

1 **APRIL 8 2019 DRAFT**

2 **SECTION 1. Repeal Chapter 86 of the Town Code of the Town of Westerly titled “Boats and**  
3 **Waterways” and replace with the following provisions.**

4 **BOATS, WATERWAYS & HARBOR MANAGEMENT**

5  
6 **ARTICLE I. GENERAL PROVISIONS**

7 **§ 86-1. Purpose and Jurisdiction**

8 a) The purpose of this chapter is:

- 9 1. Act upon the authority conferred upon the Town Council pursuant to RI General Laws  
10 § 46-4-6.17.  
11 2. Manage the waters of the Town and balance the diverse uses of the waters and  
12 waterfront;  
13 3. Maintain and improve shoreline public access and water quality;  
14 4. Continue to support opportunities for commercial fishing and recreational boating;  
15 and  
16 5. Remain consistent with the goals and policies of the Westerly Harbor Management  
17 Plan (WHMP), the Town Comprehensive Plan, the State Coastal Resource  
18 Management Program, the State Department of Environmental Management, and the  
19 U.S. Army Corps of Engineers.

20 b) The coastal waters and harbor areas of the Town of Westerly under the jurisdiction of the Chapter  
21 include those waters within one mile from the Atlantic beaches from the Charlestown line to  
22 Sandy point; Quonochontaug Pond west of the Charlestown line; Winnapaug Pond; three miles  
23 from Sandy Point and Napatree Point into Fishers Island Sound or to the New York or Connecticut  
24 state lines including the fairway from Fishers Island Sound to Little Narragansett Bay; and the  
25 Rhode Island side of Little Narragansett Bay and the Pawcatuck River from the head of navigation  
26 in downtown Westerly around Pawcatuck Point to the Connecticut border at Sandy Point.  
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28 **§ 86-2. Definitions.**

29 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to  
30 them in this section, except where the context clearly indicates a different meaning:

31 **ANCHORING**

32 To secure a vessel temporarily to the bottom by dropping an anchor from a vessel.

33 **ARTISANAL FISHERMAN**

34 A small-scale commercial fisherman harvesting for subsistence or local, small markets, generally  
35 using traditional fishing techniques, single handed, and under 30’ boats. They are considered  
36 vital for sustainable livelihoods and food security.

37 **BOAT LAUNCHING RAMP**

38 Any manmade or natural facility used for the launching or retrieval of boats.

39 CHANNEL

40 Any designated and/or maintained water area except for a fairway reserved for unobstructed  
41 movement of vessels.

42 COMMERCIAL FISHERMAN

43 An active fulltime fisherman with a current commercial license and a working commercial  
44 vessel.

45 COMMERCIAL MOORING

46 Means the rental, lease, management, maintenance and/or operation for financial  
47 compensation or for purposes other than private use.

48 CUT, THE

49 The passage from Little Narragansett Bay to Fishers Island Sound. The Cut is specifically defined  
50 as that area between the Westernmost and Easternmost of the Fishermen’s buoys off the shoals  
51 north of Napatree and two hundred feet north of them. These buoys are located differently  
52 each year as the shoals shift; the location of The Cut shifts accordingly.

53 FAIRWAY

54 Any locally designated and/or maintained water area reserved for the unobstructed movement  
55 of vessels.

56 HARBOR COMMISSION

57 The body established to advise the Town Council on the provisions of this Chapter and the  
58 management of the harbors.

59 HARBORMASTER

60 For the purposes of enforcing any provision of this chapter including the issuance of summonses  
61 for violation of any provision herein, any individual appointed by the Town Manager as  
62 Harbormaster pursuant to the Town Charter.

63 HEADWAY SPEED

64 The slowest speed at which a personal watercraft or vessel can be operated and maintain  
65 steerageway.

66 LITTORAL (OR RIPARIAN) MOORING

67 “Riparian mooring” means mooring tackle owned by a riparian property owner under a permit  
68 granted by the Harbormaster and located within the coastal waters bordering that property as  
69 bounded by the seaward extension of that property’s lateral lot lines. Said mooring may or may  
70 not be located within a CRMC approved mooring field.

71 MARINA

- 72 Any dock, pier, wharf, float, floating business or combination of such facilities that  
73 accommodate five or more recreational boats.
- 74 **MARINA MOORING FIELD**
- 75 Any mooring area managed by a marina that has applied for and received a permit with a  
76 defined marina perimeter from CRMC.
- 77 **MEAN HIGH WATER (MHW)**
- 78 The average height of the high waters over an 18.6-year period. Mean High Water (MHW) is the  
79 average of all the high water heights observed over an 18.6 year period; this period is referred  
80 to as the National Tidal Datum Epoch.
- 81 **MOOR**
- 82 To permanently secure a vessel to the submerged land of a water body by use of mooring  
83 tackle.
- 84 **MOORING SPACE**
- 85 The location where a vessel is secured to the submerged land of a waterway by mooring tackle.
- 86 **MOORING AREA**
- 87 Any designated area managed by the Town of Westerly where five (5) or more recreational  
88 vessels are moored.
- 89 **MOORING TACKLE**
- 90 All hardware used to secure a vessel at a mooring.
- 91 **MOTORBOAT**
- 92 Any vessel propelled in whole or in part by mechanical means, either inboard or outboard and  
93 using a motor powered by gasoline, diesel fuel, naphtha, kerosene, steam or fuel oil.
- 94 **NONRESIDENT**
- 95 Any individual, business or corporation which does not meet the definition of resident.
- 96 **OPERATOR**
- 97 A person who operates or who has charge of the navigation or use of a watercraft.
- 98 **OUTHAUL**
- 99 A recreational boating facility that consists of a nonsingle-point anchoring device, for the  
100 purpose of securing a boat in tidal waters and retrieving it from shore.
- 101 **PERSONAL WATERCRAFT**

102 A vessel which uses an inboard motor powering a water jet pump as its primary source of  
103 motive power and which is designed to be operated by a person sitting, standing, or kneeling on  
104 the vessel, rather than the conventional method of sitting or standing inside the vessel.

