

**TOWN OF MOUNT DESERT  
HARBOR ORDINANCE**



**A True Copy Attest**

**Adopted: May 2 , 2017  
Amended: May 2, 2023**

**Clare Woolfolk  
Town of Mount Desert Town Clerk**

## **TOWN OF MOUNT DESERT HARBOR ORDINANCE**

This ordinance, as enacted at the May 2, 2017 Annual Town Meeting,  
repeals the **MARINE MANAGEMENT ORDINANCE** as amended through March 6,  
2007 and the **TOWN OF MOUNT DESERTNORTHEAST HARBOR COMMERCIAL FLOAT  
REGULATIONS** adopted March 20, 2006.

**Amended May 2, 2023**

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## ARTICLE I – DEFINITIONS

All words not herein shall carry their customary and usual meaning. Words used in the present tense shall include the future. Words in the singular shall include the plural and vice versa. The word “shall” is used to include the mandatory and the word “may” is used to indicate the permissive.

**Anchorage** - An area of the harbor set aside for permanent moorings or for the temporary anchoring of boats and vessels.

**Berth** - A place where a boat lies when at anchor or at a wharf.

**Boat** - A vessel for transport by water constructed to provide buoyancy by excluding water and shaped to give stability and permit propulsion.

**Bona Fide Boat** - A vessel of appropriate size for the mooring assigned.

**Breakwater** - A permanent solid structure of rock, stone, or combinations thereof, extending from the shoreline into the waters, for the principal purposes of breaking and reducing the force of waves.

**Bulkhead** - A permanent solid structure or wall built along the shore to retain and protect the upland from wave action and sea erosion.

**Channel** - Areas of the harbor kept open for navigation or other purposes, by rule or regulation of the Town of Mount Desert, the Department of the Army Corps of Engineers, or other regulatory or legislative body.

**Commercial Fisherman** - One whose vessel is commercially registered and makes his or her primary livelihood from harvesting from the ocean.

**Commercial Mooring** - Any mooring used to hold boats or floats awaiting service from a marine related business or used on a permanent basis to hold boats or floats belonging to a marine related business provided such boats or floats are actively used for specific activities related to their business.

**Commercial Vessel** - Any vessel used or engaged for any type of commercial venture, including but not limited to, fishing, the carrying of cargo and/or passengers for hire, push-boats, tugs and barges.

**Deputy Harbor Master** - An official appointed by the Selectboard and employed by the Town of Mount Desert to enforce the provisions of this Ordinance and certain duties and responsibilities as prescribed by Title 38 of the Maine Revised Statutes and the Harbor Master.

**Dinghy** - A dinghy shall mean any powered (with 25 hp or less) or un-powered punt, skiff, tender or the like fourteen feet in length or less.

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**Dock** - The slip or waterway extending between two piers or projecting wharves or cut into the land for the reception of vessels.

**Float** - A floating structure which is anchored, moored or secured at or near the shore, used for landing, transfer of passengers or goods, or other purpose.

**"Full Harbor"** - Is one so declared by the Selectboard on the report of the Harbor Master and the Harbor Committee, that the harbor and/or facilities will not support any additional moorings, and that a waiting list must therefore be established.

**Harbor** - An area or areas as defined in Article VI.

**Harbor Master** - An official appointed by the Selectboard and employed by the Town of Mount Desert, to enforce the provisions of this ordinance and certain duties and responsibilities as prescribed by Title 38 of the Maine Revised Statutes.

**House Boats** - Any vessel intended primarily or substantially to be anchored or moored in one or a small number of locations for overnight or longer accommodations, rather than navigation.

**Landing** - A place for landing or discharging persons or things from a vessel.

**Litter**- All waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, offal, fishing gear, automobiles or parts of automobiles, packages or containers.

**Marina** - A dock or basin providing dockage for small vessels.

**Mooring** - An appliance, used by a vessel, for anchoring purposes, providing a permanent, adequate means of securing a vessel to the bottom in an anchorage, and which cannot be carried aboard such vessel, when such vessel is underway, as regular equipment.

**Personal Property** - All tangible goods and chattels wheresoever they are, and all vessels, at home or abroad.

**Pier** - A platform type structure contiguous with the shoreline and built there from over the water, supported by piles and used for the berthing, loading and unloading of vessels.

