

## WATERWAYS AND HARBORS ORDINANCE

### WATERWAY AND HAROBRS ORDINANCE TOWN OF WESTPORT ISLAND, MAINE

Adopted March 22, 2000, replacing Ordinance adopted March 22, 1997

#### 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.

#### III. MOORING PERMITS

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

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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 when the permit is issued.

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 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.

### **IV. IDENTIFICATION NUMBERS**

The Harbor Master shall assign an identification number to each mooring to be placed by the owner on the mooring buoy. 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**

Except as provided herein, mooring permits shall be granted upon application to the Harbor Master on a first come, first served basis. 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 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-

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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.

### 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. FEES

The one-time mooring fee shall be \$10.00 for residents and \$20.00 for non-residents and shall be due and payable at the time of application.

### VIII. REMOVAL OF IMPROPER MORINGS

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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 Mater takes such action with respect to the mooring.

### 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. HARBOR ADMINISTRATION

#### A. Administrative Bodies and Agents

1. **Harbor Committee:** The Board of Selectmen 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 Selectmen to generally advise the Board of Selectmen 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 Selectmen, shall be appointed annually by the Board of Selectmen. 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 sequi unless restricted by the Selectmen at the time of appointment. 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 Board of Selectmen from time to time.

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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.

### **XI. 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.

### **XII. 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, 1997.

Date of Enactment: **March 22, 2000**