105 PUBLIC MOORING AREA

106 Mooring areas managed by municipal or state agencies and as delineated in the CRMC approved  
107 Westerly Harbor Management Plan.

108 PRIVATE MOORING

109 A mooring registered and occupied by the boat owner. Private moorings are not to be used to  
110 generate financial or other compensation by permit holder.

111 QUALIFIED INSPECTOR

112 A corporate entity in the business of inspecting mooring tackle which is in good standing with  
113 the Rhode Island Secretary of State and carries the requisite liability insurance.

114 RECREATIONAL BOATING FACILITY

115 Marinas, launching ramps, residential and limited recreational boating facilities, recreational  
116 wharves, piers, slips, floats or floating docks and recreational mooring areas.

117 RESIDENT

118 An individual residing in Westerly a minimum of 183 days per year and verified by either voter  
119 identification or a RI driver's license with a Westerly address.

120 RIPARIAN (SEE LITTORAL)

121 VESSEL

122 Every description of watercraft, other than a seaplane on water, used or capable of being used  
123 as a method of transportation on water. (Specifically excluded by this definition are house  
124 boats.)

125 WATERWAYS

126 All navigable lakes, rivers, streams, ponds or other bodies of water located within or partly  
127 within the boundaries of the Town including the coastal waters. See § 86-1.

128 § 86-3. Deposit of Revenue.

129 All revenue generated by Town boat launching fee, mooring permit fees, qualified mooring inspectors,  
130 other fees of this chapter, and fines levied under the authority of this chapter shall be deposited in a  
131 dedicated account to be used for mooring management and the administration and implementation of  
132 the Town Harbor Management Plan and this chapter.

133 § 86-4. Liability.

134 Persons using the coastal waters and the harbor areas of the Town shall assume all risk of personal  
 135 injury and damage or loss to their property. The Town assumes no risk due to accident, fire, theft,  
 136 vandalism, wind, storm surge, or acts of God.

137 § 86-5. Obedience to Harbormaster and Police.

138 Boat operators shall obey lawful directions given to them by the Harbormaster, Deputy Harbormasters,  
 139 or by any police officer employed by the Westerly Police Department in enforcement of the provisions  
 140 of this chapter, as well as all boating laws as are covered under the provisions of the Federal Safe  
 141 Boating Act of 1971 and such amendments as shall have been made thereto. Such boat operators  
 142 immediately upon being instructed by the Harbormaster or a police officer employed by the Westerly  
 143 Police Department, by voice or such sound device as may be used, shall allow boarding by such officer  
 144 and shall comply with the lawful direction of such officer. Checking of all required safety equipment, as  
 145 well as proper registrations of vessels under power, shall be considered a lawful direction of said  
 146 officers. Any person in violation of this section shall be subject to the fine identified in the violation  
 147 schedule contained within section 86-6 of this chapter.

148 § 86-6. Harbor Management Uniform Violation Schedule.

- 149 a) Every owner, master, or person in charge of any vessel who shall neglect or refuse to obey the  
 150 direction of the Harbormaster or deputy Harbormaster or a police officer employed by the  
 151 Westerly Police Department, or violates any rule or regulation promulgated under G.L. 1956 §§  
 152 46-4-1 et seq. or 46-22-1 et seq., not specifically set forth in Rhode Island Department of  
 153 Environmental Management's penalty schedule shall be subject to a fine under this chapter of  
 154 \$100.00.
- 155 b) The Town Council herein adopts penalties for boating violations, consistent with state law.

156 PENALTY SCHEDULE FOR BOATING VIOLATIONS

OFFENSE	FINE
Vessel registration: RIGL 46-22-3	
Unregistered	Violation. Up to \$100.00
Numbers not displayed	Violation. Up to \$100.00
Possession of a vessel with the hull ID number altered, removed, or destroyed	Up to \$500.00
Vessel operation:	
Excessive speed or wake: RIGL 46-22-9.5	

	Up to 10 miles	\$ 25.00
	11 miles to 15 miles	50.00
	16 miles to 20 miles	75.00
	21 miles to 25 miles	100.00
	Over 25 miles, per mile	5.00
	Improper operation in swimming area or restricted area RIGL 46-22-9	Up to \$1,000.00
	Operation in a reckless manner RIGL 46-22-9	Up to \$1,000.00
	Refusal to stop when ordered RIGL 46-22-9	Up to \$1,000.00
	Inadequate boat personnel	Up to \$200.00
	Underaged boat personnel	Up to \$200.00
	Failure to use personal floatation devices	Up to \$200.00
	Operation outside time limits	Up to \$200.00
	Any other personal watercraft offense of RIGL 46-27-2 not specified herein	Up to \$500.00
	Interference with another vessel	Up to \$100.00
	Caused an accident	Up to \$100.00
	Failure to submit accident report	Up to \$100.00
	Interference in SCUBA diving area	Up to \$100.00
	Vessel equipment:	
	Improper light installation	Up to \$100.00
	Improper use of lights	Up to \$100.00
	Improper sound producing appliance	Up to \$100.00
	Improper personal flotation devices	Up to \$100.00

Improper personal flotation devices for children under 10	Up to \$100.00
Improper fire extinguisher	Up to \$100.00
Improper muffling device	Up to \$100.00
Miscellaneous:	
Unmarked SCUBA area	Up to \$100.00
Unauthorized racing/regatta	Up to \$100.00
Unauthorized docking/mooring	Up to \$100.00
Failure to render assistance	Up to \$100.00
Obstruction of right-of-way	Up to \$100.00

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§ 86-7. Enforcement.

