

LOCAL LAW NO. 5 OF 2024

A LOCAL LAW repealing Chapter 125 (Navigable Waters) of the Village Code and replacing it with a new Chapter 125 (Navigation and Waterways Law) regulating navigation, anchoring and mooring in the waters of Dering Harbor consistent with the IMA with the Town of Shelter Island.

BE IT ENACTED by the Board of Trustees of the Village of Dering Harbor as follows:

SECTION 1. Amendment. Chapter 125 (Navigable Waters) including §§125-1 through 125-20, inclusive, is hereby repealed in its entirety and replaced with the following new Chapter 125 (Navigation and Waterways Law).

SECTION 2. Amendment. Chapter 125 (Navigable Waters) is hereby replaced with the following new Chapter 125 (Navigation and Waterways Law) as follows.

CHAPTER 125 NAVIGATION AND WATERWAYS LAW

§125-1. Title. This chapter shall be known as the “Navigation and Waterways Law” of the Village of Dering Harbor.

§125-2. Legislative Findings, declaration, intent.

A. The Board of Trustees of the Village of Dering Harbor find that it is necessary to preserve the environment of the Village, including the environmentally sensitive areas within the limits, boundaries and territory of the Village, and of the areas adjoining or surrounding those areas and within the jurisdiction of the Village, including the turbidity and quality of the waters in Dering Harbor and surrounding waters of the Village, and their bottom.

B. The Board of Trustees further find that the increasing and continuing use of Dering Harbor and the surrounding waterways of the Village, and, in particular, anchoring in Dering Harbor and the surrounding waters by boats and vessels operated by residents and nonresidents can result in discharge and pollution and cause contamination of fish spawning areas, reduce the shellfish population and erode a vital economic and recreational asset for existing and future residents of the Village.

C. Section 46(a)(1) of the New York State Navigation Law vests the authority and responsibility with the Village to regulate certain navigational activities in the waters of the Village within 1,500 feet of the shore of the Village.

D. The Board of Trustees declares that the regulation of Dering Harbor and the surrounding waterways of the Village pursuant to the authority of the Navigation Law is essential to protect

the natural resources of the Village, and the health, safety and welfare of the residents of the Village.

E. The Board of Trustees declares that that the regulation of navigational activities, anchoring and mooring in Dering Harbor and the surrounding waterways of the Village will preserve the quality and value of property in the Village and the ability of the property owners, residents and guests to enjoy the safe use of their property and the aesthetic assets of the Village.

F. The Board of Trustees further find that Dering Harbor and the surrounding waterways of the Village are intrinsically linked with the abutting waterways of the Town of Shelter Island, and the configuration of Dering Harbor presents overlapping responsibilities of both Village and the Town to protect the underwater lands of the Village and Town and minimize harm to fish and other marine and aquatic life, as well as to reduce pollution and otherwise protect the limited and non-replenishable resources offered by such waterways.

G. The Village and the Town have entered into an inter-municipal agreement (“IMA”), which memorializes the extent of the Town and Village’s jurisdictions and authorizes the joint management of navigational and other activities within Dering Harbor.

H. It the intent of this law to establish regulations for the management of navigational activities in Dering Harbor and the surrounding waterways of the Village, which include, but are not limited to, restricting and regulating the speed and operation of vessels; restricting and regulating the anchoring or mooring of vessels; restricting and regulating the number and density of mooring sites; restricting and regulating the occupancy of vessels as living or sleeping quarters at docks or anchored or moored in the waterways; providing time limits on duration of the stay; requiring inspection and registration of such vessels when so used; restricting and regulating sewage and garbage removal from vessels; restricting and regulation of anchorage area or areas and the use thereof.

I. It is the further intent of this law to establish regulations for such navigational activities in Dering Harbor and the surrounding waterways of the Village consistent with regulations adopted by the Town of Shelter Island to allow coordinated management of Dering Harbor pursuant the IMA referenced in this Chapter.

§125-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANCHOR or ANCHORING -The attachment of, or to attach, a boat or vessel to the ground or bottom by means of tackle so designed that, when such attachment is terminated, the tackle in its entirety is removed from the ground or bottom and taken under the control of the boat or vessel or by maintaining a constant position by use of any dynamic positioning system for more than 15 minutes.

ANCHORING, TRANSIENT – An anchoring that may take place for a maximum of 72 consecutive hours.

BOAT OR VESSEL - Includes every description of watercraft or other contrivance used on or capable of being used as a means of transportation in water and in air and shall be deemed to include any airplane capable of landing on water. The use of the term "boat" shall include the term "vessel," and "vessel" shall include "boat."

BOARD OF TRUSTEES – The Board of Trustees of the Village of Dering Harbor.

