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Town of HUNTINGTON

Local Law Eighteen of the year 2003

A Local Law: Amending the Code of the Town of Huntington, Chapter 120 (Harbors and Waterways) Article I (Regulations and Restrictions)

Be it enacted by the TOWN BOARD of the

Town of HUNTINGTON as follows:

LOCAL LAW NO. 18 - 2003
AMENDING THE CODE OF THE TOWN OF HUNTINGTON,
CHAPTER 120 (HARBORS AND WATERWAYS)
ARTICLE I (REGULATIONS AND RESTRICTIONS)

Section 1. Chapter 120 (Harbors and Waterways), Article I (Regulations and Restrictions), is hereby amended to read as follows:

CHAPTER 120
(HARBORS AND WATERWAYS)
ARTICLE I
Regulations and Restrictions

§120-1. Applicability of provisions.

The provisions of this Article shall apply to the use of all harbors and waterways within the Town of Huntington, including all inland lakes and millponds, and to the harbors and waterways within the incorporated villages of the Town of Huntington to the extent not provided for by contract with an incorporated village. Nothing contained in this Article is intended to apply to harbors and waterways within or bounding an incorporated village of the Town of Huntington to a distance of fifteen hundred (1500) feet from the shoreline of such village as provided in §46-a(1) of the New York State Navigation Law, or other applicable or successor law.

In enacting this law, the Town Board is exercising its authority pursuant to the applicable provisions of the Municipal Home Rule Law; §130(11) and (17)(1) and (2) of the Town Law; §46-a(1) of the New York State Navigation Law; Chapter 158 of the Laws of the State of New York (1957); Chapter 695 of the Consolidated Laws of the State of New York (1881), and any other applicable law, rule and regulation.

§120-2. Definitions.

As used in this article, the following words shall have the meanings indicated:

COMMERCIAL/PUBLIC VESSEL - A vessel used, maintained and/or operated for commercial purposes on the navigable waters over which the Town of Huntington has jurisdiction, and carries passengers, freight or other product, or tows or is utilized for any other use, for which a compensation is received, either directly or where such service is provided in exchange for an accommodation, advantage, facility and/or privilege.

PEACE OFFICER - Those holding the title of Bay Constable and Harbor Master for the Town of Huntington as set forth in New York State Criminal Procedure Law §2.10 and any amendment thereto.

PERSON -- Includes an individual, business, partnership, firm, corporation, concern, enterprise, trust, company, industry, association, public utility or other legal entity.

PERSONAL WATERCRAFT -- A vessel which uses an inboard motor powering a water-jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

* * *

RESIDENT - shall mean an individual whose principal residence (domicile) is located within the Town of Huntington.

RESTRICTED VISIBILITY - shall mean any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, darkness or other similar conditions.

SPECIALTY PROP-CRAFT -- A vessel which uses an outboard motor or a propeller-driven motor pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

VESSEL -- Includes every description of craft other than a seaplane on the water, and includes but is not limited to, a boat, motorboat, sailboat, houseboat, rowboat, powerboat, jet boat, fishing boat, cruiser, motor vessel, ship, barge, scow, tug, floating cabana, party boat, charter boat, ferry boat, canoe, raft, personal watercraft, specialty prop-craft, commercial/public vessel or other propelled device.

§120-3. Pollution of waterways.

A. No person shall release or cause to be released into waters within the jurisdiction of the Town of Huntington a pollutant or other liquid or solid material which renders the water unsightly, noxious or otherwise unwholesome, or is [so as to be] detrimental to the public health, safety and/or welfare, or to the use and/or enjoyment of the waters for recreational purposes. A violation of this subdivision shall be declared a misdemeanor.

B. In the event a pollutant or other liquid or solid material is released as set forth in subsection A herein, the Department of Maritime Services shall be notified within one (1) hour of said release.

§120-4. Freestanding floats.

A. No person shall anchor, tie, or maintain a freestanding float or a combination of freestanding floats upon the waters over which the Town of Huntington and/or the Board of Trustees have jurisdiction that, when joined, are larger than two hundred (200) square feet without first obtaining a marine conservation permit pursuant to Chapter 137 of the Code of the Town of Huntington.

B. No person shall anchor, tie, or maintain a freestanding float or combination of freestanding floats upon the waters over which the Town of Huntington and/or the Board of Trustees have jurisdiction that, when joined, are two hundred (200) square feet or less without first obtaining a mooring permit from the Department of Maritime Services.

C. All freestanding floats shall be anchored or moored in such a way as to be secure at all times and under all conditions, and such anchoring or mooring shall be subject to the supervision of the Department of Maritime Services. Floats stored in harbors, bays and coves shall not rest on any tidal wetlands, or be moored in a channel or accessway, or interfere with the safe navigation of vessels.

D. No person shall store flammable, noxious and/or hazardous material or liquid, unsalted bait or debris on floats moored within the Town of Huntington.

E. Every freestanding float or combination of freestanding floats shall, at intervals of no less than every four (4) feet have a reflective device securely affixed to the perimeter thereof which shall be located within one (1) inch from the top surface of the float.

F. Requirements; procedure.

(1) The minimum requirement for mooring a single float, two hundred (200) square feet or less in size, shall be one 150-pound mushroom anchor. All other ground tackle shall be the same size and diameter as established in this Article for a 20 to 24 foot vessel.

(2) In addition to the 150-pound requirement, for mooring a single float more than two hundred (200) square feet in size, the weight of the mushroom anchor shall be increased using the minimum standard chart for the appropriately-sized vessel. All other ground tackle shall meet the requirement of the next highest category on the vessel chart.

G. In all other respects, the provisions of §120-21 pertaining to the mooring of vessels shall apply equally to the anchoring or mooring of freestanding floats.

§120-5. Public docks and floats.

A. No person shall utilize any portion of a public dock or float for commercial purposes without a permit issued by the Department of Maritime Services.

B. No vessel shall be tied or made fast to any public dock or float for longer than one (1) hour, except as otherwise posted; and no vessel shall be tied or made fast to a pump-out area except for the purpose of promptly loading or unloading, or for sanitary pump-out purposes, and thereafter the owner or person in charge of the vessel shall immediately disengage the vessel from the float. The Department of Maritime Services shall post the hours during which vessels are permitted to tie or be made fast to public docks and floats.

C. In addition to the penalties provided herein for a violation of any of the provisions of this article, the Department of Maritime Services may cause a vessel which is tied or made fast to a public dock or float in excess of one (1) hour, or as otherwise posted, to be removed, stored and/or secured at the expense of the owner or person in charge of such vessel. A storage fee of five ($5) dollars per foot as measured length overall for each day or any part thereof shall be due and payable to the Town of Huntington by the owner or person in charge of the vessel and said sum shall be fully paid by cash, certified or bank check or money order prior to the release of the vessel.

D. In the event a vessel is disabled, the vessel may remain at such public dock or float for a period not to exceed twenty-four (24) hours with the permission of the the Department of Maritime Services. At no time shall a disabled vessel be tied up or made fast to the south float "pump-out area".

§120-6. Use of town boat ramps; resident beach parking stickers.

A. No person shall use a launching ramp owned or maintained by the Town of Huntington for commercial purposes, except as provided in this chapter or by permit issued by the Department of Maritime Services.

B. No motorized vehicle of any kind weighing more than five (5) tons shall be permitted on any ramp owned or maintained by the Town of Huntington;

C. It shall be unlawful for a person to use a launching ramp owned or maintained by the Town of Huntington or to park in spaces and areas restricted for use by holders of beach stickers unless there is affixed to the vessel and to the right side window of the vehicle employed to lower the trailer a valid resident beach parking sticker or nonresident daily pass issued by the Town of Huntington.

D. Except in the event of a bonafide emergency, no person shall repair or work on a vessel tied or made fast to a launching ramp owned by the Town of Huntington or any float attached thereto.

E. No person shall cause, permit and/or allow his/her vessel to be tied or made fast to a launching ramp owned or maintained by the Town of Huntington or any float attached thereto for more than fifteen (15) minutes, except as follows:

(1) In the event of a bonafide emergency; or

(2) The westerly side of the launching ramp and floats at Mill Dam Road may be used from 4:00 a.m. to 6:00 p.m., Monday through Friday, except legal holidays, by those engaged in lobstering and shell fishing for the sole purpose of loading and unloading their catch, gear and/or equipment, but in no event shall such vessels, the gear and equipment, be left at the westerly side of such ramp or floats for more than one (1) hour.

F. The easterly side of the launching ramp and floats at Mill Dam Road may only be used by recreational boaters to lower their vessels or remove them from the water, or to board or descend from a vessel, or to load or unload a vessel. In no event shall a vessel be tied or made fast to the easterly side of the launching ramp or floats attached thereto for longer than provided in §120-6(E).

§120-7. Restrictions on operation of vessels; liability.

A. Operation near beach and bathers.

No vessel propelled other than by hand, oar or paddle shall cruise or be operated within three hundred (300) feet of a lifeline or bathing float, within three hundred (300) feet of the shoreline of any public or semipublic beach, and/or within three hundred (300) feet of any person bathing or swimming, except when exiting or entering the water or a ramp area, and then only at a speed of no more than five (5) miles per hour and no closer than fifty (50) feet from a bather, swimmer or other person in the water.

