbormaster shall assign moorings on an annual basis including moorings furnished or controlled by private clubs, private boat yards, marinas, and individual owners. No person shall cause a mooring to be placed in Harwich waters except as assigned by the Harbormaster.
- B. Moorings for which fees are unpaid are subject to removal by the Harbormaster and, further, such moorings may be sold under the statutes of abandonment of the Commonwealth after removal by the Town. Harbormaster costs for the removal of such moorings will be charged to the owner.
- C. Mechanical configurations of all moorings under annual fee must conform to existing harbor regulations. Consult the Harbormaster for applicable specifications.
- D. Checks for payment of fees are made payable to the Town of Harwich and should be mailed with the completed permit application or delivered to the Harbormaster in person. Mooring permits may be picked up at the Harbormaster's Office at Saquatucket Harbor, Harwichport.
- E. The Harbormaster will issue transom stickers and mooring buoy tags to all permit holders who must attach same to this equipment and be visible for inspection.
- F. Mooring permits cannot be passed through partnerships or willed to the next generation and may only be transferred to an immediate family member (surviving spouse). A fair and equitable system of waiting list(s) shall be maintained by the Harbormaster for the assignment of vacated spaces as they become available.
- G. The permanent subletting of any mooring is strictly prohibited. Subletting of a mooring shall result in immediate and permanent forfeiture of the mooring.
- H. The Harbormaster of the Town shall refuse to allow a boat to moor, dock, or otherwise be situated within the waterways of the Town for failure to pay boat excise tax.
- I. If the following three (3) criteria apply, the Harbormaster may consider a private property mooring:
  - 1. the residential property has waterways frontage
  - 2. the residential property does not border on an established mooring area
  - 3. the residence is located more than one-half mile by water from a town landing

The property owner may apply to the Harbormaster for a mooring permit to be assigned to the vessel owned by the property owner. The Harbormaster shall determine if the placement of the mooring is appropriate in his sole determination. The Harbormaster may, at his sole discretion, allow up to two such mooring permits per property. The mooring shall be set back a minimum of 15 feet from the side yard property lines as extended into the water. Mooring fees shall be in accordance with Appendix B. A Mooring Servicing Agent must be engaged as per the Harbor Management Plan. Any grant of permit shall cease upon sale/transfer of property.

### 3.8 Boatyard Transient Moorings

In recognition of the needs of waterfront boatyards to sell, repair and maintain watercraft, a special classification of moorings referred to as boatyard transient moorings is hereby established. Each waterfront boatyard within the Town of Harwich may apply for and be granted up to six (6) boatyard transient moorings. Once assigned/renewed by the Board of Selectmen, these moorings would be used by the boatyards to facilitate the sale, repair & maintenance of watercraft. Boatyard transient moorings will be the first six (6) which become available from the group of moorings the boatyard previously managed.

Once assigned by the Board of Selectmen, the boatyard transient moorings shall be controlled by the boatyard and the use shall be dictated by the boatyard. Moorings designated under this category shall be included on the master mooring list maintained by the Harbormaster. The boatyard transient mooring fee shall be the same as the fee charged for an individual mooring for a resident in the largest size category of moorings. In the event that the demand for these boatyard transient moorings exceeds the number of moorings available, each boatyard shall assign moorings from a waiting list in a fair and equitable manner. In all cases the boatyard shall provide a list of mooring occupants to the Harbormaster no later than July 1<sup>st</sup> of each year.

Any boatyard which already is assigned a mooring(s) (working moorings) in the name of the boatyard shall be eligible to retain and renew annually said mooring(s) in addition to any boatyard transient mooring.

### 3.9 Mooring Forfeiture

Due to the demand for moorings in the waters off of Harwich, failure to substantially occupy a mooring during the calendar year will constitute forfeiture of the mooring on January 1st of the following year. The owner of a mooring which is forfeited will be eligible to request a position on the waiting list. Substantial occupancy shall mean a minimum of 30 days of mooring time during the boating season by the boat registered to occupy the mooring. Board boats shall not be considered as vessels that satisfy substantial occupancy.

### 3.10 Mooring Hardware, Installation and Removal

All moorings in the Town of Harwich first require annual issuance of a mooring site from the Harwich Harbormaster. All mooring sites and hardware must comply with these regulations which includes all required fees being paid and inspection policies completed prior to installing the mooring.

In 2005, all moorings in the Town of Harwich are required to be inspected by the Town of Harwich Harbormaster or by a licensed, Town of Harwich mooring servicing agent. For every year thereafter, mooring inspections shall be conducted on a biannual basis, (every two (2) years). Odd-numbered moorings shall be inspected during odd-numbered calendar years and even-numbered moorings being inspected during even-numbered calendar years. The ball and top chain shall be inspected annually. Inspection shall also ensure that the name and number are clearly legible on the ball.

The Town of Harwich recommends that moorings be removed annually during the winter months. Ice buildup can cause loss of mooring tackle.

Each individual mooring site holder has two mooring options with regard to obtaining hardware:

- A. The individual can purchase the mooring hardware
- B. The individual can rent a mooring from a local marine hardware supplier.

Where a mooring servicing agent has been assigned to be responsible for a particular geographic area, that agent shall be responsible for the hauling of the mooring, the inspection of all mooring hardware, and the correct placement of the mooring, within the agent's servicing area. An alternate Harwich mooring servicing agent may be used upon coordination with the primary mooring servicing agent and the Harbormaster to perform the services for the hauling of the mooring, the inspection of all mooring hardware and the correct placement of the mooring, within the primary mooring servicing agent's area. Fees will be charged to the mooring holder by both the primary mooring servicing agent and the alternate if an alternate is used. All permit holders shall use a Harwich mooring servicing agent for the inspection of all moorings in an area where a Mooring Servicing Agent has been assigned. An individual may place his/her own mooring under the direct supervision of the mooring servicing agent responsible for that area. The mooring servicing agent may charge a fee for this service.

In geographic areas where no mooring servicing agent is assigned, permit holders may exercise one of the following options:

- A. Perform the task themselves and arrange for the Harbormaster to perform the annual mooring hardware inspection and to identify the correct location;
- B. Hire a local mooring hardware supplier or other qualified person to install and/or retrieve the privately purchased mooring hardware, with the Harbormaster identifying the correct location. (Annual mooring hardware inspection required)
- C. Hire a local mooring hardware supplier working with the Harbormaster to install and retrieve the rental mooring hardware, and to identify the correct location. (Annual mooring hardware inspection required.)

### 3.11 Mooring Inspections

To insure safety, all mooring tackle (mushroom, chain, ropes, identification, etc.) must be inspected on an annual basis prior to installation. Before a new mooring permit can be issued, the mooring owner must submit their mooring for an out of the water inspection by the Harbormaster or designee (mooring servicing agents). Every other year, based upon section 3.10, the tackle (mooring buoy, pennant, chafing gear, line, chain, mushroom or Dor-Mor pyramid and connecting gear) must be inspected visually by the Harbormaster or designee prior to the renewal of the mooring permit. If the mooring is to be inspected by the Harbormaster, the owner must bring the entire mooring tackle to the Bank Street Harbormaster's office or similar site designated by the Harbormaster. Failure to have the mooring tackle inspected will result in the revocation of any mooring permit issued. Failure to replace worn or damaged mooring related gear shall be grounds for revocation of the mooring permit by the Harbormaster. The expense of these inspections and mooring related gear replacement shall be at the owner's expense. Failure to obtain a mooring inspection prior to installation shall constitute forfeiture of the mooring. The Town of Harwich will accept applications and annually issue licenses for the inspection of moorings which are intended to be placed in the designated mooring fields. The licenses shall be issued/renewed on a calendar year basis by the Board of Selectmen. The Harbormaster will provide the requirements for the inspection of mooring tackle. The deadline for mooring inspections shall be December 31<sup>st</sup>. Notice of forfeit shall be sent 60 days prior to this deadline to those delinquent inspections.

### 3.12 Mooring Servicing Agent Requirements

All person(s) or corporations or other business entities issued a Mooring Servicing Agent Permit by the Harwich Board of Selectmen shall meet the following requirements:

- 1. Hold current and sufficient marine insurance, specifically:
  - A. A minimum of \$500,000 Marina Operator's Legal Liability and Protection and Indemnity
- 2. Possess for use a properly registered workboat/barge with crane or hoist with sufficient lifting capacity
- 3. Possess and maintain an on-hand inventory of all tackle components (mooring balls, chain, mushroom anchors, shackles, lines, etc.)
- 4. Have the ability to provide daily monitoring of mooring field(s)
- 5. Have qualified and sufficient staffing to perform any functions related to moorings 24 hours/day, 7 days/week, such as pumping after heavy rain, separating tangled boats, identifying a potential boat in distress, etc.
- 6. Have the ability and qualifications to provide storm preparation and emergency services
- 7. Have the flexibility to provide complete mooring service packages or a la carte such as haul out, set up, painting, and pick up
- 8. Have the clerical capability to process applications and conduct inspections, and support the issuance of stickers and tags in cooperation with the Harbormaster.
- 9. Have access to diving services, when necessary, to perform repairs or retrieve lost tackle.

10. Provide a written inspection report to the Harbormaster within five (5) days of having performed an inspection of any mooring.

Non-compliance with any regulation herein will be sufficient cause for the suspension or revocation of a Mooring Servicing Agent Permit issued under these regulations, following notice and opportunity to be heard. If in the opinion of the Board of Selectmen, acting as Issuing Authority, a Mooring Servicing Agent ("Permittee") ceases to be engaged in the business he/she is authorized by permit to pursue, or fails to maintain upon his/her premises the implements, facilities, equipment, or capacity required by these regulations, such cessation or failure shall constitute cause for suspension or revocation of his/her Mooring Servicing Agent Permit, following reasonable notice and opportunity to be heard. If a Permittee at any time conducts his/her business in a manner considered by the Board of Selectmen, in its sole discretion, to be improper, the Board of Selectmen, after reasonable notice and opportunity to be heard, may upon satisfactory proof thereof suspend or revoke his/her Mooring Servicing Agent Permit. Violation by a Permittee of any regulation herein, as currently enacted or as may from time to time be added or amended, or any other regulation which shall govern the conduct of the Permittee, shall be grounds for suspension or revocation of a Mooring Servicing Agent Permit following reasonable notice and opportunity to be heard.

### 3.13 Special Purpose Mooring Requirements and Regulations

An applicant for a special purpose mooring must be able to provide vehicle parking spaces as required in the Town of Harwich Zoning regulations if applicable.

The applicant must meet all Town of Harwich Fire & Emergency and Conservation regulations.

The special purpose applicant must provide:

- A dinghy dock and/or dingy loaner for assigned mooring users
- Temporary dock tie up for loading and unloading
- Access to a fresh water source at this temporary docking area
- Access to a public phone near this temporary docking area
- Pump-out facility for holding tanks

### 3.14 Special Purpose Mooring Permit Requirements

Special purpose mooring applicants must obtain an annual mooring permit for each mooring site. Annual inspection must be accomplished prior to the issuance of the new or renewal permit and tags. Special purpose mooring permits expire annually and in the event that a special purpose mooring permit is not renewed pursuant to the timelines prescribed under these regulations, the applicant must re-apply as required for a new permit.

Annually, the number of moorings that could be awarded by the Board of Selectmen for each individual request would be reassigned to the respective applicant on an annual basis for special purpose uses.

Moorings may not be sold, transferred or assigned to any person, corporation, partnership, organization or entity other than the permitted user of such mooring in the previous season. Upon any change in ownership of the foregoing corporations, the new corporate entity may apply for the related mooring permits however; control of the moorings does not automatically transfer.

Permission must be obtained from the Harbormaster before a mooring permit holder changes boats at the same mooring location. The Harbormaster, using his discretion, may or may not permit such a change. Violation of this section may be subject to revocation of the mooring permit.

Any abandoned or unclaimed mooring, removed by the Town of Harwich, may be auctioned off in accordance with the appropriate Town Ordinance.

### 3.15 Army Corps of Engineers Mooring Permit

All applicants for any type of special purpose mooring must comply with the Army Corps of Engineers requirements.

#### **4.0 MOORING TACKLE AND EQUIPMENT**

These specifications are established to set safety standards for boat moorings at Harwich.