DOCK, WHARF OR PIER - A fixed structure to which a craft or vessel can be made fast or tied or attached.

FLOAT - Any structure, raft, or floating platform which is designed to float upon the surface of a water body.

INTER-MUNICIPAL AGREEMENT OR IMA - the “Inter-Municipal Agreement between Town of Shelter Island and Village of Dering Harbor for the Provisions of Certain Municipal Services Related to the Waterways of Dering Harbor,” as fully executed on November 11, 2023, as same may extended, and or amended, by resolutions of the respective boards of the Town and Village.

MOOR OR MOORING – When used as a verb, shall mean the attachment of or to attach a vessel to the ground by means of tackle previously placed and so designated that upon disconnection with the vessel from said tackle remains attached to the ground and is not taken under control of the vessel. When used as a noun, it shall mean any assembly consisting of a buoy together with an anchor or its equivalent, and lines of any material connecting the two for the purpose of mooring a vessel.

MOORING, COMMERCIAL - A mooring that is rented out by a boatyard, marina, yacht club or commercial entity, which business is located on the waterfront of the Town of Shelter Island.

MOORING, PRIVATE – A mooring used for a specifically identified vessel owned or leased or chartered by the person in whose name the mooring is registered.

NAVIGATION LAW – The Navigation Law of the State of New York.

NONRESIDENT - Any person, whether owner or operator and whether an individual, firm, partnership, corporation, company, association or organization, who or which is not a resident as hereinafter defined.

OPERATOR - Any person who is navigating or operating a boat or vessel.

OWNER - Includes the person under whose name a boat (vessel) was last registered with the State of New York or documented with the United States Coast Guard; or in any other case, the last known owner, or the person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

PERSONAL WATERCRAFT - A vessel less than sixteen feet in length propelled by water jet pump or other mechanical power as its primary source of propulsion and which is designed to be operated by a person sitting, standing or kneeling on, or being towed behind the vessel rather than the conventional manner of sitting or standing inside the vessel, includes, but is not limited to, or sometimes known as a water scooter, jet ski, sea doo, or wave runner.

RESIDENT – A person who is an owner of real property within the Village of Dering Harbor or who is a person who resides in the Village of Dering Harbor, or in the case of an entity or other organization, where the majority of the shareholders, members or beneficiaries are residents.

STAKE, MOORING AND PULLEY SYSTEM - A system consisting of an in-ground or equivalent stake above the mean high-water mark or on a bulkhead and a mooring in immediately adjacent waterways, both connected by lines and pulleys.

TOWN BOARD – The Town Board of the Town of Shelter Island.

VILLAGE JURISDICTION - The maximum area over the waters surrounding the Incorporated Village of Dering Harbor, including the areas outside the Village of Dering Harbor within one thousand five hundred (1,500) feet of the mean high-water mark of the shoreline of the Village, over which the Village of Dering Harbor may exercise jurisdiction pursuant to the New York State Navigation Law, and any other applicable laws of the State of New York.

WATERS OF VILLAGE JURISDICTION - The portion of the waters surrounding and under the Village’s jurisdiction within one thousand five hundred (1,500’) feet of the mean high-water mark of the shoreline of the Village.

WATERS, VILLAGE - The portion of the waters surrounding and under the Village’s jurisdiction within five hundred (500’) feet of the mean high-water mark of the shoreline of the Village, which are to be managed by the Village pursuant to the IMA with the Town of Shelter Island.

WATERS, TOWN MANAGED - The portion of the waters surrounding and under the Village’s jurisdiction between the line measured five hundred (500’) feet of the mean high-water mark of the shoreline of the Village and the line measured one thousand five hundred (1,500’) feet of the mean high-water mark of the shoreline of the Village, which are to be managed by the Town of Shelter Island pursuant to the IMA with the Town of Shelter Island as provided under this chapter.

WATERWAYS COMMISSIONER - An individual to be appointed by the Mayor with the consent of the Board of Trustees, whose duty it shall be to ensure the administration and enforcement of this Chapter.

§125-4. Sanitation; Operation of vessels.

A. Sanitation. The dumping or release of oil, chemicals, refuse, garbage, debris, sewage or waste of any kind in the waters of the Village jurisdiction is prohibited.

B. Mufflers. No person shall operate a vessel or boat propelled wholly or partly by an engine operated by the explosion of gas, gasoline, naphtha or other substance without having the exhaust from the engine run through a muffling device so constructed and used as to muffle the noise.

C. Operation near bathers in the waters of the Village jurisdiction. No vessel, boat or water scooter propelled other than by hand shall cruise or be operated within one-hundred (100') feet of any lifelines or bathing float or, if there are no lifelines or bathing float, then within -hundred (100') feet of any public or semipublic beach regularly used for bathing or swimming, except that such vessel, boat or personal watercraft may approach or depart perpendicularly to such beach at a rate not to exceed five miles per hour solely for the purpose of commencing or ending the ride.