B. Speed regulations.

(1) No vessel shall be operated in excess of five (5) miles per hour in (a) any harbor in the Town of Huntington; (b) in the Huntington Inlet Channel from the northerly end of Huntington Harbor extending northward to the Huntington Lighthouse; (c) all waters north of a line beginning at a fence marking the southerly end of the Hobart Beach parking area running thence easterly a distance of one thousand five hundred (1,500) feet; running thence to the southerly end of what is commonly called "Sand City" which is the southerly terminus of the area known as Eaton's Neck; (d) that portion of Northport Bay known as the Northport Bay Channel beginning at the westerly end of the Northport Bay Channel at Green Flashing Buoy (4 sec.) No. 1 running thence easterly to Red Nun Buoy No. 4, and all waters bounded to the north and south of the said channel between the aforesaid buoys a distance of fifty (50) feet; and (e) in Centerport Harbor, all waters south of a line extending westerly from the north side of the Senior Citizens Beach House located on Little Neck Road to the western end of Fleets Cove Beach.

(2) No vessel shall be operated in a harbor, channel or millpond, or in any area where there is a congestion of boats at anchor or otherwise, at a speed in excess of five (5) miles per hour, or, regardless of speed, in an unsafe, dangerous, negligent and/or imprudent manner.

(3) No vessel shall be operated in excess of forty-five (45) miles per hour in all other waterways, bays, inlets and/or waters over which the Town of Huntington has jurisdiction.

C. Prudent speed; operation of vessels.

(1) No vessel shall be operated in a harbor or controlled speed area in such manner as to create a wake which (a) disturbs the peace and good order, (b) is detrimental to the use and/or enjoyment of the waters, or (c) endangers the health, safety and/or welfare of boaters, bathers or property.

(2) In all waters over which the Town of Huntington has jurisdiction, every vessel shall be operated in a safe, careful and prudent manner so as not to endanger the safety of life, limb or property, or so as not to unreasonably interfere with the free and proper use of the navigable waters. Reckless operation is prohibited. The operation of a vessel in violation of this subdivision shall constitute a misdemeanor.

(3) No person shall operate a vessel at a speed greater than is reasonable and prudent under the prevailing conditions and having due regard for the actual and potential hazards then existing.

D. No person shall operate a vessel within the waters of the Town of Huntington where the horsepower of the engine exceeds the United States Coast Guard recommended capacity.

E. The owner of a mechanically propelled vessel shall not knowingly authorize, allow and/or permit the operation of such vessel in the waterways, bays, inlets or waters over which the Town of Huntington has jurisdiction unless:

(1) The operator is eighteen (18) years of age or older; or
(2) The operator is accompanied by a person who is eighteen (18) years of age or older; or
(3) The operator is ten (10) years of age or older and is the holder of a boating safety certificate issued by the Commissioner of the Office of Parks, Recreation and Historic Preservation of the State of New York, the United States Power Squadrons or the United States Coast Guard Auxiliary; or
(4) In the case of a personal watercraft or specialty prop-craft, unless the operator is in compliance with §49(1-a)(b) of the New York State Navigation Law, or is accompanied by a person who is in compliance with §49(1-a)(b) of the New York State Navigation Law, and any amendment thereto or successor law.

F. No person under the age of eighteen (18) years of age shall operate a mechanically propelled vessel on the navigable waters within the Town of Huntington unless the operator is accompanied by a person who is eighteen (18) years of age or older, or the operator is ten (10) years of age or older and is the holder of a boating safety certificate issued by the Commissioner of the Office of Parks, Recreation and Historic Preservation of the State of New York, the United States Power Squadrons or the United States Coast Guard Auxiliary. In the case of a personal watercraft or specialty prop-craft, unless the operator is the holder of, or is accompanied by a person over the age of eighteen (18) years of age who is the holder of a boating safety certificate issued by the Commissioner of the Office of Parks, Recreation and Historic Preservation of the State of New York, the United States Power Squadrons, the United States Coast Guard Auxiliary, or other state or government agency as a result of completing a course approved by the Commissioner.

G. Operating a vessel while ability impaired or in an intoxicated condition pursuant to §49-a of the New York State Navigation Law, and any amendment or successor law.

(1) No person shall operate a vessel upon the waters over which the Town of Huntington has jurisdiction while his/her ability to operate such vessel is impaired by the consumption of alcohol as set forth in §49-a(2)(a) of the New York State Navigation Law.

(2) No person shall operate a vessel upon the waters over which the Town of Huntington has jurisdiction while he/she is in an intoxicated condition as set forth in §49-a(2)(d) of the New York State Navigation Law. The operation of a vessel in violation of this subdivision shall constitute a misdemeanor.

(3) No person shall operate a vessel upon the waters over which the Town of Huntington has jurisdiction while his/her ability to operate such vessel is impaired by the use of a drug as set forth in §49-a(2)(e) of the New York State Navigation Law. The operation of a vessel in violation of this subdivision shall constitute a misdemeanor.

H. Liability of owner. In accordance with §48(1) of the New York State Navigation Law, every owner of a vessel used or operated within the waters of the Town of Huntington shall be liable and responsible for death and/or injury to person and/or property resulting from negligence in the use and/or operation of such vessel, in the business of such owner or otherwise, by any person using or operating the vessel with the permission and/or consent, expressed or implied, of such owner.

§120-8. Water-skiing, tubing, aquaplaning, surfboarding and similar activities.

A. No person shall operate a vessel which is towing a person on water skis, a tube, surfboard, aquaplane or similar device unless a person at least ten (10) years of age, other than the operator, is in the vessel and observing the progress of the person being towed.

B. No person shall ride on water skis, a tube, aquaplane, surfboard or similar device, or use or operate a vessel to tow a person thereon, between sunset and sunrise, or in periods of restricted visibility. A performer engaged in a professional exhibition may perform between sunset and sunrise if approved by the Huntington Town Board. The Town Board may deny approval or may approve the event upon such conditions it deems necessary and/or advisable to safeguard the health, welfare and/or safety of the public and/or property. The Department of Maritime Services may submit its written recommendations to the Town Board.

C. No person shall ride on water skis, a tube, surfboard, aquaplane or similar device, or use or operate a vessel to tow a person thereon, in any channel or within the waters of Huntington Harbor, Centerport Harbor, Centerport Millpond, Northport Harbor or any inland lake, or within three hundred (300) feet of the shoreline, or within three hundred (300) feet of a lifeline or bathing float, or within three hundred (300) feet of a swimmer or bather, except to approach or depart from the shoreline or ramp area, and provided further that the same is not operated in excess of five (5) miles per hour or within fifty (50) feet of a bather, swimmer or other person in the water.

D. The provisions of Subsection A of this section shall not apply to the operation of a vessel for towing a person on water skis, a surfboard or a similar device operated or controlled by the person being towed, the design of which makes no provision for carrying an operator or observer on board. Such a vessel may not, however, be operated unless:

(1) It is registered and assigned a number which is permanently displayed thereon in accordance with §73 of the New York State Navigation Law and §2251 and §2254 of the New York State Vehicle and Traffic Law, and any amendments thereto; and
(2) It is equipped with an automatic shutoff mechanism activated whenever the operator is separated from the towing device; and
(3) It is equipped with a fire extinguisher and flame arrester attached to the motor; and
(4) The motor compartment is properly ventilated; and

(5) All persons being towed are wearing a United States Coast Guard approved PFD Type I, II or III personal flotation device at all times of operation. The use of a Type III inflatable device shall not be permitted; and

(6) Other safety provisions required by §40 of the New York State Navigation Law and any amendment thereto are observed, except for the requirements of Subdivisions (2) and (3) thereof relating to the use of whistles and anchors.

E. No person shall operate or manipulate water skis, an aquaplane, tube, surfboard or similar device in a reckless, careless or negligent manner so as to endanger the life, limb and/or property of any person.

F. No person shall operate a vessel for the purpose of towing a person on water skis, a surfboard, tube, aquaplane or a similar device while the person being towed is not wearing a United States Coast Guard approved PFD ski vest or lifesaving device and no person shall be towed without using such lifesaving device, provided however, that the provisions of this subsection shall not apply to a performer engaged in a professional exhibition pursuant to a valid permit granted by the Huntington Town Board.

§120-9. Regulation of personal watercrafts and specialty prop-crafts.

In addition to all other applicable provisions of this article, the following shall apply to the operation of personal watercraft and specialty prop-craft:

A. No person shall operate a personal watercraft or specialty prop-craft unless each person riding on or towed behind such vessel is wearing a securely fastened life jacket (Type I, II, III or V) approved by the United States Coast Guard, except a Type III inflatable PFD life jacket shall not be worn on a personal watercraft or specialty prop-craft.