##### **4.1 General Tackle Requirements**

- A. Mushroom anchors only and of adequate size as per Table I (below).
- B. Adequate chain lengths in accordance with specifications Table II (below).
- C. All moorings must be of soft foam or plastic material. Color must be white with a blue band. The mooring number and last name must be painted on mooring with contrasting oil-based paint. The use of marking pens on moorings is not permitted.
- D. Mooring painters and lines must be of a non-floating type material. The use hemp, manila, or polypropylene is not permitted. Painter length should be adapted to boat foredeck configuration. The painter thickness must be in accordance with Table III (below). Double painters are recommended for all non-protected areas.
- E. All shackles must be moused with stainless wire, 12 gauge copper wire, or tough plastic cable ties.
- F. All mooring permits and fees must be renewed annually. All moorings must be inspected and site approval determined by the Harbormaster prior to dropping.
- G. Winter mooring sticks must float at a 45 degree angle, show 18" above water and painted white tip with number.

##### **4.2 Other Mooring Information**

- A. Acceptable applications will receive one float permit tag and one corresponding transom sticker which will be mailed to your winter address unless otherwise indicated by the applicant. Mooring servicing agents operators will be given stickers and tags.
- B. All moored boats must display a current mooring sticker on the upper starboard side of the stern transom of the boat. All moorings shall have a current Harwich mooring tag affixed to the mooring that is visible on the top of the float. All moorings will also have the mooring number and the last name of the current mooring holder clearly printed on the assigned mooring.
- C. A copy of current harbor regulations will be made available on request. Failure to comply with any and all regulations will result in loss of mooring privileges.
- D. The Harbormaster reserves the right to charge for any alterations or services provided by the Harbormaster to any mooring or boat in addition to the permit fees.
- E. Although insurance remains optional, information is requested on the application to determine the number of boat owners carrying this form of protection.
- F. Inspection reports are public record and will be made available to insurance adjusters on demand.

Note: Items A, B and C are intended to be an administrative process to identify and manage all moorings in the Town of Harwich. Items D and E are intended to be an administrative and evaluation process to provide a specific business solution to each request for additional mooring assignments, on an individual company or business entity on a case by case basis. The Waterways Commission recognizes the needs and benefits of a healthy commercial waterways business environment in combination with a growing recreational waterway environment. Items D and E are intended to provide the management process to accomplish both the commercial and recreational needs of the Harwich waterfront community.

#### **5.0 WAITING LIST, POLICY & OWNERSHIP LIMITATION**

The intent of these regulations is to operate the town-owned marina in a manner which is fair and uniform to all slip permit or mooring permit holders including all potential slip permit or mooring permit holders whose name appears on any town-maintained waiting list for a slip or town-owned mooring. Any interpretation of these rules and regulations by the Town or agents of the Town shall be made with the basic premise that a town-owned slip or mooring is to be used for the personal and sole use of the town-owned slip or mooring holder and that the rental value of the town-owned slip or mooring is an asset of the Town of Harwich that must not be diverted by private parties. Therefore, the town-owned slip or mooring holder hereby agrees that any deviation from this premise by the dockage permit or mooring permit holder shall result in the termination of any rental/license agreement and further, the Town may recover any amounts received by the slip permit or mooring permit holder from other parties which are essentially in the nature of payments for the use of the slip or mooring rights including attorneys fees for any action of recovery. The Town maintains the sole right to assign town-owned slips and moorings, both annually and for any other period of time.

The slip permit or mooring permit holder also understands and agrees that if it is the opinion of the Town of Harwich, or its agents, that there may be a violation of any of the town-owned marina or harbor rules and regulations or their intent, it shall be at the option of the Town to require the permit holder to provide any and all testimony or documentation which may be deemed necessary to prove to the satisfaction of the Town that they are not in violation of the rules and regulations. Any slip permit or mooring permit holder who fails to meet to the Town's satisfaction all rules and regulations or their intent, shall relinquish the rights to the slip or mooring and all fees shall be forfeited to the Town.

The Harbormaster shall assign, and reassign after written approval and public hearing by the Waterways Commission, all slips and moorings at any Town facility as the space becomes available. Waiting lists past and present, and current slip and mooring assignments are a matter of public record and shall be made available by the Harbormaster's office to the general public upon request. This information shall also be maintained on the Harbormaster's website.

Eligibility for assignment to mooring or slip waiting lists is discussed in Section 3.3 of these rules and regulations.

The individual name on the waiting list(s) shall be advanced as town-owned slips or moorings are vacated, only if the annual fee is paid. Each slip permit or mooring permit shall be assigned to an individual person whose name has been on the respective waiting list the longest. This shall exclude the assignment of a berth or mooring to a partnership, corporation, multiple individuals or any other legal entity other than an individual person. Occupancy or occupancy rights of that slip or mooring assignment shall not be transferred to any individual(s) or entity other than the individual to whom the assignment was annually awarded without specific written approval from the Harbormaster and Waterways Committee for any period greater than two weeks from Memorial Day to Columbus Day. The Harbormaster shall maintain the written approval records: 1. The mooring and/or slip assignment. 2. The individual to whom the mooring or slip is annually assigned. 3. The temporary assignments of any individual to any and all berths in the Town of Harwich that cumulatively, on an annual basis, exceed two weeks.

In order to qualify for a town mooring or slip, the individual to whom the slip permit at a town slip or mooring permit is permanently assigned must be the sole or majority (51% or more) owner of the boat or sole or majority (51% or more) owner of the corporation that owns the boat. Because state registration does not give percentages of ownership, state registered vessels may only be solely owned and occupy a Town slip or mooring. The original certificate of documentation (no copies) issued annually by the Coast Guard with acceptable percentages of ownership shall be made available upon request by Town officials. The Town recognizes that to conduct business and limit liability, a corporation may in fact own the boat or own the business under which the boat is managed. Should a hardship result from being unable to establish ownership, which meets Town requirements, a show cause hearing may be requested through the Harbormaster to the Waterways Commission.

The Harbormaster or agent of the Town of Harwich or the Town's Waterways Commission shall have authority to request any financial or related documents pertaining to, but not limited to the purchase, ownership and/or operation of the boat assigned to any berth within the Town. Failure of a tenant or prospective tenant to produce documents including but not limited to: bills of sale, titles, abstract of titles, boat documentation, sales tax information, purchase and sales agreements, insurance certificates, corporate papers, mortgage contracts, personal liens, excise tax information, registration information or any other pertinent information deemed necessary by Town officials to verify ownership issues satisfactorily as deemed necessary by Town officials shall be deemed

sufficient reason to void any single slip permit or mooring permit or shall be deemed by the Town to be sufficient reason to deny any future assignments.

## **6.0 TOWN-OWNED DOCKAGE REFUND POLICY; LIENS; COLLECTIONS; INTEREST**

### Refund Policy for Fully Paid Slips:

1. All cancellations must be in writing
2. Cancellations before May 31<sup>st</sup> receive a 50% refund of the Final Payment amount (2/3 of the annual fee)
3. Cancellations before June 30<sup>th</sup> receive a 25% refund of the Final Payment amount (2/3 of the annual fee)
4. Cancellations July 1<sup>st</sup> or later receive no refund and forfeit the slip permanently

B. The Town refund policy for boat owners visiting (transient space) will be as follows:

1. Cancellation prior to two weeks of arrival date, 100% refund less a \$15.00 administration fee
2. Cancellation within two weeks but before 5 pm on day preceding arrival day, forfeit one day's dockage and administrative fee
3. Cancellation after 5 pm on day preceding arrival, forfeit one half of deposit plus administrative fee
4. No show or no call shall constitute forfeiture of entire deposit

C. Interest on any past due balance shall accrue at the rate of 1% per month. In addition to interest on past due balances, owners will be liable for reasonable costs of collection including reasonable attorney fees.

## **7.0 SLIP REGULATIONS AT TOWN-OWNED MARINA**

7.1.1 Fees charged for space shall be strictly in accordance with published schedules and shall be paid in advance to cover a full season or part thereof. Slip rentals shall not be canceled unless a suitable replacement boat can be obtained promptly.

7.1.2 If it is considered by the Town to be in the best interest of the marina and/or its occupants, this agreement may be canceled on ten days notice with the owner removing his boat forthwith.

7.1.3 Space rentals are non-transferable. Transfer of boats between spaces will only be allowed with the prior permission of the marina.

7.1.4 As with any non-titled or rented property slip rentals cannot be passed through partnerships or willed to the next generation. A fair and equal system of waiting lists shall be maintained by the Harbormaster for the assignment of vacated spaces.

7.2 To be admitted and to continue as an occupant of the marina a boat must be:

- A. Used for pleasure only
- B. Used for commercial fishing
- C. Used for chartered fishing, sightseeing trips or passenger carrying
- D. Such other uses as may be approved by the Waterways Commission and the Board of Selectmen
- E. Documented, registered, identified, marked, equipped, operated and maintained as required by law and standard practice
- F. Subject to periodic inspection by the marina to determine the maintenance of proper safety conditions

- 7.3 Due to structural limitations, no boat sixty five (65') feet or over in length or displacing more than 50 gross tons can be accommodated. Any such boat may be directed by the marina to anchor in a designated area. The marina does not provide launch service.
- 7.4 When a boat enters the marina area, it immediately comes under the jurisdiction of the marina and shall be berthed only where assigned and maneuvered as directed.
- 7.5 All boats will be secured in their assigned space in a manner acceptable to the marina.
- 7.6 Owners are requested to provide the marina with a set of main door hatch keys and ignition keys. The boat will only be entered by the marina for possible inspection or for emergency service, otherwise only with the permission of the owner. No other person will be given keys or allowed on the boat without the owner's written permission.
- 7.7 The owner (and guests for whom he/she is responsible) agrees to conduct himself at all times when on the property of the marina, or on any boat moored therein, so as to create no annoyance, nuisance or hazard to the marina or to any other persons. This includes good housekeeping, sanitation practices and the use of garbage and refuse containers.
- 7.8 Sewage, rubbish and other wastes:
- A. Federal, State and Town statutes prohibit the discharge of sewage, waste material, oil and fuel, rubbish or refuse of any kind or description into any river, stream, pond or tidal waters. Heavy fines and imprisonment are the penalties for violation.
  - B. Owners, guests, employees and all persons are to use the marina's shore-side toilets, showers and laundry facilities. All garbage and other refuse must be placed in receptacles provided by the marina.
- 7.9 Noise shall be kept to a minimum at all times. Consideration for others requires discretion in the operation of engines, generators, radios and television sets in such a manner and at such times as to create no nuisance or disturbance.
- 7.10 Swimming, fishing or water-skiing is prohibited anywhere in the marina.
- 7.11 House Keeping
- A. Boat owners shall not place supplies, materials, accessories or debris on any float or walkway and shall not construct or place thereon any lockers, chests, cabinets or containers without the permission of the marina.
  - B. Tenders on davits, gangways or boarding ladders or steps, extreme overhangs, bow and stern sprits, boomkins, spars, pulpits, etc. shall be secured in such a manner that none of these appurtenances shall create a hazard or block free passage along any float, walkway or waterway.
  - C. Laundry shall not be hung on any boat, float, walkway or anywhere else in the marina.
- 7.12 Charcoal or any form of open fire anywhere within the marina is absolutely prohibited.
- 7.13 Dogs and pet animals are permitted in the marina only on a leash or otherwise confined or restrained.
- 7.14 Young children should be accompanied by adults at all times.
- 7.15 Tenders, skiffs, dinghies and other small boats shall be stored aboard boats or placed where the marina directs. All such small boats shall carry identification numbers, marks or names. They may not be tied up in rental space or on any float, walkway or ramp.
- 7.16 No part of the marina, ashore or afloat, nor any boat therein shall be used for the conducting or solicitation of business of any kind except for the normal operation uses as provided for herein, and no signs or other advertising material will be permitted without the permission of the Marina, which will control size,

placements, etc. Nothing in this section shall prohibit an owner from contracting for or using such services as his boat may require from the businesses or resources regularly available in the area or to him privately.

