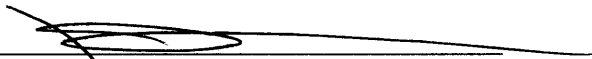




TOWN OF WESTPORT ISLAND
6 Fowles Point Road
Westport Island, ME 04578

Office of the Town Clerk

Attest: A true copy of an ordinance entitled 'Waterways and Harbor Ordinance, Town of Westport Island, Maine,' as certified to me by the Municipal Officers of Westport Island on the 16th day of May, 2022.



Julie Casson
Town Clerk, Westport Island, ME



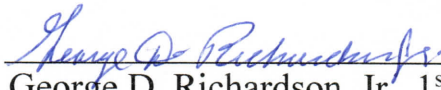
TOWN OF WESTPORT ISLAND
6 Fowles Point Road
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Office of the Select Board

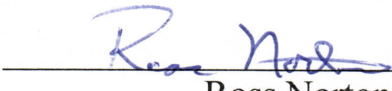
To the Town Clerk of the Town of Westport Island, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled "Waterways and Harbors Ordinance, Town of Westport Island, Maine," which is to be presented to the voters for their consideration on June 25, 2022. Pursuant to 30-A M.R.S. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: May 16, 2022.


George D. Richardson, Jr. 1st Select Board Member


Jeffery H. Tarbox, 2nd Select Board Member


Ross Norton, 3rd Select Board Member

WATERWAYS AND HARBORS ORDINANCE TOWN OF WESTPORT ISLAND, MAINE

Adopted June 25, 2022, replacing Ordinance adopted March 22, 2000

I. PURPOSE AND AUTHORITY

- A.** The purpose of this Ordinance is to provide for the just and orderly operation of marine activities on Westport Island waterways. It is intended to promote public safety, enjoyment, convenience on the waterways, and to provide for effective use and control of mooring areas and public facilities appurtenant thereto.
- B.** This Ordinance is adopted pursuant to the Home Rule Authority as defined by statute and 38 M.R.S.A. Section 1 et seq., among others.

II. DEFINITIONS

- A. “Owner”** means the owner of an assigned mooring.
- B. “Resident”** means any person who occupies a dwelling within the municipality for more than 180 days in a calendar year or any person owning real estate in the Town of Westport Island.
- C. “Watercraft”** means any type of vessel, or boat, barge, float or craft used or capable of being used as a means of transportation on water other than a sea plane.
- D. “Congested Areas”** means those areas of Westport Island’s waters that are determined by the Harbor Master and confirmed and designated by the Harbor Committee to be approaching or to have reached saturation of available mooring space. For purposes of this Ordinance, areas are saturated when addition of an approved mooring would result in the intersection of the swing circle of that mooring with the swing circle of any other approved mooring.
- E. “Riparian Owner”** means, for the purpose of this Ordinance, the owner of the shorefront property.
- F. “Waterways”** means all tidal waters extending from high water out to the Westport Island municipal boundary.
- G. “Abandoned Vessel”** means any vessel that is inoperative and neglected, submerged, or partially submerged, or that has been left by the owner in Westport Island Waterways without apparent intention of removal.

WATERWAYS AND HARBORS ORDINANCE

- H. “Derelict Vessel”** means a vessel of any kind that is unseaworthy or in badly deteriorated condition or which is likely to sink or cause damage to docks, floats, or other vessels or which may become a menace to navigation.
- I. “Anchoring”** means the use of a temporary restraint of a vessel by ground tackle brought aboard when underway.
- J. “Mooring”** “means any equipment used by a craft for anchoring purposes and which equipment is not carried aboard such craft when under way. “Mooring” does not include equipment connected to the shore.
- K. “Live-Aboard Use”** means the residential use of watercraft.

III. MOORING PERMITS

Within 30 days of receipt of a new, complete, written mooring permit application, the Harbor Master will approve the application, approve the application with conditions, or deny the application.

No mooring shall be placed, moved, or removed, other than for inspection, maintenance and re-setting in its permitted location, except under the direction of and with a permit from the Harbor Master. “Permits” are not transferable to another owner except that a mooring assignment used for commercial fishing purposes may be transferred only at the request or death of the assignee, only to a member of the assignee’s family and only if the mooring assignment will continue to be used for commercial fishing purposes. For purposes of this section, “member of the assignee’s family” means an assignee’s parent, child, or sibling, by birth or by adoption, including a relation of the half blood, or an assignee’s spouse. Any mooring without a permit is subject to removal by the Harbor Master at the owner’s expense (See **Section VIII** below.)

Each owner shall be given a copy of the Ordinance upon request.

All moorings shall be of a sufficient size to hold the watercraft for which it is used. In issuing a permit, the Harbor Master may attach such conditions as he deems reasonable in light of the size of the watercraft, the location, the bottom conditions, currents, the classification of the area as a “congested area”, and any other relevant factors.

