

# RTM RULES & ORDINANCES COMMITTEE

## Town of Branford



Adrian Bonenberger, Dan Adelman, Susan Dahill, Frank Twohill, Peter Black, Trish Anderson  
Peter Hentschel, Chair

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### **SPECIAL MEETING REVISED**

Monday, June 2, 2025, 7:00 PM

### **THIS WILL BE A ZOOM MEETING**

*<https://us02web.zoom.us/j/87180428768?pwd=x7nDDI8iLV6sfXL46FNJki0ziVSHPx.1>*  
*Meeting ID: 871 8042 8768 Passcode: 497260 646-558-8656*

1. Call to Order - Roll Call
2. To consider, and if appropriate, recommend the establishment of a Branford Harbor Management Commission as requested by the First Selectman.
  - a. Final review and approval of the proposed ordinance
3. Adjourn

Respectfully Submitted  
Peter Hentschel  
Chair, RTM Rules & Ordinances Committee

Branford Town Code, Part II, Chapter

**Harbor Management Commission**

1. Purposes.

- A. The Town of Branford (the “Town”) wishes to protect its marine historic resources and sensitive coastal resources found along its harbors and near-shore coastal waters; to provide greater opportunities for water-based recreational activities; and to maintain and enhance navigational facilities for the benefit of all maritime users.
- B. Therefore, the Town desires to manage its near-shore coastal waters, by establishing a harbor management commission to plan for safe and beneficial use and enjoyment of the Town’s harbor management area as hereinafter defined.
- C. The Town believes that the most responsible way to ensure safe and beneficial use of its near-shore coastal waters and the protection of its coastal resources is through the adoption of a harbor management plan that defines policies for the use and protection of the Town’s near-shore coastal waters.
- D. The tidal waters below Mean High Water (MHW) of the Town’s shoreline including rivers, are Public Trust Waters and, as such the Shoreline below MHW is Public Trust Property. The Connecticut Department of Energy and Environmental Protection (“CT DEEP”) is the Public Trustee of this public trust.

2. Authority: Commission created.

- A. Pursuant to the authority granted by Chapter 444a of the Connecticut General Statutes (§§ 22a-113k through 22a-113t), as may be amended from time to time, there is hereby created a Branford Harbor Management Commission (the “BHMC”) with all the powers and duties specified in said Chapter 444a except as those have been specifically limited by the provisions of this ordinance and in accordance with statute.

3. Jurisdiction: Harbor Management Area

- A. The BHMC shall have jurisdiction within the near-shore coastal waters that are within the territorial limits of the Town of Branford and are seaward of the Mean High Water Line, bounded by the projection into Long Island Sound of the boundary line of neighboring towns and extending out into Long Island Sound to the jurisdictional extent allowed by State of Connecticut. Such area shall be referred to as the Branford Harbor Management Area (the “BHMA”).
- B. The Harbor Management Commission may also review and make recommendations, consistent with the Branford Harbor Management Plan (the “BHMP”), on any pending applications affecting real property on, in, or contiguous to the Branford Harbor Management Area received by any municipal board or commission listed in C.G.S. § 22a-113p, or applications pending review by the Connecticut Department of Energy and Environmental Protection as directed by the CT DEEP.

#### 4. Branford Harbor Management Commission

##### A. Membership.

- (1) The BHMC shall consist of nine members who must be electors, or individual owners of property, or representatives of entities (corporations, limited liability corporations, trusts, etc.) that own property, within the Town of Branford. The provisions of C.G.S. § 9-167a shall apply. These members shall be appointed by the Board of Selectmen (the “BOS”) according to the following process:
- (2) In addition to any other customary process for appointments to Commissions and Boards of the Town of Branford, the Board of Selectmen (BOS) shall process all written nominations received from the public as follows:
  - (a) Nomination letters shall be made public as an attachment to the published BOS agenda for any meeting considering appointments to the BHMC.
  - (b) During the BOS meeting considering appointments to the BHMC, and prior to voting on appointments, each nominee shall be considered.
- (3) Seven of the appointments made shall include, at a minimum, a representative of each of the following Branford stakeholder groups:
  - (a) Marina and Boatyard managers
  - (b) Commercial maritime businesspeople and fishermen
  - (c) Coastal environment advocates
  - (d) Recreational boaters
  - (e) Shell fishermen
  - (f) Island owners
  - (g) Coastline residents
- (4) If no stakeholder nominee from any one of the categories above has been received, the BOS shall appoint an additional Commissioner from the remaining categories.
- (5) Two additional appointments shall be made which may include representatives from other Branford Boards, Commissions, Working Groups and Committees:
- (6) The First Selectman, or such other Selectman as they may appoint, and the Harbormaster shall serve as ex officio members of the Commission, without vote.