* * *

C. No person shall operate a personal watercraft or specialty prop-craft unless such vessel is equipped with:

(1) At least two (2) ventilators fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilges of every engine and fuel tank compartment in order to remove any inflammable or explosive gases provided however, that if the personal watercraft or specialty prop-craft is so constructed as to have the greater portion of the bilges under the engine and the fuel tank(s) open and exposed to the natural atmosphere at all times, it need not be fitted with such ventilators; and

(2) An efficient sound-producing mechanical appliance, except sirens, capable of producing a blast of two (2) seconds or more in duration and of such strength as to be heard plainly for a distance of at least one-half (½) mile in still weather; and

(3) A fluorescent-orange distress flag, which shall be a minimum of one (1) foot square or other appropriate United States Coast Guard approved visual distress signal.

D. No person shall operate a personal watercraft or specialty prop-craft unless such vessel is equipped with a lanyard-type engine cutoff switch and such lanyard-type engine cutoff switch is attached to his or her person, clothing or a personal flotation device as is appropriate for the specific vessel.

E. No person shall operate a personal watercraft or specialty prop-craft between sunset and sunrise or in periods of restricted visibility.

F. Restricted areas.

(1) No person shall operate a personal watercraft or specialty prop-craft:

(a) Within five hundred (500) feet of a shoreline, a lifeline or bathing float, and/or a bather or swimmer, except in bodies of water where the opposing shoreline is less than five hundred (500) feet therefrom or during transit to and from the shoreline or ramp area and then only at five (5) miles per hour and no closer than fifty (50) feet from a bather, swimmer or other person in the water; and

(b) In any creek, beach and/or harbor within the Town of Huntington except during transit to and from waters seaward; and

(c) In excess of the applicable speed regulations and/or restrictions.

(2) "Transit" shall mean the safest direct route to or from the shoreline or to or from the launching site of the personal watercraft or specialty prop-craft.

* * *

G. Every personal watercraft and specialty prop-craft shall at all times be operated in a reasonable and prudent manner. Maneuvers which unreasonably or unnecessarily endanger life, limb or property, including but not limited to, weaving through congested vessel traffic, or jumping the wake of another vessel unreasonably or unnecessarily close to such other vessel or when visibility around such other vessel is obstructed, or sudden turning, stopping and rapidly accelerating, or swerving at the last possible moment to avoid collision, shall constitute reckless operation of a vessel.

H. Registration numbers on personal watercraft and specialty prop-craft shall be visible at all times and shall be in accordance with all applicable federal and state regulations.

§120-10. Scuba diving, diving operations and snorkeling.

A. Restricted areas.

(1) No person shall scuba dive, perform any diving operation or snorkel within a channel unless incidental to a salvage operation approved by the Department of Maritime Services

(2) No vessel, other than an attending vessel, shall be operated within one hundred (100) feet of an area marked for diving or snorkeling by the placement of a red flag with a diagonal white bar or a blue alpha signal flag.

B. Marking of the area. No person shall scuba dive, perform any diving operation or snorkel unless he/she has marked the diving area with a red diving flag with a diagonal white bar or a blue alpha signal flag.

§120-11. Discharge of spear guns; prohibitions.

No person shall discharge an item, gun or article designed and/or altered to spear fish within five hundred (500) feet of a beach, or within two hundred (200) feet of a vessel, bather or swimmer.

§120-12. Peddlers.

No person shall engage in the business of selling, hawking, peddling and/or vending any property, article, product, service or thing from a vessel on the waterways of the Town of Huntington without having first obtained the approval of the Huntington Town Board. The Town Board may approve or deny the application, or approve same upon such conditions it deems necessary and/or advisable to safeguard the health, welfare and/or safety of town residents, and/or safeguard the use and enjoyment of town lands and waters.

§120-13. Noise.

A. No person shall operate a pleasure vessel or permit his pleasure vessel to be operated in or about the waters of the Town of Huntington in such manner as to exceed a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAEJ2005.

B. No person shall operate a pleasure vessel or permit his pleasure vessel to be operated on the waters of the Town of Huntington in such manner as to exceed a noise level of 75dB(A) measured as specified in SAEJ1970, provided that such measurement shall not preclude a stationary sound level test as prescribed by SAEJ2005.

§120-14. Defacing or removal of identification marks on motors.

A. No person shall willfully remove, deface, cover, alter and/or destroy the manufacturer's serial number or other distinguishing number or identification mark on an outboard, inboard and/or inboard-outboard motor.

B. No person shall knowingly buy, sell, receive, dispose of, conceal and/or knowingly possess an outboard, inboard and/or inboard-outboard motor where the manufacturer's serial number or other distinguishing number or identification mark has been removed, defaced, covered, altered and/or destroyed for the purpose of concealment of or misrepresenting the identity of said outboard, inboard and/or inboard-outboard motor.

C. A person who violates a provision of this section shall by guilty of a Class A misdemeanor. Lack of knowledge of the condition of such outboard, inboard and/or inboard-outboard motor as to the manufacturer's serial number, distinguishing number or identification mark shall constitute a defense; but having possession of such motor shall create a presumption that the defendant had such knowledge and the burden of proof shall be upon him, her or it to establish that he, she or it had no such knowledge.

§120-15. Aquatic events; approval.

A. No person shall hold, sponsor and/or participate in a power boat race, or other aquatic event in the waters of the Town of Huntington without the approval of the Huntington Town Board. The Town Board may approve the event subject to such conditions it deems necessary or advisable to safeguard the health, safety and/or welfare of those attending or participating in the event, and/or to safeguard public lands and waters.

B. The provisions of this section shall not apply to vessels competing in duly authorized regattas and trials preceding such regattas, or to organized sailboat races.

§120-16. Equipment and lights.

All vessels shall be equipped and lighted as required by the rules, regulations and/or laws of any state and federal agency having jurisdiction.

§120-17. Unseaworthy, sunk or abandoned vessels.

A. An owner or person in charge of a vessel shall not permit the vessel to remain in the waters and/or harbors of the Town of Huntington if the vessel is unseaworthy, swamped, sunk, wrecked, derelict and/or abandoned. No owner or person in charge of a vessel shall permit an unseaworthy, swamped, derelict and/or abandoned vessel to be washed ashore and to remain thereat.

B. The Department of Maritime Services shall issue a notice of removal to the owner directing the owner to remove such vessel within seven (7) days of the date on the notice. The notice of removal shall be mailed by certified or registered mail, return receipt requested, and by regular mail upon the last registered or known owner of the vessel. The Department of Maritime Services shall make a reasonable search for the name and address of the vessel owner by checking with the jurisdiction which issued the vessel's registration number, if one is affixed, and if no registration number is affixed, with the New York State Department of Motor Vehicles or such other sources as the Department may deem advisable. If the owner cannot be determined after a search, notice of removal shall be posted in the official board of the Huntington Town Clerk and posted on or near the vessel for seven (7) days.

C. Notice of Removal. The notice of removal shall inform the owner that if the vessel is not removed from its location within seven (7) days of the date on the notice, in addition to the penalties provided in this article, the vessel will be removed and impounded by the Department of Maritime Services at the owners expense. Such notice shall contain the address and telephone number of the Department of Maritime Services, a description of the vessel, its name, its contents, its condition and its location.

D. On the date notification to the owner is given as set forth in §120-17(B), the Department of Maritime Services shall notify the Suffolk County Marine Bureau and the Suffolk County Sheriff's Office in writing that said vessel is unseaworthy, swamped, sunk, derelict and/or abandoned and offering possession of said vessel to either agency should the owner not claim the vessel or remove same within said seven (7) day period. Said notice shall include a statement as to whether or not the owner is known, and if known, the name and last known address of the owner. In all instances, a copy of the notice of removal served pursuant to §120-17(B) shall accompany the notification to the agencies.

E. (1) In the event the vessel is not removed by the owner at the expiration of seven (7) days, and neither the Suffolk County Marine Bureau nor the Suffolk County Sheriff's Office has responded or has agreed to take possession of the vessel within such period, the Department of Maritime Services shall remove and impound the vessel and photograph same. Once the vessel is impounded, the owner shall be given notice that such vessel has been impounded and is in the custody of the Department of Maritime Services, and that if the vessel is not claimed within twenty (20) days of the date of the notice, same shall be sold at public auction. The notice shall further state that the proceeds of the sale shall be used to defray the costs of providing notice to the owner and of removal, storage and sale of the vessel and its contents, and all other expenses incidental thereto. The notice shall contain the address and telephone number of the Department of Maritime Services, a description of the vessel, its name, contents and condition, the location from where it was taken and its current location.

(2) Such notice shall be mailed to the owner as set forth in §120-17(B) if the owner is known. If the owner is not known, such notice shall be posted in the official board of the Huntington Town Clerk and published in the official newspaper(s) of the Town by the Department of Maritime Services for one (1) week. In the event notice is published, it shall state that the vessel must be claimed by the owner within twenty (20) days of the first date of publication (identifying such date).

(3) Proof of ownership in the form satisfactory to the Department of Maritime Services shall be provided prior to the release of any vessel. All costs and expenses incurred by the Town of Huntington, including but not limited to, the costs of notice to the owner and of removal, storage charges in the sum of five ($5) dollars per foot as measured length overall for each day or any part thereof, and all other expenses incidental thereto shall be fully paid by cash, money order, bank or certified check before a vessel will be released. The Department of Maritime Services shall maintain an accurate accounting of all costs and expenses incurred by the Town.