D. Water-skiers. The following regulations shall apply to water skiing in the waters of the Village jurisdiction.

(1) No person shall operate a vessel for towing a person on water skis, a surfboard or similar device unless there is in such boat or vessel a person, other than the operator, of at least 18 years of age, in a position to observe the progress of the person being towed.

(2) No person shall ride on water skis, a surfboard or similar device or use or operate a boat to tow a person thereon between the period after sunset to sunrise.

(3) No person shall ride on water skis, a surfboard or similar device or use or operate a boat to tow a person thereon within five-hundred (500') feet of any bathing beach or dock or within fifty (50') feet of any swimmer or bather.

(4) No person shall ride on water skis, a surfboard or similar device or use or operate a boat to tow a person thereon within Village Waters within five hundred (500') feet of the mean high-water mark of the shoreline of the Village.

(5) No person shall ride on water skis, a surfboard or similar device or use or operate a boat to tow a person thereon within a mooring field.

E. Restrictions on the speed of boats. Except where lower maximum speed limits have been posted, no boat shall be operated in excess of twenty (20) miles per hour in the waters of the Village jurisdiction. All vessels, boats or personal watercrafts propelled other than by hand within a distance of five-hundred (500') feet of the mean high-water mark of the shoreline of the Village shall be operated at a speed of less than five (5) miles per hour, and so as not to create a

wake of any kind.

F. Seaplanes. All provisions of the laws of this state and of the United States relative to the use and operation of aircraft shall be complied with by all seaplanes navigating and using the waters of the Village jurisdiction. No seaplane shall take off or land upon any waters of the Village jurisdiction, except in case of emergency. For the purposes of this section, the term "emergency" shall mean a situation or circumstance endangering any person.

G. Operation of vessels or boats. The following shall apply to the operation of vessels or boats in the waters of the Village jurisdiction.

(1) Every master or operator of a vessel or boat shall at all times navigate such vessel or boat in a careful and prudent manner and at such rate of speed as not to unreasonably endanger any vessel or person.

(2) No vessel or boat other than the tending vessel or boat shall be operated within one-hundred (100') feet of a red flag with a diagonal white bar which, when displayed on the water or from a boat, indicates underwater diving.

(3) No vessel or boat shall tie or moor to any Village or Town-owned float, buoy or channel marker, except in an emergency, and then only for the duration necessary to effect repairs or remedy the emergency.

(4) No vessel or boat shall be anchored or moored in, or so close to allow boats to swing out into, the channel in Dering Harbor as set out and marked by buoys.

H. Personal watercraft. To maximize the public's use and enjoyment of the waters of the Village jurisdiction in a safe and responsible manner and to protect the shallow marine areas while protecting the health, safety and welfare of all the people of the Village, the following regulations shall apply to the operation of personal watercraft in the waters of the Village jurisdiction.

(1) No person shall operate a personal watercraft unless each person riding on or towed behind such vessel is wearing a life jacket (Type I, II, III or V) approved by the United States Coast Guard.

(2) No person shall operate a personal watercraft unless such vessel is equipped and fitted with a United States Coast Guard approved device for arresting carburetor backfire.

(3) No person shall operate a personal watercraft unless such vessel is equipped with at least two ventilators fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilges of every engine and fuel tank compartment in order to remove

any inflammable or explosive gases.

(4) Any person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach such lanyard to his or her person, clothing or personal flotation device as is appropriate for the specific vessel.

(5) No person shall operate a personal watercraft at any time between the hours after sunset to sunrise.

(6) Except to allow a permitted transit as provided in subsection (8) below, no person shall operate a personal watercraft within five hundred (500') feet of the mean high-water mark of the shoreline of the Village, within a designated mooring field or within five-hundred (500') feet of a red flag with a diagonal white bar which, when displayed on the water or from a boat, indicates underwater diving.

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

(8) Personal watercraft may only be launched from a dock, designated launching site or from a private beach with the property owner's consent. "Transit" shall mean the safest and most direct route to and from the launching site of the personal watercraft to or from waters as specified above. Personal watercraft shall observe all speed regulations during transit as provided by this Chapter and/or as posted on the waters, and at no time shall the speed of a personal watercraft exceed five (5) miles per hour in Village Waters and twenty (20) miles per hour in the Town Managed Waters.

(9) Registration numbers on personal watercraft shall be visible at all times and shall be in accordance with all applicable federal and state regulations.

(10) Personal watercraft shall comply in all respects with all state and federal regulations.

