

# 2019 -

RESOLUTION SCHEDULING A PUBLIC HEARING TO CONSIDER ADOPTING LOCAL LAW INTRODUCTORY NO. \_\_\_\_\_-2019, AMENDING THE CODE OF THE TOWN OF HUNTINGTON, CHAPTER 120 (HARBORS AND WATERWAYS), ARTICLE I (REGULATIONS AND RESTRICTIONS)

Resolution for Town Board Meeting Dated: April 16, 2019

The following Resolution was offered by:

and seconded by:

WHEREAS, the Town Board desires to update the Code with respect to the use town facilities, its harbor and waterways; and

WHEREAS, pursuant to §617.5(c) (26) and (33) of the SEQRA regulations, amending the Code of the Town of Huntington to establish fees is a Type II, and therefore, this proposed action requires no further review pursuant to SEQRA.

NOW, THEREFORE THE TOWN BOARD

HEREBY SCHEDULES a public hearing for the \_\_\_\_\_ day of \_\_\_\_\_ May, 2019 at \_\_\_\_\_ p.m. at Town Hall, 100 Main Street, Huntington, New York, to consider adopting Local Law Introductory No.: \_\_\_\_\_-2019, amending the Code of the Town of Huntington, Chapter 120 (Harbors and Waterways), Article I (Regulations and Restrictions); as follows:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HUNTINGTON, AS FOLLOWS:

LOCAL LAW INTRODUCTORY NO. \_\_\_\_\_ - 2019  
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) of the Huntington Town Code is hereby amended as follows:

CHAPTER 120

# 2019 -

## (HARBORS AND WATERWAYS)

### ARTICLE I (REGULATIONS AND RESTRICTIONS)

\* \* \*

§120-2. Definitions. As used in this Article, the following words shall have the meanings indicated:

\* \* \*

DEPARTMENT - The Department of Maritime Services of the Town of Huntington.

\* \* \*

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

\* \* \*

UNSEAWORTHY - A vessel is unseaworthy if the vessel, or any of its parts or equipment, is not reasonably fit for its intended purpose. A vessel is unseaworthy if, in the opinion of the Department, it is visibly listing, or sinks, grounds, or is leaking, or if it is listing more than 3 degrees, or if it does not have a working engine or bilge pump, or is derelict or abandoned, or displays another condition which makes the vessel disabled or not able to be safely operated.

\* \* \*

§ 120-4. Freestanding floats.

A. It shall be unlawful [No person shall] to 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 ownership or 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. It shall be unlawful [No person shall] to 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 ownership or jurisdiction that, when

# 2019 -

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. Any person who violates the provisions of this section shall be deemed to have committed an offense against this article.

D. [No person shall] It shall be unlawful to 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]. It shall be unlawful to neglect or fail to comply with the following requirements:

\* \* \*

§120-5. Public docks and floats.

A. It shall be unlawful to [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. Special event[s] permits.

(1) Special event permits may be issued by the Department for an event requiring the use of the public dock or float as long as the event is limited to one (1) day, and provided the owner of the vessel applies for a special event permit, pays an application fee [of fifty (\$50) dollars], provides a certificate of insurance, and signs a hold harmless agreement in favor of the Town and the Huntington Board of Trustees. If the applicant is a charter, then the application shall be accompanied by the documents set forth in § 120-18(B) together with [a fifty (\$50) dollar application fee.] the requisite application fee. The application fee for special events shall be as established by the Town Board from time to time.

# 2019 -

(2) A copy of a certificate of insurance naming the Town of Huntington and the Huntington Board of Trustees as additional insureds by endorsement with policy limits of:

(a) Liability for personal injury, including death, sustained on public property and/or occurring as a result of the conduct of the special event, [five hundred thousand (\$500,000)] one million (\$1,000,000) dollars per occurrence; and

(b) Damage to public or private property as a result of the use of public property and/or conduct of the special event, [five hundred thousand (\$500,000)] one million (\$1,000,000) dollars per occurrence, which shall include coverage for vessel wreck removal and pollution mitigation.

C. It shall be unlawful to [No vessel shall be tied] tie or [made] make fast a vessel to any public dock or float for longer than one (1) hour, except as otherwise posted; and no vessel shall be tied] or to tie or [made] make fast a vessel 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.