##### B. Compensation.

- (1) A member of the BHMC shall not receive compensation for service but may be reimbursed for necessary and appropriately approved expenses, but such provision shall not apply to the First Selectman, or such Selectman as he has appointed, or to the Harbormaster.

##### C. Terms of office.

- (1) Within 60 days after the effective date of this ordinance, the BOS shall appoint five (5) members to serve for a term ending on the first Monday of the fourth

January hence and four (4) members to serve for a term ending on the first Monday of the second January hence. Thereafter, the terms of members shall run for four years.

- (2) If a member resigns or is removed for any reason before his or her term expires, a replacement shall be appointed by the BOS to complete that term.
- (3) No member shall serve more than two (2) consecutive four (4) year terms. A person who has served two (2) consecutive four (4) year terms may be reappointed to the BHMC only after a period of two (2) years has passed since the end of their second consecutive four (4) year term.

D. Officers and Committees.

- (1) Upon the creation of the BHMC under this ordinance, the BHMC shall hold an organizational meeting at which it shall elect a Chairperson and Secretary and such other officers as it may desire to serve until the first January hence. During the month of January and annually thereafter, the Commission shall elect a Chairperson and Secretary and other officers as it may desire for a one-year term. No individual shall serve in any one capacity for more than two consecutive terms.
- (2) The Commission may form subcommittees to address specific duties of the Commission.

5. Powers, Duties and Responsibilities of the BHMC.

A. Initial Responsibilities – Preparation and Adoption of a Harbor Management Plan

- (1) The initial responsibility of the BHMC shall be to prepare a Branford Harbor Management Plan in accordance with C Chapter 444A of the Connecticut General Statutes, as may be amended from time to time.
- (2) The BHMC shall hire qualified professional consultants, with prior experience in the development of harbor management plans, for the preparation of the HMP and may hire consultants to assist with any subsequent powers, duties and responsibilities, subject to the appropriation of funds for this purpose by the Town.
- (3) Until the BHMP has been approved and adopted pursuant to C.G.S. § 22a-113m, the Commission shall have no other powers or duties.

B. Regulations.

- (1) As part of the BHMP, the BHMC shall have the authority to propose regulations for the operation of vessels pursuant to C.G.S. § 15-136.
- (2) Said regulations shall be reviewed by all appropriate jurisdictions prior to their being submitted for formal approval per Section 5.A(4) of this ordinance.

C. The initial development, approvals, and adoption of the BHMP, as well as the periodic re-evaluation of the BHMP and any proposed regulations, shall include the following process:

- (1) The consultant's development of the draft BHMP shall include public meetings at the beginning, middle, and final draft stages of development.

- (2) The key stakeholders (as defined above) shall be included and consulted during the development process and public meetings.
- (3) The Harbor Management Plan shall include the content: as set forth in CGS 22a-113n.
- (4) In preparing the plan, the consultant and commission shall consider among other things the factors as set forth in CGS 22a-113o
- (5) BOS approval, or recommendation for modifications, of the draft BHMP is required prior to submission for review and approval by State and Federal authorities pursuant to C.G. S, § 22a-113m.
- (6) The BHMP must be approved as required by C.G.S. § 22a-113m before formal adoption by the Town,
- (7) After the required State and Federal approvals have been received, the BHMP and any proposed regulations must be formally adopted by the BOS and RTM as part of this ordinance before their enactment.

D. Periodic Public Review of the BHMP.

- (1) Upon adoption of the BHMP, the BHMC shall provide for the periodic review of the BHMP based on public input received through a formally announced public hearing.
- (2) Such periodic public review will take place three years after the initial adoption of the BHMP and after every five years hence:
- (3) If appropriate, based on such review, the BHMC may make additions and/or modifications to the plan that may be deemed appropriate subject to the process set forth in Chapter 444A of the Connecticut General Statutes, as may be amended from time to time.