- a) Harbormaster and Assistant Harbormaster.
  - 1) The Harbormaster shall be appointed by the Town Manager.
  - 2) The Assistant Harbormaster shall be appointed by the Harbormaster on an as needed basis.
  - 3) The harbor patrol shall consist of the Harbormaster, Assistant Harbormaster, and any other personnel engaged for enforcement of this chapter including officers of the Town of Westerly Police Department.
  - 4) Each boating season Deputy Harbormasters may be assigned to each of the Town mooring areas by the Harbormaster. The Deputy Harbormasters shall assist the Harbormasters in the safety patrol of each mooring area, but shall not have enforcement authority.
- b) The Harbormasters and harbor patrol shall enforce this chapter as follows:
  - 1) The Harbormaster and harbor patrol of the Town are authorized to make arrests and to take other steps to enforce the provisions of this chapter and, in the exercise thereof, shall have the authority to stop and board any vessel within the water subject to the jurisdiction of the Town pursuant to R.I. G.L. § 46-22-17.
  - 2) Any patrol boat used for the service of the Town shall keep a log in a manner satisfactory to the Harbormaster. Such log shall indicate the date, time and service, weather conditions, wind conditions, area patrolled at one-half hour intervals, gas consumption and a description of occurrences, incidences and other confrontations.
  - 3) All regulations relating to the Town's boating regulation program shall be maintained by the offices of the Town Manager and Town Clerk, and all violations shall be processed by the harbor patrol in accordance with provisions of law applicable thereto.

- 182                   4) The Harbormaster shall appoint a designee who shall take charge in the absence of the  
183                   Harbormaster and shall perform such other duties as delegated by the Harbormaster.  
184       c) Enforcement of operation and equipping of vessels. Local provisions governing operation of  
185       vessels and activities within the waterways shall be consistent with State law.  
186                   1) The Town Council adopts all of the provisions of RI G.L. 1956, § 46-22-1 et seq.,  
187                   relating to the operation and equipment of vessels and motorboats within the water  
188                   subject to the jurisdiction of the Town.  
189                   2) The Town Council adopts all of the provisions of RI G.L. 1956, § 46-27-1 et seq.,  
190                   relating to the operation of personal watercrafts.  
191       d) Hours of operation. The harbor department shall be staffed as determined by the Harbormaster  
192       in consultation with the Town Manager.

193   Sec. 86-8. - Procedure for Payment of Boating Violation Fines.

- 194       a) Payment without personal appearance. Any member of the harbor patrol and any other duly  
195       authorized enforcement officer who charges any person with an offense as set forth in this  
196       chapter, in addition to issuing a summons for the offense, shall provide the offending operator  
197       with a form which will allow the offender to dispose of the charge without the necessity of  
198       personally appearing before the municipal court, provided that any operator who has been  
199       guilty of a third or subsequent boating violation within 12 months of the first offense must  
200       appear before the municipal court on the date specified on the summons, and may not dispose  
201       of the third or subsequent offense administratively. This section shall apply to both resident and  
202       nonresident operators.  
203       b) Method of payment. If the offending operator elects to dispose of the charge without  
204       personally appearing before the municipal court, he or she shall execute the form indicated and  
205       return it to the municipal court not later than 20 days from the date of the summons either by  
206       mailing or delivering the form and summons to the municipal court clerk or the clerk's designee  
207       with a check or money order in the amount indicated by the fine schedule on the form.  
208       c) Schedule of violations. Those violations set forth in § 86-6 of this chapter may be handled  
209       administratively through the method described in this section, provided however that this list is  
210       not exclusive, and jurisdiction may be conferred on the municipal court with regard to other  
211       violations consistent with the Rhode Island General Laws, and these ordinances.  
212       d) Failure to answer. In the event an operator fails to answer within 20 days, then he or she shall  
213       have waived his or her right to dispose of the offense without personal appearance, and the  
214       person charged with such violation must appear before the municipal court on the date  
215       specified on the summons.  
216       e) Adjudication. Adjudication of boating violations contained in this chapter shall be before the  
217       municipal court and conducted in the same manner as for cases involving motor vehicle  
218       violations as set forth in Chapter 15 of the Westerly Code of Ordinances.

219   §86-9. Pumpouts and Outhauls.

- 220       a) The Town shall ensure that that all pumpouts, whether land-based or on a vessel, are  
221       maintained, accessible, and operational at all times.  
222       b) Outhauls shall be managed and administered consistent with CRMC regulations.

223   § 86-10. Storm Preparedness.



224 a) The Town Harbormaster and Town Council shall be guided by the Harbor Management Plan and  
225 the Town’s Emergency Operation Plan when taking action in the event of a storm.

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227 § 86-11. Harbor Commission.

228 a) There shall be a Harbor Commission, which shall perform the duties and exercise the  
229 powers conferred upon it by state law or this ordinance. The board may consist of five  
230 (5) members appointed by the Council to serve for three-year staggered terms. Of the  
231 first members appointed under this Charter, two (2) shall be designated to serve one-  
232 year terms, two (2) shall be designated to serve two-year terms, and the remaining one  
233 shall serve a three-year term.