**Resident** - Any person who occupies a dwelling within the Town of Mount Desert for more than 183 days in a calendar year.

**Seaworthy Vessel** - A vessel in a fit state for travel or movement without extraordinary efforts or assistance provided to affect such travel or movement.

**Stray Vessel** - An abandoned vessel, a vessel the owner of which is unknown, or a vessel underway without a competent person in command.

**Tidal Waters** - Bodies of water within a state’s territorial waters, subject to the ebb and flow of ordinary tides, whether navigable or not, including, but not limited to, harbors, coves, sounds, channels, inlets, estuaries, and rivers.

**To Anchor** - To secure a vessel to the bottom within a designated area by dropping an anchor or anchors or other ground tackle.

**Town** – The Town of Mount Desert.

**Vessel** - Vessel shall include boats of all sizes propelled by said machinery or hand, scows, dredges, shellfish cars, and craft of any kind.

**Wharf** - A structure of timber, masonry, cement, earth or other material, built along the shore of a harbor extending from the shoreline, so that vessels may lie close alongside to receive and discharge passengers and cargo.

## **ARTICLE II – APPLICABILITY, AUTHORITY, & GENERAL PROVISIONS**

### **2.1 - Title of Ordinance**

This Ordinance shall be known as and may be cited as the “The Town of Mount Desert Harbor Ordinance.”

### **2.2 - Authority of Ordinance**

This Ordinance is adopted under the authority granted in Titles 12, 17, 30-A and 38 of the Maine Revised Statutes, as may be amended.

### **2.3 - Purpose of the Ordinance**

The purpose of this Ordinance is to provide for the just and orderly operation and regulation of marine activities on and within the harbors and all other tidal waters of the Town of Mount Desert, Maine in order to insure safety to persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource.

This Ordinance revokes and replaces the previous Town of Mount Desert Marine Management Ordinance and its associated regulations.

### **2.4 - Effective date of the Ordinance**

This Ordinance shall become effective upon adoption by the legislative body.

## **2.5 - Conflicts with other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the provision imposing the greater restriction shall control.

## **2.6 - Applicability of the Ordinance**

The provisions of this Ordinance shall govern all marine activities on, within, and abutting all harbors and all other tidal waters of the Town of Mount Desert.

## **2.7 - Validity and Severability**

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

# **ARTICLE III – POWERS, DUTIES, & ROLE OF THE HARBOR MASTER**

## **3.1 - Appointment**

The Harbor Master shall be recommended by the Harbor Committee, nominated by the Town Manager, and shall be appointed by the Selectboard.

The Deputy Harbor Master shall be hired in accordance with Town policy of hiring personnel.

## **3.2 – General Duties & Responsibilities**

Certain duties, responsibilities, and authority of this office are prescribed by Titles 12, 17, and 38 of the Maine Revised Statutes, as may be amended: by the Town of Mount Desert’s Personnel Policy; and by this Ordinance. The Harbor Master shall administer and enforce the provisions of this Ordinance with the authority granted by law, and through his or her appointment as a Constable of the Town of Mount Desert, and the provisions of all rules, regulations, ordinances and other laws, which are lawfully promulgated that are within the Harbor Master’s responsibility.

The duties of the Harbor Master and Deputy Harbor Master shall include, but are not limited to, the following:

- i.** Promote order in the harbor and on the tidal waters of the Town of Mount Desert and assure safety and use for the general public.
- ii.** Regulate placement of moorings according to the approved mooring plan for each harbor and this Ordinance.

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- iii. Provide copies of all rules, regulations, ordinances and other laws which pertain to the harbors, their use, and to vessels within the tidal waters of the Town of Mount Desert, and to make copies available to those persons using the harbors and tidal waters.
- iv. Inspect moorings, docks, floats, piers, and wharves, from time to time, as his or her judgment may dictate, in the tidal waters of the Town of Mount Desert, give notice to the owner of such structures that have fallen into a state of disrepair or which may create a dangerous condition or may interfere with safe passage.
- v. Oversee the Town's waterfront facilities, including, but not be limited to, moorings, floats, docks, ramps, channels, breakwaters, and adjacent municipal property, excluding parking lots.