\* \* \*

E. 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] impounded, stored and/or secured at the expense of the owner or person in charge of such vessel. Any vessel that has been impounded may be redeemed upon proof of ownership and payment of the costs of removal, impounding the vessel, and storage and maintenance of the vessel, together with other incidental expenses incurred by the Town, by credit card, certified or bank check, or money order.

\* \* \*

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

A. Prohibitions:

## 2019 -

(1) It shall be unlawful for an [An] owner or person in charge of a vessel [shall not] to 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, contains unsecure deck cargo, or is in such condition so as to cause immediate and/or serious danger to the health, safety or welfare of the public or to property.

(2) It shall be unlawful for an [No] owner or person in charge of a vessel [shall] to permit an unseaworthy, swamped, derelict and/or abandoned vessel to be washed ashore and [to] remain thereat.

B. Notice of removal. 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. Contents of Notice. [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 owner's 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.] its location, condition, and if available, its name, registration number and contents.

D. Notification to agencies. 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

## 2019 -

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. **Impound of vessel.** In the event the vessel is not removed by the owner at the expiration of [seven (7) days] **the requisite period**, 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)] **ten (10)** days of the date of the notice, same shall be **deemed abandoned and sold at public auction or otherwise disposed of by the Town.** The notice shall further state that the proceeds of the sale, if one occurs, 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, and if available, its name, registration number and contents.**

(1) **Notice.** 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)] ten (10)** days of the first date of publication (identifying such date).

(2) **Release of vessel.** 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 **providing** notice to the owner and of removal, **impounding the vessel**, storage charges, and all other expenses incidental thereto shall be fully paid by **[cash] credit card, 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.

## 2019 -

(3) **Public auction.** If the vessel is not claimed at the expiration of ten (10) [twenty (20)] days, the Huntington Town Board may order the vessel, its chandlery, and contents sold at public auction. The owner or person in charge of the vessel shall be personally liable for all of the costs and expenses incurred by the Town. The proceeds of such sale shall be used to defray the costs and expenses of providing notice to the owner and of removal, impounding the vessel, storage, and sale of the vessel and its contents, and all other expenses incidental thereto. Notice of such sale, a statement as to 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] on 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. Nothing contained in this chapter shall limit the Town's right to commence an action, in law or in equity, to recover all such expenses from the owner or person in charge of the vessel, who shall be personally liable, if no auction has occurred or if the proceeds of the auction are insufficient to cover the amounts paid by the Town.

### F. Exceptions.

(1) **Emergencies.** 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 [judgement] 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)] ten (10) 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

# 2019 -

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)](3)~~ shall be followed.

(2) Value. A vessel [which] ~~that~~, because of its age, condition and/or estimated cost of repair, has, in the [judgement] judgment of the Department [of Maritime Services], a [retail] value of one thousand [five hundred (\$500)] (\$1,000) dollars or less, shall be photographed and otherwise disposed of without prior notice.

§ 120-18. Charter and commercial vessels.

A. Permit required. [(1)] It shall be unlawful for an owner, captain or person in charge of a [No] charter or commercial vessel carrying more than six (6) passengers [shall] to utilize Town docks, slips and/or ramps for boarding or discharging passengers without having first obtained a permit from the Department [of Maritime Services]. [No permit shall be issued for a vessel having a maximum inspected capacity greater than 150 persons.] The Director may issue a permit subject to such conditions he or she deems necessary or advisable to safeguard the health, safety and/or welfare of [Town residents] persons or property, [and] or to protect the use and enjoyment of public lands, docks and waterways [within the Town of Huntington].

[(2)] [Due to the limited number of public parking spaces available in the harbor area, all permits shall be awarded on a lottery basis and no additional permits shall be issued in any given year if the total maximum inspected capacity of the vessels for which permits have been awarded or renewed under § 120-18(E) exceed two hundred fifty (250) passengers in the aggregate, except that additional permits may be issued if an applicant provides sufficient private off-street parking spaces at the rate of one (1) space for every three (3) passengers, up to the maximum inspected capacity of the applicant's vessel.]

[(3)] [All permits awarded through the lottery shall be conditioned upon the filing of an application meeting the requirements of § 120-18(B) within twenty (20) days of the close of the lottery. Failure to file an application shall be cause for denial of a permit and such permit shall be awarded to the next qualified entrant.]