234 b) Harbor Commission membership may represent groups most concerned with  
235 management of harbor resources. Members usually include commercial and  
236 recreational fishermen, marina operators, riparian property owners, recreational  
237 boaters, and commercial waterfront businesses. In addition, the municipal Planning and  
238 Zoning Boards, and the Town Council may be represented on the Commission.  
239 Consideration may also be given to representatives from other interest groups such as  
240 conservation, shellfish, and historical organizations since these agencies frequently  
241 regulate activities that affect harbor usage. For municipalities which share a common  
242 boundary intersecting a waterbody, there may also be ex-officio representation from  
243 each of the adjacent community's Harbor Commissions. Finally, the local Harbormaster  
244 may take an active role in Commission activities.

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246 Secs. 86-12—86-19. - Reserved.

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248 ARTICLE II. SUPPLEMENTAL HARBOR REGULATIONS

249 § 86-20. Violations and Penalties.

250 Any person in violation of a provision of this Article shall be subject to the fine identified in the violation  
251 schedule contained within section 86-6 of this Chapter.

252 § 86-21. Special Events.

253 The Harbormaster shall be notified in writing of certain special events, such as swimming races, regattas,  
254 marine parades, or other marine and maritime activities that may from time to time be held on or in the  
255 coastal waters and harbor areas under the jurisdiction of the Town. No person shall operate a  
256 motorboat in a motorboat race in the waters within the Town unless the motorboat race has received a  
257 Special Event License in accordance with Chapter 221 of the Town Code.

258 § 86-22. Restrictions Within Certain Waterways.

259 a) No motorboat having a rated horsepower exceeding five shall be operated or used on that  
260 certain body of water located in said Town known either as Chapman’s Pond or Burden’s Pond.

- 261 b) No vessel of any description shall be anchored, moored or beached in that area of Little  
262 Narragansett Bay adjacent to the public anchorage known as the "Kitchen" and referred to as  
263 the "Lagoon" of Napatree Point. Only vessels powered by oar or paddle shall be permitted to  
264 navigate in said waters and shall be permitted to embark and disembark passengers for a period  
265 not exceeding five minutes.
- 266 c) Speeds within Weekapaug Breachway. Operators of powered craft shall not operate their  
267 vessels, ships, boats, jet skis, personal watercraft or the like at a speed greater than five miles  
268 per hour or at no wake, whichever is slower, from the entrance to the Weekapaug Breachway at  
269 its intersection with the Weekapaug Bridge and continuing down the Breachway past its  
270 intersection with Winnapaug Pond until a line from the southwestern-most point of Lot #5 of  
271 Assessor's Plat #142 in a line bisecting Winnapaug Pond due south until it meets Lot #15 of  
272 Assessor's Plat #156.
- 273 d) Operation of personal watercraft on Quonochontaug Pond is prohibited.
- 274 e) No person shall swim in the Breachway of the Winnapaug Pond, said area defined as being the  
275 southernmost extension of said such Breachway into the sea and thence running north to its  
276 intersection with the Weekapaug Bridge; thereafter, running further north inland from said  
277 bridge to a point identified by the conclusion of the Breachway wall to the west and the  
278 beginning of private homes to the east or in the Breachway of Quonochontaug Pond, or in any  
279 other Breachway within the jurisdiction of the Town.

280 § 86-23. Navigation Fairways.

281 The following navigation fairways are established and activity within the fairways conducted in  
282 accordance with the parameters to be forwarded to the Coastal Resources Management Council for the  
283 U.S. Coast Guard establishment:

- 284 a) From Fishers Island Sound through the privately marked Cut between Napatree Point and Sandy  
285 Point, South of Nun D in Little Narragansett Bay, and thence to the entrance to the Pawcatuck  
286 River at G23.
- 287 b) From N22 off Pawcatuck Point to R2 and C1 at the entrance to Watch Hill Cove.

288 § 86-24. Vessels, Water Skis and Other Operations.

- 289 a) No person shall operate a vessel for towing a person or persons on water skis, or a surfboard, or  
290 similar device in any designated channels, fairways and mooring areas.
- 291 b) No person shall operate a vessel on any waters of this Town for towing a person or persons on  
292 water skis, or a surfboard, or similar device unless there is in the vessel a person at least 12  
293 years of age, in addition to the operator, in a position to observe the progress of the person or  
294 persons being towed. There shall be aboard the vessel, in addition to those required for the  
295 persons aboard the vessel, at least one life preserver, life belt, or ring buoy for the person or  
296 persons being towed.
- 297 c) No person shall operate a vessel on any waters of the Town towing a person or persons on  
298 water skis, a surfboard, or similar device, nor shall any person engage in water skiing,  
299 surfboarding, or similar activity at any time between the hours from one hour after sunset to  
300 one hour before sunrise.
- 301 d) No person shall operate or manipulate any vessel, tow rope, or other device by which the  
302 direction or location of water skis, a surfboard, or similar device may be affected or controlled in

303 such a way as to cause the water skis, surfboard, or similar device, or any person thereon to  
304 collide with or strike against any object or person.

305 § 86-25. Jumping Off Bridges.

306 No person shall jump off any bridge traversing any waterway within the Town of Westerly.

307 § 86-26. Sanitation and Waste Disposal.

308 The owners or operators of all vessels operated, moored or anchored within the waters under the  
309 jurisdiction of the Harbormaster shall not permit acts contrary to the public health or sanitary  
310 regulations, including such laws, ordinances, rules and regulations as shall be promulgated by the  
311 federal, state or local body in authority.