I. Violation. A violation of the foregoing provisions of this §125-4 shall be a violation of this chapter.

§125-5. Anchoring. A transient anchoring in the waters of the Village jurisdiction shall only be permitted in accordance with the following procedures and conditions.

A. Transient Anchoring in Village Waters Prohibited. Transient anchoring in Village Waters within five hundred (500') feet of the mean high-water mark of the shoreline of the Village is prohibited.

B. Transient Anchoring in Town Managed Waters. Transient anchoring in Town Managed Waters between the line measured five hundred (500') feet of the mean high-water mark of the shoreline of the Village and the line measured one thousand five hundred (1,500') feet of the mean high-water mark of the shoreline of the Village, is prohibited, except during the time the IMA with the Town of Shelter is in effect, the issuance a transient anchoring permit in Town Managed Waters shall be subject to the applicable procedures, applications, permits and authorizations as set forth in the provisions of Chapter 128 (Waterways) of the Code of the Town of Shelter Island or such other laws or rules promulgated by the Town of Shelter Island and/or the Village pursuant to the IMA.

C. Violation. A violation of the foregoing provisions of this §125-5 shall be a violation of this chapter. It shall also be a violation of this chapter for a person to anchor a vessel in the waters in the Village jurisdiction without a valid permit issued pursuant to this chapter or not in full compliance with all conditions of a permit or other provisions of this chapter.

§125-6. Moorings. No person shall moor, or place a mooring or a stake, mooring and pulley system in the waters of the Village jurisdiction without first obtaining a permit in accordance with the following procedures and conditions.

A. Mooring in Village Waters for Resident. A mooring in Village Waters within five hundred (500') feet of the mean high-water mark of the shoreline of the Village for a vessel owned or controlled by a resident of the Village may only be permitted by issuance of a permit by the Village Waterways Commissioner.

B. Mooring in Village Waters for Non-Resident Prohibited. A mooring in Village Waters within five hundred (500') feet of the mean high-water mark of the shoreline of the Village for a vessel owned or controlled by a non-resident of the Village is prohibited.

C. Mooring in Town Managed Waters. A mooring in Town Managed Waters between the line measured five hundred (500') feet of the mean high-water mark of the shoreline of the Village and the line measured one thousand five hundred (1,500') feet of the mean high-water mark of the shoreline of the Village, for a vessel owned or controlled by a resident or a non-resident may only be permitted by issuance of a permit by the Village Waterways Commissioner. Notwithstanding anything in this §152-6 to the contrary, during the time the IMA with the Town of Shelter is in effect, the issuance a mooring permit in Town Managed Waters shall be subject to the applicable procedures, applications, permits and authorizations as set forth in the provisions of Chapter 90 (Moorings) of the Code of the Town of Shelter Island or such other rules promulgated by the Town of Shelter Island and/or the Village pursuant to the IMA, including the agreement to give first priority to a Village resident on a waiting list for a mooring within Town/Village Waters.

D. Application for Mooring Permit. Except in Town Managed Waters when the IMA is in effect, an application to the Village Waterways Commissioner for a mooring permit shall be in such form and include such documents as required by the Village Clerk and shall be accompanied by a fee as the Board of Trustees shall establish by resolution. The original application shall be delivered to the Village Clerk and accompanied by an electronic version. Each mooring shall be subject to a separate application. Applications for a mooring permit shall be available from the Village Clerk, and shall require the following information and attachments:

(1) Name of the vessel owner, mailing and electronic mail address(es), and contact phone number. If necessary, the applicant shall provide proof of residency of the Village of Dering Harbor.

(2) Description of the specific vessel to be moored.

(a) Vessel type and dimension (LOA, LWL, beam, draft).

(b) Type and size of vessel's engine(s), if any.

(c) Hull identification number (HIN) for any vessel built after 1972.

(d) Photograph that clearly identifies the vessel.

(3) Proof of ownership of vessel by copy of the registration, bill of sale, documentation certificate or, if not so registered, copy of equivalent proof of ownership or lease or charter agreement that extends for at least three years from the date of permit application.

(4) GPS latitude and longitude designation of the requested vacant location of the proposed mooring. If necessary, the applicant shall submit a sketch and description of the desired location.

(5) Attestation of the applicant to compliance with the no-discharge requirements for any boat allowed to use the mooring.

(6) Attestation of the applicant acknowledging that the Village reserves the right to require a mooring permit holder of a mooring to relocate a mooring if it is determined, after due notice is given to the permit holder, that there are compelling reasons requiring a relocation. If there is no available alternate location, the permit holder will be offered top priority on the waiting list of his/her choice.