B. An application for a permit shall contain and be accompanied by the following:

. \* \* \*



# 2019 -

(5) A copy of a certificate of insurance naming the Town of Huntington and Huntington Board of Trustees as an additional insured under a protection and indemnity policy with policy limits of:

\* \* \*

(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: one million dollars (\$1,000,000) per occurrence which shall include coverage for wreck removal and pollution mitigation.

(7) [An application fee of one thousand (\$1,000) dollars per calendar year shall accompany each permit application.] A nonrefundable application fee in an amount established by the Town Board from time to time.

## C. Application process; denial of permit.

(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 permit, 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 [Director] Department 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 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 regular mail and addressed to the applicant at the address shown on the application. Such notice shall set forth the grounds for the denial and shall be final.

# 2019 -

(3) It shall be unlawful for a [No] person [shall] to use a town dock, slip or ramp to operate and/or maintain a charter or commercial vessel operation if a permit has been denied.

D. An application for a permit may be denied by the [Director] Department under the following conditions:

\* \* \*

(2) If fraud, misrepresentation or deceit has been practiced in the course of carrying out the charter or commercial vessel operation within [two (2)] five (5) 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 [judgement] judgment of the [Director] Department, the applicant 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] judgment of the [Director] Department, the applicant (owner), or the captain or person in charge of the vessel conducts, maintains or operates, or permits the charter or commercial vessel to be maintained or operated 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.

E. Term of permit; permit renewal. A permit issued for the maintenance of a charter or commercial vessel operation shall expire on December 31 of the year of issuance. Once issued a permit may be renewed for two (2) additional one (1) year periods provided the permit holder has met all the terms and conditions of the original permit as determined by the [Director] Department and an application for renewal of the permit is received in the office of the Harbormaster by January 31 of the year the permit is sought. [Thereafter, any additional permits which may be issued if the aggregate number of passengers is not exceeded, will be awarded on a lottery basis among those additional applicants who have filed applications between January 1st through January 31st each year.]

\* \* \*

2019 -

G. Acceptance of permit. Acceptance of a permit shall constitute an agreement by the owner, captain or person in charge of the charter or commercial vessel to be liable for any loss or injury to persons or property, including any injury or loss suffered by the Town of Huntington or Huntington Board of Trustees, resulting from or incurred in connection with the operation and maintenance of the charter or commercial vessel operation.

[G.] H. Rules and regulations: The owner, captain or person in charge of a charter or commercial vessel shall [be absolutely liable for the enforcement of] enforce the following rules and regulations[:] at all times. Any owner, captain or person in charge of such vessel who neglects or fails to enforce these regulations shall be in violation of this article.

. \* \* \*

(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.

\* \* \*

(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 within a harbor channel, or 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.

\* \* \*

[H.] I. Revocation of permit; grounds. Any permit issued to a charter or commercial vessel may be revoked by the Director, after a hearing, under the following conditions:

\* \* \*

(3) 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, in the judgment of the Director, the person has since conducted himself, herself or itself

# 2019 -

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 judgment of the Director, the person to whom a permit has been issued, or the captain or person in charge of the vessel conducts, maintains or operates, or permits the maintenance 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

(5) 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.

## [I.] J. Revocation hearing.

(1) Notice of intention to revoke shall be mailed to the permit holder by the Department of Maritime Services by regular and by certified mail, return receipt requested, to the address shown on the application, and by e-mail if known, with a copy to the Huntington Town Clerk. The notice shall direct that remedial or other action be taken by the date specified in the notice or the permit may be revoked. Upon good cause shown to the satisfaction of the Director Department, the period for compliance may be extended where remedial measures have been started and the delay is not under the control of or due to the actions of the person to whom the notice has been issued.

\* \* \*

(3) Amendment, modification or withdrawal. The Director Department may amend, modify or withdraw any notice issued if in his or her judgment, the circumstances warrant such action provided the amended or modified notice is served as provided in (1) herein within five (5) days of service of the original notice, and a hearing has not occurred.