312 a) No rubbish, cans, debris, garbage, raw sewage, dead fish or other offal shall be discharged upon  
313 or into the waters under the jurisdiction of the Harbormaster.

314 b) No petroleum products shall be dumped or pumped onto or into the waters of the Town.

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316 § 86-27. Houseboats and Floating Businesses; Pollution Control Requirements.

317 The use of a motor boat or sailboat as a residence is allowed only within a marina. The operator of a  
318 motor boat or sailboat used as residence shall contact the Harbormaster within 16 hours of mooring or  
319 docking to ensure compliance with harbor regulations regarding pollution as outlined in this Chapter.  
320 The owners or operators of all vessels operated, moored, or anchored within the waters and the  
321 jurisdiction of the Harbormaster shall not permit acts contrary to the public health or sanitary  
322 regulations including such laws, ordinances, rules, and regulations as shall be promulgated by federal,  
323 state or local authority.

324 § 86-28. Derelict Boats, Motors and Structures.

325 a) No derelict boats, motors or piers, wharves or docks shall be allowed in or upon the Town's  
326 waters or shores.

327 b) The Harbormaster may take custody and control of abandoned vessels, structures and moorings  
328 located in the coastal waters and harbor areas of the Town and remove, store or otherwise  
329 dispose of such vessel, structure or mooring at the expense and sole risk of the owner of the  
330 abandoned vessel or structure. Reasonable notice of such removal, storage, or disposal shall be  
331 publicly advertised.

332 c) The Harbormaster shall assume all the duties and powers of the commissioner of wrecks and  
333 shipwrecked goods as detailed in the G.L. 1956, § 46-10-1 et seq.

334 Secs. 86-29. Reserved.

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336 ARTICLE III. ANCHORING AND DOCKING

337 § 86-30. Violations and Penalties.

338 Any person in violation of a provision of this Article shall be subject to the fine identified in the violation  
339 schedule contained within section 86-6 of this Chapter.

340 § 86-31. Anchoring and Anchorages.

- 341 a) Every vessel entering a harbor shall be anchored by the person in command thereof  
342 according to the direction of the Harbormaster.
- 343 b) All vessels not anchored according to the direction of the Harbormaster shall be forthwith  
344 moved by the crew under his direction, and if any such vessel has not sufficient crew to  
345 move the same, such vessel shall be moved by the Harbormaster, and the expense thereof  
346 shall be paid by the owner or master of such vessel, and may be recovered by the  
347 Harbormaster of such owner or master, by an action in the name of the Town before any  
348 court of competent jurisdiction.
- 349 c) The following areas are established for use as transient anchorage:
- 350 1. Little Narragansett Bay North of Napatree Point but not further north than a line  
351 running from the inner exit of the privately marked channel of The Cut from  
352 Fishers Island Sound toward the Northern boundary of Foster Cove and between  
353 North South lines at 72 degrees 52.600' and 500 feet West of R2 at the entrance  
354 to Watch Hill Harbor.
- 355 2. Little Narragansett Bay on the inner (Eastern or Northern) side of Sandy Point  
356 South of the Connecticut border and East to a North South line through G13
- 357 d) A vessel may anchor overnight on its own anchor in the two transient anchorage areas in  
358 Little Narragansett Bay defined below. No vessel anchored under such conditions shall be  
359 left unattended between ½ hour after sunset and ½ hour before sunrise. Owners and/or  
360 operators of such vessels may go ashore but must be available to tend the vessel in the  
361 event of heavy weather. It shall be the vessel owner's and/or operator's responsibility to  
362 remain clear of all moored vessels, and other structures. Vessels staying more than seven  
363 nights must get specific approval from the Harbormaster. No permanent live aboards are  
364 allowed.

365 § 86-32. Rafting.

366 Vessels may raft on a single mooring or anchor when such activity does not interfere with the proper  
367 functioning or safety of adjacent single moorings or vessel anchorages and according to the limits,  
368 number and/or length, set by the mooring owner or anchored boat owner.

369 § 86-33. Docking and Ranking.

- 370 a) The owner or person in charge shall, as soon as may be after such vessel is made fast to any  
371 wharf or other vessel, cause the lower yards to be cock-billed and the top sail yards to be braced  
372 fore and aft, and the jibboom of any vessel shall be rigged in whenever so directed by the  
373 Harbormaster.
- 374 b) Vessels shall not in any case be placed alongside of any wharf in said harbor more than three  
375 deep without permission of the Harbormaster.

376 § 86-34. Awaiting Tide For Free Passage by Deep Draft Vessels.

377 Every vessel drawing more than seven feet of water and approaching the harbor at any other time than  
378 at high tide shall anchor outside the channel until the tide shall warrant a free passage.

379 § 86-35. Obstructing Passage of Vessels.

- 380 a) No warps, lines or fishing gear shall be in or passed across any channel, fairway or dock and no  
381 boat shall be anchored in the channel or fairway in a manner which obstructs vessels passing  
382 along the same.
- 383 b) Stakes shall not be driven to be used for mooring any vessel or boat, or for tying up any fish,  
384 lobster or bait can unless in the judgment of the Harbormaster their use would not be an  
385 obstruction.
- 386 c) Mooring shall not be located so that vessels or boats when lying to the same shall block any  
387 channel or approach to any channel, or obstruct the approach to piers, docks or other moorings  
388 in the vicinity.
- 389 d) The placement of fish nets is prohibited in all navigation fairways and mooring fields.
- 390 e) No person or persons shall obstruct any channel, fairway or dock in a manner which obstructs  
391 vessels passing along same.

