

Town of Searsport

An Ordinance for the Control and Regulation of the Town Wharf, Town Wharf Floats, Town Wharf Boat Launching Ramp, adjoining Town Wharf Park and the waters of Penobscot Bay adjacent thereto.

Article 1 General

1.1 Short Title

This Ordinance, prepared in accordance with the provisions of the Constitution Of Maine, Article VIII, Part 2; 30—A MRSA ss 3001; 38 MRSA ss 3—9; 38 MRSA ss 11, as amended, shall be known as and may be cited as the “Ordinance for the Control and Regulation of the Town Wharf, Town Wharf Floats, Town Wharf Boat Launching Ramp, adjoining Town Wharf Park and the waters of Penobscot Bay adjacent thereto” and shall be referred to herein as the “Ordinance.”

1.2 Purpose

The purpose of this Ordinance shall be to control and regulate the public use of the town wharf, town wharf floats, town wharf boat launching ramp, adjoining town wharf park and the waters of Penobscot Bay adjacent thereto, and to provide for penalties and fines for violations of the provisions of this Ordinance.

1.3 Definitions

For purposes of this Ordinance, the following definitions shall be observed. All—terms, not specifically defined herein, shall have their ordinary or customary meanings. Words used in the present tense shall include the future and the plural shall include the singular.

- 1.3.1 “Emergency Personnel” shall mean those personnel assigned to the town’s police department, fire department, ambulance service and such other personnel as may be so designated by the town.
- 1.3.2 “Floats” shall mean a floating platform attached to the shoreline or a wharf to which boats may tie alongside or upon or which tenders may be stored
- 1.3.3 “Harbormaster” shall mean that municipal official so designated and appointed in accordance with the provisions of 38 MRSA ss 1, as amended.
- 1.3.4 “Moorings” shall mean those devices so designed and installed for the purpose of anchoring or securing boats or vessels.
- 1.3.5 “Police Officer” shall mean an officer of the Searsport Police Department.
- 1.3.6 “Public Service Personnel” shall mean those personnel assigned to the town’s Public Works Department, the town’s Wastewater Division, the Searsport Water District and the Central Maine Power Company.
- 1.3.7 “Tender” shall mean a dinghy or other boat expressly used for the purpose of transporting persons and material, from the shoreline or wharf, to a boat or vessel moored or at anchor off the town wharf, or on the waters of Penobscot Bay adjacent thereto. Tenders do not qualify for the assignment of a mooring site.
- 1.3.8 “Town” shall mean the Town of Searsport, Maine.

1.4 Enforcement

It shall be the duty of the harbormaster or designees to enforce the provisions of this ordinance, by causing the person or persons offending any of the provisions of the ordinance, rules or regulations to be prosecuted for the penalty or penalties incurred.

1.5 Waters Regulated NEED INFO

Article 2 Administration

2.1 General Rules

All users of the town wharf, town wharf floats, town wharf boat launching ramp, adjoining town wharf park and the waters of Penobscot Bay adjacent thereto, shall be subject to and governed by the following controls and regulations.

2.1.1 Town Wharf

- a. No bicycles, all-terrain vehicles or similar wheeled vehicles shall be allowed upon the town wharf at any time. Exceptions: those wheelchairs, motorized or manual, as may be required by the physically handicapped, shall be permitted.
- b. No dogs either on a leash or roaming- at- large shall be allowed upon the town wharf at any time. Exception: Those dogs designated, as personal assistance to a physically impaired individual shall be allowed when under the control of the owner.
- c. Running, racing climbing, or the use of skates, or skateboards upon or about the town wharf is prohibited.
- d. Diving and swimming from, or in the vicinity of, the town wharf is prohibited.
- e. Public drinking on the town wharf is prohibited. Pursuant to the provisions of M.R.S.A. T. 17, S.2003-A, a person commits the crime of drinking in public if the person drinks liquor in any public place within 200' of a posted notice, or after being forbidden to do so by a law enforcement officer. Possession of an open container is evidence of a violation of law.
- f. Vehicles shall be permitted on the wharf for the loading and unloading of people and/or gear only. Vehicles shall not be left on the wharf unattended.
- g. Except for emergencies, or when approved by the harbormaster, the town wharf shall be closed to public use from 12:00 mid-night until 4:00 a. m. prevailing time daily.