### **3.3 - Enforcement Powers**

It shall be the duty of the Harbor Master, or his or her designees, to enforce the provisions of this Ordinance. If the Harbor Master, or his or her designees, shall find that any provision of this Ordinance, or any rule or regulation promulgated pursuant to its authority, is being violated, the Harbor Master shall notify the person responsible for such violation, either verbally, or in writing, indicating the nature of the violation and ordering the necessary action to correct it. If in writing, notice is effective three business days after mailing to the person's last known address. A copy of written notices shall be maintained as a permanent record.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectboard, upon notice from the Harbor Master, or his or her Deputy, may initiate legal proceedings, which may include seeking injunctions, imposing fines or any other action deemed necessary to enforce the provisions of this Ordinance in the name of the Town of Mount Desert. In any such action in which the Town prevails, it shall be awarded attorney's fees, court costs and any other relief to which it may be entitled, including under the authority of 30-A MRS § 4452, as may be amended from time to time.

### **3.4 - Legal Authority of Harbor Master**

The Harbor Master and Deputy Harbor Master may have the authority to carry a weapon and make arrests so long as he or she has: (1) successfully completed the appropriate course at the Maine Criminal Justice Academy, (2) received local training from the Mount Desert Chief of Police, and (3) received authorization by vote of the Selectboard. Any law enforcement officer vested with the authority to carry a weapon and make arrests, specifically including police officers of the Town of Mount Desert, shall have the authority to enforce the provisions of this Ordinance when authorized by the Town's Police Chief, or upon specific request from the Harbor Master or Town Manager of the Town of Mount Desert.

### **3.5 – Compliance and Interference with Harbor Master & Deputy Harbor Master**

No person shall refuse to obey any lawful order of the Harbor Master (or any Deputy) with reference to the operation, navigation, movement, relocation or disposal of any vessel owned or occupied by said person within the tidal waters of the Town of Mount Desert.

No person shall assault, intimidate or in any manner willfully obstruct, intimidate or hinder the Harbor Master (or any Deputy) in the lawful performance of his or her duties.

## **ARTICLE IV – APPEALS FROM HARBOR MASTER DECISIONS**

### **4.1 – Appeals**

Any and all persons aggrieved directly or indirectly by a decision, order, rule or act, or the failure to act of the Harbor Master may appeal said decision, order, rule, act, or failure to act. Such appeal must be in writing, directed to the Harbor Committee, and filed within 10 days of said decision, order, rule, act, or the failure to act. The appeal must state with specificity, the decision, order, rule, act, or failure to act, and state the reasons for appeal. The Harbor Committee, will review the Harbor Master’s decision, order, rule or act, or failure to act *de novo*, and, upon hearing the appeal on its own record, the Harbor Committee may affirm, modify or set aside the decision, order, rule, act, or failure to act, only if such is not supported by any facts, or is clearly contrary to the intent and specific provisions of this Ordinance.

Any and all persons aggrieved directly or indirectly by a decision, order, rule or act, or failure to act of the Harbor Committee may appeal said decision, order, rule, act or failure to act. Such appeal must be in writing, directed to the Selectboard, and filed within ten days. The Selectboard, upon hearing the appeal, may affirm, modify or set aside the decision, order, rule, act, or failure to act, only if such is not supported by any facts, or is clearly contrary to the intent and specific provisions of this Ordinance; such appeal shall be a *purely appellate* review of both the record established by and the decision of the Harbor Committee.

An appeal from the decision of the Selectboard may be taken by the aggrieved party or parties to the Maine Superior Court, in accordance with the Maine Rules of Civil Procedure.

## **ARTICLE V – APPOINTMENT & DUTIES OF THE HARBOR COMMITTEE**

### **5.1 - Appointment**

The Harbor Committee shall consist of not less than seven (7) voting members nominated by the Town Manager and confirmed by the Selectboard. Members shall be appointed for two-year terms, and may be reappointed. Harbor Committee members shall be residents of the Town of Mount Desert and shall represent diverse interests in the harbors and tidal waters (including but not limited to, commercial boat owners, recreational boat owners, abutting land and business owners, or members of Town boards or committees). Town employees who are not residents may serve as non-voting members of the Committee if their position provides special skills and knowledge beneficial to the Committee.