Any watercraft which does not exceed the conditions of the mooring permit may be attached to the mooring. Any change of watercraft exceeding the conditions of the permit requires a new permit and may require relocation of the mooring at the direction of the Harbor Master.

All moorings shall be set in place within twelve (12) months from the date the permit is issued and shall thereafter be maintained in its designated position for at least three months in each calendar year. Any mooring not set in place within twelve (12) months from the date the permit is issued or not remaining in its

WATERWAYS AND HARBORS ORDINANCE

designated position for at least three months in each calendar year, shall be deemed abandoned and may be removed by the Harbor Master in accordance with the provisions of **Section VIII** of this Ordinance. The Harbor Master may consider extenuating circumstances.

IV. IDENTIFICATION NUMBERS

The Harbor Master shall assign an identification number to each mooring to be placed by the owner on the mooring buoy. It is recommended that the mooring ball be white and have a blue horizontal stripe. Identification numbers must be at least three inches high and clearly visible at all times. Any mooring not having an identification number is subject to removal by the Harbor Master at the owner's expense. (See **Section VIII** below.)

V. MOORING ASSIGNMENTS IN DESIGNATED CONGESTED AREAS

When the number of applications exceeds the number of available mooring spaces in congested areas, the Harbor Master shall maintain a waiting list of all applicants on a first come, first served basis in that area who have not been assigned a mooring permit and shall post it in the Town Office. Assignments shall be made from that list according to the following priorities:

The waiting list shall be in four sections: (i) Riparian owners, (ii) resident, licensed commercial fishermen, (iii) residents, and (iv) all others including non-residents. The Harbor Master shall determine the appropriate category based upon information provided in the application.

- i. Riparian Owners** shall be given the first vacancy available for one mooring. The limitation of one mooring assignment under this paragraph shall not prevent the riparian owner from receiving an additional mooring permit under the allocation system for all others (paragraph iv).
- ii. Licensed, resident commercial fishermen** shall receive the next available vacancy for one mooring after riparian owners. The limitation of one mooring assignment under this paragraph shall not prevent the Licensed resident commercial fishermen from receiving an additional mooring permit under the allocation system for all others (paragraph iv).
- iii. Resident.** Residents as defined herein, shall receive the next available vacancy for one mooring after Licensed, resident commercial fishermen. The limitation of one mooring assignment under this paragraph shall not prevent a resident from receiving an additional mooring permit under the allocation system for all others (paragraph iv).
- iv.** All others including non-residents and applications concerning second or subsequent moorings of any types held by one person, entity or household. Allocations to non-residents shall be in compliance with and in accordance with 38 M.R.S.A. Section 7-A.

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VI. REGISTER AND MOORING CHART

The Harbor Master shall maintain a public register listing for each permitted mooring: (a) owner's name, resident status, address and telephone number, (b) the length and type of the watercraft, and whether it is used for commercial fishing purposes, (c) the specifications of the mooring tackle and (d) the date of issuance of the mooring permit. The Harbor Master shall also maintain a mooring chart for each mooring area on which the location of each mooring is indicated by its identification number.

VII. NEW PERMITS, RENEWAL PERMITS, AND FEES

Effective July 1, 2022, mooring permits are no longer valid indefinitely, but may be renewed.

All mooring permits which were issued under the rules in existence prior to July 1, 2022, expire on May 1, 2023, but may be renewed.

All mooring permits, whether new permits or renewal permits, issued on July 1, 2022, and thereafter, must be renewed annually to remain valid.

Mooring permits expire on May 1st of the year following their issuance. Mooring permits must be renewed annually by May 1st of each year. There is a grace period allowing renewals to be issued without penalty up to August 1st.

Effective July 1, 2022, mooring permit fees will be in the amount specified by the "Schedule of Mooring Permit Fees," which is available at the Town Office and on the Town website. The "Schedule of Mooring Permit Fees," is issued by the Select Board and may be changed by the Select Board from time to time upon recommendation of the Harbor Committee and the Harbor Master. Mooring permit fees shall be used to pay the Harbor Master's salary and any other expenditures approved by the Select Board.

VIII. REMOVAL OF IMPROPER MOORINGS

If the Harbor Master determines that a mooring is unregistered, improperly located, a hazard to navigation, or otherwise improper, the Harbor Master shall first notify the owner, if the owner can be readily determined. The notice shall be sent by regular First Class U. S. Mail to the owner's last known address and shall state: (a) the nature of the problem, (b) that the mooring and/or buoy must be removed, moved, or replaced or other action taken to the satisfaction of the Harbor Master within thirty (30) days of the date the notice was mailed, and (c) that if the matter is not resolved within the time-period, the Harbor Master may cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom, and the owner shall be liable to the Town in the amount of \$100.00 plus the necessary expenses related to the service, if the Harbor Master takes such action with respect to the mooring.