E. After the BHMP has been adopted, the BHMC shall have and may exercise the following powers, duties and responsibilities:

- (1) To supervise the use of the BHMA and the mooring, docking, landing and other facilities appurtenant the BHMA to the extent of the Town's authority therein and in accordance with the BHMP and Chapter 444A of the Connecticut General Statutes (§§ 22a-113k through 22a-113t), as may be amended from time to time,
- (2) To recommend to the BOS fees relating to the use of moorings, docking, landings, and other facilities appurtenant to the HMA,
- (3) To recommend to the Representative Town Meeting (the RTM) any additional ordinances which may be required to support the BHMP, which ordinances may specify fines for violations of those ordinances,
- (4) To assist the Harbormaster in the assignment of moorings and in the management of mooring and anchorage areas within his jurisdiction to assure that such assignments are consistent with the BHMP,
- (5) To prepare an annual operating budget for the BHMC for submission to the Board of Finance, and the RTM in accordance with the Town Charter. Said budget may include the expenditure of fees collected and held in the Harbor

Management Fund as well as additionally allocated amounts from the Town itself,

- (6) To assist and coordinate with all other public and private agencies, commissions and other organizations which have interest or jurisdiction within the BHMA,
- (7) To review for consistency with the BHMP any public notice of an application for a local, state or federal permit for an activity taking place within the BHMA and to provide recommendations to the regulating agencies,
- (8) To conduct or cause to be conducted studies of the conditions and activities in and adjacent to the BHMA,
- (9) To request, when appropriate, a general permit from the United States Army Corps of Engineers and/or delegation of state enforcement authority pursuant to C.G.S. § 22a-2a,
- (10) To review and update the BHMP periodically.

6. Referral of proposals submitted to other municipal agencies.

- A. Pursuant to C.G.S. § 22a-113p, the BHMC shall review and make recommendations, consistent with the BHMP, on any proposal affecting the real property on, in or contiguous to the BHMA submitted to the Planning and Zoning Commission, Zoning Board of Appeals, Water Pollution Control Authority, or Shellfish Commission. The BHMC shall be notified by that primary reviewing agency, in writing, of any such proposal at least 35 days prior to the commencement of the hearing thereon or, where no hearing is held, at least 35 days prior to the taking of any deliberation or action on the proposal. Such primary reviewing agency shall send a copy of the proposal or application to the BHMC upon request of the BHMC.
- B. The primary reviewing agency authorized to act on the proposal shall consider the recommendations of the BHMC. A two-thirds vote of all the members of said agency having authority to act on the proposal shall be required to approve a proposal which has not received a favorable recommendation from the BHMC, provided that the provisions of this section shall not be deemed to alter the authority of the agency having primary jurisdiction over the proposal to deny, modify or condition the proposal. Failure of the BHMC to submit a recommendation on or before the date of the hearing or action on such a proposal shall be deemed an approval.

7. Permit Fees:

- A. Per C.G.S. § 22a-113s, the commission may propose a fee schedule for a permit for a mooring or anchorage or any other activity within the scope of the plan.
- B. The **maximum** annual fee for a mooring, anchorage or other permittable activity shall be no greater than two hundred dollars (\$200).
- C. The Harbor Master or Deputy Harbor Master shall collect such fee. Any fee collected pursuant to this section shall be deposited into a fund (the Harbor Management Fund) maintained by the Town of Branford and shall be used for the maintenance and improvement of the HMA for the public and for expenses for personnel and equipment directly related to the function of the BHMC and the Harbor Master or Deputy Harbor Master.

8. Harbor Management Fund.

- A. Pursuant to C.G.S. § 22a-113l and 22a-113s, there shall be a Harbor Management Fund created to receive and expend monies for harbor management purposes as determined by the BHMC. All revenues generated by mooring permit fees and municipal fines levied for violations of supporting regulations shall be deposited into the Fund. Funds shall be disbursed for purposes directly associated with the management of the BHMA and implementation of the BHMP.
- B. The Harbor Management Fund shall be budgeted and administered in a manner consistent with the procedures contained in the Town Charter and C.G.S. § 22a-113s.

9. Conflict with statutory provisions.

- A. Should any provisions of this chapter be found with finality by a court of competent jurisdiction to be prohibited by the Connecticut General Statutes, the provisions of such statutes shall prevail. If any provision of this chapter is found to be invalid or unlawful, the remainder of the chapter shall remain in full force and effect as if such portion found to be invalid or unlawful were not originally part of this chapter.