(7) Attestation of the applicant that acknowledging that the acceptance of a mooring permit shall constitute an agreement that the applicant shall hold the Village of Dering Harbor, its officers, employees, contractors, agents, and its authorized representative completely blameless for any liability in connection with the mooring of his boat or vessel; nor shall the Village of Dering Harbor be responsible for the loss, theft or damage to boats and/or their contents nor damage to any other property caused by moored boat.

E. Procedure for Review of Mooring Permit. The Village Clerk shall refer the application for a mooring permit with five (5) days of receipt. The Waterways Commissioner, within fifteen (15) days after receiving an application from a qualified party for the mooring permit, shall either accept the application as duly filed, or return the application to the applicant as deficient, with a statement in writing stating the reason as to that determination. For all applications that the Waterways Commissioner shall deem to be complete, the Waterways Commissioner shall make a determination as to whether the application should be approved, based on such factors as the proposed mooring location, whether the applicant is a riparian or waterfront landowner, the size of the craft or vessel to be anchored, potential for creating a hazard or danger to navigation or other vessels, c proximity to docks or other man-made waterfront facilities, environmental considerations or other factors, including the standards and criteria set forth below, and any other considerations as the Waterways Commissioner may deem relevant, and whether as established by this Chapter, or other laws and regulations of the Village or the State of New York, the mooring can be established at the selected location. The Waterways Commissioner may establish a gridded mooring field that identifies acceptable and available mooring locations based upon known water depths, physical features, distance and density, and inventory of existing moorings and open locations. The Waterways Commissioner may consult the provisions of the Chapman guide to mooring or such other resources as the Waterways Commissioner may deem to be authoritative as to the placement of moorings where applicable. Upon approval, the Waterways Commissioner shall issue a Mooring Permit with the name of the applicant, the make, model and registration numbers of the vessel, the time period for the mooring permit and other pertinent information.

F. Qualified applicant for a mooring permit; term; limitations on number of permits.

(1) Any person applying for a mooring permit shall own a vessel or have leased or chartered a vessel, must be a resident and shall be at least 18 years of age.

(2) Limitation on number of moorings and priority in Village Waters. It is the intent of the Village to accommodate and allow each property with a residence in the Village to be eligible to have a mooring within the boundaries of the Village Waters. To assure such availability, no more than two (2) mooring permits shall be issued to any one person or to

a household at a single property address. A qualified applicant may apply for a third or additional mooring or mooring in Town Managed Waters or in Village Waters, provided that the Waterways Commissioner has identified available mooring space in the Village Waters and there is no waiting list of other eligible residents. Where there is no availability in Village Waters, higher priority shall be given to a qualified applicant that has not previously had a mooring permit over a third or additional mooring.

(3) Term. A mooring permit shall be valid for a period of three (3) years, except that the term for any mooring permit issued to a qualified applicant for a third or additional mooring permit in Village Waters shall be one (1) year. After the expiration of the mooring permit, no person shall moor, or place a mooring or a stake, mooring and pulley system in the waters of the Village jurisdiction without first renewing the expired permit or obtaining a new permit.

(4) Notwithstanding anything in this section F to the contrary, during the time the IMA with the Town of Shelter is in effect, a Village resident seeking a third or additional mooring shall be given first priority to a mooring permit within Town Managed Waters subject to the applicable procedures, applications, permits and authorizations as set forth in the provisions of Chapter 90 (Mooring) of the Code of the Town of Shelter Island or such other laws or rules promulgated by the Town of Shelter Island and/or the Village pursuant to the IMA.

(5) Commercial mooring. A commercial mooring in the waters of the Village jurisdiction is prohibited and an applicant for a commercial mooring shall not be eligible for mooring permit in the waters of the Village jurisdiction, except with permission of the Board of Trustees, who may, by resolution, authorize a permit for a commercial mooring where such commercial mooring will not be unduly disruptive to the goals and objectives this chapter and will otherwise be in the best interests of the Village and protect the natural resources and the health, safety and welfare of the Village. Consideration of an application for a commercial mooring by the Board of Trustees may include consideration of a rental fee payable to the Village. Application for a commercial mooring shall be in such form and include such documents as required by the Village Clerk and shall be accompanied by a fee as the Board of Trustees shall establish by resolution. Notwithstanding anything in this §125-6 to the contrary, during the time the IMA with the Town of Shelter is in effect, the issuance of a permit for a commercial mooring in Town Managed Waters shall be subject to the applicable procedures, applications, permits and authorizations as set forth in the provisions of Chapter 90 (Mooring) of the Code of the Town of Shelter Island or such other rules promulgated by the Town of Shelter Island and/or the Village pursuant to the IMA, provided that in no case shall a commercial mooring be located in Village Waters.