- 7.17 The use of alcoholic beverages is prohibited by law on any town landing, float, pier, building or parking area owned by or under the jurisdiction of the town. The sale of alcoholic beverages is prohibited in the Saquatucket Harbor area.
- 7.18 The cleaning of fish and the disposal of fish or parts thereof is prohibited anywhere within the marina including service and parking areas.
- 7.19 STORM PREPARATIONS
- A. In the event of a severe storm, the marina will check the security of all boats in the marina and take such steps as are feasible to prevent damage. Any costs incurred will be pro-rated over all the boats in the marina. The marina does not assume any responsibility for said protection or damages to any boat.
- B. In the case of any boat where water accumulates within it to the point where the boat is endangered, the marina will, if possible, pump it out with or without notice to the owner and the costs of such pumping will be assessed against the boat. If severe leakage is the cause the owner will be notified promptly.
- 7.20 The Town and the marina will take all reasonable precautions to insure the security and safety of any boat or property in the marina and will not be held liable for fire, theft, vandalism, trespass or damage to any boat or vehicles or its equipment arising from any cause whatsoever.
- 7.21 The marina, its management or the Town of Harwich shall not be held liable for damages or losses incurred by the interruption of electrical power to any boat for whatever reason.
- 7.22 The above space limitation shall be effective for all Town of Harwich slips including Saquatucket Marina and off-loading sites at Wychmere Harbor, Saquatucket Harbor and Allen Harbor.
- 7.23 Transient commercial boats may rent dock space, if available, between Labor Day and May 30 only. Commercial dockage between June 1 and Labor Day shall be limited to those boats holding applicable leases only.
- 7.24 Security and damage deposit. All boats renting dock space on a daily, weekly or monthly basis between Labor Day and May 30 are required to pay to Harbormaster before occupying any slip a security and damage deposit, to be held by the Town in escrow and refunded to any owner or master of the boat on termination of the rental agreement, provided that during the period the boat is in the harbor
- A. All accumulated dockage fees have been paid when due;
- B. All rules and regulations of the harbor and all lawful orders of the Harbormaster have been complied with, the security deposit shall be refunded and, notwithstanding the forfeiture of the deposit, the Town shall have the right to proceeding, criminal or civil, to
1. Enforce its Rules and Regulations and Orders;
  2. Recover for any damage done to harbor facilities or
  3. Recover for any slip fees due including all reasonable costs of such recovery, including reasonable attorneys fees."
- 7.25 Interest on any past due balance shall accrue interest at the rate of 1% per month. In addition to interest on past due balances, owners will be liable for reasonable costs of collection including reasonable attorney fees.
- 7.26 Those boats described in Section 7.2 C and D must carry a minimum of \$500,000.00 Legal Liability and Protection and Indemnity insurance coverage which shall name the Town of Harwich as loss payee.

- 7.27 The transfer of the entity – corporate or otherwise – majority ownership of the Ferry will constitute a transfer or the sale of the entity. Upon any change in ownership of the foregoing entity – corporate or otherwise – the new entity purchasing/owning the Ferry may apply to the Board of Selectmen for the related Ferry Slip, however, this slip does not automatically transfer. Or a transfer of a majority interest in the ownership of the Ferry would constitute a transfer or sale of the entity. Upon any change in ownership of the foregoing entity – corporate or otherwise – a new entity purchasing/owning the Ferry may apply to the Board of Selectmen for the related Ferry Slip, however, this Ferry Slip does not automatically transfer.

## **8.0 OFFLOADING PERMITS AND REGULATIONS AT TOWN-OWNED FACILITIES**

The Harwich commercial offloading permits represent the authorization of actively Harwich-based commercial fishing boats (in good standing with Town of Harwich) to use specified Boat Offloading Zones at Wychmere Harbor Town Pier, Allen Harbor Town Dock, and Saquatucket Harbor Bulkhead.

The Offloading Permits are sold in separate categories (as available) and are limited. Year-round offloading permits may be purchased only by owners/captains whose boat is permanently moored or docked during the season in a Harwich harbor. A permanent mooring permit, or legal slip contract, will be considered proof of this along with any other authorization which the Harbormaster may demand at the time of purchase.

Offloading zones shall be used by permitted boats only for the purpose of fueling by authorized tank wagon (diesel only), offloading fish, shellfish, loading ice, and limited gear work. Time allowed in the offloading zone shall not exceed 100 minutes per day. No incapacitated boats will be allowed in the offloading zone. Captains of broken down boats shall contact the Harbormaster (channel 68) for direction to alternative dockage.

The Harwich town pier shall be a tow zone area. Vehicles using the pier shall do so only to drop off and pick up crew, passengers, gear, and equipment. Parking must be done in defined parking areas. For the purposes of these regulations the area shall be a posted fire lane.

Fueling and Off-Loading Of Commercial Boats:

- 8.1 Issuance of Fueling/Offloading Permits for Commercial Fishing Boats: The Harbormaster shall be authorized to issue to duly-licensed commercial fishing boats the following types of fueling/off-loading permits:

Class A: Unrestricted. Limited to boats occupying Town of Harwich commercial boat slips. Class A permit holders with appropriate license may carry up to 6 passengers for hire per day up to thirty (30) days during the regular season May 1<sup>st</sup> to November 15<sup>th</sup>. Permits that are forfeited from Class A commercial slips shall be awarded to persons that are on the commercial waiting list only. In the event of a boat owner holding a Class E permit is awarded a commercial slip the Class E permit shall be forfeited to the Class E permit waiting list.

Class B: Restricted. This permit will authorize the boat to which it is issued to take on fuel from an authorized tank wagon and off-load catch at the town facility designated thereon at any time between 1st and June 1st. of the following year.

Class E: Unrestricted. Limited to any commercial ground fishing boats authorized to use a private mooring or any private dock within the Town boundaries. Class E permit holders with appropriate license may carry up to 6 passengers for hire per day up to thirty (30) days during the regular season May 1<sup>st</sup> to November 15<sup>th</sup>. This permit will authorize the boat to which it is issued to take on fuel from an authorized tank wagon and off-load catch at the town facility designated thereon at any time. The permit shall be for one year commencing January 1st. Boats on private mooring or private docks prior to June 1, 1999 would convert the Class A permit to become class E permit. Eligible persons wanting forfeited Class E permits must apply their name to the new Class E permit waiting list. Mooring waiting list and commercial waiting list anniversary dates will apply to an E permit waiting list.

- 8.2 Issuance of Fueling/Offloading Permits for Charter/Passenger Boats and the Ferry: The Harbormaster shall be authorized to issue to duly licensed charter boats, passenger boats and the Ferry the following types of fueling/off-loading permits:

Class C: Off-Peak. This permit will authorize boats, home based in Harwich, licensed to carry up to six (6) passengers for hire to take on fuel from an authorized tank wagon and off-load catch at the town facility designated thereon daily between 9:00 A.M. and 2:00 P.M. or as directed by the Harbor Master. Class C permits that are forfeited from charter slips shall be awarded to persons that are on the charter/passenger waiting list only. Class C assignments are awarded by the Board of Selectmen. Grandfathering of parking rights in the case of transfer of a Class C permit would not be allowed, requiring the new owner from the waiting list satisfying off site parking requirements in an advertised public hearing. Class C permits that are forfeited from charter slips shall be awarded to persons that are on the charter waiting list only.

Class D: Passenger Boats. This permit authorizes boats licensed to carry more than six (6) passengers for hire (up to a limit set by the Board of Selectmen) to take on fuel from an authorized tank wagon and at the town-owned facility designated by the Harbor Master and noted on the permit. Class D assignments are awarded by the Board of Selectmen. Grandfathering of parking rights in the case of transfer of a Class D permit is not allowed, requiring the new owner from the waiting list satisfying off site parking requirements in an advertised public hearing. Class D permits that are forfeited from charter slips shall be awarded to persons that are on the passenger waiting list only.

Class F: This permit authorizes the Ferry to take on fuel from an authorized tank wagon at the town-owned facility designated by the Harbormaster and noted on the permit. Grandfathering of parking rights in the case of re-assigned slips with a Ferry Permit is not allowed. It requires the new slip assignee satisfying off-site parking requirements in an advertised public hearing.

- 8.3 Limitation on Number of Permits Issued: In order to ensure public safety by avoiding overuse of town facilities, the following limits are placed on fueling/off-loading permits as follows:

Class A permits:	27
Class B permits:	20
Class C permits:	10
Class D permits:	3
Class E permits:	13
Class F permits:	1
Class R permits:	10
Class T permits:	100

8.4 Eligibility

- A. Class A permits may only be issued to licensed commercial fishing boats having berthed in Harwich at least eight months during the calendar year and actively engaged in fishing.
- B. Class B permits may be issued to any duly licensed commercial fishing boat whether home based in Harwich or elsewhere.
- C. Class C permits may only be issued to boats licensed to carry up to six (6) passengers for hire, operating out of the port of Harwich a minimum of five (5) months per year and having possession of a full season dockage or mooring permit.
- D. Class D permits may be issued to boats carrying more than six (6) passengers for hire, operating out of the port of Harwich.
- E. Class E permits may only be issued to licensed commercial fishing boats having a year-round mooring or private dockage within Harwich which are berthed in Harwich at least eight months during the calendar year and actively engaged in fishing.
- F. Class F Permits may only be issued to vessels licensed as a commercial operation to transport people across a body of water on a regular schedule.
- G. Class R permits authorize trailered day charter boats only, utilizing the Saquatucket Harbor boat ramp and having a United States Coast Guard issued license to carry up to six passengers for hire, to operate as a paid passenger carrying boat from Saquatucket Harbor. Class R assignments shall

be awarded by the Harbormaster. Parking in the case of a trailered day charter boat shall be limited to the towing vehicle and trailer plus one car, which may pay for additional parking as required. No trailered day charter boats shall use the Allen Harbor ramp and Town Landing while conducting charter business in any form. Further, Class R vessels are subject to any restrictions imposed by the Public Access Board while operating in the boat ramp area. Class R vessels must carry a minimum of \$500,000.00 Legal Liability and Protection and Indemnity Insurance coverage, which shall name the Town Of Harwich as loss payee. Class R permits are not a fueling permit. Class R permits that become forfeited shall be awarded to persons that are on the charter/passenger trailer boat waiting list only. Class R permit vessels are further restricted in carrying no less than two fewer crew and passengers than the limit set by the capacity plate of the vessel as set in 323 CMR 2.07(7). Class R permit vessels are restricted from landing tuna. Vehicles with trailers are not allowed to park in the west side parking lot of Saquatucket Harbor.

8.5 The Harbormaster shall, pursuant to applicable provisions of the General Laws, have the power to adopt rules and regulations to reasonably regulate and exercise of the rights granted pursuant to one of the several classes of off-loading permits. Waiting lists and harbor regulations shall apply to all Town owned facilities.

#### 8.6 Fuel Vendor Permits

- A. The Board of Selectmen may issue permits for the purpose of dispensing diesel fuel by tank.
- B. Prior to any fuel vendor delivering fuel to the fish pier, a valid permit for the current fishing season must be obtained from the Town of Harwich.
- C. Authorized fuel vendors shall pay the Town of Harwich a per gallon fee for fuel sold during the previous month as set forth in Appendix B of these regulations and as stated in the provisions of any contract(s) awarded to said vendor(s).
- D. Authorized vendors must commence their fueling operations in a neat, orderly manner, taking care to prevent fuel spillage or leaking either onto the dock, the surrounding ground area, or into the waters of Wychmere Harbor, Allen Harbor, and Saquatucket Harbor, bearing sole responsibility and expense for any damages or costs incurred by anyone as a result of any such spillage or leakage.
- E. Authorized vendors shall at all times carry and cover a full, in-force liability insurance policy of not less than one million dollars (\$1,000,000.00) and shall hold harmless and indemnify the Town of Harwich against any and all claims pertaining to the management, delivery, and operations relevant to the sale of fuel and related products.
- F. Fueling will be limited to authorized vessel eligible in accordance with section 8.\_\_\_\_.
- G. All fueling vehicles will comply with 527 CMR 8.00 and 527 CMR 15.00.
- H. All fueling vehicles will be inspected annually by the Fire Department for compliance.

8.7 Fees: The fees for all permits are listed in Appendix B of these regulations.

8.8 Violations: Any violations of any applicable federal, state, or local laws, bylaws, rules, regulations, or orders of the Harbormaster shall be grounds for revocation by the Harbormaster of the off-loading permit; and, in addition, any such violation will be subject to a fine of \$50.00 (fifty) dollars. The Harbormaster shall have the authority to enforce this fine provision through non-criminal method of enforcement as set forth in the Town of Harwich Bylaws and to recover all reasonable costs of such collection, including reasonable attorney's fees.

#### 9.0 FUELING AREA REGULATIONS

All boats must fuel at a legally operated fuel dock or at a place where fueling has been authorized by the fire chief. The only exception to this rule is the fueling of commercial boats having offloading permits, who shall only take fuel from tank trucks (diesel only) with a permit to fuel at designated areas. Any other fueling operations will be unlawful and violators will be subject to arrest.

Smoking is absolutely prohibited in a fueling area.