(4) At the hearing the permit holder may be represented by counsel and may submit such competent evidence as he or she deems advisable or necessary. The Hearing Officer shall submit his findings and recommendations to the Director. A copy of the Hearing Officer's report shall be filed with the Town Clerk and mailed

# 2019 -

by the Department to the permit holder by regular and certified mail, return receipt requested, to the address shown on the application, **and by e-mail if known,** along with a statement that the permit holder has five (5) days from receipt of the report to submit to the Director his written objections thereto. The Director shall consider the applicant's written statement and the Hearing Officer's report, and may adopt or reject, in whole or in part any portion thereof as he or she deems advisable or necessary under the circumstances; and may thereafter revoke the permit, or withdraw the notice of intention to revoke with or without such terms and conditions as the Director establishes to protect the health, welfare and safety of the public, or to maintain the peace and good order. The decision of the Director shall be filed in the Office of the Town Clerk and **[mailed] served upon [to]** the permit holder in the same manner as the report. The decision of the Director is final.

\* \* \*

(6) **It shall be unlawful for an owner, captain or person in charge of a [A]** charter or commercial vessel whose permit has been revoked **[by the Director may not] to** use a town ramp, slip, float or dock to operate or maintain a charter or commercial vessel operation. The Department **[of Maritime Services]** and/or other enforcement officer shall take all steps necessary to bar and prohibit the continued use of town docks, ramps, floats and other property by such entity, as is necessary to effectuate compliance with the revocation. In the event a permit is revoked, the application fee shall not be refunded.

\* \* \*

§ 120-20. Town marinas.

A. Permit required.

(1) **It shall be unlawful to [No person owning a boat shall]** cause, permit and/or allow [the] a 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] impounded,** stored and secured by the Department **[of Maritime Services]** at the owner's expense.

## 2019 -

(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 incidental expenses incurred by the Town, by [cash] credit card, certified or bank check, or money order.

### 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 [judgement] 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] 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 nonrefundable 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, except that the term of the permit may be subject to change depending upon the state of repairs and/or readiness for occupancy of town marinas due to a natural catastrophe or other causes.

## 2019 -

(4) Renewal of permit. An owner who, in the judgment of the Department, is in good standing as to the payment of fees, compliance with the rules and regulations of the marina [as established by the Department of Maritime Services], the provisions of the marina contract, and this chapter, shall have the option to renew a 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 nonresidents 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] Department. 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.] Application. The application for a permit shall be on a form provided by the Department. The applicant shall provide a copy of the owner's driver's license, together with any other document or information requested by the Department. A nonrefundable 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) 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 due to a natural catastrophe or other causes.

### [D.] [Transient permits.]

# 2019 -

[(1)] [Boats using town marinas for transient purposes shall abide by the rules and regulations established by the Director. The denial of a permit application or revocation of a previously-issued permit by the Director shall be final and not subject to a fact-finding hearing.]

D. [E.] Procedure upon application for a permit.

(1) The [Director] Department shall determine whether a permit should be issued. In the event the application is granted, the permit shall be issued 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 regular mail and addressed to the applicant at the address shown on the application. Such notice shall set forth the grounds for the denial and shall be final.

(2) It shall be unlawful for a [No] person [shall] to tie or make fast a boat to the dockage facilities of a town marina for which a permit has been denied.

E. [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:

\* \* \*

(2) If, within [one (1)] two (2) years 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 [judgement] judgment of the [Director] 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 agency having jurisdiction, or disturb the public peace or good order, or jeopardize the safety of other permit holders, their boats or public or private property; or

(3) If, within [one (1) year] two (2) years 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



# 2019 -

knowingly disregarded or disobeyed a reasonable request or order of the Department or other town official; or

(4) If, in the judgement of the Director judgment of the Department, 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.

E. [G.] Identification. Every summer 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.

G. [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 judgement 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"] "Marina Rules and Regulations", [issued by the Department of Maritime Services,] the marina contract (if applicable), and this chapter.

H. [I.] [Nontransferability] Non-transferability; sublease prohibited. It shall be unlawful for a [A] permit issued by the town pursuant to this article [shall not] to 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 it shall be unlawful for the holder of a permit [may not] to 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.

# 2019 -

I. [J.] Commercial activities. It shall be unlawful to use or permit the use of a vessel [No boat] docked, made fast or tied at a town marina [may] to be used for the sale, lease or hire of merchandise or services, or for the purpose of renting or leasing occupancy of the [boat] vessel 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 or other compensation for the use and/or occupancy of the boat by such guest.