## **5.2 - Duties & Responsibilities**

The duties and responsibilities of the Harbor Committee shall be to oversee the Town tidal waters and harbors and report to the Selectboard as follows:

- i.** To advise as to the custody, care and management of the Town tidal waters and harbors and their facilities.
- ii.** To recommend policy for Town tidal waters and harbors.
- iii.** To recommend rules and regulations for Town tidal waters and use of the harbors.
- iv.** To make recommendations on the construction of piers, wharves, breakwaters, marine railways, or bulkheads within the tidal waters and harbors of the Town.
- v.** To propose fees and operational budgets.
- vi.** To develop short and long range marine management plans.
- vii.** To review the qualifications and make recommendations to the Town Manager of persons seeking employment as Harbor Master.

## **5.3 - Meetings**

The chairperson, vice chairperson, or the Harbor Master may call meetings of the Harbor Committee. The Committee shall meet monthly, except in the months of July and August, when no meeting is required. The chairperson, vice chairperson, or the Harbor Master may call special meetings of the Harbor Committee if determined necessary.

## **5.4 - Quorum**

A majority of the voting members appointed to the Harbor Committee shall constitute a quorum.

## **5.5 - Vote**

The Harbor Committee decisions will be made by vote of a majority of the members present and voting.

## **5.6 - Chairperson, Vice Chairperson & Secretary**

A Chairperson and Vice Chairperson of the Harbor Committee shall be elected by the membership. A Secretary shall be elected and shall keep a record of all proceedings and provide them to the Selectboard in a timely manner.

## **ARTICLE VI – ESTABLISHMENT OF HARBOR BOUNDARIES & AREAS**

### **6.1 - Purpose**

The purpose of this article is to define the boundaries, tidal waters, harbors, and channels within these harbors of the Town of Mount Desert. For a detailed map, please see Appendix A and B.

### **6.2 - Northeast Harbor: Harbor Limits**

For the purpose of this Ordinance, the harbor limits for Northeast Harbor shall be: The southeast sector of the harbor limit as defined by a line starting Latitude 44 17 266 N, Longitude 068 16 774 W (Burden dock), extending on a magnetic bearing of 053 degrees to Latitude 44 17 450 N, Longitude 068 16 592 W until it intersects the opposite shore; and in the other sectors of this harbor the limits are the mean high water except in the Southwest Sector where the harbor includes the concrete piers, the bulkheads, launching ramp and the immediately adjacent Town owned land, buildings and appurtenances.

### **6.3 - Seal Harbor: Harbor Limits**

For the purpose of this Ordinance, the harbor limits for Seal Harbor shall be: a line from Latitude 44 17 383 N, Longitude 068 14 505 W (the southernmost tip of Thrum Cap) on a magnetic bearing of 111 degrees to Latitude 44 17 277 N, Longitude 068 14 111 W (East Point), and shall extend in a northerly direction as defined by mean high water, including the town owned pier and launching ramp.

### **6.4 - Somesville: Harbor Limits**

For the purposes of this Ordinance, the harbor limits for Somesville shall be: a line from Latitude 44 21 279 N, Longitude 068 19 383 W (the southernmost tip of Bar Island) on a magnetic bearing of 281 degrees to Latitude 44 21 269 N, Longitude 068 19 502 W, and shall extend in a northerly direction as defined by mean high water.

### **6.5 - Bartlett's Landing: Harbor Limits**

For the purposes of this Ordinance, the harbor limits for Bartlett's Landing shall be: a line starting at Latitude 44 21 22 N, Longitude 068 24 35 W, to Latitude 44 20 53 N, Longitude 068 25 07 W (Ledges Point) to Latitude 44 19 56 N, Longitude 068 25 25 W (the northernmost point of Johns Island), to Latitude 44 19 40 N, Longitude 068 24 31 W, to include all tidal waters in an easterly direction as defined by mean high water, to include all town owned property, including the launching ramp.