- A. No smoking will be enforced while gasoline is being pumped. This applies to occupants of the boats as well as those outside. Signs must be posted in accordance with all governing local, state and Federal requirements.
- B. All motors shall be shut off while refueling.
- C. All portable containers must be approved by the State Fire Marshall's Office. At present U.L. Standard 30 and F.M. Standard 6051 and 6502 meet the requirements.
- D. No portable container shall have more than seven (7) gallon capacity and the total gallons must not exceed 21 gallons, unless a permit has been issued for transportation of Class A liquids.
- E. Class A products may only be transported in an open vehicle or in a compartment of a closed vehicle separated from the passengers.
- F. Attendants will have complete control when dispensing flammable liquids.
- G. All extinguishers and fire suppression systems will have annual inspection.
- H. In the case of leak or spill the Fire Department will be notified. No leaks are to be washed away. Speedy dry will be used to pick up any spills.
- I. Self-service operations are not allowed on the water.
- J. No hold open devices may be used on self-service nozzles. Flow must be maintained by hand contact on the part of the person filling the boat.

Any person who knowingly violates any rule or regulation made by the Board of Fire Prevention shall, except as otherwise provided, be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00).

## **10.0 SPEED ZONES AND MOORING AREAS**

Boat Speeds:

No boat or boat equipped with inboard or outboard power shall exceed five (5) statute miles per hour or cause a wake between breakwaters, in Town improved channels, in any harbor anchorage or mooring area or within 100 yards of the shore.

Mooring and Anchoring Boats:

- A. No boat shall moor or anchor in any established channel or fairway, or attach a line to any navigational buoy, marker or aid to navigation.
- B. No mooring shall be placed in any Harwich harbor without the owner first obtaining a permit from the Harbormaster who will designate mooring areas and anchorages. Any boat temporarily anchoring shall do so in such a manner as not to endanger any other boat, and the owners of such anchored boats may be directed to move by the Harbormaster.
- C. Any boat left unattended at any float or landing stage, and any boat removed from the water and left on Town property will be removed at the expense of the owner. In the event that markings have been removed or defaced or if ownership cannot be determined within sixty (60) days, the boat may be sold at public auction, destroyed by the Harbormaster, or disposed of in any other manner permissible by law.

D. Persons violating any provision of this section shall be subject to a fine of fifty dollars (\$50.00) for each such violation.

**11.0 WETBIKES AND JET-SKIS**

11.1 Jet-Skis Prohibition

The use of personal motorized watercraft, such as jet skis, shall be prohibited from operating on Herring River, and shall be prohibited from launching said craft from any Town-owned property abutting fresh water ponds.

11.2 Violations - Penalty

Any person violating any provision of this section of the rules and regulations shall be subject to arrest. The fine for such violation shall be a fine of two hundred dollars (\$200.00).

**12.0 LONG POND - REGULATIONS FOR MOTORBOATS**

12.1 All motorboats, including jet-skis and similar personal watercraft, shall be operated at headway speed (6 mph, or enough speed to maintain steering control) within one hundred and fifty (150') feet of the shoreline of Long Pond, except for police and/or emergency boats.

12.2 No motorboat shall be operated at any time on the waters of Long Pond at a speed greater than is reasonable and proper having regard to lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the boat; the state of the wind, water, current, and proximity of navigational hazards. On Long Pond, speed by a motorboat, jet-ski watercraft or wetbike watercraft, or similar personal watercraft, in excess of forty-five (45) miles per hour shall be presumed to be in excess of reasonable and proper speed.

12.3 Enforcement: Long Pond is a Great Pond owned by the Commonwealth of Massachusetts. These regulations are intended to supplement the State regulations and are additional to the restrictions on distance and headway speed in 323 CMR Division of Law Enforcement, Sections 2.07. (1) and (3). The Towns of Brewster and Harwich hold common jurisdiction for law enforcement purposes and Long Pond is patrolled by police of both towns.

12.4 Penalties: Operators and/or boat owners who violate these regulations shall be fined as follows:

First Offense:	\$50.00
Second Offense:	\$100.00
Third and Subsequent Offenses:	\$200.00

12.5 To assist in enforcement and designate the areas for boaters, swimmers, and law enforcement personnel, marker buoys are to be placed in appropriate locations around the perimeter of the Long Pond designating the one hundred fifty (150') foot distance from shore and the three hundred foot (300') distance from public bathing beaches required by the Commonwealth. Each town (Brewster and Harwich) is to provide the marker buoys for its shoreline, and they are to be placed under the joint directions of the police chiefs of the two towns and the Division of Marine and Law Enforcement. The area shoreward of these markers is designated "Headway Speed Zone", and these marker buoys should so indicate.

Signs at the Town Landings Indicate: restricted areas; advise landing and boat ramps closed at 10:00 pm; no alcoholic beverages allowed at landings or public beach; parking sticker required.

**13.0 BOAT RAMPS**

The Town of Harwich maintains several boat ramps for public use. Tidal-water ramps are located at Saquatucket Harbor in Harwichport; Allen Harbor in Harwichport; and Herring River in West Harwich and there are two public ramps located on Long Pond. All ramps are governed by the Town of Harwich regulations listed herein, in addition

to the provisions of the Town of Harwich Protective By-Laws and the Code of Massachusetts Regulations, Title 324, Sections 2.00 through 2.05, (See Appendix D).

- 13.1 The Town shall make available Seasonal Boat Ramp Passes for the Saquatucket and Allen Harbor ramp areas. The passes are in the form of an adhesive sticker.
- 13.2 Stickers shall be permanently affixed to the boat trailers left side fender or trailer tongue.
- 13.3 Daily (one-day) passes shall be sold and honored at the Saquatucket Boat Ramp only.
- 13.4 Ramp passes shall be sold to all on equal terms and shall be useful only at Allen Harbor, Saquatucket Marina and Long Pond 1<sup>st</sup> landing ramps.
- 13.5 Unless otherwise posted no vessel shall tie-up unattended alongside any public Town landing courtesy float longer than 15 minutes, nor shall any vessel tie-up, berth or cause to be docked or tied to any other area within a Town landing more than 30 minutes. Any boat left unattended at any float or landing stage, and any boat removed from the water and left on Town property will be removed at the expense of the owner. In the event that markings have been removed or defaced or if ownership cannot be determined within sixty (60) days, the boat may be sold at public auction, destroyed by the Harbormaster, or disposed of in any other manner permissible by law.
- 13.6 All trailers, boats, and recreational vehicles must vacate the parking area between midnight and 4:00 A.M. daily.
- 13.7 There shall be no fueling (either diesel or gasoline) of boats, outboard motors, auxiliary motors, etc. in the area of the boat launching facility.
- 13.8 All, fish, fish fillet, fish parts, shellfish, etc., shall be kept onboard any boat or vessel using the boat ramp while in the area of the boat ramp and public parking area.
- 13.9 Persons violating any provision of these regulations, as currently enacted or as may from time to time be added or amended shall be subject to a fine as more specifically provided elsewhere in these regulations for each offense and each consecutive day shall constitute a separate violation.

#### **14.0 WASTES/TRASH DISPOSAL AND USE OF DUMPSTERS**

- A. No person shall dump any rubbish, trash, refuse, garbage, or litter at any public landing other than by depositing same in any receptacle that may be provided by the Town for the purpose. No person shall deposit any fish parts in any receptacle provided by the town without first double plastic bagging and tying same.
- B. No person other than a boat operator shall deposit any rubbish or refuse in any dumpster at a town landing or pier. Home generated rubbish and refuse shall not be deposited in town landing receptacles.
- C. Waste oil and associated oil filters generated from motorboat crankcase oil changes from boats situated at Town-operated slips and/or having Harwich dockage permits shall be deposited in the recycling depot at Saquatucket Marina or at the recycling tank at the Town Disposal Area, Queen Anne Road.

#### **15.0 WATERWAYS & PONDS**

- 15.1 Speed Limit Buck's Pond: In either Buck's Pond or in John Joseph Pond, no motor boat shall operate at a speed in excess of six (6) miles per hour.
- 15.2 Water Skiing Prohibited on Buck's Pond and John Joseph Ponds: No person shall engage in water skiing in either Buck's Pond or in John Joseph Ponds.
- 15.3 Motorboats Prohibited on Sand Pond: The use of boats propelled by motor, either inboard or outboard, shall be prohibited on Sand Pond, North Harwich.

- 15.4 Motorboats and Waterskiing Prohibited on Skinequit Pond: The use of all boats propelled by motor, whether inboard or outboard and waterskiing shall be prohibited on Skinequit Pond, South Harwich.
- 15.5 Violations and Penalties: Any violation of Sections 15.3, 15.4 and 15.11 shall be punishable by a fine of not more than twenty dollars (\$20.00).
- 15.6 Motor Boats on Hinkley's Pond and Seymour's Pond: No motor boat more than six (6) horsepower shall be operated on Hinkley's Pond. No motor boat more than three (3) horsepower shall be operated on Seymour's Pond.
- 15.7 Speed Limit on Hinkley's Pond and Long Pond: No motorboat shall exceed speed limit as defined in this section on various ponds in Harwich. All ponds shall be posted as follows: Hinkley's Pond five (5) statute miles per hour; Seymour's Pond five (5) statute miles per hour.
- 15.8 Violations and Penalties: Any violation of Section 15.6, 15.7 and 15.9 of this by-law shall be punishable by a fine of not more than fifty (\$50) dollars.
- 15.9 Motor Boats- Walker's Pond: No motor boats shall be operated on Walker's Pond provided, however, a small electric motor type used for fishing may be used as propulsion.
- 15.10 Cahoon Road Landing - Long Pond: No motorboat of more than ten (10) horsepower or used for waterskiing may be launched or operated from the boat ramp at Cahoon Road Landing at the east end of Long Pond.
- 15.11 Launching and Beaching of Boats: It shall be unlawful to launch or beach boats at any Town-owned or operated location except in areas designated and posted therefore by the Board of Selectmen.
- 15.12 Restrictions on Anchoring in Certain Areas: It shall be unlawful to anchor any boat closer than seventy-five (75') feet of mean low water mark at any Town-owned or operated bathing beach.
- 15.13 Restrictions on Operating in Certain Areas: It shall be unlawful to operate any boat shoreward of any markers or floats stationed by the Harbormaster off a public bathing beach for the purpose of designating the swimming area there provided; however, in any area where such markers or floats are placed a distance greater than seventy-five (75) feet of mean low water, a boat may enter the swimming area to within seventy-five (75') feet of mean low water at a speed no greater than five (5) miles per hour for the purpose of coming to anchor.
- 15.14 Jet-skis Prohibition: The use of personal motorized watercraft, such as jet skis, shall be prohibited from operating on Herring River, and shall be prohibited from launching said craft from any Town-owned property abutting fresh water ponds.

**16.0 EMERGENCY HAUL OUTS**

An area shall be designated by the Harbormaster for emergency hauling out of boats in danger of sinking, or eminently in danger of causing an oil spill, etc. It shall be the responsibility of the boat owner to repair or cause to repair said boat within a reasonable period of time, further, the Town shall collect through its Harbormaster any fee associated with the storage of such a boat. This fee (equivalent to comparable dockage rates) shall be paid to the Harbormaster before the boat is re-launched.

**17.0 SPORTFISHING BOATS: TUNA BUYER PERMITS AND REGULATIONS (T-PERMITS)**

- 17.1 The Town shall assess a per boat offloading fee for the period June 1 - November 31 annually to all tuna fishing boats landing or tagging tuna at Saquatucket Harbor before any fish may be landed from any displacement hull or brought onto shore by a boat ramped boat. A sticker shall be issued and must be permanently mounted on the boat where it can be seen by the buyer and officials at the bulkhead when landing the fish. The 'T-Permit' shall also apply to boats landing tuna using the boat ramp. National Marine Fisheries Service regulations require buyers tag all fish before clearing the bulkhead or boat ramp. All commercial boats with Harwich A, C or E offload permits only shall offload tuna caught at Wychmere Town Pier. A limit of 100 "T" permits shall be sold.