(4) If the vessel is not claimed at the expiration of twenty (20) days, the Huntington Town Board may order the vessel sold at public auction. The proceeds of such sale shall be used to defray the costs and expenses of providing notice to the owner and of removal, storage and sale of the vessel and its contents, and all other expenses incidental thereto. Notice of such sale, the amount of all costs and expenses incurred and the balance of the proceeds, if any, being held, shall be mailed to the owner as in §120-17(B) and if the owner is not known, notice shall be posted in

the official board of the Town Clerk and published by the Department of Maritime Services in the official newspaper(s) of the Town for one (1) week. The balance of the proceeds of sale, if any, shall be turned over to the owner, if known, or, if the owner is not known, to be held, without interest, by the Department of Audit and Control for one (1) year for the benefit of the owner, upon proper proof of ownership, and, at the expiration of such period to be turned over to the town's general fund. The Director of Purchasing shall provide the Department of Audit and Control with all necessary documentation and a copy of this legislation at the time the net proceeds of a sale, if any, are turned over for deposit into a non-interest bearing account.

F. Exceptions.

(1) Nothing contained in this section shall be construed to restrict or prohibit earlier action by the Department of Maritime Services, with or without notice to the owner, if, in the judgment of the Department, such vessel severely impedes or severely restricts navigation, or is in such condition so as to cause immediate and/or serious danger to either the health, safety and/or welfare of the public or to property. Once the vessel is impounded, the owner shall be notified in accordance with the procedures set forth in §120-17(E) and the Suffolk County Marine Bureau and the Suffolk County Sheriff's Office shall be notified in writing that said vessel is unseaworthy, swamped, sunk, derelict and/or abandoned and offering possession of said vessel to either agency should the owner not claim the vessel within said twenty (20) day period. Said notice to the agencies shall include a statement as to whether or not the owner is known, and if known, the name and last known address of the owner. In the event the vessel is not claimed by the owner or accepted by the agencies at the expiration of such period, the procedures set forth in §120-17(E)(4) shall be followed.

(2) A vessel which, because of its age, condition and/or estimated cost of repair, has, in the judgment of the Department of Maritime Services, a retail value of five hundred ($500) dollars or less, shall be photographed and otherwise disposed of without prior notice.

§120-18. Charter and commercial vessels.

All charter or commercial vessels carrying more than six (6) passengers using town docks, slips and/or ramps for boarding or discharging passengers shall obtain a permit from the Department of Maritime Services. The Department of Maritime Services may issue a permit subject to such conditions it deems necessary or advisable to safeguard the health, safety and/or welfare of town residents and the use and enjoyment of public

lands, docks and waterways within the Town of Huntington.

(A) An application for a permit shall contain and be accompanied by the following:

(1) Full name, address, social security number and phone number of the owner of the vessel and each captain who operates the vessel; and

(2) A copy of the New York State driver's license of the owner the vessel and each captain who operates the vessel; and

(3) A copy of a current, valid United States Coast Guard operator's license for each captain who operates a vessel under this section.

(4) A copy of a current, valid United States Coast Guard certificate of inspection for a vessel operated under this section.

(5) A copy of a certificate of insurance naming the Town of Huntington as an additional insured under a Protection and Indemnity Policy with policy limits of:

(a) Liability for personal injury, including death, sustained on town property and/or occurring as a result of the conduct of the charter or commercial vessel operations: $1,000,000 per occurrence; and

(b) Property damage to town property or the property of others as a result of the use of town property and/or the charter or commercial vessel operations: $1,000,000 per occurrence.

(6) An indemnity agreement executed by the owner of the vessel agreeing to defend and indemnify the Town against any loss, claim, damage, suit or judgment for property damage and/or personal injury, including death and reasonable attorney fees, arising from or as a result of the negligence and/or willful conduct of the vessel owners, operators, and/or their agents, servants, assigns or subcontractor(s), or, as a result of the maintenance and/or operation of the charter or commercial vessel.

(7) An application fee of seven hundred fifty ($750) dollars per calendar year shall accompany each permit application.

(B) Application process; denial of permit; appeal hearing.

(1) Upon receipt of a complete application for a permit and payment of the application fee pursuant to this article, the Department of Maritime Services shall make an investigation of the applicant for the purpose of determining the suitability of the applicant for a permit. An investigation shall include, but shall not be limited to, whether a permit has previously been issued to the applicant, whether the applicant has complied with the provisions of this Chapter or Chapter 137 of the Code of the Town of Huntington, or has been convicted of a violation thereof, and any other factor deemed necessary and relevant in processing the application.

(2) The Department of Maritime Services shall determine whether a permit shall be issued and shall notify the applicant within five (5) days of filing of such application as to whether the application is granted or denied. In the event the application is granted, the permit shall be issued forthwith upon compliance with all applicable requirements. In the event the application is denied, notice of denial of a permit shall be given in writing by certified mail, return receipt requested and by regular mail, and addressed to the applicant at the address shown on the application, with a copy to the Huntington Town Clerk. Such notice shall set forth the grounds for the denial and shall advise the applicant of the right to request an appeal hearing before the Huntington Town Board within ten (10) days of the date on the notice of denial. All requests for an appeal hearing from a denial of a permit shall be filed with the Huntington Town Clerk and shall be accompanied by the sum of one hundred and fifty ($150) dollars to cover the cost of the hearing and of processing the appeal. At the time a request for an appeal hearing is filed, the applicant may provide the Town Clerk with any relevant information in response to the notice of denial.

(3) Notice of the appeal hearing shall be mailed to the applicant at the address shown on the application not less than ten (10) days prior to the hearing date by regular and certified mail, return receipt requested.

(4) At the hearing the applicant may present such competent evidence as he, she or it deems advisable or necessary. The Town Board shall render its determination at the end of the hearing and may affirm the denial of a permit or allow the issuance of a permit upon such conditions it deems advisable to protect the health, welfare and/or safety of the public and/or to maintain the peace and good order. The decision of the Town Board shall be final and shall be filed in the Office of the Town Clerk.

(5) No person shall use a town dock, slip or ramp to operate and/or maintain a charter or commercial vessel operation if a permit has been denied.

(C) An application for a permit may be denied by the Department of Maritime Services under the following conditions:

(1) If fraud or a misrepresentation of a material fact is contained in the application for a permit; or

(2) If fraud, misrepresentation or deceit has been practiced in the course of carrying out the charter or commercial vessel operation within two (2) years of the date of application; or

(3) The applicant (owner), captain, or person in charge of the vessel has been convicted of a violation of this Chapter or Chapter 137 of the Code of the Town of Huntington, except that a permit may be granted if, in the judgment of the Department, the person has since conducted himself, herself or itself in a law-abiding manner and the association with the charter or commercial vessel operations will not be contrary to the public interest; or

(4) If, in the judgement of the Department, the applicant (owner), or the captain or person in charge of the vessel conducts, maintains or operates, or permits the maintenance and/or operation of the charter or commercial vessel in an unlawful manner or in such manner so as to constitute a breach of the peace, or a menace to the health, safety and/or general welfare of the public.

(D) Term of permit. A permit issued for the maintenance of a charter or commercial vessel operation shall expire one (1) year from the date of issuance.

(E) Display of permit; non- transferability. The permit, once issued, shall be placed and at all times displayed in a conspicuous location on the vessel's wheel house. A permit is personal to the holder and does not follow ownership of the vessel, nor shall a permit be sold, assigned or transferred to one other than the holder.

(F) Rules and regulations:

The owner, captain or person in charge of a charter or commercial vessel shall be absolutely liable for the enforcement of the following rules and regulations:

(1) Vessels may not tie or be made fast to town docks or floats beyond the time permitted in this article. If a vessel is disabled, the owner, captain or person in charge of the vessel shall notify the Harbor Master's Office of such disability within one (1) hour to request permission from the Harbor Master's Office to exceed the posted time limit.

(2) There shall be no consumption of alcoholic beverages by passengers or crew while at or on town docks, floats or other town property including parking lots.

(3) No passenger or crew member shall leave or be discharged from the vessel with an open container of alcoholic beverage.

(4) Reasonable noise regulations as established by the Town shall be observed. In no event shall loud radios or other reproduction or broadcasting of music or sound, or unruliness, horseplay or conduct which endangers the health, safety and/or welfare of any person, or disturbs the peace be permitted on board the vessel while moored or made fast to a town dock or float, or while passengers and/or crew are on town docks, floats, in parking lots or on other town property.

(5) No individual shall disobey or disregard a reasonable request or order of the Department of Maritime Services or other town official.

(6) Full compliance with all local, county, state and federal ordinances, rules, regulations and laws relating to the holding and discharge of waste materials shall be maintained.

(G) Revocation of permit; grounds.

(1) Any permit issued pursuant to this article may be revoked by the Huntington Town Board, after a hearing, upon the written recommendation of the Director of the Department of Maritime Services, under the following conditions:

(a) If fraud or a misrepresentation of a material fact is contained in the application for a permit; or

(b) If fraud, misrepresentation or deceit is practiced in the course of carrying on the charter or commercial vessel operation; or

(c) The permit holder, the captain, or person in charge of the vessel has violated any provision of the permit, or of this Chapter or Chapter 137 of the Code of the Town of Huntington, except that a permit may be continued if the person has since conducted himself, herself or itself in a law abiding manner and the association with the charter or commercial vessel operations will not be contrary to the public interest; or

(d) If, in the judgement of the Town Board, the person to whom a permit has been issued, or the captain or person in charge of the vessel conducts, maintains and/or operates, or permits the maintenance and/or operation of the charter or commercial vessel in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public; or

(e) The permit holder, the captain, or person in charge of the vessel has knowingly disregarded or disobeys any reasonable request or order of the Department of Maritime Services or other town official regarding the use of town property or operation of the business.