G. Vessels and boats not eligible for a Mooring Permit. Application for mooring permit shall not be accepted for the following types of vessels or boats:

- (1) Boats less than 12 feet in length.
- (2) Personal watercraft.
- (3) Sunfish, surfboards, paddleboards, wind surfers, and similar board boats.
- (4) Canoes, kayaks, rowing shells and paddle boats.
- (5) Duck boats and duck blinds.
- (6) Floating dry docks and similar non-self-propelled vessels.
- (7) Boats or vessels designed, used or intended to be used as a dwelling.
- (8) Boats or vessels designed, used or intended to be used for commercial purposes, including a charter boat, tour boat, barge or a tugboat, except a vessel where the resident's livelihood is commercial fishing or shell fishing.
- (9) Boats similar in design to the foregoing.

H. Mooring permits are subject to and shall contain the following conditions:

- (1) A mooring permit shall only be held by the person in whose name the craft or vessel which uses that mooring is registered, and only for the craft or vessel for which the permit was issued. In the event that the craft or vessel is owned by a corporation or other entity, the party or parties in interest in the ownership of the corporation or entity must be the same as the party or parties in interest in the ownership of the mooring permit.
- (2) A mooring permit shall only be valid only when the holder is a resident of the Village. A mooring permit holder who changes residency during the term of the initial or a renewal permit has an obligation to notify the Village Clerk and surrender the permit when he or she ends his or her residency in the Village of Dering Harbor.
- (3) The permit holder shall be responsible for installing and maintaining the appropriate mooring tackle to adequately secure the boat to the mooring.
- (4) Moorings must be accurately placed before July 1 or within nine months of permit issuance, whichever is sooner, and properly maintained at the location specifically permitted by the Waterways Commissioner.

(5) The permit holder shall maintain a copy of such permit and affix the applicable permit number on the buoy associated with the mooring at all times during the time the mooring permit is valid.

(7) The mooring permit shall not be rented, assigned or transferred to any other person or entity.

(8) The mooring permit shall not be transferred to a new vessel without an application to the Waterways Commissioner. In the event that a person holding a mooring permit sells or intends to sell the craft or vessel for which the mooring was used, and the person holding the permit is purchasing another craft or vessel for which he wants to use the mooring site, that person shall file an application for a new mooring permit from the Waterways Commissioner for the new craft or vessel which the person has purchased in order to be eligible to continue to use the mooring for the craft or vessel which they are acquiring or have acquired.

I. All moorings shall adhere to the following rules:

(1) A mooring not at its prescribed location shall be deemed off-station.

(2) Use of an off-station mooring shall constitute illegal anchoring of a vessel and constitute a violation of this chapter with the consequent penalties.

(3) All winter stakes shall be removed from the water, and the mooring marked with a buoy, between July 1 and Labor Day.

(4) All mooring anchors or their equivalent shall be of appropriate size and weight, with chain or rope in sound condition to properly secure the moored vessel, and a mooring buoy attached to the mooring line of at least 12 inches in length or diameter and of sufficient size and buoyancy to remain afloat when not attached to the vessel.

(5) Simultaneous occupancy of a mooring by more than one vessel and its tender is prohibited for a period of more than three hours.

(6) Only one mooring permit shall be issued for each vessel. Preexisting multiple permits for the same vessel are not allowed.

(7) Notwithstanding the foregoing, the Waterways Commissioner reserves the right to require a holder of a mooring permit to relocate a mooring if it is determined, after due notice is given to the permit holder, that there are compelling reasons requiring a relocation including the priority of availability when considering multiple mooring permits. If there is no available alternate location, the permit holder will be offered top priority on the waiting

list.

(8) Acceptance of a mooring permit shall constitute an agreement that the permit holder shall hold the Village of Dering Harbor, its officers, employees, contractors, agents, and its authorized representative completely blameless for any liability in connection with the mooring of his boat or vessel; nor shall the Village of Dering Harbor be responsible for the loss, theft or damage to boats and/or their contents nor damage to any other property caused by moored boats.

(9) The permit holder shall notify the Waterways Commissioner and/or Village Clerk of any change in the boat to be placed on the mooring within seven (7) days of the change, and must submit an updated application to Village Clerk, including a copy of the new boat registration/documentation/charter agreement as well as a photograph of the changed vessel. The Village Clerk shall forward that information to the Waterways Commissioner for a determination whether the mooring location remains suitable for the new vessel due to its size and/or configuration.

(10) Any boat or vessel moored in violation of any part of this chapter or the rules and regulations adopted pursuant to this chapter; or any boat, vessel, or float or portion of a stake, mooring and pulley system which, while moored, sinks, grounds or becomes otherwise disabled; or becomes so located as to endanger life or property in any way; or becomes a menace to navigation or the environment; shall be removed forthwith by the owner or person in charge thereof.