- 17.2 When required, an area may be set aside to provide space for tuna to be inspected, and negotiated by buyers. This area will be well away from the fuel dock and offloading area.
- 17.3 The Harbormaster will hire or utilize Wharfingers to direct operations and enforce time limits during this period. The Assistant Harbormaster, Wharfinger(s) will have all the authority pursuant to Chapter 90B, 130, 88 and any other laws of the Commonwealth or by-laws/regulations of the Town. Boat owners will comply with the directives of the Harbormasters Office which will use police backup as required.
- 17.4 Boats entering the port with fish onboard may be assigned a number (over VHF Channel 65 FM) by Wharfinger in charge. The boat will then go to the inspection area (at the outer west dock) to standby and agree upon the buyer. Upon being called, the boat will then go to the offloading area at the bulkhead.
- 17.5 Tuna buyers will still pay an offloading permit fee (and a fee for each additional truck). Buyers may only take fish from boats displaying the appropriate sticker. An updated certified list containing the boat names and owners (captains) will be given and faxed to each eligible buyer. Buyers taking fish off of unauthorized boats will lose their offloading privileges for the season.
- 17.6 All boats will stay clear of the fuel dock except for the specific purpose of taking on fuel. After fueling is completed and the attendant is paid, the boat must immediately vacate the fuel dock.
- 17.7 No boats shall raft to one another or block slips within the marina.
- 17.8 No anchoring is allowed within the turning basin. The outer harbor is a harbor of refuge and anchoring is permitted for up to 24 hours depending upon space availability there, and notification of the Harbormaster who may direct this anchoring.
- 17.9 An area within the east parking lot shall be "coned" to provide additional space for buyer trucks waiting to use the staging area. When there are more than two buyers attending, the buyers not offloading a boat shall move his/her truck back to this area.
- 17.10 All tuna offloading shall be restricted to authorized boats at the bulkhead at Saquatucket Harbor with the following exceptions: Harwich Home port boats with Commercial A, E or C permits may land tuna to authorized buyers at Wychmere Harbor Town Pier; Harwich Commercial B permits will become valid November 1st or when the bluefin season officially closes in October.
- 17.11 Saquatucket Municipal Marina is public property and inspection of any fish of any boat or person operating within its boundaries shall be open to Federal, State EPO's, Natural Resources Officers as well as the Harbormaster, Assistant Harbormasters, and Police Department.
- 17.12 No fish parts; tuna heads; racks, bait etc. shall be dumped in the Harbor. This shall be considered a gross violation of local regulation.
- 17.13 All Town harbor dockage regulations and rules shall be in effect. Harwich bylaws prohibit the consumption of alcoholic beverages anywhere on Town property.
- 17.14 Offloading permits may be revoked for any violation by the Harbormaster Office for any violation of these regulations and may (or may not) be reinstated at the next meeting of the Board of Selectmen.
- 17.15 The Harbormaster is authorized to accept cash or a personal check as payment for permit.

## **18.0 HURRICANE AND STORM PREPARATION**

Cape Cod has been spared the direct hit of a hurricane since 1958. Hurricane "Bob" (1991) brought severe winds and high tides to Harwichport causing moorings to pull and boats to break free. Allen Harbor was devastated including yacht club floats. Wychmere Harbor found 19 boats left high and dry on the hillside below Larson Park (north side). Many boats, including eight Flying Scots were capsized at their moorings. Hurricane season usually lasts from late August through October. Therefore, hurricane preparation is not a joke.

High tide during a hurricane at Harwichport can rise 4-6 feet above the normal high tide caused by lowered atmospheric pressure. Wind-caused surge can form an addition and unpredicted wedge of water on top of this tide. Boats moored in high-energy areas such as the outer harbor will lose the protection of the breakwater which will be deeply submerged at high tide. These boats must be moved to safer harbor before the storm hits. Mooring scope at this time may become too short and cause anchors to pull.

Boat ramps will be jammed at the time close to the storm. Therefore, if you have reached the end of your useful boating season, consider an early haul out.

Things you should do short of hauling out:

#### Moored Boats:

1. Inspect your mooring tackle and renew all parts that show signs of serious wear. This should include quality of chain, splices, and condition of thimbles and shackles.
2. All moorings during these months should be equipped with secondary storm painter (mooring line) to attach to the opposite bow cleat.
3. Equip all mooring lines passing through bow chocks with chafing equipment which can include a short piece of rubber hose or vinyl tubing protecting the lines from wearing through. Wear and tear of mooring pennants at deck level has been the most common reason in Harwich for mooring failure.
4. Inspect the security of bow cleats and eyes. Sailing boats extend mooring lines back to the base of the mast, remove and stow all sails.
5. Batteries driving automatic bilge pumps should be fully charged and float switches tested for good working order. Bilges should be cleaned of oil and contaminants.
6. All through hull fittings equipped with valves as heads, holding tank valves, and exhaust overflows should be placed in closed position.
7. Where practical add to the mooring scope by lengthening the painter. Be sure you maintain clearance with boats around you. Position all extra fenders to fend off blows.

#### Dockside Boats:

1. Secure extra fender between boats and docks. Make use of a fender board where boat is tied up between pilings.
2. Double up all dock lines. Be sure spring lines are secured in both directions and make certain cleats are well secured.
3. In areas of floating docks, tie only to near top of the pilings, otherwise the rising tide will "jack" the pile or otherwise pull the boat under.
4. Owners with boats tied alongside a fixed pier should make certain that the gunwales will not get caught under the dock as the tide rises. The boat may be warped away from the pier using an anchor as an outhaul.
5. Disconnect all shore power lines going to the boat before the storm hits.
6. Attempt to dock sailboats so that masts will not be "caught" on one another when boats rock.

#### Boats Hauled Out:

1. All day sailors and light weight boats which can make use of trailers should be taken out of the water as soon as possible.
2. Sailboats dinghy type should be flooded with freshwater on their trailers as a means to hold them down.
3. At home park boats close to building if possible.
4. Boats stored using jack stands on soft ground, mud, sand, or gravel should use plywood under each stand as a precaution to prevent each stand from settlement. Make certain each jack is snugged firmly against the boat hull and use safety chains to "cross-lock" jacks.

## **19.0 REMOVAL OF WRECKS IN TIDE WATERS; NOTICE TO OWNER CAUSING OBSTRUCTION**

G.L. Chapter 91 Section 39. If a wreck or abandoned boat, or any unlawful or unauthorized structure or thing, is deposited or suffered to remain in the tide waters of the Commonwealth, except the Charles River basin, and if the department deems it is, or is liable, to cause or become, an obstruction to the safe and convenient navigation or other lawful use of such waters, the department shall remove it or cause it to be removed.

G.L. Chapter 91 Section 40. If any person of the United States is known to the department as the owner of such a boat or of any interest therein, or as having or exercising any control over it as master, agent, insurer, or otherwise, or as having alone or with others built, deposited or caused any other unlawful obstruction, or as owning, maintaining, or using the same in whole or in part, the department shall give him written notice to remove such a boat or other obstruction within a time therein specified. Such notice shall be deemed a sufficient notice to all such owners and other persons if served on one or more the them by the department, or by its order, by delivering the same in hand, by leaving it at the usual place of business or abode or duly mailing it to the post office address of the owner or other person upon whom it is to be served.

## **20.0 TOWING POLICY**

### **20.1 Emergency Towing**

The Harbormaster's Office is permitted to respond to boaters' calls for a tow in emergency situations.

### **20.2 Non-Emergency Towing by Harbormasters**

The Harbormaster may provide free short-range tow services to boats calling the Harbormaster's office for assistance. This practice is common in many municipalities and is recognized, endorsed, and authorized by the U.S. Coast Guard. Private towing services are generally used in longer-range assignments where extensive time is involved in both reaching and towing the boat. Where shorter-distance tows are involved, the Harbormaster's Office service is available in the interests of time, money, and convenience.

### **20.3 Risks and Dangers Associated with Towing**

The Harbormaster's office employees are not required to obtain a six-passenger license or commercial towing endorsement for its towing services because they are provided as a free service of the Town. The Harbormaster practices the strictest safety practices in its towing activities. Marine assistance training is provided for Harbor employees who engage in tow activities. Risks are recognized and dangers are minimized through proper equipment and qualified personnel.

### **20.4 Insurance and Liability Coverage**

The Town of Harwich is insured in the event of an accident while towing. This insurance plan provides coverage for the boat being towed including its occupants as well as for the Harbormaster boat and its crew.

## **21.0 APPEALS**

Any appeals to the regulations contained herein shall be made, in writing, to the Harbormaster on a form created by the Harbormaster's Office in concert with the Waterways Commission, within thirty (30) days of notification. If said appeal is denied by the Harbormaster, the appellant may request that the appeal be forwarded to the Waterways Commission for consideration. Appeals denied by the Waterways Commission may be forwarded for further consideration to the Board of selectmen at the request of the appellant. In the case of denial by the Board of Selectmen, further action by the appellant may be pursued as allowed by law.

**22.0 SEVERABILITY**

If a court of competent jurisdiction holds any provision of these Town of Harwich Waterways Regulations invalid, the remainder of these Waterways Regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of these Waterways Regulations shall not affect the validity of the remainder of these Town of Harwich Waterways Regulations.

**23.0 FINES & PENALTIES**

The owner of any vessel, mooring, or other objects not properly moored, in violation of these regulations, shall be liable for a fine as set forth in the schedule of fines noted below.

Any person found in violation of any of the provisions contained in these regulations shall be liable for a fine as set forth in the schedule of fines noted below. Each violation shall be considered as a separate violation for purposes of this section. The schedule of fines is as follows:

First Offense:	\$50.00
Second Offense:	\$100.00
Third and Subsequent Offenses:	\$200.00

Each day that a violation continues will constitute a separate violation of the Harbor Management Plan.

## APPENDIX A

### MOORING ASSIGNMENT LISTS

#### Special Purpose Mooring Assignment List

Stone Horse Yacht Club — Inner: Mooring Number(s):	3 28, 29, 39
Stone Horse Yacht Club — Outer: Mooring Number(s):	3 236, 237, 238
Allen Harbor Yacht Club Mooring Number(s):	4 354, 355, 356, 375
Wequassett Inn — Round Cove : Mooring Number(s):	2 546, 593
Wequassett Inn — Pleasant Bay: Mooring Number(s):	5 601, 605, 609, 679, 680
Rental Fleet — Pleasant Bay: Nauti-Jane Mooring Number(s):	10 604, 619, 670, 671, 672, 673, 674, 675, 676, 677

#### Working Mooring Assignment List

Allen Harbor Marine Mooring Number(s): Transient Moorings:	4 302, 303, 311, 318 307, 316, 319, 323, 325, 326
Harwich Port Boat Works Inner Harbor Mooring Number(s): Transient Moorings:	2 1, 2 17, 51, 59, 62, 78, 201
Cross Rip Marine Ames Marine	114 - Wychmere Inner Harbor 522 - Round Cove

**APPENDIX B  
2009 Town of Harwich  
Marine Fee Schedule**

A. Town-Owned Slip Rates

<b>Type</b>	<b>Fee</b>	<b>Notes</b>
Seasonal leases 5/1 to 11/15*	\$8.00/sq.ft.*	All recreational and C Permits
Year-round commercial ground fishing boats*	\$7.00/sq.ft.*	Vessels with A Permits
Year-round paid passenger carrying boats*	\$9.00/sq.ft.*	Vessels with D Permits and F Permits
Off-season rate up to 35' LOA** (9/16 – 10/15)	\$1.25/ft./night	Power Extra***
Off-season rate 36' LOA and over** (9/16 – 10/15)	<u>\$1.50</u> /ft./night	
Off-season rate** (5/1 – 6/14; 10/16 – 11/15)	\$9.00/ft./month \$3.00/ft./week \$.60/ft./night	Power Extra***
Summer transient rate 36' LOA and over** (6/15 – 9/15)	\$2.50/ft./night	Power Extra***
Summer transient rate up to 35' LOA** (6/15 – 9/15)	\$1.75/ft./night No minimum	
Winter short-term rates** (11/15 – 5/1)	\$7.00/ft./month \$.30/ft./night	For commercial fishing vessels only must have a Town Permit
Winter term** (11/16 – 4/30)	\$22.00/ft.	Active commercial fishing boats only must have a Town Permit

\* If the payment is received after March 1<sup>st</sup>, the Waterways Commission is under no obligation to accept the payment. If it does – based on significant extenuating circumstances – a late fee of \$100 will be charged.

\*\* Rate based on length of vessel or slip minimum. Price includes LOA. (Measured top of transom to foremost extension, includes pulpits or sprits).

\*\*\* Power charges same as summer nightly rate.

B. Mooring Rates - All harbors (All mooring fees are non-refundable)

<b>Class</b>	<b>Boat Length</b>	<b>Fee</b>
Class 1	Over 35' feet	\$250.00
Class 2	25' feet to 35' feet	\$195.00
Class 3	24' or less	\$110.00

C. Town-Owned Short-Term Tie Up Rates

<b>Boat Length</b>	<b>Fee</b>
23' feet and under	\$5.00/hour
24' feet to 30' feet	\$7.00/hour
Over 31'	\$8.00/hour

Short-term tie ups are limited to a maximum of three hours where space is available. There is no charge for the first half (1/2) hour. After three hours, boats will be charged at the full regular overnight rate for the boat.