J. [K.] It shall be unlawful for any [No] person under [ten (10)] twelve (12) years of age [shall] to be admitted to, or be permitted in, a town marina unless accompanied by an adult who shows full responsibility for the child's safety and conduct.

K. [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 Director under the following conditions:

\* \* \*

(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 [judgement] judgment of the Director, 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 agency having jurisdiction, or disturb the public peace or good order, or jeopardize the safety of other permit holders, their boats or public or private property; or

(3) If the permit holder violates the conditions of the permit, or of the marina contract or [policy] the "Marina Rules and Regulations", 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 [judgement] judgment of the Director, 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, their boats or public or private property.

# 2019 -

## L. [M.] Revocation of a permit; procedure; hearing.

(1) Notice of intention to revoke shall be mailed to the permit holder by the Department [of Maritime Services] by regular and by certified mail, return receipt requested, to the address shown on the application, and by e-mail if known, with a copy to the Huntington Town Clerk. The notice shall direct that remedial or other action be taken by the date specified in the notice or the permit may be revoked. Upon good cause shown to the satisfaction of the [Director] Department, the period for compliance may be extended where remedial measures have been started and the delay is not under the control of or due to the actions of the person to whom the notice has been issued.

\* \* \*

(3) Amendment, modification or withdrawal. The [Director] Department may amend, modify or withdraw any notice issued if [, in his or her judgment,] the circumstances warrant such action provided the amended or modified notice is served as provided in (1) herein within five (5) days of service of the original notice, and a hearing has not occurred.

(4) At the hearing the permit holder may be represented by counsel and may submit such competent evidence as he or she deems advisable or necessary. The Hearing Officer shall submit his findings and recommendations to the Director. A copy of the Hearing Officer's report shall be filed with the Town Clerk and mailed to the permit holder by regular and certified mail, return receipt requested, to the address shown on the application, and by e-mail if known, along with a statement that the permit holder has five (5) days from receipt of the report to submit to the Director his written objections thereto. The Director shall consider the applicant's written statement and the Hearing Officer's report, and may adopt or reject, in whole or in part any portion thereof as he or she deems advisable or necessary under the circumstances; and may thereafter revoke the permit, or withdraw the notice of intention to revoke with or without such terms and conditions as the Director establishes to protect the health, welfare and safety of the public, or to maintain the peace and good order. The decision of the Director shall be filed in the Office of the Town Clerk and [mailed] served upon [to] the permit holder in the same manner as the report. The decision of the Director is final. If the permit is revoked, the marina fee shall not be refunded.

# 2019 -

\* \* \*

(6) [No person shall] It shall be unlawful to tie or make fast a boat to a slip, berth or dockage facilities of a Town marina if [a] the 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] impound 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.] Any vessel that has been impounded may be redeemed upon proof of ownership and payment of the costs of removal, the impound fee, and storage and maintenance of the vessel, together with other incidental expenses incurred by the Town, by credit card, certified or bank check, or money order.

M. [N.] 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.

N. [O.] It shall be unlawful for a [No] person [shall] to 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) It shall be unlawful for any [No] person [shall] to 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 ownership or 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) It shall be unlawful for any [No] person [shall] to 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.

# 2019 -

(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] impounded, 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 or person-in-charge thereof, upon proof of ownership, the presentation of a valid permit and the payment by [cash] credit card, certified or bank check, or money order of all reasonable costs, including but not limited to, the costs of removal, the impound fee, and the costs of storage and maintenance of the vessel, float and mooring.

\* \* \*

## B. Permit application.

(1) Residents and non-residents who own vessels or floats, corporations and other business entities, including commercial enterprises, 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 ownership or jurisdiction. Yacht clubs, marinas and boating associations may apply for a mooring permit on behalf of their 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. 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 as determined by the Department.

(2) Application. An application for a mooring permit shall be on a form provided by the Department [of Maritime Services] and shall be filed by the first day of May of every calendar year. [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

# 2019 -

employed indicating the type and weight of the anchor, and the size and type of the mooring buoy to meet the minimum town requirements.] Any vessel with an internal fuel tank shall be subject to insurance requirements for liability which includes pollution mitigation and vessel wreck removal with limits of \$300,000 per occurrence. 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/permit 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 nonrefundable application fee of two hundred (\$200) 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.] An application fee and mooring permit fee in an amount established by the Town Board and/or Huntington Board of Trustees shall be payable upon application.