2.1.2 Town Wharf Floats

- a. Except for emergencies, or when directed by the harbormaster, boats shall be permitted to utilize the town wharf floats only in accordance with the following restrictions and time limitations:
 - 1) The floats designated by the harbormaster as Numbers 1, 2, 5 and 6 shall only be used for tender storage. Tenders are not to exceed 12 feet in length.
 - 2) Boats may be tied alongside float Number 3, as designated by the harbormaster, and left unattended for no more than two (2) consecutive hours in any 24- hour period.

- 3) Boats may be tied alongside float Number 4, as designated by the harbormaster, and left unattended for no more than four (4) consecutive hours in any 24-hour period.
 - 4) Boats may be tied alongside float Number 7, as designated by the harbormaster, only to load or unload passengers or material. Boats shall not be left unattended at this float.
- b. Swimming or diving from or adjacent to the town wharf floats is prohibited.
 - c. Except for emergencies, or when approved by the harbormaster, the town wharf floats shall be closed to public use from 12:00 midnight until 4:00 a.m. prevailing time daily.
 - d. Any boat tied to a float or the dock for an extended period or overnight during the winter season must be approved by the Harbormaster and a daily fee may be assessed.

2.1.3 Town Wharf Boat Launching Ramp

- a. No bicycles, all-terrain vehicles or similar wheeled vehicles shall be allowed upon the town wharf boat launching ramp.
- b. Swimming or diving from or adjacent to the town wharf boat-launching ramp is prohibited.
- c. Except for emergencies, or when approved by the harbormaster, the town wharf boat launching ramp shall be closed to public use from 12:00 midnight until 4:00 a.m. prevailing time daily.

2.1.4 Town Wharf Park

- a. The adjoining town wharf park is available for use by the general public on a first-come basis. Users are responsible for cleanup and proper disposal of trash and debris when using the park.
- b. Care shall be exercised in the use of the charcoal fire pits/containers within the park site. The fire pits shall be used for the purposes intended, not for the disposal of trash or debris. User shall ensure that fires are safely extinguished before vacating the area.
- c. The town wharf park shall be closed to public use from 10:00 p.m. until 7:00 a.m. prevailing time daily.

2.1.5 Public Safety

- a. In the interest of public safety, in those instances when a storm or other natural or man-made disaster occurs, or threatens, and therefore public activities in, around or upon the town wharf, town wharf floats, town wharf boat launching ramp and the town wharf park might result in personal injury, loss of life or property damage, the harbormaster shall have full authority to secure the above named sites from public use or trespass until the storm subsides or the disaster, or threat thereof, has abated and the harbormaster deems the above mentioned sites are safe for public use. Exceptions to these restrictions may include emergency and public service personnel.

2.1.6 Penobscot Bay Water Adjacent Thereto

- a. Town-owned public moorings shall be available for public use, as directed and assigned by the harbormaster.
- b. The harbormaster shall maintain a registry of all moorings, which shall include, at a

minimum, the following information:

- 1) Name of owner and vessel identification number
- 2) Location of mooring
- 3) Size of mooring and mooring chains
- 4) Name of authorized users of the mooring

Such registry shall be annually inventoried and corrected as needed.

- c. Maximum boat speed limit within 500 feet of the town wharf shall be limited to steerage only. No excessive wake shall be permitted.
- d. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash, or refuse of any kind, by any method, means, or manner from any watercraft, or from upon the wharf, floats or boat launch ramp into or upon the waters of Searsport Harbor or Penobscot Bay waters adjacent thereto.
- e. Lobster traps shall not be within two hundred feet of a mooring or within the channel approaching the dock.
- f. Crab crates tied to the stern of a vessel shall not extend further than the length of two crates and fifteen (15) feet of line.
- g. Lobster or crab cars must have an Army Corp of Engineers permit and must be lighted with automatic anchor lights, radar reflector and reflective tape.