392 Secs. 86-36 to 86-39. Reserved.

393

394 ARTICLE IV. PUBLIC USE AND ACCESS TO THE WATER.

395 § 86-40. A Right to Public Use and Access

396 One of the key components of the Westerly Harbor Management Plan is securing and maintaining public  
397 access to the shore, coastal waters and mooring areas. Public access is possible through rights-of-way  
398 that traverse different types of environments and may be of either public or private ownership. The  
399 Town of Westerly shall maintain an inventory of rights-of-way and points for public access to the  
400 shoreline, coast waters and mooring fields in the Westerly Harbor Management Plan.

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402 § 86-41. Points of Public Access to Mooring Fields.

403 Locations designated as points of public access to mooring fields are contained in the Westerly Harbor  
404 Management Plan.

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406 §86-42. Interruption of Access Prohibited.

- 407 a) No person shall block, barricade or in any way impede the public use of or access to designated  
408 public rights-of-way to the water as defined by the RI CRMC or the Town of Westerly.
- 409 b) No person shall store a vessel, vehicle or structure on a designated public right-of-way to the  
410 water as defined by the CRMC or the Town of Westerly.
- 411 c) Any vessel, vehicle, structure or debris in violation of this section shall be subject to removal at  
412 the direction of the Harbormaster, any assistant Harbormaster or any police officer. The cost of  
413 such removal shall be the responsibility of the owner of said vessel, vehicle, structure or debris.

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Secs. 86-43 to 86-48. Reserved.

§ 86-49. Violations and Penalties.

Any person in violation of a provision of this Article shall be subject to the fine identified in the violation schedule contained within Section 86-6 of this Chapter.

ARTICLE V. MOORING FIELDS AND MOORINGS.

§ 86-50. Violations and Penalties.

Any person in violation of a provision of this Article shall be subject to the fine identified in the violation schedule contained within Section 86-6 of this Chapter.

Sec. 86-51. - Mooring Placement and Siting.

- a) Mooring field designations. Certain waters of the Town shall be designated as mooring fields. Those waters authorized for the placement of permitted moorings shall be located in accordance with all policies of the Town's Harbor Management Plan, the policies and requirements of the Coastal Resources Management Council's Guidelines for the Development of Municipal Harbor Management Plans, and the CRMC's management procedures for siting mooring fields. All moorings shall be placed within the perimeters of each mooring field so that the scope of each mooring and vessel do not extend beyond the mooring field boundaries. Any revisions to the size, and/or location of these mooring field designations shall require the approval of the Town Council with advice from the Harbor Commission, and the Coastal Resources Management Council before the revisions may take effect.
- b) Maximum number of moorings. Based on the findings of the harbor management plan, there shall be a maximum number of moorings in each mooring field.
- c) Moorings associated with residential waterfront properties. Moorings used in conjunction with residential waterfront property may be placed in the coastal waters and harbors areas of the Town in those waters immediately adjacent to the upland residential waterfront property with the exception of shellfish transplant areas. The mooring permit holder must comply with all mooring permit application requirements and receive a mooring permit from the Town as described herein, and the mooring must meet all mooring tackle standards and inspections as set forth in this chapter and any applicable regulations before such placement will be permitted. Up to four (4) moorings may be placed in the general vicinity of each residential waterfront property in accordance with the definition for a littoral mooring and this subsection. All mooring placements, including temporary moorings, shall be in accordance with the Harbor Management Plan.
- d) Mooring field siting standards. All designated mooring fields sited within the coastal waters and harbor areas of the Town shall be setback a minimum distance of fifty feet from all piers, floats and public launching ramps; and from riparian moorings and shoreline rights-of-way a distance which is sufficient to allow ingress and egress and to prevent interference with the exercise of private and public rights of access to the waterways.

- 453 e) All new and significantly expanded mooring fields shall be sited to ensure that tides and
- 454 currents aid in flushing the mooring area.
- 455 f) All new and significantly expanded mooring areas shall be sited to avoid adverse effects on
- 456 water quality.
- 457 g) Mooring areas shall be sited in a manner which does not substantially interfere with
- 458 designated shellfish management areas, traditional fishing grounds, public recreational areas
- 459 and conservation areas.
- 460 h) Mooring area shall be sited in a manner which does not significantly effect finfish and or
- 461 shellfish resources, wetlands, submerged aquatic vegetation and aquatic habitat.
- 462 i) Mooring areas shall be adequately serviced by pumpout facilities that are accessible,
- 463 operational, and maintained.
- 464 j) Pumpout service shall be provided on a published scheduled basis for all moorings and dock
- 465 slips.
- 466 k) Live aboard activity (such as that which occurs with destination type mooring fields and
- 467 sheltered harbors) is prohibited in all SA waters. The Harbormaster shall make annual
- 468 assessments in order to confirm that the use of moorings does not include live aboard activity.
- 469 l) All harbor activities shall be managed in accordance with the regulations, statements, and
- 470 ordinances contained in the Town's harbor management plan.

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472 § 86-52. Mooring Permits – General Requirements.