**APPENDIX B  
Marine Fee Schedule (Cont.)**

D. Trailer Rates

One day trailer permit (Saquatucket only)	Saturday of Memorial Day Weekend to Monday of Labor Day Weekend	\$8.00/day
Seasonal trailer permit *	Saturday of Memorial Day Weekend to Monday of Labor Day Weekend	\$80.00/season
Boat transportation agent annual permit fee	May 1 <sup>st</sup> to November 15 <sup>th</sup> of each year	\$200.00/season (\$125 ea. Additional) OR \$10.00 each time

\* For use at Saquatucket Harbor, Allen Harbor and first landing at Long Pond. All trailers, boats and R/V's must vacate the town-owned parking area between the hours of 12:00 a.m. and 4:00 a.m.

E. Commercial Fishing Rates

Permit Class	Type	Fee
Class 'A'	Unrestricted	\$50.00
Class 'B'	10/1 – 6/1 (Renew 1/1)	\$12.50/ft
Class 'C'	Off peak fueling charter boats up to 6 passenger (Renew 1/1)	\$12.50/ft
Class 'D'	Passenger carrying boats for 6 or more (Renew 1/1)	\$3.00/passenger
Class 'E'	Unrestricted fueling – vessels with alternative Harwich dockage (Renew 1/1)	\$15.00/ft
Class 'F'	Passenger Ferry up to 80 passengers (Renew 1/1)	\$3.00/passenger
Class 'R'	Trailer Day Boat Charters (Renew 1/1)	\$400.00/rig (boat w/ trailer) (ramp fee extra)
Class 'T'	Tuna landing permit (Renew 1/1)	\$100.00/vessel

F. Off Load Permit Rates at Town-Owned Marina

Number of Vehicles	Fee
Tuna buyer vehicle	\$25.00
Each additional tuna buyer vehicle	\$150.00

G. Town-Owned Slip and Mooring Waiting List Rates

Slip waiting list	\$20/Year
Mooring waiting list	\$10/Year

H. Power Charge Rates at Town-Owned Marina

Permanent plug-in 110 volts	\$8.00/ft extra
High use plug-In 110 volts	\$16.00/ft extra
Power charge per outlet	>30ft.=\$11.00/night <30ft.=\$8.00/night

The marina, Town of Harwich or Harbormaster shall not be liable for damages or losses incurred by interruption of electrical power to any vessel

I. Boat Ramp Fees

Type	Fee	Notes
Seasonal boat ramp passes*	\$100.00	Saturday of Memorial Day Weekend to Monday of Labor Day Weekend
Daily (one-day) passes	\$10.00/day	Saquatucket boat ramp only
Parking Violation	\$125.00	Each offense

\* For use at Saquatucket, Allen Harbor and First Landing at Long Pond

J. Other Town Fees

Charter Fishing Boat Special Permit	\$50.00/Day
Mooring inspection fee	\$10.00
Mooring servicing agent annual permit fee	\$200.00
Harbor boat tender service annual permit fee	\$50.00
Fuel vendor tank truck annual permit fee	\$50.00
Vessel fueling from tank truck fee per gallon	\$0.05/gallon
Fish Weir Operator annual permit fee	\$25.00 per year

If the payment is received after March 1<sup>st</sup>, the Waterways Commission is under no obligation to accept the payment. If it does – based on significant extenuating circumstances – a late fee of \$100 will be charged.

**APPENDIX C**

**Minimum Safety Standards for Boat Moorings at Harwich**

These specifications are established to set minimum safety standards for boat moorings at Harwich in normal conditions.

Table I.

Area	Tide	Depths	Scope	Depth MLW	0-26' (3 tons)	26-30' (9 tons)	30-40' (15 tons)
Wychmere Harbor	3.7	2'-17'	2.5 : 1	2	9		
				3	12		
				4	14		
				5	17	19	21
				6	19	21	23
				7	22	24	26
Protected Area				8	24	26	28
				9	27	29	31
				10	29	31	33
				11	32	34	36
				12	34	36	38
Area	Tide	Depths	Scope	Depth MLW	0-26' (3 tons)	26-30' (9 tons)	30-40' (15 tons)
Wychmere Outer	4	3'-12'	3 : 1	3	14		
Pleasant Bay				4	17		
Red River				5	20	21	22
				6	23	25	26
				7	26	29	30
Non -Protected Area				8	29	33	34
				9	32	37	39
				11	38	45	47
				12	41	49	52
Area	Tide	Depths	Scope	Depth MLW	0-26' (3 tons)	26-30' (9 tons)	30-40' (15 tons)
Allen Harbor	3.7	2'-12'	2.5 : 1	2	9		
Round Cove				3	12		
Herring River				4	14	16	18
				5	17	19	21
				6	19	21	23
				7	22	24	26
Protected Area				8	24	26	28
				9	27	29	31
				10	29	31	33
				11	32	34	36
				12	34	36	38

## APPENDIX C

### Minimum Safety Standards for Boat Moorings at Harwich (Cont.)

Table II.

<b>Mushroom* Size</b>	<b>Protected Area</b>	<b>Non-Protected Area</b>
Under 16'	50	75
16' to 19'	75	100
19' to 26'	100	150
26' to 30'	150	200
30' to 40'	200	250
40' to 50'	250	300

\* Equivalent Dor-Mor pyramid anchor may be substituted at the same size.

Table III.

<b>Boat Size</b>	<b>Diameter Nylon</b>	<b>Break Strength</b>
Under 16'	1/2"	5750
16' to 19'	1/2"	5750
19' to 26'	5/8"	9350
26' to 30'	3/4"	12800
30' to 40'	7/8"	18000
40' to 50'	1"	22600

Chafing gear is recommended protection for all lines passing through chocks and over rails. Inadequate or no chafing gear and poorly maintained anchor chains are the greatest reason for boats breaking loose in high energy and non-protected areas. A safe mooring is your best hull insurance.

## APPENDIX D

### Boat Ramps

The Town of Harwich maintains several boat ramps for public use. Tidal-water ramps are located at Saquatucket Harbor in Harwichport, Allen Harbor in Harwichport, and Herring River in West Harwich and there are two public ramps located on Long Pond. The Saquatucket Boat Ramp is Public Access Board Ramp. All ramps are governed by the Town of Harwich regulations listed herein, in addition to the provisions of the Code of Massachusetts Regulations, Title 324, Sections 2.00 through 2.05 and the Town of Harwich Protective By-Laws and listed below respectively.

#### CMR 324, 2.00-2.05

##### Authority 2.01

Special situations within certain Public Access Facilities requiring detailed regulations will be printed separately. The Public Access Board authorizes any rules and regulations under MGL Ch. 21, s.17A pertaining to Public Access Facilities.

##### Admittance 2.02

Maximum limits as to the number of users of Public Access Facilities under the control of the Public Access Board will be established for each Public Access Area. Admittance to given areas may be suspended temporarily when in opinion of the Public Access Board a need arises.

##### Boat Ramp Rules 2.03

1. No person shall build or maintain a fire for any purpose.
2. No person shall remove, destroy, or deface any vegetation, sign, poster, building or other property.
3. Parking areas are for the sole use of motor vehicles parking in conjunction with the intended use of the facility. Vehicles shall be parked according to striping pattern or other means used to delineate the proper places to park. The conduct of any other activities in the parking areas is prohibited.
4. Camping, swimming, sleeping, and picnicking activity shall not be permitted within the boundary of the Public Access Facility.
5. Water-skiing shall not be conducted from or within 300 feet of any Public Access Board Facility. The operation of personal watercraft shall not be conducted from any Public Access Facility, except for initial embarkation and final disembarkation.
6. No fishing activity shall be conducted from within a fifty (50) foot radius of any boat launching ramp.
7. At no time shall a person deposit or leave any refuse on land or adjacent waters under the control of the Public Access Board. The deposit of sanitary waste is also strictly prohibited.
8. The washing of motor vehicles, flushing motors or other equipment is prohibited.
9. No person shall carry on any business or commercial calling or trade, sell or otherwise deal in wares of any sort, advertise any such business or commercial calling, hold any public meeting, or conduct any tournament contest or organized event, unless he shall have received a written permit from the Public Access Board. Posting of any sign or notice (commercial or otherwise) without the prior approval of the Public Access Board is prohibited.
10. No person shall dock or beach a boat or leave a motor vehicle or trailer for more than 24 hours within the boundary of the Public Access Facility. Storage of boats, equipment or other items on Public Access Facilities shall be prohibited except with written permission of the Public Access Board and the managing authority (Harbormaster).
11. Disorderly conduct, gambling, drinking of alcoholic beverages, use of illegal drugs, obscene or indecent language or behavior is prohibited.
12. The closing or gating of any Public Access Facility or any action that prohibits or impedes the ability of the public to use any such facility without the written permission of the Public Access Board is prohibited.

##### Violations 2.04

Violations of any of these rules may be punished by a fine of not more than one hundred (\$100) dollars for each offense.

## Risk 2.05

Persons using the Public Access Facilities do so at their own risk.

### **Town of Harwich Protective By-Laws**

#### Consumption of Alcohol in Public - Penalty 4-806

It shall be unlawful for any person to consume alcoholic beverages on any public highways or public parking places, including vehicles thereon, within the Town of Harwich. Whoever violates the provisions of this by-law, shall be fined fifty (\$50.00) dollars for each offense.

#### Rude and Disorderly Persons - Penalties 4-810

No person shall behave in a rude, indecent or insulting manner or use insulting language, or shout or scream and/or utter loud cries without reasonable cause in any public place in the Town to the annoyance or disturbance of any person there being or passing, or loiter on any sidewalk or street or about doorways or places of business to the annoyance or disturbance of any person. Any person violating any of the provisions of this by-law shall be fined fifty (\$50.00) dollars for each offense.

#### Camping or Tenting - Violation and Penalty 4-810

No person shall, between the hours of 8:00 P.M. and 8:00 A.M., set up on any property, public or private, without permission of the owner thereof, a camp, tent, trailer or vehicle adapted to habitation, self-propelled or capable of being towed by any other vehicle, or sleep in the open on any property, public or private, without permission of the owner thereof within the territorial limits of the Town of Harwich. Any person violating any of the provisions of this by-law shall be fined fifty (\$50.00) dollars for each offense.

#### Restraining Dogs 4-812

All dogs owned or kept within the Town of Harwich shall at all times be kept securely restrained by means of a suitable leash, rope or chain which effectively confines the dog to the property owned, occupied or controlled by the dog's owner or keeper, provided, however, a dog in the presence of its owner, keeper or responsible person having charge thereof and under the control of said person, need not be restrained by means of rope, leash or chain or confined to property of such person so long as such control is effective in preventing the dog from damaging or harassing persons. (Dogs and pet animals are permitted in the Marina only on a leash or otherwise confined or restrained.)

#### Public "Beach Scooper Law":

In order to further protect the wetlands and waterways of the Town from non-point pollution the Board of Health and Board of Selectmen have adopted the following regulations in accordance with MGL c.111 s.31: All animal owners are responsible for removing wastes produced by their animals while on any beaches within the Town of Harwich. The term beaches shall include: sand, dune, water, and parking lot, violation of this regulations subject \$50 per order of the Board of Selectmen.

## APPENDIX E

### Docks and Piers

In addition to any of the provisions found within the Harbor Management Plan, docks and piers are also governed by the Town of Harwich Wetlands Protection Bylaw listed below. A complete copy of the Town of Harwich Wetland Protection Regulations may be obtained by contacting the Conservation Administrator.

#### 1.10 Water Dependent Structures

##### 1. PREAMBLE

Any water dependent structure such as a wharf, float, pier, dock, or similar structure as hereafter defined, constructed seaward of Mean High Water in any tidal waters of the Town after the effective date of the By-law shall be subject to the provisions hereof and be in conformity hereto. Any water-dependent structure constructed within areas of Pleasant Bay where structures are allowed shall also be subject to the provisions of the Pleasant Bay Management Plan's Guidelines and Performance Standards for Docks and Piers.

##### 2. DEFINITIONS

- a. Deck – The surface of a water-dependent structure designed as the walkway for persons using the same.
- b. Float – A floating structure anchored in position by pilings chain or otherwise, which is designed to rise and fall with the tide, used in conjunction with a wharf, pier or dock to moor and give access to a vessel.
- c. Gangway – A ramp or platform used to provide access between a float or vessel and a pier, dock or wharf.
- d. Deep Water Channel – The area of a water body wherein the depth of water is three feet or more at mean low water.
- e. Mean High Water - The elevation in feet above NGVD (National Geodetic Vertical Datum) established by the present arithmetic mean of the water heights observed at high tide over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) as shown on the New England Coastline Tidal Flood Survey – Tidal Flood Profile No. 9 Barnstable to Chatham, MA by the New England Division, Corps of Engineers. Where salt marsh occurs, the mean high tide will be that point where spartina alterniflora gives way to spartina patens. Walkways over salt marshes that extend beyond this intersection will be regulated under the provisions of this By-law.
- f. Piling – A column constructed from any material used to support the deck or other structural member of a wharf, pier or dock or to serve as a mooring spar or dolphin for vessels or floats.
- g. Water Dependent Structure - Any structure, or combination of structures, built adjacent to or at an angle from the shore and extending seaward beyond the mean high water mark so that vessels may lie alongside to receive and discharge passengers or cargo or for use as a promenade and shall include structures commonly referred to as floats, docks, piers, or wharves.