2.1.7 Mooring Permits

- a. Those individuals or parties, who may wish to install a mooring or moorings within the limits of Searsport Harbor, or the Penobscot Bay waters adjacent thereto, must first obtain and file an Application for Boat Mooring (Form BMA-1A) with the Harbormaster.
- b. Any permit application shall be acted upon by the Harbormaster within two weeks.
- c. The Harbormaster has full authority to approve or deny any or all applications. Denial of the application shall be in writing detailing the reason for denial.
- d. Each applicant must own a boat for every private mooring they wish to set within the harbor.
- e. No mooring shall be placed within the limits of Searsport Harbor unless (1) a mooring permit application has been completed and filed with the Harbormaster; (2) the Harbormaster has approved the permit, which specifies the mooring's location, size, type and scope, and the maximum size and type of boat to be moored; and (3) the annual mooring fee has been paid.
- f. Application forms for new and renewal permits may be obtained from the Harbormaster or at the Town Office.
- g. Mooring permits are not assignable to others or transferable upon the sale of the mooring tackle. Private mooring assignments must be used solely for the boat listed in the mooring application. Occasional use by friends may be allowed.

2.1.8 Placement and Movement of Moorings

- a. The Harbormaster shall determine the location for each mooring placed in the harbor limits and shall provide the coordinates of the mooring's location to the mooring owner upon

request.

- b. Movement of a permitted mooring from its assigned location is prohibited.
- c. The Harbormaster may, for the safety of watercraft, the efficiency of a mooring area, the maintenance of a designated channel, the implementation of harbor management improvements, and/or the implementation of a Harbor Plan approved by the Town Selectmen, direct that a mooring site be vacated and the permit holder's ground tackle be moved to a new location within Searsport Harbor.
- d. The Harbormaster may remove or cause a mooring to be removed for the following reasons:
 - 1) Non-payment of fees or lack of inspection within the prescribed period. In which case the Harbormaster may cause the mooring to be removed from service or from the Harbor and may sell the mooring tackle and equipment to recover the costs incurred from unpaid fees and handling.
 - 2) Abandonment of mooring. Any mooring that is not permitted for a period of more than one (1) year shall be deemed abandoned. The mooring may be removed and the location reassigned to another applicant.
 - 3) Neglect to remove or replace mooring. If a permit holder neglects or refuses to remove a mooring, to modify a mooring, or to replace a mooring with one of different character, when so directed by the Harbormaster, the Harbormaster may cause the mooring to be removed from service or from the Harbor. Such removal shall be at the expense of the permit holder. Removal of a mooring shall be in accordance with MSRA 38 sec. 4.

2.1.9 Mooring Inspections

- a. The Harbormaster or another approved individual shall inspect or be otherwise satisfied that each mooring is in safe condition before it is placed within the harbor or Penobscot Bay waters adjacent thereto.
- b. All moorings shall be inspected annually by the Harbormaster or an inspector approved by the Harbormaster in order to obtain a mooring permit. With the exception of very heavy moorings, the inspection must be conducted out of the water once every two years.
- c. The Harbormaster shall maintain on file a record of each mooring listing the date of the last inspection and the name of the person who inspected it last.

2.1.10 Design Standards of Moorings

- a. All moorings shall consist of a granite block, mushroom anchor or other anchor approved by the Harbormaster of sufficient weight to hold the vessel for which they are to be used. All moorings shall be approved by the Harbormaster.
- b. The moorings shall have heavy steel bottom chain of a minimum as stated in the standards approved by the Harbormaster.
- c. The minimum mooring scope shall be approximately two and one half times the water depth at maximum high water. The total scope shall include bottom chain and top chain.
- d. Each mooring must have an eye-to-eye swivel at the connection between the top chain, mooring buoy and pendant. Eye-to-jaw swivels are not permitted.
- e. All moorings shall be numbered as assigned by the harbormaster. The mooring owner shall cause the assigned mooring number to be prominently affixed to or marked upon the

mooring buoy. The numbers shall be of adequate size to read easily. They shall be placed on a floatable and visible mooring buoy, which shall conform to U.S. Coast Guard regulations being white in color with a single blue horizontal band clearly visible above the water line. Pole moorings shall not be permitted for use in the harbor.

- f. Any part of a mooring showing excessive or obvious wear or any mooring which does not meet the approval of the Harbormaster, shall not be permitted.

2.1.11 Liability Related to Moorings

- a. The permit holder has the responsibility to maintain his/her mooring in a safe condition and shall provide proof of liability insurance.
- b. Holding a permit does not absolve the holder from liability or damages resulting from failure of his/her mooring.