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IX. OWNER RESPONSIBILITY FOR BOATS

Responsibility for the safety of each mooring and boat in the harbor lies with its owner or master or his representative. Unless otherwise provided by law, the Town shall not be responsible for (a) any injury to persons or (b) damage to boats moving, drifting, anchored or moored in the harbor or using the Town landing facility or launching facility.

X. ABANDONED AND DERELICT VESSELS

No person shall bring into or maintain in Westport Waterways any derelict vessel or a vessel for salvage or abandon any vessel, without permission of the Harbor Master. Whoever does so is guilty of a Class E crime as outlined in 38 MRSA §§ 9 and 13. Vessels that are to be salvaged by firms licensed by the State to do salvage work shall be excluded from this section. When, in the opinion of the Harbor Master, a vessel has been abandoned in Westport Waterways, the Harbor Master may take custody and control of such vessel and remove it, store it, or otherwise dispose of it, all at the expense and sole risk of the vessel owner.

XI. ANCHORING

Anchoring in Westport Waterways is permitted for a period of up to two weeks, after which time permission from the Harbor Master is required.

XII. LIVE-ABOARD USE

No person shall establish a live-aboard use on any type of watercraft without prior approval of the Harbor Master, and the following conditions must be met: the watercraft must have sewage holding tanks attached to each marine toilet and the watercraft's sewage system shall not be equipped with "Y" valves to permit overboard discharge. Upon request of the Harbor Master, the owner of the watercraft shall provide the Harbor Master with proof of arrangement with a sewage pump-out facility for pumping out the watercraft's sewage holding tanks.

XIII. RULES RELATED TO THE MOORING AREA

This Ordinance does not pertain to the Town's mooring area. The Westport Island Mooring Area Ordinance contains the separate set of rules regarding mooring permits, etc., for the Town's mooring area. The Town's mooring area is located off the Wright Landing.

XIV. RULES RELATED TO WRIGHT LANDING AND ADJACENT TOWN PROPERTY USE

This Ordinance does not pertain to the use of the Wright Landing and the use of the adjacent Town-owned property. The Westport Island Wright Landing and

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Adjacent Town Property Use Ordinance contains the separate set of rules for this area.

XV. HARBOR ADMINISTRATION

A. Administrative Bodies and Agents

- 1. Harbor Committee:** The Select Board shall appoint a Harbor Committee consisting of five (5) members serving staggered terms of three years and two (2) alternates serving one year terms and all of whom shall be residents of the Town of Westport Island. None of the members or alternates shall be the Harbor Master or Deputy Harbor Masters. Harbor Committee members shall serve without compensation. The Harbor Committee shall meet on a monthly basis or as required and may be called upon by the Select Board to generally advise the Select Board on harbor and maritime related issues. All Harbor Committee meetings shall be posted and shall be open to the public. Written minutes will be taken at and maintained for all committee meetings.
- 2. Harbor Master:** The Harbor Master, and any Deputy Harbor Masters deemed necessary by the Select Board, shall be appointed annually by the Select Board.

Summary of Harbor Master's powers and duties:

- a) The Harbor Master and any Deputy Harbor Masters shall have the full power to enforce this Ordinance and all powers granted to a Harbor Master under 38 M.R.S.A. Section 1 et seq. unless restricted by the Select Board at the time of appointment.
- b) In addition to the duties prescribed under Title 38 M.R.S.A., the Harbor Master and any Deputy Harbor Masters shall have such other duties and responsibilities as may be assigned by the Select Board from time to time.
- c) Enforce the other two Town Ordinances relating to the management and control of Westport Island's waters, shores, and coastline. Those other Ordinances are the Mooring Area Ordinance and the Wright Landing and Adjacent Town Property Use Ordinance.
- d) Approve and control the placement of moorings within the waters of Westport Island.
- e) Process mooring applications and maintain a permanent record of applications and permits.

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- f) Maintain a mooring chart for each mooring zone on which the location of each mooring is indicated by its mooring number.

- 3. **Appeals:** Any person aggrieved by a decision, act or failure to act by the Harbor Master as is related to the implementation of this Ordinance may appeal to the Harbor Committee and then to the Board of Appeals. All appeals shall be filed within fourteen (14) days of receipt of notice of the decision or order appealed, shall be in written form and shall specify all points and reasons for appeal.

XVI. PENALTIES

Any violation of this Ordinance or other laws or regulations pertaining to harbors or for which the Harbor Master has enforcement authority shall be subject to the penalties set forth in 30-A M.R.S.A. Section 4452, as amended.

XVII. EFFECTIVE DATE

This Ordinance shall become effective on the date of enactment. When enacted, this Ordinance replaces in total, the prior Waterways and Harbors Ordinance enacted on March 22, 2000.

Date of Enactment: June 25, 2022