(2) Revocation proceedings shall be commenced by the filing of a written report by the Director of Maritime Services in the Office of the Town Clerk, recommending that the permit be revoked and setting forth the reasons therefor.

(H) Revocation hearing.

(1) The Huntington Town Board shall hear and determine all proceedings for the revocation of a permit.

(2) Notice of the hearing shall be mailed to the permit holder at the address shown on the application not less than ten (10) days prior to the hearing date by regular and certified mail, return receipt requested. The form of the notice shall be at the discretion of the Town Board. A copy of the Director's report shall be provided to the permit holder with the notice.

(3) At the hearing the permit holder shall be provided with an opportunity to be heard. The permit holder may present such competent and material testimony or other evidence in his/her own behalf as may be relevant to the subject matter of the hearing.

(4) The Town Board shall render its decision after the hearing. The Board may revoke a permit or allow the continuation of a permit upon such conditions as it deems advisable to protect the health, welfare and/or safety of the public and/or to maintain the peace and good order. The Town Clerk, with the assistance of the Town Attorney, shall notify the permit holder of the Board's determination by regular and certified mail, return receipt requested within three (3) business days after the Board's determination. The decision of the Town Board shall be filed with the Town Clerk and shall be final, subject to review by a court of competent jurisdiction.

(5) No person shall use a town ramp, slip, float or dock to operate and/or maintain a charter or commercial vessel operation if the permit to operate same has been revoked.

§120-19. Impound facilities.

No person shall enter an impound facility owned, maintained and/or operated by the Town of Huntington, and no person shall remove or tamper with any vessel stored thereat without the prior approval and/or consent of the Department of Maritime Services or other town official.

§120-20. Town marinas.

A. Permit required.

(1) No person owning a boat shall cause, permit and/or allow the boat to be tied or otherwise confined in or at a town marina without a valid permit issued by the Department of Maritime Services. No permit of any kind shall be issued to persons under eighteen (18) years of age.

(2) Any boat tied or otherwise confined in or at a town marina without a valid permit shall be removed, stored and secured by the Department of Maritime Services at the owner's expense.

(3) Any boat removed may be redeemed upon proof of ownership and payment of all costs of removal, storage and maintenance of the boat, together with such other expenses incurred by the Town, by cash, certified or bank check, or money order. A fee of five ($5) dollars per foot as measured length overall for each day or any part thereof shall be charged for any boat stored by the Town of Huntington.

B. Summer permits:

(1) Any resident who is the owner of a boat shall be entitled to make application to the Department of Maritime Services for a permit to tie, make fast or dock to the dockage facilities at town marinas. The Department of Maritime Services shall assign the permit holder to a specific berth and is authorized to temporarily reassign berths as, in the judgment of the Department, is necessary or appropriate. Renewals of summer permits from the prior summer season shall take priority over new applications. In the event that the next available berth cannot be occupied by the next applicant, the Department may pass over said applicant and assign the berth to the next applicant on the list whose boat may be accommodated by the berth. No unregistered boats shall be tied, made fast or docked at town marinas.

(2) Application. The application for a permit shall be on a form provided by the Department of Maritime Services and shall set forth the name, address and age of the applicant, the name of the boat and its manufacturer, the overall length and beam of the boat for which a permit

is sought and the boat registration number. In addition, the applicant shall provide a copy of the owner's New York State driver's license together with any other document or information requested by the Department. A non-refundable application fee in an amount established by the Huntington Town Board shall be paid at the time of application. If a permit is issued, the applicant shall pay the marina fee and sign a marina contract.

(3) Term of permit. The Town Board, upon the recommendation of the Department of Maritime Services, shall fix the dates during which permits are valid, depending upon the state of repairs and/or readiness for occupancy of town marinas.

(4) Renewal of permit. An owner who is in good standing as to the payment of fees, the rules and regulations of the marina as established by the Department of Maritime Services, and the provisions of the marina contract and of this chapter shall have the option to renew the permit upon compliance with such rules and regulations as may be established by the Department of Maritime Services.

C. Winter permits.

(1) The Department of Maritime Services may designate areas for winter occupancy. Residents and non-residents may file an application for a winter permit to tie, make fast or dock a boat to the dockage facilities of a town marina designated for such purpose, subject to such terms and conditions as may be imposed by the Director of Maritime Services. Priority shall be given to residents of the Town of Huntington.

(2) The application requirements shall be the same as established for summer permits. An application fee as fixed by the Huntington Town Board shall be paid by the applicant. If a permit is issued, the applicant shall pay the marina fee and sign a marina contract.

(3) An application for a winter permit, or any renewal thereof, shall be filed on or before the date set by the Department of Maritime Services.

(4) Term of permit. The Town Board, upon the recommendation of the Department of Maritime Services, shall fix the dates during which permits are valid, depending upon the state of repairs and/or readiness for occupancy of town marinas.

D. Transient permits.

(1) Boats using town marinas for transient purposes shall abide by the rules and regulations established by the Department of Maritime Services. The provisions of §120-20(E) and (M) shall not apply to transient permits.

E. Procedure upon application for a permit; appeal hearing if application denied.

(1) The Department of Maritime Services shall determine whether a permit should be issued. In the event the application is granted, the permit shall be issued forthwith upon compliance with all applicable requirements. In the event the application is denied, notice of denial of a permit shall be given in writing by certified mail, return receipt requested and by regular mail, and addressed to the applicant at the address shown on the application, with a copy to the Huntington Town Clerk. Such notice shall set forth the grounds for the denial and shall advise the applicant of the right to request an appeal hearing before the Huntington Town Board within seven (7) days of the date on the notice of denial. All requests for an appeal hearing from a denial of a permit shall be in writing and filed with the Huntington Town Clerk, and shall be accompanied by the sum of one hundred ($100) dollars to cover the cost of the hearing and of processing the appeal. At the time a request for an appeal hearing is filed, the applicant may provide the Town Clerk with any relevant information in response to the notice of denial.

(2) Notice of the hearing shall be mailed to the applicant by regular and certified mail, return receipt requested, at the address shown on the application no less than ten (10) days prior to the hearing date. The form of the notice shall be at the discretion of the Town Board.

(3) At the hearing the applicant may present such competent evidence as he or she deems advisable or necessary. The Town Board shall render its determination at the end of the hearing and may deny a permit or allow the issuance of a permit upon such conditions it deems advisable to protect the health, welfare and/or safety of the public and/or to maintain the peace and good order. The decision of the Town Board shall be final and shall be filed in the Office of the Town Clerk.

(4) No individual shall tie or make fast a boat to the dockage facilities of a town marina for which a permit has been denied.

F. Denial of permit application; grounds

An application for a permit to tie or make fast a boat to the dockage facilities of a town marina may be denied by the Department of Maritime Services under the following conditions:

(1) If fraud or a misrepresentation of a material fact is contained in the

application for a permit; or

(2) If, within one (1) year of the application date, the applicant has been convicted of a violation of this Chapter or Chapter 137 of the Huntington Town Code, or of any rule or regulation of any local, state or federal agency having jurisdiction over navigation, or a permit to tie or make fast a boat to a town marina has been previously revoked, except that a permit may be granted if, in the judgment of the Department, the person has since conducted himself or herself in a law-abiding manner and the issuance of a permit will not be contrary to the laws or rules of any other agency having jurisdiction, or to the public peace or good order, or will not jeopardize the safety of other permit holders or their boats or town property; or

(3) If, within one (1) year of the application date, the applicant has violated the conditions of a prior permit, or the marina contract or policy, or the provisions of this article or any rule or regulation issued thereunder, or has knowingly disregarded or disobeyed a reasonable request or order of the Department or other town official; or

(4) If, in the judgment of the Department of Maritime Services, the issuance of a permit to the applicant would jeopardize the safety of other permit holders or their boats or town property; or would jeopardize the peace and good order.

G. Identification. Every permit issued shall be accompanied by a decal which shall bear the number of the permit and the year of issuance. Such decal shall be firmly affixed by the Department of Maritime Services to the boat on a conspicuous place so as to be easily inspected while the boat is docked at the facility for which the permit is issued.

H. Acceptance of permit.

(1) Acceptance of a permit shall constitute an agreement by the permit holder or holder of a pass that he or she will defend and hold the Town of Huntington and the Board of Trustees harmless from any claim, loss, damage, suit or judgment for property damage and/or personal injury, including death and reasonable attorney fees, which may arise from or in connection with the operation, docking, tying, lowering, removal or disposal of the boat, and further agrees to fully reimburse the Town or Board of Trustees for any damage caused to Town of Huntington or Board of Trustees property; and

(2) An agreement by the permit holder to abide by all of the rules,

regulations and provisions of the "Marina Policy" issued by the Department of Maritime Services, the marina contract (if applicable) and this chapter.