##### 3. STANDARDS AND REQUIREMENTS

- a. No water dependent structure shall hereafter be constructed without a permit to do so issued by the Conservation Commission. The applicant shall first seek review of any dock and pier application by the Waterways Commission and/or the Harbormaster. Such comments shall be included with the application to the Commission.
- b. No permit to construct a water-dependent structure shall be issued unless the following standards are complied with:

1. No structure or its related appurtenances, including floats, shall extend more than eighty (80) feet seaward of the mean high water mark; nor farther than fifty (50) feet into the deep water channel; nor be allowed to encroach upon the deep water channel so as to reduce the usable width thereof to less than fifty (50) feet; and no vessel shall be moored thereto so as to encroach upon the fifty (50) foot minimum, nor shall it extend so as to interfere with any designated vessel mooring areas or established shellfish beds. In areas of Pleasant Bay where structures are allowed, all water-dependent structures shall meet the recommended 50 foot setback from navigational channels and mooring areas
2. No new structure, or any vessel moored thereto, shall be allowed closer than sixty-five (65) feet to an adjacent structure. In areas of Pleasant Bay where structures are allowed, the separation between structures shall be no less than 250 feet. Additionally, "shared use" proposals (i.e. a single structure to be jointly owned and used by two or more shorefront property owners) are encouraged to preserve access by shore front property owners while reducing the number of structures that might otherwise be permitted.
3. Structures shall be constructed as closely as possible to the perpendicular from the shoreline, excepting shared docks located on a property line. In areas of Pleasant Bay where structures are allowed, all water-dependent structures shall be a minimum of 50 feet from property lines and associated riparian lines unless the structure will be owned and used by two or more contiguous shorefront property owners. In such cases, the 50 foot setback requirement shall apply to the outermost boundaries of the two or more contiguous properties so that the structure may be placed on a shared property line.
4. No structure (except floats) shall exceed four (4) feet of walkway width.
5. No float or combinations thereof shall exceed two hundred (200) square feet of surface area nor shall any float be allowed landward of mean low water. Preferred float configuration shall be "T" shaped in order to encourage use of the float at its deepest end. No permanent "T" or "L" shaped docks or piers are allowed.
6. In order to protect the foreshore, all structures (except floats) shall be supported by pilings. Decks shall have a minimum ½" inch spacing between deck planks and shall be at an elevation equal to the width of the deck above mean high water or, in areas of marsh, above the marsh vegetation, whichever is higher. Notwithstanding the forgoing, in all areas where the foreshore is passable on foot, a flight of stairs on either side of the deck shall be provided to allow persons to lawfully use the foreshore. A directional sign shall be placed indicating permission to cross the structure.
7. Any structure proposed for siting in a salt marsh, or in a body of water adjacent to a salt marsh, shall not destroy any portion of the salt marsh or its substratum, nor have any adverse impact on the productivity of the salt marsh. Additionally, the structure should be oriented to minimize the effect of vessels using the structure on the adjacent salt marsh and in its substratum.
8. No structures shall be located within 50 feet of an existing eelgrass bed nor within a shellfish area defined by the Town Bylaws or Town Shellfish Warden. The presence or absence of shellfish at a proposed site must be determined by a shellfish survey submitted by the applicant. The survey shall include existing populations of all sizes of commercially important species of shellfish (clams, quahogs, scallops, mussels) and shall also include other species of mollusks which may indicate the capacity of the area to support commercially important species. The survey shall also include a description of shell fragments, if feasible, and references, if available, to historical information regarding the presence or absence of shellfish species. Within the Pleasant Bay ACEC, relocation of shellfish encountered during construction of a project is not acceptable mitigation (except when the project is part of a Town or State-sponsored shellfish relay program, and then only if it can be clearly shown that the productivity of that shellfish bed would not be diminished by its relocation).
9. Any structure proposed for siting within a Fish Run or within 100 feet of a Fish Run shall not have any adverse impact on the fish run by impeding or obstructing the migration of fish or by impairing the capacity of spawning or nursery habitats necessary to sustain the life stages of the

fish. Construction or maintenance of structures shall not occur between 15 March and 15 June without specific written permission from the Division of Marine Fisheries.

10. In order to provide the underlying seabed full exposure to sunlight during six months of the year, all proposed structures shall be seasonal – with six months maximum use. Off season storage plans shall be submitted for review and approval by the Conservation Commission.

11. The Commission shall deny a permit in any case where a proposed structure or combination of structures, otherwise complying herewith, would not extend to a point where at mean low water, a water depth of at least two and one half (2½) feet is maintained; no vessel shall be aground at mean low water.

c. No permit shall be issued for construction of a new, private water dependent structure in the area of Round Cove of Pleasant Bay. This area includes all contiguous parcels beginning with the northerly boundary of the property (Map & Parcel Number 115-S1-3) and extending southerly along the shore to the southerly boundary of the property (Map & Parcel Number 109-B1-5), and all shorefront parcels between these two properties including Round Cove. This prohibition does not apply to existing, licensed structures or to the maintenance of existing, licensed structures.

## APPENDIX F

### Shellfish Regulations

#### Family Shellfish Regulations

- 1. Applicability:** Persons taking shellfish and/or eels in the Harwich waters must have either a valid Harwich Family Shellfish Permit, a valid Resident Senior Citizen Permit, or a Harwich Commercial Shellfish Permit. These regulations apply to the taking of shellfish and eels by holders of Harwich Family Shellfish Permits and Resident Individual Senior Citizen Permits. Resident individual senior citizen permits are not for family member use.
- 2. Availability and Cost:** Permits can be obtained at the Harwich Town Hall and/or Harbormaster's Office during normal business hours. Permit fees are as follows: Resident Family Permit \$ 20.00; Non-Resident Family Permit \$60.00; One-Day Non-Resident Permit \$20.00; Resident Individual Senior Citizen (age 65 years) \$6.00; Permit replacement fee \$2.00.
- 3. Assignment:** Shellfish permits cannot be reassigned or transferred. Persons entitled to use a Resident Family Shellfish Permit shall include the immediate members of the permit holders family only. ("Immediate" in this context means family members living with and/or supported by the permit holder on a year-around basis.) Any person who pays real estate taxes to the Town of Harwich, regardless of residency designation, is entitled to a Family or a Senior Permit subject to the above conditions. Resident Individual Senior Citizen Permits cannot be used by family members.
- 4. Allowed Limit:** Individuals and families with Harwich permits may take quahogs, mussels, razorfish, sea clams and soft shell clams on open days up to the total of one (1) ten quart pail of shellfish per week from any classified open area. The shellfishing week runs from Monday through the following Sunday. During times when oysters may be taken, the ten-quart limit given above shall include their taking also.
- 5. Mandatory Permits and Equipment:** Permit holders must have in their possession a Harwich Family Shellfish Permit, an open peck basket, mesh bag or calibrated bucket and make use of a standardized shellfish measuring device appropriate for determining legality of catch.
- 6. Legal Time and Days:** The harvesting of shellfish is allowed from one-half hour before sunrise until sunset on open days. Family shellfishing is allowed in approved open areas for all shellfish except scallops and oysters on the following open-day schedule. Oysters may only be taken September 1st through April 30th only on open days as given above. Bay scallops may not be taken before November 1st at which time regulations will be issued governing their taking.

#### Family Shellfishing Days

From	Through	Wed	Thurs	Sat	Sun
April 1 <sup>st</sup>	April 30 <sup>th</sup>	X	X	X	X
May 1 <sup>st</sup>	May 30 <sup>th</sup>	X		X	X
Jun 1 <sup>st</sup>	Sep 30 <sup>th</sup>	X		X	
Oct 1 <sup>st</sup>	Oct 31 <sup>st</sup>	X		X	X
Nov 1 <sup>st</sup>	Dec 31 <sup>st</sup>	X	X	X	X

- 7. January 1 to March 31 conditional any day.**
- 8. Open Areas and Area Closures:** A commercial shellfish permit holder may not shellfish on a family permit for any commercially harvestable species in a family designated area. No person shall take or attempt to take shellfish from an area under a "closed status", a prohibited area or any "Resource Propagation Zone". No digging of shellfish shall be allowed in vegetated areas in accordance with the Massachusetts Wetlands Protection Act and the Harwich Wetlands Protection By-Law.. Areas of the shoreline or flats may be closed from time to time by the Natural Resources Department for the protection and development of juvenile shellfish populations. Development areas will be designated by signs reading "Resource Propagation Zone". Since many locations are effected by seasonal restrictions permit holders should check with the Selectmen's Office or Natural Resources Department (telephone 508-430-7532) on the status of conditionally approved areas before venturing out.

**9. Size Limit:** Shellfish shall be culled and all seed shall be returned to the waters and flats immediately. All shellfish must be brought home in the shell. Persons shall not take or have in their possession (in basket, bucket, bag or other container): Soft-shell clams less than two (2) inches in the longest diameter; Quahogs less than one (1) inch in shell thickness (hinge width); Oysters less than three (3) inches in the longest diameter; Sea Clams less than five (5) inches in the longest diameter; Eels or elvers less than four (4) inches in total length.

**10. Temperature Restriction:** Dry digging quahogs and dry taking of soft-shell clams shall not be allowed when the shaded air temperature falls below 30° F (-1° C). All holes shall be filled and seed clams replanted with the "neck" of the clam up at the time and place where dug. The restriction for all sub-tidal shellfish harvesting shall take effect when the shaded air temperature falls below 25° F (-3.9° C).

**11. Gear Restrictions:** Soft-shell clams and razorfish clams may be taken by hand, with standard clam hoe (rake) or hand plunger and dipnet; Quahogs may be taken by hand, rakes, tongs or bullrake. Oysters may be taken by tongs and box rake. No shovels, forks, mechanical hydraulic pump or other devices shall be used. Skin or scuba diving for shellfish is prohibited. Eels may be speared or a total of three clearly marked (last name) eel pots per permit may be set.

**12. Wet Storage:** The wet storage of shellfish is prohibited, except with the written permission of the Natural Resources Department.

**13. Predator Control:** As a means of controlling the losses of shellfish to natural means, starfish, wrinkles, cockles, green, calico and spider crabs, shall be deposited above the high water mark.

**14. Renewal:** Permits shall be issued from January 1st to the following December 31st, at the Selectmen's Office. The applicant shall submit a prior year catch report as part of the application.

**15. Inspection:** All persons taking shellfish shall land or walk ashore at any place designated by the Shellfish Constable to allow for inspection.

**16. Penalties:** The penalties for violation of any of these regulations shall be a fine of not less than \$10.00 and not more than \$50.00 for each offense or the revocation of license or permit by the Selectmen or both. The revenue of any said fine shall be paid to the Town of Harwich. Town ordinance provides that any license or permit may be denied, revoked or suspended for non-payment of taxes, fees, assessments, betterments or other municipal charges, Chapter 40, Sec. 57 MGL.

**17. Contaminated Areas:** Under General Law the penalty for taking shellfish from any contaminated /closed area is between \$50.00 and \$300.00 or by imprisonment of not more than sixty days, or both.

**18. Enforcement:** The foregoing regulations shall be enforced by the Shellfish Constables, Deputy Shellfish Constables, Natural Resources Officers and any Police Officer of the Town of Harwich, hereinafter called "enforcing persons". Permits may be suspended for violation of the regulations by the enforcing person. A hearing may be scheduled for reinstatement of the permit may be held at the next meeting of the Board of Selectmen. Enforcing persons may in their discretion, initiate criminal proceedings for any violation thereof. Alternatively, enforcing persons may utilize the method of non-criminal disposition established by Chapter 40, Sec. 21D, MGL.

### **Commercial Shellfish Regulations - General**

1. **Applicability:** No person shall take any species of shellfish or eels from within the waters of the Town of Harwich and sell same without a Commercial Shellfish Permit issued to the individual by the Town of Harwich. A commercial shellfish permit holder may not fish on a family permit for any commercially harvestable species in a family designated area. The applicant must already have been issued a State Commercial Fishermen identification license number.