- 473 a) Mooring permit required. No mooring shall be located, or maintained, in the coastal waters
- 474 and harbor areas of the Town until a permit has been issued for the use of such moorings by the
- 475 Harbormaster.
- 476 b) Placement of moorings. The Harbormaster directs the placement of the moorings within the
- 477 mooring field boundaries and the Harbormaster determines that mooring tackle conforms to
- 478 the specifications and standards set forth in all applicable regulations and any conditions of the
- 479 permit.
- 480 c) Transfer of mooring permits. No mooring permit shall be sold, assigned or otherwise
- 481 transferred by a permit holder. Assignments of all mooring permits shall be made only by the
- 482 Harbormaster's office.
- 483 d) Re-assignment of mooring permits by Harbormaster's office.
- 484 When an existing mooring permit becomes available, the owner shall notify the Harbormaster
- 485 and arrange for the inspection of the mooring site within 30 days. The Harbormaster may
- 486 immediately permit the space to the person next on the waiting list whose boat fits the
- 487 mooring.
- 488 e) New moorings. Available spaces for new moorings shall be assigned by the Harbormaster to the
- 489 person next on the waiting list whose boat fits the space.
- 490 f) Change of vessel. Mooring permit holders who plan a change in vessel on their mooring must
- 491 file a new mooring permit application. Failure to comply with this regulation can result in
- 492 forfeiture of the mooring.
- 493 g) Request for a mooring permit.
- 494 1. All requests for mooring permits shall be submitted to the Harbormaster via the e-
- 495 permitting system provided by the Town.

- 496 2. An application shall be accompanied by the appropriate fee and shall be received by  
497 the Office of the Harbormaster.
- 498 3. A complete and accurate mooring permit application must be submitted before the  
499 Harbormaster can act to approve or deny such application.
- 500 4. The Harbormaster shall determine if a mooring permit can be issued only after all  
501 provisions of the Harbor Management Plan, this article and all applicable regulations  
502 are met; provided that mooring space is available.
- 503 5. Mooring tackle must be installed by a professional mooring service, and  
504 confirmation received by the Harbormaster within 15 days from the date of approval or  
505 said mooring permit shall be forfeited.
- 506 h) Permit renewals for all moorings shall occur annually. Applications for renewals of a valid  
507 mooring permit shall be submitted to the Harbormaster through the e-permitting system.
- 508 1. The Harbormaster shall open e-permitting for the renewal of permits by email  
509 notice before January 1st of each year to those persons who held valid mooring  
510 permits the previous year. Email notice shall be sent to the email address listed on  
511 their last e-permit application.
- 512 2. Online renewal, accompanied by the appropriate fee and a current copy of the  
513 permitted boat's registration and documentation must be received by March 1.  
514 After March 1, a late fee of \$50.00 will be applied for applications received.
- 515 3. It shall be the responsibility of the mooring permit holder to notify the  
516 Harbormaster of any change in information reported through e-permitting.
- 517 4. If a mooring permit holder does not receive a renewal notice through e-  
518 permitting, it is their responsibility to contact the Harbormaster's office.
- 519 5. Upon receipt of the complete renewal registration and fee, the Harbormaster's  
520 office shall forward to the permit holder the required mooring identification.
- 521 i) Relocation of existing permitted mooring.
- 522 1. All requests for relocation of existing permitted moorings must be submitted to  
523 the Harbormaster. Information for such a request must meet the requirements of  
524 the e-permitting system, as well as proof of a valid mooring permit issued for the  
525 previous or current year. The reasons for a mooring relocation must be clearly  
526 stated in the request.
- 527 2. Action on the relocation request will be taken by the Harbormaster based upon  
528 availability of space in the desired mooring field, the requirements of this chapter,  
529 and the type and size characteristics of the vessel.
- 530 3. Any request received by the Harbormaster that is not complete shall be returned  
531 to the applicant and no action will be taken on the request.
- 532 j) Failure to renew an existing valid mooring permit. Failure to renew an existing valid mooring  
533 permit in accordance with the provisions of these regulations shall result in the permitted  
534 owner's forfeiture of all his or her privileges in the previously permitted mooring space. Upon  
535 the written request of the Harbormaster the permit holder shall immediately remove the  
536 mooring tackle from the mooring space. If the permit holder does not remove the mooring  
537 tackle within 30 days of the written request, the Harbormaster may remove the now abandoned  
538 mooring tackle at the permit holder's expense.



- 539 k) Forfeiture of mooring space. Any permit holder shall be deemed to have forfeited his or her  
540 mooring space by reason of any one of the following:
- 541 1. Failure to comply with any of the requirements of this chapter;
  - 542 2. Removal of mooring and mooring tackle and notification to the  
543 Harbormaster that the mooring has been forfeited;
  - 544 3. Failure to respond to the Harbormaster's notice that (i) the mooring does  
545 not comply with the mooring tackle standard's set forth in this chapter and  
546 all applicable regulations, or (ii) that the mooring has been displaced or  
547 moved from its permitted location without approval.
  - 548 4. Failure to display the mooring identification on the mooring buoy and  
549 boat.
  - 550 5. Failure to resurface, repair or replace mooring tackle within 60 days after  
551 being advised to do so by the Harbormaster.
- 552 l) Removal of mooring from forfeited mooring space. The Harbormaster shall notify the mooring  
553 owner advising of the reason for forfeiture as stated above. The mooring owner shall be given  
554 ten business days to comply. If mooring has not been removed in the time frame the  
555 Harbormaster's office shall cause the mooring to be removed at the owner's expense. If a boat is  
556 tied to the mooring, the boat will also be removed and stored at the owner's expense.
- 557 m) Available spaces. As of March 1, of each year, the Harbormaster shall determine the number of  
558 mooring permits available for mooring placement. The number of permits available shall equal  
559 the number of spaces authorized by this article, minus the sum of all acceptable mooring permit  
560 renewal applications. The available mooring permits shall be made available first to those  
561 persons whose names appear on the waiting list whose boat fits the mooring space.
- 562 n) Initial assignment of mooring permits. In accordance with Town Council resolution 18/19-118,  
563 adopted March 25, 2019, a mooring permit shall be issued for existing moorings and any  
564 relocated moorings that are verified by a professional mooring service to be capable of safely  
565 holding the vessel intended to be secured to the mooring tackle prior to the occupation of such  
566 mooring in accordance with the e-permitting procedures established by Council. Through this  
567 process of e-permitting, applicants will be identified as either residents or non-residents and  
568 mooring permits will be distributed on a no greater than 3:1 basis (three residents for every one  
569 non-resident). The Harbormaster shall at all times maintain a list of all mooring permits  
570 assigned.
- 571 o) Waiting list. When no mooring permits are available for existing or relocated moorings,  
572 applicants shall be placed on a waiting list for a designated mooring field. The Harbormaster  
573 shall mail the forms for the annual waiting list renewal the first week in January. The annual  
574 waiting list fee must be received by March 1. If the annual fee is not received by the March 1  
575 deadline the applicant will be removed from the waiting list. The Harbormaster shall submit an  
576 updated waiting list to the harbor commission and Town Council twice a year on or near April 15  
577 and October 15. The waiting list shall remain available on the webpage for Harbormaster's office  
578 at all times. The waiting list shall show the names of the persons desiring mooring space, the  
579 date of application, and the area in which such space is.
- 580 p) Occupancy of mooring.
- 581