I. Non-transferability; sublease prohibited. A permit issued by the town pursuant to this article shall not be assigned, sold or transferred by the holder. A slip or docking space may be occupied only by the boat for which the permit is issued and the holder of a permit may not sublease the space assigned to the holder or allow another person to dock or otherwise use such space. Permits are good only for the slip or docking space designated and only for the specified term.

J. Commercial activities. No boat docked, made fast or tied at a town marina may be used for the sale, lease or hire of merchandise or services, or for the purpose of renting or leasing occupancy of the boat to any person at any time. This subsection is not intended to prohibit a guest of the owner to remain on board of any boat as long as there is no monetary exchange for the use and/or occupancy of the boat by such guest.

K. No person under ten (10) years of age shall be admitted to, or permitted in, a town marina unless accompanied by an adult who shows full responsibility for the child's safety and conduct.

L. Revocation of permit; grounds.

A permit to tie or make fast a boat to the dockage facilities of a town marina may be revoked by the Department of Maritime Services under the following conditions:

(1) If fraud or a misrepresentation of a material fact is contained in the application for a permit; or

(2) The permit holder, during the permit term, has been convicted of a violation of this Chapter or Chapter 137 of the Huntington Town Code, or of any rule, regulation of any state or federal agency having jurisdiction over navigation, except that a permit may be continued if, in the judgment of the Department, the permit holder has since conducted himself or herself in a law-abiding manner and the continuation of a permit will not be contrary to the laws or rules of any other agency having jurisdiction, or to the public peace or good order, or will not jeopardize the safety of other permit holders or their boats or town property; or

(3) If the permit holder violates the conditions of the permit, or of the marina contract or policy, or if any slip or berth for which a permit has

been issued is being used in violation of this article or of any rule or regulation issued thereunder, or if the permit holder has knowingly disregarded or disobeyed a reasonable request or order of the Department or other town official; or

(4) If the permit holder, in the judgment of the Department of Maritime Services, conducts himself or herself in an unlawful manner or in such manner as to constitute a breach of the peace, or so as to be a menace, or so as to jeopardize the safety of other permit holders or their boats or town property.

M. Revocation of a permit; procedure; appeal hearing.

(1) Notice of revocation shall be mailed to the permit holder by the Department of Maritime Services by regular and certified mail, return receipt requested, to the address shown on the application, with a copy to the Huntington Town Clerk. Such notice shall state the reasons for the revocation and shall advise the individual of the right to request an appeal hearing before the Huntington Town Board within seven (7) days of the date of the notice of revocation. All appeals shall be in writing and filed in the office of the Town Clerk, and shall be accompanied by the sum of one hundred ($100) dollars to cover the cost of the hearing and of processing the appeal. At the time a request for an appeal hearing is filed, the individual may provide the Town Clerk with any relevant information in defense of the notice of revocation.

(2) Notice of the appeal hearing shall be mailed to the individual by regular and certified mail, return receipt requested, at the address shown on the application no less than ten (10) days prior to the hearing date. The form of the notice shall be at the discretion of the Town Board.

(3) The Town Board shall hear and determine all appeals from a revocation of a permit. At the hearing the individual may present such competent evidence as he or she deems advisable or necessary. The Town Board shall render its determination at the end of the hearing and may affirm the order of revocation, or reverse the order and continue the permit upon such conditions it deems advisable to protect the health, welfare and/or safety of the public and/or to maintain the peace and good order. The decision of the Town Board shall be final and shall be filed in the Office of the Town Clerk.

(4) No individual shall tie or make fast a boat to the dockage facilities of a town marina if a permit has been revoked. Any boat tied or made fast to a slip or berth or other dockage facility shall be removed forthwith by

the owner. The Department of Maritime Services shall remove and store any boat not removed by the owner at the owner's expense. In the event a permit is revoked, the marina fee shall not be refunded.

O. The Director of Maritime Services may establish such other rules and regulations, not inconsistent with this article, as he/she deems advisable and/or necessary to maintain the peace and good order or to safeguard the health, safety and welfare of the public and/or navigable waters.

P. No person shall knowingly refuse or neglect to obey any reasonable request or order of the Department of Maritime Services or other town official.

§120-21. Mooring of vessels and floats.

A. Permit required.

(1) No person shall place or cause to be placed a mooring on any underwater land over which the Town of Huntington and/or the Board of Trustees have jurisdiction without first obtaining a mooring permit from the Department of Maritime Services. No permit of any kind shall be issued to persons under eighteen (18) years of age.

(2) No person shall tie or secure a vessel or float or any other object to a mooring for which a mooring permit or transient mooring permit has not been issued by the Department of Maritime Services.

(3) Any person who places or causes a mooring to be placed, or causes a vessel or float to be tied to a mooring for which no mooring permit has been issued, or causes a vessel or float to be tied to a mooring without a transient mooring permit having been issued shall be in violation of this article. In such event, and in addition to any other penalties provided for herein, any mooring and vessel/float attached thereto, shall be removed, stored and secured by the Department of Maritime Services at the owner's expense.

(4) Any vessel, float and/or mooring removed may be redeemed by the owner upon proof of ownership, the presentation of a valid permit and the payment by cash, certified or bank check, or money order of all reasonable costs, including but not limited to, the costs of removal, storage and maintenance of the vessel, float and mooring. A storage fee of five ($5) dollars per foot as measured length overall for each day or any part thereof shall be due and payable to the Town of Huntington, and an additional fee of one ($1) dollar per pound shall be payable by the owner for the removal of the mooring.

(5) Exemption. The requirements of this subsection shall not apply to temporary moorings installed to facilitate work on projects for which all other necessary permits and approvals have been issued by the Town of Huntington and any local, state or federal agency having jurisdiction, or to temporary moorings installed to facilitate work on projects financed or undertaken by the Town of Huntington and/or the Board of Trustees.

B. Permit application.

(1) Residents and non-residents who own vessels or floats shall be entitled to make application to the Department of Maritime Services for a mooring permit to place a mooring upon the underwater lands over which the Town of Huntington and/or the Board of Trustees have jurisdiction. Mooring permits shall be issued in the order in which received and residents of the Town of Huntington shall receive a preference over non-residents. Renewals of mooring permits from the prior year shall take priority over new applications if the permit holder is in good standing.

(2) Application. An application for a mooring permit shall be on a form provided by the Department of Maritime Services and shall set forth the name, address and age of the applicant; the name of the vessel, if any, and its manufacturer; the length of the vessel; its registration number, if same is required to be registered; the proposed location of the mooring; an accurate description of the mooring system to be employed indicating the type and weight of the anchor, and the size and type of the mooring buoy to meet the minimum town requirements. The applicant shall also provide a copy of the owner's driver's license together with any other document or information requested by the Department.

(3) Application fee. Residents of the Town of Huntington may apply for a mooring permit free of charge. Non-residents, corporations and other business entities, including commercial enterprises, shall pay a non-refundable application fee of one hundred and twenty-five ($125) dollars for a mooring permit. Yacht clubs, marinas and boating associations may apply for a mooring permit on behalf of its members, when acting as the agent of the owner, as long as an original statement of authority and proof of residency is produced from an applicant for any agent making application.

(4) Residency shall be established by the production of the following: (1) a true copy of the registration certificate and (2) a copy of the New York State driver's license of the owner or, in lieu of a driver's license, such other documentation as may be acceptable to the Department of Maritime

Services. In the event registration of the vessel is not required pursuant to the applicable provisions of the New York State Navigation Law or the New York State Vehicle and Traffic Law, then, in that event, the applicant shall produce such other documentation as is satisfactory to the Department of Maritime Services.

(5) Application for a permit renewal. An application for a renewal shall be in the form approved by the Department of Maritime Services and shall be filed on or before the date set by the Department. An application fee as set forth in §120-21(B)(3) shall be payable as in the case of an original application.

C. Procedure upon application; appeal hearing if application denied.

(1) The Director of Maritime Services shall determine whether a permit should be issued. The Department of Maritime Services shall notify the applicant within five (5) days of filing of such application as to whether the application is granted or denied. In the event the application is granted, the permit shall be issued forthwith upon compliance with all applicable requirements. In the event the application is denied, notice of denial of a permit shall be given in writing by certified mail, return receipt requested and by regular mail, and addressed to the applicant at the address shown on the application, with a copy to the Huntington Town Clerk. Such notice shall set forth the grounds for the denial and shall advise the applicant of the right to request an appeal hearing before the Huntington Town Board within seven (7) days of the date on the notice of denial. All requests for an appeal hearing from a denial of a permit shall be in writing and filed with the Town Clerk, and shall be accompanied by the sum of one hundred ($100) dollars to cover the cost of the hearing and of processing the appeal. At the time a request for an appeal hearing is filed, the applicant may provide the Clerk with any relevant information in response to the notice of denial.

(2) Notice of the hearing shall be mailed to the applicant by regular and certified mail, return receipt requested, at the address shown on the application no less than ten (10) days prior to the hearing date. The form of the notice shall be at the discretion of the Huntington Town Board.