2. **Permanent Residency Requirement:** The applicant must be a year-round resident of the Town of Harwich and shall furnish proof to verify the applicant is domiciled in the Town of Harwich. Proof of residency shall include: a current real estate tax, mortgage or lease, a copy of motor vehicle registration, a valid motor vehicle operators license and/or Harwich voter registration card.

3. **Age Requirement:** The applicant shall have reached the age of sixteen (16) years. A birth certificate may be accepted as proof.

4. Permit Fees: Fee for Commercial Shellfish Permit is \$50.00. Permit replacement fee \$2.00.
5. Renewal: Permits shall be issued from January 1st to the following December 31st, at the Town Hall and/or Harbormaster's Office. The applicant shall submit a prior year catch report.
6. Measuring Tools: Permit holders must have in their possession a Harwich Commercial Shellfish Permit, an open peck basket, or calibrated bucket and make use of a 1", 2", 3" standardized shellfish measuring device as a tool in determining legality of catch.
7. Commercial Species: Shellfish which may be harvested commercially in Harwich are quahogs, oysters, bay scallops and mussels. Commercial harvest of sea clams requires a State regulatory permit. Oysters may be taken September 1st through April 30th only; Bay Scallop regulations shall be made effective November 1st.
8. How and Where: All commercial fishing for quahogs in the Town of Harwich shall be done by the long rake or tong method and the shellfish person shall stand in a boat or on a floating platform, raft or barge. Oysters must be taken by box rake or tongs only. Commercial shellfishing by wading (scratching) shall be allowed only in Pleasant Bay. Commercial shellfishing by dry digging at Pleasant Bay or Muddy Creek is prohibited. Commercial shellfishing may be allowed subject to Selectmen proviso at Round Cove, Allen Harbor, Wychmere Harbor, Herring River or Nantucket Sound where water is more than 3 ½ feet deep at mean low water. Check with Natural Resources Department (508-430-7532) on special commercial area openings and the status of conditionally approved areas.
9. Assignment: Shellfish permits cannot be reassigned or transferred.
10. Open Days: There shall be no commercial shellfishing on Sunday.
11. Area Closures: No person shall take or attempt to take shellfish from an area under a "closed status", a prohibited area or a "Resource Propagation Zone". Areas may be closed from time to time by the Natural Resources Department for the protection and development of juvenile shellfish populations. Development areas will be designated by signs or buoys reading "Resource Propagation Zone".
12. Daylight Hours: The harvest of any shellfish is prohibited during night time hours, sunset to ½ hour before sunrise.
13. Limits: Shellfish shall be culled and all seed shall be returned to the waters and flats immediately. Unless posted otherwise at the Selectmen's Office, the commercial limit: on littlenecks shall be 100 lbs (five level pecks) per day; on oysters shall be two (2) level bushels per day. All shellfish must be landed in the shell. Persons shall not take or have in their possession (in basket, bucket or sack): Quahogs less than one (1) inch in shell thickness (hinge width); Oysters less than three (3) inches in the longest diameter; Sea clams less than five (5) inches in the longest diameter; Eels or elvers less than four (4) inches in total length.
14. Culling Limitations: All shellfish shall be culled and the seed returned to the water immediately after taking. The amount of uncultured shellfish upon any culling board shall not exceed one(1) level bushel. Quahog seed must be broadcast, lump dumping of seed is forbidden.
15. Tagging: All shellfish harvested commercially must be tagged with the name, address, date, area and State License Identification #. The smallest container must be tagged. This means all bags and sub-bags require individual tags.
16. Temperature Restriction: No commercial shellfishing shall be allowed when the shaded air temperature falls below 25o F (-3.9 C).
17. Gear Restrictions: Quahogs may be taken by rakes, tongs, bull rake (mud rake) or box rake. Oysters may be taken by tongs or box rake. No shovels, forks or mechanical hydraulic pump other devices shall be used. Skin or scuba diving for shellfish is prohibited. Eels may be speared or a total of forty (40) clearly marked (state license #) eel pots per permit may be set. No eel pot shall be set in the middle of any navigable channel.

18. Wet Storage: The wet storage of shellfish is prohibited, except with the written permission of the Natural Resources Department.
19. Predator Control: As a means of controlling the losses of shellfish to natural means, starfish, wrinkles, cockles, green, calico and spider crabs, shall be deposited above the high water mark.
20. Inspection: All persons taking shellfish shall land at any place designated by the Shellfish Constable to allow for inspection.. Commercial shellfishermen shall land their days catch at designated Harwich Town Landings. Shellfish harvested in Pleasant Bay must be landed through Round Cove Town Landing.
21. Penalties: The penalties for violation of any of these regulations shall be a fine of not less than \$10.00 and not more than \$50.00 for each offense or the revocation of license or permit by the Selectmen or both. The revenue of any said fine shall be paid to the Town of Harwich. Town ordinance provides that any license or permit may be denied, revoked or suspended for non-payment of taxes, fees, assessments, betterments or other municipal charges, Chapter 40 sec.57.
22. Contaminated Areas: Under General Law the penalty for taking shellfish from any contaminated /closed area is between \$50.00 and \$300.00 or by imprisonment of not more than sixty days, or both.
23. Enforcement: The foregoing regulations shall be enforced by the Shellfish Constables, Deputy Shellfish Constables, Natural Resources Officers and any Police Officer of the Town of Harwich, hereinafter called "enforcing persons". Permits may be suspended for violation of the regulations by the enforcing person. A hearing may be scheduled for reinstatement +of the permit at the next meeting of the Board of Selectmen. Enforcing persons may in their discretion, initiate criminal proceedings for any violation thereof. Alternatively, enforcing persons may utilize the method of non-criminal disposition established by Chapter 40, sec.21D. MGL.

#### **Commercial Shellfish Regulations - Hydraulic Shellfish Dredging**

1. Taking of legal sized quahogs by means of hydraulic shellfish dredging by Harwich Commercial Shellfish Permit holders with an appropriate commercial boat offloading permit for the Harwich town docks is permitted in the deep water of Nantucket Sound south of the 12' contour line, east of the Nantucket Cable. Taking of legal sized quahogs by means of hydraulic shellfish dredging is also allowed for Harwich Commercial Shellfish Permit holders with vessels up to 90 HP is permitted in the deep water of Nantucket Sound south of the 12' contour line, east of the Nantucket Cable.
2. Allowable catch for hydraulic harvested quahogs is 40 bushels per day per vessel with a limit on littlenecks of 20 bushels per day. Quahogs in anyway fitting through a 2 ½" inch ring must be counted within a bushel as littlenecks. Catch limits may be subject to change according to the Massachusetts Division of Marine Fisheries.
3. No shellfish dragger operator shall leave his boat and come ashore and/or land quahogs then return to the waters for the purposes of additional dredging for quahogs without permission from the Shellfish Constable or Deputy Constable(s).
4. There will be no hydraulic dredging for quahogs within the area of any fish weir or its anchors.
5. Shellfish hydraulic drags shall be limited to a 48" inch width cutting bar.
6. All drag shellfish must be landed at a Town of Harwich landing.
7. Fueling privileges at the Town Pier only for boats holding current Town of Harwich Off-load Permits.

#### **Bay Scallop Regulations**

The Town of Harwich does not require a specialized Bay Scallop Permit but instead honors regular valid Harwich Shellfish Permits for purposes of harvesting legal Bay Scallops. Those who participate in the fishery are welcome. Scallopers are cautioned to be very careful about interpreting between adult and seed scallops and are cautioned to err toward returning any questionable scallops to the beds. The interpretation of these rules against the main body of regulations is that family scallop fishing is allowed only on regular open family shellfish days while

commercial scalloping is not permitted on Sunday. The Natural Resources Department would appreciate any recommendations, suggestions or evaluation of its shellfishery including the improvement of its service or operations. Please feel free to contact the Natural Resources Director.

1. Effective November 1st, through March 31<sup>st</sup>, permit holders may take adult scallops from all open areas. Effective October 1<sup>st</sup> through October 30<sup>th</sup>, permit holders may take adult scallops from deep water (areas exceeding 13' MLW) areas of Nantucket Sound.
2. Holders of Family, Senior Citizen and valid one-day shellfish permits may take adult scallops between the hours of one-half hour before sunrise until 4:30 P.M. The limit in this instance will be one (1) level bushel of adult scallops per permit per week.
3. An Adult Scallop shall be a scallop *Aequipecten irradians* with a well defined raised annual growth line. Any scallop without said line shall be deemed a seed scallop.
4. Holders of Harwich Commercial shellfish permits may take adult scallops between the hours of one-half hour before sunrise until 4:00 P.M. During the months of February and March scallops must be landed by 4:30 P.M.
5. The Commercial limit shall be five (5) level bushels for each permit holder with a maximum of two permit holders per boat. Shellfish permits cannot be reassigned or transferred.
6. All Commercial Shellfish Permit holders must land their catch at an official at an official Harwich Town Landing or any place designated by the Shellfish Constable or his/her assistants to allow for inspection. The shellfish constables have the right to board boats to inspect for valid shellfish permits or catch.
7. All scallops taken at Pleasant Bay by boat/drag shall be landed at Round Cove Town Landing.
8. No commercial permit holder shall come ashore with scallops and return to the waters for the purpose of further scalloping without the permission of the Shellfish Constable. Scallops must be landed in the shell.
9. Scallop dredges shall not be more than thirty six inches (36") wide and of light construction similar to the conventional lead drag.
10. All culling shall be done in immediately and in deep water. No starfish, horseshoe crabs, green crabs or conchs shall be returned to the water but taken ashore in the shell and placed above the high tide mark.
11. All shellfish permits must be renewed by January 1<sup>st</sup> of the New Year. The Selectmen reserve the right to suspend any permits for violation of these regulations.

**APPENDIX G**  
**Shellfish Area Closures/Open Areas**

The status of shellfishing areas falls under the administration of several agencies at the Town, State, and Federal levels. All persons shellfishing should check with the Natural Resources Department to learn of updated reports on conditions. All dates herein are subject to water testing results conducted and subsequent approved by the State of Massachusetts Division of Marine Fisheries.

PERMANENTLY CLOSED AREAS at all times for reasons of elevated bacteria counts include:

Allen Harbor (North): permanently closed north side (defined by a line from Swanton Property dock to a point on the tip of the west side peninsula at the mouth of Oyster Creek)

Muddy Creek (West) permanently closed west of the Route 28 dike

Saquatucket Harbor within the footprint of the Marina is permanently closed

Herring River north of Smith Street

Red River, South Harwich in its entirety.

TEMPORARY CLOSED AREAS include:

Allen Harbor (subject to Section 74A closure any time; closes April 30 to November 1); otherwise permanently closed north side (defined by a line from Swanton Property dock to a point on the tip west side peninsula at the mouth of Oyster Creek).

The waters and flats and all tributaries thereto of Saquatucket Harbor in the Town of Harwich, north of a line drawn east from the southern tip of breakwaters at the harbor entrance. Saquatucket Harbor outside footprint of marina (Section 74A closure May 15 to November 1); otherwise permanently closed.

Herring River (Section 74A closure April 30 - December 1); otherwise permanently closed Smith Street north.

Muddy Creek (subject to Section 74A closure any time; closes May 31 to December 1); otherwise permanently closed west of the Route 28 dike.

Round Cove (subject to Section 74A closure at any time; closes April 30 to November 1); otherwise open.

Wychmere Harbor (subject to Section 74A closure any time; closed May 31 to November 1). Seasonally restricted - the waters and flats of Wychmere Harbor north of a line drawn across the mouth of Wychmere Harbor; otherwise seasonally approved December 17 to April 30 (dates inclusive).

## **APPENDIX H**

### **Herring (Alewife) Regulations**

#### Herring Run Rules 2004 TAKING OF HERRING PROHIBITED

1. The Harwich herring run at Depot Street, West Harwich and all areas along Herring River, its tributary streams and headwater ponds will be closed to the taking of herring (alewives) for the next three years (through 2006).
2. Signs will be prominently posted at the herring ladder area off Depot Street to indicate "Taking of Herring (Alewives) Prohibited"
3. Security gates will replace any existing chain gates off Depot Street in W. Harwich. Gates will be swing-gate style.
4. Vehicular access to the Johnson Flume parking area for public viewing purposes or freshwater fishing will be allowed Saturdays and Sundays only from 9 AM to 3 PM when the entrance gate will be unlocked and opened.
5. The taking of alewives is prohibited from Skinnequit Brook and Skinnequit Pond.