(11) A vessel or boat which does not comply with the no-discharge zone sanitary device requirements shall not be eligible to apply for a new or renewal of a mooring permit.

J. Renewal of a Mooring Permit. A mooring permit may be renewed in accordance with the following:

(1) Application for renewal of a mooring permit shall be in such form and include such documents as required by the Village Clerk and shall be accompanied by a fee as the Board of Trustees shall establish by resolution. The original application shall be delivered to the Village Clerk and accompanied by an electronic version. Each mooring shall be subject to a separate application. Applications for a mooring permit shall be available from the Village Clerk and shall require the information and attachments set forth in section D above. The applicant shall identify if there are any conspicuous or material changes from the issuance of the prior permit. A material change may include whether there is a waiting list for a mooring in Village Waters and the renewal is for a second or additional mooring permit for one property owner.

(2) The Village Clerk shall refer the renewal application for a mooring permit to the Waterways Commissioner within five (5) days of receipt. In the event there are no material changes to the applicant's conditions from the issuance of the prior permit, the Waterways Commissioner, within five (5) days after receiving an application for the renewal of a mooring permit shall approve such renewal in the same manner and conditions as required for the original mooring permit under this chapter. In the event there are material changes to the applicant's conditions from the issuance of the prior permit, the Waterways Commissioner shall review the application as if it is a new application in accordance with the procedures and requirements set forth in section E above.

K. Previously Issued Mooring Permits. Nothing herein shall be deemed to be an approval or renewal of any mooring permits granted prior to the adoption of this chapter. All such permits are hereby revoked and all moorings existing within the limits, boundaries and the Village jurisdiction at the time of the adoption of this chapter shall be removed within ninety (90) days of the date of the adoption of this chapter, unless the owner of the mooring has obtained a new mooring permit in accordance with the provisions of this chapter. In the event that any such mooring is not removed as required, the mooring shall constitute a violation of this chapter and subject the owner of the mooring to the penalties and other action set forth herein and by the laws and regulations of the Village of Dering Harbor and the State of New York, and, if applicable, the removal of the mooring at the cost and expense of the owner of the mooring or the owner of any vessel that is or may have been using the mooring.

L. Waiver. Except in Town Managed Waters when the IMA is in effect, the Board of Trustees, upon receipt of an application with applicable fee, may by resolution, review the decision of the Waterways Commissioner denying a mooring permit or may waive a particular requirement or condition associated with an application for a mooring permit provided the applicant can demonstrate a undue hardship or unique circumstances where the grant of the waiver or issuance of a mooring permit will not be unduly disruptive to the goals and objectives this chapter and will otherwise be in the best interests of the Village and protect the natural resources and the health, safety and welfare of the Village.

M. Revocation of Mooring Permit.

(1) A mooring permit may be revoked by the Board of Trustees for any of the following reasons:

- (a) The permit holder is no longer a Village resident.
- (b) If the mooring is not placed on station before July 1 or within nine months of permit issuance, whichever is sooner.
- (c) If a mooring is placed without a permit, or in a location other than the one for which

the mooring has a permit.

(d) If a mooring fails to meet the minimum requirements set forth in the rules and regulations.

(2) A permit may be revoked after notice of revocation is sent by certified mail to the permit owner, or mooring holder if known, at the last known address. The Village Clerk or the Waterways Commissioner shall provide notice of revocation giving the holder of the mooring permit 15 days' notice of the intent to revoke the mooring permit and offer a hearing on the revocation before the Board of Trustees. After 15 days, and after the hearing if requested, the Board of Trustees may adopt a resolution stating the reasons for revocation, and file it with the Village Clerk.

(3) In the event of revocation, no portion of the permit fees will be refunded.

(4) If a permit is revoked, or if a mooring does not have a permit, written notice to remove it has been sent to the owner giving 30 days' notice to remove. If said mooring or stake, mooring and pulley system is not removed within this time, or if notice cannot be reasonably given after diligent effort is made to effect such notice, said mooring may be removed by or at the direction of the Waterways Commissioner at the owner's expense. The tackle may be sold by the Village at a public auction, and the expense of removal, storage and sale may be collected by the Village from the sale proceeds before any excess is returned to the owner.

N. Violation. A violation of the foregoing provisions of this §125-6 shall be a violation of this chapter. It shall also be a violation of this chapter for a person to moor a vessel or place, maintain or use mooring in the waters of the Village jurisdiction without a valid permit issued pursuant to this chapter or not in full compliance with all conditions of a permit or other provisions of this chapter.

§125-7. Docks and piers.

A. There shall be not more than one dock or pier per waterfront property.

B. No dock or pier shall be constructed, altered, repaired or replaced without first obtaining a permit from the New York State Department of Environmental Conservation and Town of Shelter Island.