(3) At the hearing the applicant may present such competent evidence as he or she deems advisable or necessary. The Town Board shall render its determination at the end of the hearing and may affirm the denial of a permit, or reverse the denial and order the issuance of a permit upon such conditions it deems advisable to protect the health, welfare and/or safety of the public and/or to maintain the peace and good order. The

decision of the Town Board shall be final and shall be filed in the Office of the Town Clerk.

(4) No person shall place a mooring on the underwater lands over which the Town of Huntington and/or the Board of Trustees have jurisdiction if a permit has been denied. Any mooring so placed and vessel or float so tied shall be removed and stored by the Department of Maritime Services at the owner's expense.

D. Denial of permit application; grounds.

An application to place a mooring on the underwater lands over which the Town of Huntington and/or the Board of Trustees have jurisdiction may be denied by the Department of Maritime Services under the following conditions:

(1) If fraud or a misrepresentation of a material fact is contained in the application for a permit; or

(2) If, within one (1) year of the application date, the applicant has been convicted of a violation of this chapter or chapter 137 of the Huntington Town Code, or of any rule, regulation of any state or federal agency having jurisdiction over navigation, or if a mooring permit has previously been revoked, except that a permit may be granted if, in the judgment of the Department, the person has since conducted himself or herself in a law-abiding manner and the issuance of a permit will not be contrary to the laws or rules of any other agency having jurisdiction, or to the public peace or good order, or will not jeopardize the safety of other permit holders or their vessels or town property; or

(3) If, within one (1) year of the application date, the applicant has violated the conditions of a prior permit, or the provisions of this article or of any rule or regulation issued thereunder, or has knowingly disregarded or disobeyed a reasonable request or order of the Department or other town official; or

(4) If, in the judgment of the Department of Maritime Services, the issuance of a permit to the applicant would jeopardize the safety of other permit holders or their vessels or town property; or would jeopardize the peace and good order.

E. Term of permit. A mooring permit shall be valid for one calendar year or any part thereof.

F. Acceptance of mooring permit or transient mooring permit.

Acceptance of a mooring permit or transient mooring permit shall constitute an agreement by the permit holder that he or she will defend and hold the Town of Huntington and the Board of Trustees harmless from any claim, loss, damage, suit or judgment for property damage and/or personal injury, including death and reasonable attorney fees, which may arise from or in connection with the operation, tying, removal or disposal of the vessel or float, or the placing and maintenance of the mooring, and further agrees to fully reimburse the Town of Huntington and Board of Trustees for any damage caused to Town of Huntington or Board of Trustee property; and

G. Non-transferability of mooring permit or transient mooring permit. A mooring permit or transient mooring permit issued by the Town shall not be assigned, sold or transferred by the holder. A mooring shall be utilized only by the vessel or float for which the permit is issued and a permit holder may not sublease the use of the mooring to another.

H. Display of permit decals; identification of moorings.

(1) Mooring permit decals shall be properly affixed to the port side of a boat's transom in a conspicuous place so as to be easily inspected. In the event the mooring is for a vessel other than a boat or for a float then the decal shall be conspicuously placed in a location as determined by the Department.

(2) All commercial entities, including but not limited to, marinas, yacht clubs, boating associations and boat yards placing moorings shall conspicuously mark all mooring balls or mooring floats under their control or under the control of their members with the name of the entity or association so as to be easily identified from the surface of the water.

(3) All individuals placing moorings shall conspicuously mark each mooring ball or mooring float under their control with the permit number of the vessel or float being moored so as to be easily identified from the surface of the water.

(4) Any person or commercial entity who fails to properly mark a mooring ball or mooring float, or to affix a mooring permit decal to a vessel or float being moored as provided herein shall be in violation of this article. In addition to any penalties set forth in this article, any mooring, and any vessel or float tied thereto which is not in compliance may be removed, stored and secured by the Department of Maritime Services at the owner's expense.

(5) Any vessel, float and/or mooring removed may be redeemed by the owner upon proof or ownership, the presentation of a valid permit and the payment by cash, certified or bank check, or money order of all reasonable costs, including but not limited to, the costs of removal, storage and maintenance of the vessel, float and mooring. A storage fee of five ($5) dollars per foot as measured length overall for each day or any part thereof shall be due and payable to the Town of Huntington, and an additional fee of one ($1) dollar per pound shall be payable by the owner for the removal of the mooring.

I. Regulations and restrictions.

(1) Minimum standards for mooring vessels:

MOORING*

Length at Waterline of Boat (feet)	Mushroom Anchor (pounds)	Diameter of Top Half of Chain (Inches)	Diameter of Bottom Half of Chain (inches)	Buoy Diameter (inches)	Nylon Rope Diameter (inches)
15 to 19	100	5/16	3/8	15	½
20 to 24	150	5/16	3/8	15	½
25 to 29	200	3/8	3/8	15	¾
30 to 34	300	3/8	½	15	¾
35 to 39	350	3/8	½	15	¾
40 to 44	400	½	5/8	18	¾
45 to 49	500	½	5/8	18	1
50 to 54	550	5/8	¾	24	1
55	700	5/8	¾	24	1

* NOTE:

1. Shackles, swivels, etc., should be a size larger than the size of the chain.
2. All buoys must protrude at least twelve (12) inches above water.
3. All buoys shall have swivels located not more than half way down the rode.
4. All moorings must be removed or inspected annually.
5. All shackles must be safety wired and maintained.
6. All vessels shall have chafing gear on pennant lines.

(2) No person shall tamper with or move any mooring not owned or under the control of such person unless under the direction of the Department

of Maritime Services.

(3) No vessel or float shall be moored so that any portion of the vessel or float is within a channel; or closer than fifty (50) feet of a channel marker; or closer than one hundred (100) feet of a town dock, float or ramp; or at a location which impedes or restricts the swing of any vessel or float already moored; or in such location as to impede or create a hazard to navigation; or for any other reason has the potential to harm life or property.

(4) There shall be no less than fifty (50) feet between mooring buoys, unless otherwise approved by the Department.

(5) If, in the judgment of the Department of Maritime Services, a mooring and/or any part of a vessel or float being moored, is placed or located in such manner so as to impede or create a hazard to navigation or to another vessel or float, or is closer than fifty (50) feet of another mooring, or within fifty (50) feet of a channel marker, or within a channel, or within one hundred (100) feet of a town dock, float or ramp, or impedes the swing of any vessel or float already moored, or for any other reason has the potential to harm life or property, then in that event, the owner of said vessel or float shall be provided with three (3) days notice to remove and/or relocate the mooring and/or vessel or float by the Department of Maritime Services. In the event the owner fails and/or refuses to take corrective action within said three (3) day period, or any extension granted by the Department, then the Department is authorized to remove and/or relocate the mooring and vessel or float at the expense of the owner. Any vessel, float and/or mooring removed may be redeemed by the owner upon proof of ownership and the payment of all reasonable costs incurred by the Town of Huntington. A fee of thirty-five (35¢) cents per pound in the event the mooring is relocated, or one ($1) dollar per pound if the mooring is removed, and five ($5) dollars per foot as measured length overall for each day or any part thereof a vessel or float is stored, shall be payable by cash, bank or certified check, or money order. Failure to pay the such costs in full within ten (10) days of a request by the Town shall be cause for the immediate revocation of the permit by the Department of Maritime Services.

(6) Nothing contained in §120-21(I)(5) shall prohibit the Department of Maritime Services from revoking the mooring permit at the expiration of three (3) days, or at the expiration of any extension granted by the Department, if no corrective action has been taken.

(7) If, in the judgment of the Department, a mooring and/or vessel or float tied thereto severely impedes or severely restricts navigation, or is in such location so as to cause immediate and/or serious danger to life or property, the Department may immediately remove and/or relocate the mooring and/or vessel or float at the expense of the owner without providing such three (3) day notice.

J. Revocation of mooring permit; grounds.

A permit to place a mooring on the underwater lands over which the Town of Huntington and/or the Board of Trustees have jurisdiction may be revoked by the Department of Maritime Services under the following conditions:

(1) If fraud or a misrepresentation of a material fact is contained in the application for a permit; or

(2) The permit holder, during the permit term, has been convicted of a violation of this chapter or chapter 137 of the Code of the Town of Huntington, or of any rule, regulation of any state or federal agency having jurisdiction over navigation, except that a permit may be continued if, in the judgment of the Department, the person has since conducted himself or herself in a law-abiding manner and the continuation of a permit will not be contrary to the laws or rules of any other agency having jurisdiction, or to the public peace or good order, or will not jeopardize the safety of other permit holders or their vessels or town property; or

(3) If the permit holder violates the conditions of the permit, or if any mooring for which a permit has been issued is being used in violation of this article or of any rule or regulation issued thereunder, or if the permit holder knowingly disregards or disobeys a reasonable request or order of the Department or other town official; or

(4) If the permit holder, in the judgment of the Department of Maritime Services, conducts himself or herself in an unlawful manner or in such manner as to constitute a breach of the peace, or so as to be a menace, or so as to jeopardize the safety of other permit holders or their vessels or town property.