(4) Proof of residency. Residency shall be established by the production of the following: (1) a true copy of the vessel 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) Renewal of permit. An application for a renewal shall be [in the] on a form approved by the Department [of Maritime Services] and shall be filed on or before the date set by the Department. An application fee and permit fee as established by the Town Board [as set forth in § 120-21(B)(3)] shall be payable as in the case of an original application.

## C. Procedure upon application.

# 2019 -

(1) The [Director] Department shall determine whether a permit should be issued[,] and [The Department of Maritime Services] shall notify the applicant within five (5) days of filing 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 regular mail and addressed to the applicant at the address shown on the application. Such notice shall set forth the grounds for the denial and shall be final.

(2) It shall be unlawful for any [No] person [shall] to place a mooring on the underwater lands over which the Town of Huntington and/or the Board of Trustees have ownership or jurisdiction if a permit has been denied. Any mooring so placed and vessel or float so tied shall be [removed] impounded and stored by the Department of Maritime Services at the owner's expense. Any mooring, vessel or float that has been impounded may be redeemed upon proof of ownership and payment of the costs of removal, the impound fee, and storage and maintenance costs, together with other incidental expenses incurred by the Town, by credit card, certified or bank check, or money order.

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 ownership or jurisdiction may be denied by the Department [of Maritime Services] under the following conditions:

\* \* \*

(2) If, within [one (1) year] five (5) years 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 [judgement of the Director] 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 agency having jurisdiction, or endanger the public peace or good order, or jeopardize the safety of other permit holders, their vessels, or public or private property; or

## 2019 -

(3) If, within [one (1) year] five (5) years 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 [judgement of the Director] judgment of the Department, the issuance of a permit would jeopardize the safety of other permit holders, their vessels, or any public or private property; or create a nuisance or hazard; or jeopardize the use and enjoyment of surrounding properties; or disrupt the peace and order.

E. Term of permit. A mooring permit shall [be valid for one calendar year or any part thereof] expire on December 15th of the year of issuance.

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:

(1) [he] He or she will defend and hold the Town of Huntington and the Board of Trustees harmless from any claim, loss, damage, suit or [judgement] judgment for property damage and/or personal injury, including death and reasonable attorney fees, [which] that 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 as a consequence of these activities; and

(2) He or she agrees to be liable to the Town and Board of Trustees for any costs, expenses, charges, and losses incurred by the Town or Board of Trustees for the removal, impound, storage, disposal, or sale of any vessel or float that becomes unseaworthy, swamped, sunk, derelict or abandoned while tied to the mooring, and/or for the costs of removing or relocating the vessel, float, or mooring if it impedes or restricts navigation at the location.

G. Non-transferability of mooring permit or transient mooring permit. It shall be unlawful for a [A] mooring permit or transient mooring permit [issued by the Town shall not] to be



## 2019 -

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, with the exception of transient mooring permit holders. Any person who violates the provisions of this section shall be deemed to have committed an offense against this article.

### 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] for Town inspection.

(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] of the vessel owner, name of the vessel, or the name of the mooring installer 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 name of the vessel or the name of the owner [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] impounded, 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 or person in-charge thereof upon proof of ownership, the presentation of a valid permit and the payment by [cash] credit card, certified or bank check, or money

# 2019 -

order of all reasonable costs, including but not limited to, the costs of removal, storage and maintenance of the vessel, float and mooring.

I. Regulations and restrictions.

(1) Minimum standards for mooring vessels:

**Mooring\***

<b>Length at Waterline of Boat (feet)</b>	<b>Mushroom Anchor (pounds)</b>	<b>Diameter of Top Half of Chain (inches)</b>	<b>Diameter of Bottom Half of Chain (inches)</b>	<b>Buoy Diameter (inches)</b>	<b>Nylon Rope Diameter (inches)</b>
15 to 19	100	5/16	3/8	15	1/2
20 to 24	150	5/16	3/8	15	1/2
25 to 29	200	3/8	3/8	15	3/4
30 to 34	300	3/8	1/2	15	3/4
35 to 39	350	3/8	1/2	15	3/4
40 to 44	400	1/2	5/8	18	3/4
45 to 49	500	1/2	5/8	18	1
50 to 54	550	5/8	3/4	24	[1] 1 1/4
55	700	5/8	3/4	24	[1] 1 1/2

**\* NOTES:**

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. All pennants shall consist of two lines for redundancy except in cases where a specialty high-strength pennant line is used and the vessel does not have an anchor installed at the bow.