**ARTICLE VII – MOORINGS: ASSIGNMENT, STANDARDS, SPECIFICATIONS, AND WAITING LIST**

**7.1 - Purpose**

The purpose of this article is to set forth the provisions for the safe and orderly placement, use, type and administration of all moorings and mooring spaces within the tidal waters of the Town of Mount Desert, and to ensure safety to persons and property.

**7.2 - Responsible Authority**

The Harbor Master shall have authority over all moorings and mooring locations in accordance with the provisions of this Ordinance, the laws of the State of Maine, and applicable Federal regulations. Mooring areas outside of harbors may be designated by the Harbor Master.

**7.3 - Placement of Moorings**

No person shall place a mooring or mooring buoy in the tidal waters of the Town of Mount Desert except with the express permission and written approval of the Harbor Master or his or her Deputy. The Harbor Master shall specify the minimum size, type and scope of the mooring and the maximum size and type of boat moored thereon, whether for the initial placement or relocation of the mooring. Only approved mooring inspectors, or the Harbor Master, are authorized to place moorings. This includes both moorings inside and outside of the harbors of Mount Desert.

The owner of the mooring shall ensure that each mooring is in safe condition and proper location, and meets the requirements of this Ordinance prior to its placement. The Harbor Master or his or her Deputy may inspect the condition and location of each mooring prior to and after its placement. Moorings shall conform to the approved minimum mooring specifications and mooring plan set out in this Ordinance.

**7.4 - Mooring Application Procedure**

Any vessel owner desiring mooring space for a new mooring – when space may be available either inside or outside the harbors of Mount Desert – shall submit an application to the Harbor Master on a form provided for the purpose. Upon receipt of an application, the Harbor Master may approve the application, put the applicant on a waiting list, deny the application, or request the applicant submit additional information, or refer the application to other Town boards or commissions for comment and information. Additional documentation requested may relate to any matter bearing on the promotion of order, safety, and use for the general public in the tidal waters and harbors of the Town of Mount Desert.

The Harbor Master may deny any application the approval of which he or she determines would detract from the order in the tidal waters or harbors, or which would jeopardize the safety and use of the tidal waters and harbors of the general public. The Harbor Master’s decision on any application shall be made within thirty days of receipt of the application or additional

information. The Harbor Master's decision may be appealed pursuant to the procedure set out in this Ordinance.

### **7.5 - Mooring Registration and Permit**

All moorings located in all harbors and all other tidal waters of the Town of Mount Desert shall be registered annually, prior to March 1st, with the Harbor Master, and a permit shall be obtained from the Harbor Master. All moorings not registered by April 15th each year shall be removed by the owner, and the mooring privilege shall be revoked.

When the owner of an unregistered or unsafe mooring cannot be located, identified or refuses to remove his or her mooring, or replace it with one of a different character (when so directed by the Harbor Master), the Harbor Master shall cause the entire mooring to be removed or the ball removed and the chain dropped to the bottom or shall make such change in the character of the mooring as required, and collect from the master or owner (of that boat or vessel) the total cost, but not less than the sum of \$100, for any of those services rendered and the necessary expenses.

Before removing a mooring or a buoy, the Harbor Master shall notify the master or owner, if the master or owner can be determined, by registered mail at his or her last known address, of the action desired, the fact that the mooring will be removed, and the fine. If the matter is not settled to the Harbor Master's satisfaction within two (2) weeks, the Harbor Master may take the actions provided for in this Ordinance.

All moorings shall be assigned a number within a series that indicates the maximum size vessel that may use the mooring. The number shall be prominently displayed on the mooring in contrasting shades, at two inches minimum height. The Harbor Master shall assign the number and it shall be the owner's responsibility to apply and maintain the number.

- i. Floats and Lobster Cars** - All floats (commercial and private) and lobster cars must be registered with the Harbor Master's office and shall have a mooring on each end that meets the minimum mooring specification in this Ordinance. The float or lobster car will be assigned a number and display to be placed on each end. When necessary, all floats and lobster cars will be permitted by the United States Army Corps of Engineers and have a copy of that permit on file in the Harbor Master's office.
- ii. House Boats** - Houseboats shall only be permitted to moor or anchor in areas where the Harbor Master determines their presence will not detract from the scenic, recreational, or environmental character of the local area. Additionally, vessels constructed or converted for use as houseboats shall be considered residential dwellings for purposes of complying with applicable provisions of the Town's zoning ordinance, building codes, and comprehensive plan.