C. No vessel or boat may be placed at a dock which, in the determination of the Waterways Commissioner or the Board of Trustees, will create a nuisance or a hazard to navigation or public safety or which will be a detriment to the environment or will have a significant adverse impact

on the neighboring properties or community due to the size, condition or type of the vessel.

D. A dock shall be used by the property owner whose property the dock is appurtenant and shall not be shared, rented, sold, allow any rights or otherwise used for the docking of a vessel by any other person, entity or property owner. A vessel of a guest of the owner may temporarily use the dock for a period no more than seven (7) consecutive days and not more than fourteen (14) days in total from May 15 to September 15.

E. A dock shall not be used for any commercial purpose and no commercial vessel, barge, platform, ferry, tour boat or charter boat shall use a dock for loading, docking or any other purpose.

F. No person shall live or reside for more than seven (7) consecutive days on a vessel, boat, or any other floating structure attached to a dock.

G. Violation. A violation of the foregoing provisions of this §125-7 shall be a violation of this chapter. It shall also be a violation of this chapter for a person to use a dock in the waters of the Village jurisdiction not in full compliance with all conditions of a permit or other provisions of this chapter.

§125-8. Administration; Management and Enforcement.

A. Administration/Management. The approving authority with respect to applications under this chapter shall be the Waterways Commissioner or the Board of Trustees, except during the time the IMA with the Town of Shelter is in effect, the approving authority for the issuance of permits for transient anchoring and moorings in Town Managed Waters shall be the Town of Shelter Island, its officers, employees, appointees and agents acting pursuant to the IMA between the Village and Town. In the event of any uncertainty of authority to act, the Board of Trustees shall adopt a resolution clarifying said authority.

B. This chapter shall be enforced by the Board of Trustees, Waterways Commissioner, Code Enforcement Officer, Building Inspector and/or such other entities to which such responsibility and authority may be delegated or assigned by the Board of Trustees, except during the time the IMA with the Town of Shelter is in effect, the Town of Shelter Island through its Harbormaster, Bay Constables, Police Officers or other lawfully designated agents pursuant to their special duties, shall have the authority to enforce this chapter pursuant to the IMA between the Village and Town. In the event of any uncertainty of authority to act, the Board of Trustees shall adopt a resolution clarifying said authority.

§125-9. Violations and Penalties; Remedy Not Exclusive.

Unless a different penalty is provided for in any section in this chapter, any violation of the provisions of this chapter shall be punishable as follows:

A. With respect to a violation of any provision of §125-4:

- (1) The first offense shall be punishable by a fine by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 15 days, or both.
- (2) The second offense, within a period of 12 months, shall be punishable by a fine of not less than \$250, nor more than \$750, or by imprisonment for not more than 15 days, or both.
- (3) The third or subsequent offense, within a period of 24 months, shall be punishable by a fine of not less than \$500, nor more than \$2,000, or by imprisonment for not more than 15 days, or both.
- (4) For purposes of this section, each and every day that a violation of this chapter should exist shall be a separate violation of this chapter.

B. With respect to a violation of any provision of §125-5 or §125-6:

- (1) Every violation of the foregoing sections of this chapter shall be subject to a fine of not less than \$1,000, nor more than \$5,000, per offense or violation, or by imprisonment for not more than 15 days, or both.
- (2) For purposes of this section, each and every day that a violation of this chapter should exist shall be a separate violation of this chapter.

C. With respect to a violation of any provision of §125-7:

- (1) Every violation of the foregoing sections of this chapter shall be subject to a fine of not less than \$1,500, nor more than \$10,000, per offense or violation, or by imprisonment for not more than 15 days, or both.
- (2) For purposes of this section, each and every day that a violation of this chapter should exist shall be a separate violation of this chapter.

D. In addition to the penalties defined herein, the Board of Trustees may take any appropriate action or commence any action or proceeding to prevent the continued violation of any provision of this chapter.

E. In addition to the penalties defined herein, the party and or vessel or boat that shall be in violation of this article shall be subject, at the option and discretion of the parties authorized to enforce the provisions of this chapter, or an appropriate body or officer of the Village or Town as the case may be, to the seizure of the craft or vessel that may be moored without a permit hereunder, or that is otherwise in violation hereof, and the removal and seizure of any mooring that is not approved, with the costs of same including storage and other charges, to be assessed to by the Village of Dering Harbor to the owner of the craft, dock, mooring or vessel.

SECTION 3. Authority. The proposed local law is enacted pursuant to New York State Village Law §4-412, New York State Navigation Law §46-a, and the New York State Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(11), 10(1)(ii)(a)(12), and 10(1)(ii)(e) (3).

SECTION 4. Severability. If any section or subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole, or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 5. Effective Date. This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.