- 582 1. No vessel shall occupy a mooring other than the one for which it has been permitted. The  
583 Harbormaster shall have the authority to move or cause to be moved any vessel violating  
584 the provisions of this section, at the expense and risk of the vessel owner.
- 585 2. Temporary guest use—For temporary guest use of a mooring by a vessel other than the  
586 one permitted, for a period not exceeding seven days, the mooring owner, or his agent,  
587 must notify the Harbormaster upon the vessel's arrival at the mooring. Upon written  
588 request by the mooring owner, the Harbormaster may, for good cause, allow temporary  
589 guest use of a mooring for a period greater than seven days.
- 590 3. Any mooring which is not used for one year shall be considered abandoned and must be  
591 removed by its owner from the mooring area. This period may be extended if extenuating  
592 circumstances are presented to the Harbormaster on a timely basis. If the owner fails to  
593 remove the mooring upon order of the Harbormaster, the owner will be billed for the cost  
594 of the mooring removal and storage if applicable.
- 595 4. It shall be a violation for any vessel to attach, use or occupy any mooring that fails to  
596 comply with any section of this chapter.
- 597 q) Preference to Westerly residents. In the assignment of initial mooring space and the reallocation  
598 of existing mooring space, Westerly residents shall be given priority over nonresidents.  
599 However, a nonresident shall not lose priority to a resident more than three times before such  
600 nonresident is given first priority to an appropriate mooring space unless the mooring field is  
601 within a federal navigation project that the Town of Westerly has agreed in writing to certain  
602 covenants thereto, then mooring allocations shall meet the Army Corps of Engineers  
603 requirement of open to all on a fair and equitable basis.
- 604 r) The rate charged for all mooring permits shall be in accordance with the fee schedule in section  
605 121-1 of the Town Code.
- 606 s) The Harbormaster shall have the authority to remove or relocate any mooring in violation of an  
607 applicable provision of either Chapter 86 or the Harbor Management Plan.
- 608 t) Moorings in violation. The Harbormaster shall notify a mooring permit holder of a violation by  
609 certified mail. Any mooring permit holder whose mooring has been deemed in violation must  
610 contact the Harbormaster's office within fifteen days of the violation notice. No one shall  
611 remove, take, discard or dispose of any violation sticker, violation decal or violation pennant  
612 from any mooring without the permission of the Westerly Harbormaster.

613 Sec. 86-53. - Mooring Permit Application Process.

- 614 a) All applications for mooring permits shall be made through the e-permitting system  
615 maintained by the Town of Westerly and under the administration of the Harbormaster. Each  
616 applicant shall provide such information as requested by the Harbormaster, and in the least, the  
617 following information:
- 618 1. Name, address, telephone number (home and cell), and e-mail address (if applicable)  
619 of owner;
  - 620 2. Vessel name, active registration number, hull identification number (HIN), length  
621 (feet), type, and color and documentation number of the boat to be on the mooring;
  - 622 3. Proof of ownership of the vessel;
  - 623 4. Emergency contact name and telephone;
  - 624 5. Mooring classification, actual anchor weight, mooring type;

- 625                   6.     Appropriate registration fee;
- 626                   7.     Type of marine sanitation device, if any, and need for pumpout boat pennant (please
- 627                   note that all boats with type 3 MSDs are required to utilize the Town's mooring
- 628                   pumpout boat service and must have a pennant);
- 629                   8.     Area(s) where applicant would like to locate mooring, prioritized;
- 630                   9.     Proof of waterfront property ownership, if applicable, must include utility bill, plat
- 631                   map and driver's license; and
- 632                   10.    Proof of residency (driver's license).
- 633           b)    The Town may, from time to time, update the e-permitting system.

634   Sec. 86-54. - Minimum Tackle Standards.

635                   Mooring gear and tackle used in the Town shall meet or exceed those specified in the current

636                   edition of Chapman's Piloting & Seamanship. The Harbormaster may approve informal variances

637                   to mooring tackle specifications, other than those minimum standards described herein, for

638                   specific cases if such specifications are inappropriate for the area in which a mooring will be

639                   located. The Harbormaster must file such variance with the Harbor Commission.

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641   Secs. 86-55 to 86-59. Reserved.

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