### **7.6 - Mooring Priority: Harbors**

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Moorings in the harbors of the Town of Mount Desert shall be allocated according to the following priority guidelines:

- i. Existing mooring owner renewing the permit provided such owner shall presently own a boat or reasonably expects to own such within the existing registration period;
- ii. Town owned transient (rental) moorings (the number will be determined by the Selectboard);
- iii. Shorefront property owners, in front of their property immediately adjacent to frontage (if they own at least 100 feet of shore front property and the mooring fits into the mooring plan);
- iv. Existing mooring owner changing series;
- v. Resident commercial fishermen;
- vi. Resident commercial operators;
- vii. Resident pleasure craft;
- viii. Nonresident;
- ix. Application for more than one mooring;
- x. Houseboats

In all events, mooring priorities shall be consistent with allocations required under State and Federal law.

### **7.7 – Mooring Priority: Outside of Harbors**

Moorings outside of the harbors of the Town of Mount Desert shall be allocated according to the following guidelines:

- i. Existing mooring owner renewing the permit provided such owner shall presently own a boat or reasonably expects to own such within the existing registration period;
- ii. Shorefront property owners, in front of their property immediately adjacent to frontage (if they own at least 100 feet of shore front property and the mooring fits into the mooring plan);
- iii. Existing mooring owner changing series;

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- iv. Resident commercial fishermen;
- v. Resident commercial operators;
- vi. Resident pleasure craft;
- vii. Nonresident;
- viii. Application for more than one mooring;
- ix. Houseboats

In all events, mooring priorities shall be consistent with allocations required under State and Federal law.

### **7.8 - Waitlist**

The Harbor Master shall maintain a list of all applicants who have not been assigned a mooring space for that year but want to remain eligible for future mooring space. To remain on the wait list, applicants must update their request in writing annually prior to April 1st and pay an annual application fee (fee schedules are set annually by the Selectboard). If an applicant refuses a mooring when offered one he or she may either choose to be dropped from the list or go to the bottom of the list. The wait list will be available for viewing at the Harbor Master's office during normal working hours.

### **7.9 - Registration transferrable**

Mooring registrations are transferable, pursuant to 38 M.R.S. §§3 and 3-A in that a commercial fishing mooring may be transferred to a family member as defined in 38 M.R.S.A. §3-A, provided that the mooring assignment will continue to be used for commercial fishing purposes.

### **7.10 - Mooring Fees**

The Selectboard, with the recommendation of the Harbor Master and Harbor Committee, shall annually set applicable mooring fees. The schedule of mooring fees will be maintained on file in the Harbor Master's office and/or posted to the Town's website. The Harbor Master may refuse to approve a mooring application, revoke a mooring approval, or refuse to allow the use of any moorings in the harbor or elsewhere in the Town for any person who has failed to pay applicable mooring fees.

### **7.11 - Mooring Rental**

### **7.11.1 - Rental of Private Non-Commercial Moorings**

Privately owned moorings, except those in Northeast Harbor, may be rented directly by their owners. The moorings shall conform, in all aspects, to the Town's specifications for moorings. Additionally, they shall have a permit from the US Army Corps of Engineers, with a copy on file with the Harbor Master's office. In Northeast Harbor, all mooring rentals except Clifton Dock (already ACOE permitted) shall be administered by the Harbor Master's office.

### **7.11.2 - Rental of Commercially Owned Moorings**

Commercially owned moorings, except those in Northeast Harbor, may be rented directly by their owners. The moorings shall conform, in all aspects, to the Town's specifications for moorings. Additionally they shall have a permit from the US Army Corps of Engineers, with a copy on file with the Harbor Master's office. In Northeast Harbor, all mooring rentals except Clifton Dock (already ACOE permitted) shall be administered by the Harbor Master's office.

### **7.11.3 - One Boat – One Mooring Rule**

As of September 30, 1998, all harbors in the Town of Mount Desert had been declared full (with grandfathered exceptions explained below). There shall be no more than one mooring allowed per each owned bona fide boat.