(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].

## 2019 -

(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 a designated public swimming area; 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.

\* \* \*

(5) If, in the [judgement] judgment of the Department [of Maritime Services], a mooring, or any part of a vessel or float being moored, is placed or located 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 designated swimming area, 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 or person-in-charge of the mooring, float or vessel thereof shall be given three (3) days prior notice to remove and/or relocate the mooring, vessel or float by the Department [of Maritime Services]. In the event of the failure, neglect or refusal 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 or mooring removed may be redeemed by the owner or person-in-charge thereof upon proof of ownership and the payment of all reasonable costs incurred by the Town of Huntington. Failure to pay the 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].

\* \* \*

(7) If, in the [judgement] 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] impound and/or relocate the mooring and/or vessel or float at the expense of the owner without providing such three (3) day prior notice. Any mooring, vessel or float that has been impounded may be redeemed upon proof of ownership and payment of the costs of removal, the impound fee, and storage and maintenance, together with other incidental expenses incurred by the Town, by credit card, certified or bank check, or money order.

# 2019 -

\* \* \*

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 ownership or jurisdiction may be revoked by the Director under the following conditions:

\* \* \*

(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 [judgement] judgment of the Director, 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 agency having jurisdiction, or disturb the public peace or good order, or jeopardize the safety of other permit holders, their vessels or public or private property; or

\* \* \*

(4) If the permit holder, in the [judgement] judgment of the Director, 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, their vessels or public or private property.

K. Revocation procedure; hearing.

(1) Notice of intention to revoke shall be mailed to the permit holder by the Department [of Maritime Services] by regular and by certified mail, return receipt requested, to the address shown on the application, and by e-mail if known, with a copy to the Huntington Town Clerk. The notice shall direct that remedial or other action be taken by the date specified in the notice or the permit may be revoked. Upon good cause shown to the satisfaction of the [Director] Department, the period for compliance may be extended where remedial measures have been started and the delay is not under the control of or due to the actions of the person to whom the notice has been issued.

\* \* \*

## 2019 -

(3) Amendment, modification or withdrawal. The [Director] Department may amend, modify or withdraw any notice issued if[, in his or her judgment,] the circumstances warrant such action provided the amended or modified notice is served as provided in (1) herein within five (5) days of service of the original notice, and a hearing has not occurred.

(4) At the hearing the permit holder may be represented by counsel and may submit such competent evidence as he or she deems advisable or necessary. The Hearing Officer shall submit his findings and recommendations to the Director. A copy of the Hearing Officer's report shall be filed with the Town Clerk and mailed to the permit holder by regular and certified mail, return receipt requested, to the address shown on the application along with a statement that the permit holder has five (5) days from receipt of the report to submit to the Director his written objections thereto. The Director shall consider the applicant's written statement and the Hearing Officer's report, and may adopt or reject, in whole or in part any portion thereof as he or she deems advisable or necessary under the circumstances; and may thereafter revoke the permit, or withdraw the notice of intention to revoke with or without such terms and conditions as the Director establishes to protect the health, welfare and safety of the public, or to maintain the peace and good order. The decision of the Director shall be filed in the Office of the Town Clerk and [mailed] served upon [to] the permit holder in the same manner as the report. The decision of the Director is final. If the permit is revoked, the fee paid for the mooring permit or transient mooring permit shall not be refunded.

\* \* \*

(6) It shall be unlawful for a [No] person [shall] to allow a mooring to continue on the underwater lands over which the Town of Huntington and/or the Board of Trustees have ownership or 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] impounded forthwith and stored by the Department at the expense of the owner. Any mooring, vessel, or float that has been impounded may be redeemed upon proof of ownership and payment of the costs of removal, the impound fee, and storage and maintenance, together with all other incidental expenses incurred by the Town, by credit card, certified or bank check, or money order.