Article 3 Fees

3.1 General Rules

As a means of supplementing any municipal expenses attendant with the administration, supervision and maintenance of the public facilities cited within this Ordinance, the following fees should be assessed, as prescribed herein.

3.1.1 Tender Float Fees

- a. Commencing April 1, 1990, and on April 1, of each year thereafter, an annual fee shall be assessed for the use of floats numbered 1, 2, 5, and 6. The Searsport Selectmen shall determine the amount and manner in which such fees shall be assessed.
- b. Payments of such fees shall be tendered to the Treasurer, Town of Searsport. Upon receipt of such fees, the town will provide a suitable sticker, which shall be prominently affixed to the bow section of the tender. Tender float fees are due by April 1. Failure to pay such fees by May 1 shall result in denial of town wharf tender float use. Resumed privileges are not guaranteed after late payment. If space is not available on the tender float after late payment is rendered, the mooring owner will be placed on the waiting list.
- c. Tenders stored on floats without the permission from the Harbormaster may be assessed a fee and removal of the tender may result.

3.1.2 Mooring Fees

- a. Commencing April 1, 1990, and on April 1, of each year thereafter, an annual mooring fee shall be assessed for all moorings subject to this Ordinance. The Searsport Selectmen shall determine the amount and manner in which such fees shall be assessed.
- b. Payment of such fees shall be tendered to the Treasurer, Town of Searsport. Upon receipt of such fees, the town will notify the harbormaster of said payment. Moorings will not be permitted to be set in the harbor until the mooring fee is paid.
- c. If a mooring is left in the harbor during the winter season then the annual mooring fee is due by April 1. Failure to pay the annual mooring fee to the town by May 1 shall result in doubling of mooring fees. If payment of fee is not received by June 1, denial of mooring rights, or upon written notification by the harbormaster, removal of the mooring may result at the owner's expense.

Article 4 Fines and Penalties

4.1 General Rules

Fines and penalties for violations of the provisions of this Ordinance shall be addressed as follows:

4.1.1 Harbormaster Jurisdiction

- a. Any violation of the mooring sites or rights shall be subject to action brought by the harbormaster in accordance with the provisions of 38 MRSA SS 3 & 4, as amended.
- b. Any littering or disposal of debris upon the shore, beaches or the waters of Penobscot Bay shall be subject to civil action brought by the harbormaster in accordance with the provisions of 17 MRSA ss 2264 through and including ss 2267, as amended.
- c. Except for those circumstances cited in 4.1.2. of this Ordinance, violations of all other provisions of this Ordinance shall be deemed a misdemeanor and may subject a violator to fines of not less than \$10.00 nor more than \$100.00 for each violation. Any such fines as may be levied by a Maine court shall inure to the Town of Searsport

4.1.2 Police Department Jurisdiction

- a. Any vehicle parking or traffic control violations at the town wharf, town wharf parking lot, or town wharf boat launching ramp, shall be addressed in accordance with the provisions of the "Ordinance for the Control and Regulation of Vehicle Parking and Traffic Control within the Town of Searsport, Maine."
- b. Any littering of the town wharf, town wharf parking lot or adjoining town wharf park, shall be addressed in accordance with the provision of 17 MRSA ss 2264 through and including ss 2267, as amended.

Article 5 Construction

5.1 Severability

Severability is intended throughout and within the provisions of this Ordinance. Should any provision including interalia, any exceptions, parts, phrases or terms, or the application thereof, to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby, and the validity of this Ordinance in any and all other respects shall not be adversely affected.

5.2 Supersession

This Ordinance supersedes and replaces all like or comparable ordinances, policies or decisions previously adopted by the town and shall remain in effect until or unless revoked or superseded by action or the voters at a town meet.

5.3 Amendments

From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised or deleted. Such action may be recommended by the Selectmen of the town, subject to approval by the voters at a town meeting.

Article 6 Adoptions

Following the prescribed public hearing, this Ordinance was adopted by the voters at a town meeting held on March 13, 1990 and shall be effective immediately.

Following the prescribed public hearing, this Ordinance was adopted by the voters at a town meeting held on March 13, 2004 and shall be effective immediately.

03/31/04

Attest:



Marie Rita Dakin, Town Clerk