K. Revocation procedure; appeal hearing.

(1) Notice of revocation shall be mailed to the permit holder by the Department of Maritime Services by regular and certified mail, return receipt requested, to the address shown on the application, with a copy to the Huntington Town Clerk. Such notice shall state the reasons for the

revocation and shall advise the individual of the right to request an appeal hearing before the Town Board within seven (7) days of the date of the notice of revocation. All appeals shall be in writing and filed in the office of the Huntington Town Clerk, and shall be accompanied by the sum of one hundred ($100) dollars to cover the cost of the hearing and of processing the appeal. At the time a request for an appeal hearing is filed, the individual may provide the Town Clerk with any relevant information in response to the notice of revocation.

(2) Notice of the appeal hearing shall be mailed to the individual by regular and certified mail, return receipt requested, at the address shown on the application not less than ten (10) days prior to the hearing date. The form of the notice shall be at the discretion of the Town Board.

(3) The Huntington Town Board shall hear and determine all appeals from a revocation of a permit. At the hearing the individual may present such competent evidence as he or she deems advisable or necessary. The Town Board shall render its determination at the end of the hearing and may affirm the revocation, or reverse the revocation and continue the permit upon such conditions it deems advisable to protect the health, welfare and/or safety of the public and/or to maintain the peace and good order. The decision of the Town Board shall be final and shall be filed in the Office of the Town Clerk.

(4) No person shall allow a mooring to continue on the underwater lands over which the Town of Huntington and/or the Board of Trustees have jurisdiction if a mooring permit has been revoked. Any mooring, and any vessel or float attached thereto, which is not removed by the owner shall be removed forthwith and stored by the Department at the expense of the owner.

L. Transient mooring permit.

(1) Residents and non-residents may file an application for a transient mooring permit to tie or secure a vessel or float to a mooring for which a mooring permit has already been issued. The application shall be in a form approved by the Department of Maritime Services and shall be filed with the Department at no charge. The Department of Maritime Services shall establish such procedures it deems necessary to process applications for transient mooring permits and may deny an application if, in the judgment of the Department, the issuance of a permit to the applicant would jeopardize the safety of permit holders or their vessels and/or floats or town property; or would jeopardize the peace and good order. An application may also be denied if, in the sole discretion of the

Department, the vessel or float does not comply with federal, state or local environmental or safety laws, rules and regulations.

(2) Transient permits shall be issued by the Department of Maritime Services, on such terms and conditions it deems necessary, for a specified period of time not to exceed seven (7) consecutive days. No permit shall be required for transient use of residential moorings as long as such use does not exceed seven (7) consecutive days.

(3) The Department of Maritime Services may revoke a transient mooring permit if the holder has knowingly disregarded or disobeyed a reasonable request or order of the Department or other town official, or conducts himself or herself in an unlawful manner or in such manner as to constitute a breach of the peace, or so as to be a menace, or so as to jeopardize the safety of other permit holders or their vessels and/or floats or town property.

(4) Providers of commercial moorings for transient use shall submit a listing of all such vessels/floats moored for transient purposes or for repair to the Department of Maritime Services upon request. Failure to provide complete and accurate information upon request shall be a violation of this article.

(5) Holders of transient permits shall conspicuously mark each mooring ball or mooring float being utilized with the vessel or float's transient mooring permit number so as to be easily identified from the surface of the water. Any person who fails to properly mark a mooring ball or mooring float as provided herein shall be in violation of this article. In addition to any penalties set forth in this article, any vessel or float tied or anchored to a mooring without such identification number being displayed shall be removed, stored and secured by the Department of Maritime Services at the owner's expense as provided in this article.

M. Authority of Department.

(1) The Department of Maritime Services may move any mooring placed on underwater lands over which the Town of Huntington and/or the Board of Trustees have jurisdiction for the purpose of inspection.

(2) In the event of a dispute between or among holders of mooring permits regarding the placement or location of moorings, and if the dispute cannot be resolved by the parties, the decision of the Senior Harbor Master shall be final and binding upon the parties involved in the dispute.

(3) The Director of Maritime Services may establish such other rules and regulations, not inconsistent with this article, as he/she deems advisable and/or necessary to maintain the peace and good order or to safeguard the health, safety and welfare of the public and/or navigable waters.

(4) No person shall knowingly refuse or neglect to obey any reasonable request or order of the Department of Maritime Services or other town official.

§120-22. Exemption.

Nothing contained in this article is intended to restrict or limit the ability of a peace officer or other member of the Department of Maritime Services, or the Suffolk County Police Department, the United States Coast Guard or any state or federal agency having jurisdiction, to patrol or otherwise perform the duties of their office within the waterways over which the Town of Huntington and/or the Board of Trustees have jurisdiction.

§§120-23 through 120-25. (Reserved)

§120-26. Penalties for offenses.

A. For each violation of §120-3(A) of this article, a fine of not less than five hundred ($500) dollars nor more than two thousand five hundred ($2,500) dollars, or by imprisonment for a period not to exceed thirty (30) days, or by both such fine and imprisonment, upon a conviction of a first offense; upon a conviction of a second or subsequent offense within five (5) years of the first conviction, a fine of not less than one thousand ($1,000) dollars nor more than three thousand five hundred ($3,500) dollars, or by imprisonment for a period not to exceed six (6) months, or by both a fine and imprisonment. Each day a violation is caused or permitted to exist shall constitute a separate offense, punishable in like manner.

B. In addition, any person convicted of violating §120-3(A) of this chapter shall be liable to the Town of Huntington for a civil penalty not to exceed five thousand ($5,000) dollars.

C. For each violation of §120-3(B) of this article, a fine or penalty not less than two hundred and fifty ($250) dollars nor more than one thousand ($1,000) dollars or imprisonment for a period not to exceed fifteen (15) days, or by both a fine and imprisonment.

D. For a violation of §120-7(C)(2) of this article, the penalties and/or punishment shall be

the same as set forth in §73-b of the New York State Navigation Law or other applicable law, and any amendment or successor law. In addition, the privilege to operate a vessel and the vessel registration may be suspended as set forth in §45(7) of the New York State Navigation Law or other applicable law, and any amendment or successor law.

E. For a violation of §120-7(G)(1) of this article, the penalties and/or punishment shall be as set forth in the applicable provisions of §49-a of the New York State Navigation Law or other applicable law, and any amendment or successor law.

F. For a violation of §120-7(G)(2) or (3) of this article, the penalties and/or punishment shall be as set forth in the applicable provisions of §49-a of the New York State Navigation Law or other applicable law, and any amendment or successor law.

G. For each violation of §120-14(A) or (B) of this article, the penalties and/or punishment shall be by a fine not exceeding one thousand ($1,000) dollars or imprisonment not exceeding three months, or by both such fine and imprisonment, at the discretion of the court.

H. For a violation of §120-16 of this article, the penalties and/or punishment shall be as set forth in the provisions of §44 of the New York State Navigation Law, and any amendment or successor law, unless preempted or superceded by federal law, rules or regulations.

I. Any other offense against this article is hereby declared to be a violation, and any person violating the same shall, upon conviction, be punished by a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars for a first offense and by a fine of not less than one hundred ($100) dollars nor more than seven hundred and fifty ($750) dollars or imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment, in the discretion of the court, for a second or subsequent offense. Each day such violation is permitted to continue shall constitute a separate offense and shall be punishable in like manner.

ARTICLE II
Oil and Toxic and Flammable Material Spillage Control

§120-27 Definitions.

§120-28 Report of spillage required; penalties; cleanup requirements.

§120-29 Spillage, penalties for offense.

§120-30 Spillage Committee.

§120-31 Spillage alert procedure; response program; cleanup unit.

§120-32 Unloading or transferring operations; notice; inspections; report.

§120-33 Required safety equipment.

A. All facilities requiring inspection pursuant to §120-32 of this article shall have the following safety devices in place and in good working order:

* * *

B. Regular visual inspection and testing of safety equipment shall be performed by the operator of a facility that requires town inspection pursuant to §120-32 of this article and shall occur at the request of a Town Inspector not more often than every 30 days.

§120-34 Penalties for offenses.

§120-35 Enforcement.

§120-36 Intent.

This Article shall be construed to be ancillary to and supplementing any other laws now in force affecting or tending to affect the purposes set forth in §120-28, Report of spillage required; penalties; cleanup requirements, of this article.

§§120-37 through 120-45. (Reserved)

ARTICLE III
Residential Use of Vessels

§120-46 Intent.

§120-47 Applicability.

§120-48 Use restricted.

§120-49 Penalties for offenses; when effective.

Section 2. Severability.

If any clause, sentence, paragraph, subdivision, section or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law

without such unconstitutional or invalid parts therein.

Section 3. Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State of the State of New York.

(Complete the Certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable)

1. (Final adoption by local legislative body only).

I hereby certify that the local law annexed hereto, designated as Local Law No. 18 of 2003 of the Town of Huntington was duly passed by the Town Board on May 21, 2003, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph **1**, above.

JO-ANN RAIA, TOWN CLERK

Date: June 5, 2003

(Seal)

(Certification to be executed by County Attorney; Corporation Counsel, Town Attorney, Village Attorney, or other authorized attorney of locality.)

State of New York
County of SUFFOLK

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title: TOWN ATTORNEY

TOWN OF HUNTINGTON

Date: June 5, 2003