## 2019 -

(7) The Director 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.

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

### L. Transient mooring permit.

(1) [Residents and non-residents] Corporations and other business entities, including without limitation, commercial enterprises, yacht clubs, marinas, boating associations and commercial mooring installers may file an application for a transient mooring permit to accommodate the temporary berthing of a vessel or float [tie or secure a vessel or float to a mooring for which a mooring permit has already been issued]. Transient mooring permits to business entities, beach clubs and other associations not having property within the Town, or for residential use shall not be 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]. A non-refundable application and mooring fee in an amount established by the Town Board shall be paid at the time of application. 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 [judgement] judgment of the [Director] Department, the issuance of a permit to the applicant would, because of the mooring's intended location or other reason, would jeopardize the safety of permit holders, their vessels, floats or public and private property; or impede or restrict safe navigation; or would create a hazard or danger; or would jeopardize the peace and good order. An application may also be denied if, in the [judgement] judgment of the [Director] 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 [Director] Department on such terms and conditions [he] 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].

## 2019 -

(3) The Director 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 a hazard; or because of the size of the vessel or float moored thereat or other reason jeopardizes the safety of other permit holders, their vessels, floats or public or private property, or impedes or restricts safe navigation.

[(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.]

(4) [(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] the organization, club, marina or association's name 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] identification being displayed on the mooring shall be [removed] impounded, stored and secured by the Department [of Maritime Services] at the owner's expense [as provided in this article]. Any mooring, vessel, or float that has been impounded may be redeemed upon proof of ownership and payment of the costs of removal, the impound fee, and storage and maintenance charges, together with all other incidental expenses incurred by the Town, by credit card, certified or bank check, or money order.

### 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 ownership or 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

2019 -

resolved by the parties,] the decision of the Senior Harbor Master shall be final and binding upon all the parties involved in the dispute.

\* \* \*

§ 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 Incorporated Villages within the Town, 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 ownership or jurisdiction.

\* \* \*

§ 120-25. Fees.

(A) Impound and storage fees.

(1) The owner or person-in-charge of any vessel, float or mooring impounded by the Department pursuant to this chapter shall be liable for an impound fee [of one hundred (\$100) dollars] per float, vessel or mooring in an amount established by the Town Board from time to time. An impounded vessel or float shall be stored at a cost [of five (\$5.00)] per foot as measured length overall for each day, or part thereof, a vessel or float is stored by the Director at town facilities. Moorings shall be stored at a cost [of two (\$2.00) dollars] per pound. These charges shall be established by the Town Board and are in addition to any other direct or incidental costs incurred by the Town. In the event it is necessary for the Director to retain the services of an outside vender to render these services the impound fee shall be payable to the Town, and the owner or person-in-charge of the vessel, float or mooring shall be liable for the costs of hauling, transportation, and storage charged by the vender.

\* \* \*

(B) Relocation of moorings. The Town Board shall establish a per pound fee to be charged [A fee of fifty (50) cents per pound] in the event [the] a mooring is relocated.

§120-26. Penalties for offenses.

\* \* \*



# 2019 -

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

\* \* \*

(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)] two thousand five hundred (\$2,500) dollars or imprisonment not exceeding three (3) months, or by both such fine and imprisonment, at the discretion of the court.

\* \* \*

(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)] two hundred and fifty (\$250) dollars nor more than one thousand five hundred [(\$500)] (\$1,500) dollars for a first offense and by a fine of not less than [one] three hundred [(\$100)] (\$300) dollars nor more than [seven hundred and fifty (\$750)] two thousand five hundred (\$2,500) 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.

\* \* \*

## 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 invalid, 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 the State of New York.

ADDITIONS ARE INDICATED BY UNDERLINE  
\*\*\* INDICATES NO CHANGE TO PRESENT TEXT  
DELETIONS ARE INDICATED BY [BRACKETS]

2019 -

VOTE:	AYES:	NOES:	ABSTENTIONS:
Supervisor Chad A. Lupinacci			
Councilwoman Joan A. Cergol			
Councilman Eugene Cook			
Councilman Mark A. Cuthbertson			
Councilman Edmund J. Smyth			

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.