Persons or organizations engaged in commercial business, may continue to register moorings (commercial), for which they do not own boats, provided that, in the judgment of the Harbor Master and Harbor Committee, the number of mooring(s) is reasonable, and that there is adequate space.

Non-commercial mooring owners who presently own moorings in more than one harbor within the Town of Mount Desert, but do not own a bona fide boat for each mooring in each harbor, will be allowed to continue to register and maintain no more than one mooring per boat. The only case where more than one mooring per boat is permitted is if the moorings were owned prior to the effective date of this Ordinance, in which case an owner may have one mooring in two different harbors for one boat and would not be entitled to any other mooring for the boat specified.

### **7.11.4 - Use of Private Moorings**

No person shall use the mooring of another without expressed permission of the owner, and the Harbor Master must be informed. The Harbor Master may use or rent a mooring with the owner's permission.

## **7.12 - Application Procedure for More Than One Mooring**

Applications for more than one mooring per boat shall be considered by the Harbor Master and the Harbor Committee as the need may arise and as space may be available.

### **7.13 - Town Owned Rental Moorings**

In Northeast Harbor, the Town shall own, operate and maintain two (2) classes of rental moorings. Class 1, consisting of at least 80 percent of available Town owned rental moorings, shall be classified as transient and shall not be occupied by the same boat for more than seven (7) successive nights unless the period is extended by the Harbor Master. Class 2, consisting of not more than 20 percent of the available Town owned rental moorings, may be rented for an extended period of time, as determined by the Harbor Master.

### **7.14 - Inspection of Moorings**

The Harbor Master may inspect any mooring, its appurtenances, gear and tackle at any time.

The Harbor Master, in consultation with the Harbor Committee, shall develop and maintain a list of independent contractors possessing the knowledge, experience and equipment necessary to conduct a full, thorough and complete examination of moorings. Revision of the list shall be at the discretion of the Harbor Master after consulting with the Harbor Committee. The list shall be maintained in the office of the Harbor Master and shall be available for inspection during regular business hours. Only those persons who are on the list shall conduct mooring inspection and repair.

Each mooring in a harbor of the Town of Mount Desert must be inspected, by an approved inspector at least every three years, or more frequently at the Harbor Master's discretion, for its conformity with the minimum mooring standards currently in effect for the Town. Moorings not meeting the current mooring standards shall be brought into compliance immediately or before the mooring may be used again. All expenses for inspection or correction of defects or removal of the mooring shall be the responsibility of the mooring owner. Any mooring owner not in compliance with this section shall lose the privilege of having that mooring. It is recommended that moorings located outside of harbors be inspected every three years by an approved inspector.

The mooring owner or the inspector, on his or her behalf, shall furnish a complete report in writing, signed by the inspector, attesting to the date of the inspection, the name of the owner, the name of the inspector, the identity of the mooring and a statement of its condition. Any and all defects shall be noted and the date by which repairs or renovations will be effected. Moorings outside of harbors do not need to furnish a report.

### **7.15 - Designation of Mooring Spaces**

The Harbor Master shall designate mooring spaces and shall maintain a mooring and traffic plan of the anchorage areas indicating location of moorings and size of boats for Northeast Harbor and Somesville. The Harbor Master shall review and update all mooring and traffic plans

annually with the Harbor Committee. A copy of the all mooring plans shall be kept on file in the Harbor Master's office.

The Harbor Master shall annually assign the location for each mooring with the guidance of the mooring plans (as approved by the Harbor Committee) and ensure the mooring location is in accordance with the mooring plans. The Harbor Master, with approval of the Harbor Committee, may create mooring and traffic plans for other harbors or any other area in the tidal waters of Mount Desert as needed.

A mooring owner, at the direction of Harbor Master, shall move all moorings not located in the correct location. Upon failure of the mooring owner to comply with these provisions, the Harbor Master shall move or remove the improperly located moorings. The cost of moving or removal shall be borne by the owner of the mooring(s). If the mooring owner does not pay, the mooring gear may be sold by the Town after one (1) year.

#### **7.16 - Designated Mooring and Anchorages within Designated Town Waters**

Valley Cove has been designated as an anchorage area only. No moorings will be placed into the area bounded by 44 18 492 N, 068 19 085 W extending on a magnetic bearing of 085 degrees M to 44 18 687 N, 068 18 677 W, to 44 19 294N, 068 18 687 W, a bearing of 18 degrees magnetic, this intersects the high water shore line at Acadia Mountain. The westerly and northerly boundaries are the MHW along the shoreline, which is Acadia National Park.

Within the area defined above, no mooring of any type shall be placed other than those in position prior to July 2, 2002.

#### **7.17 - Change of Use (Commercial or Private)**

The Harbor Master shall be promptly notified of a proposed change of use (from private to commercial or commercial to private) of a mooring. Such change in use may only be instituted upon approval of such change by the Harbor Master. Use of a mooring is nontransferable except with the express written approval of the Harbor Master.

#### **7.18 - Change of Location**

All moorings shall be subject to change in location, at the owner's expense, when it is deemed by the Harbor Master to be in the best interests of the Town, the safety of the harbor or waterway, or required to comply with the provisions of this Ordinance.

#### **7.19 - Full Harbors**

All harbors within the Town of Mount Desert have been declared full harbors. Non-commercial mooring owners in a full harbor who do not have a bona fide boat for each registerable mooring must write a letter of intent, certifying that they will own a boat within one registration year, in order to maintain a mooring permit.

If a boat is not purchased and registered within that stated time, the owner's mooring privileges will be revoked for the mooring(s) without a bona fide boat, and they will not be permitted to apply for a new mooring until such time as they actually own a boat. All revocations will be done in writing by the Harbor Master.

The exception would be to allow mooring owners that have sold their boat, but have chartered a boat, for use of the mooring for a period of two (2) months during the registration period. The charter agreement must be provided to the Harbor Master prior to the mooring registration deadline. If the Harbor Master deems appropriate and the charter is valid the mooring may be maintained for that mooring registration period.

### **7.20 - Revocation**

The Harbor Master may revoke the mooring approval of any person who fails to promptly correct any violation of the mooring plan or this Ordinance, after notice from the Harbor Master, or who refuses to obey any lawful order of the Harbor Master with reference to moorings. If notice is sent by mail, the notice is effective three business days after mailing.

### **7.21 - Minimum Mooring Specifications**

100 series	Less than 20 feet
200 series	20 but Less than 30 feet
300 series	30 but Less than 40 feet
400 series	40 but Less than 50 feet
500 series	50 but Less than 60 feet
600 series	60 feet and over (as approved by Harbor Master)

The minimum specifications for all moorings in all harbors shall be specified in this Ordinance or subsequent regulations.

The specifications for all moorings outside of the harbors but within the tidal waters of the Town shall meet the minimum gear requirements of the harbors. In view of the fact that the locations outside the harbors are less protected than locations inside the harbor, the Harbor Master may require heavier gear and more scope to be safe.

### **7.22 – Setting and Maintaining Moorings**

The following requirements shall govern the setting and maintaining of all moorings:

- i.** Every mooring shall carry the number assigned to it at the time of registration.
- ii.** Floating rope on any mooring is prohibited.
- iii.** All moorings shall carry an approved float from May 15 to October 1. Poles may be used if the mooring is used year round. Seasonal pole use requires permission of the Harbor Master.

- iv. The diameter of the mushroom eye can be no less than the size of the required bottom chain.
- v. The rocks staple can be no less than 1 inch in diameter.

**7.23 - Standards for Single Point Mooring Systems**

The following shall be the minimum specifications for all new moorings, and replacement mooring parts, in all tidal waters of the Town of Mount Desert except as otherwise provided:

Boat Length	Mushroom	Rock Size	Bottom Chain	Top Chain	Nylon Size
Less than 20'	75 lb	500	1/2	1/2	1/2
20' but < 30'	200 lb	750	5/8	1/2	5/8
30' but < 40'	N/A	2,800	3/4	1/2	3/4
40' but < 50'	N/A	3,400	7/8	5/8	1.00
50' but < 60'	N/A	5,500	7/8	5/8	1.00
60' and over	N/A	6,000	1.00	5/8	1.00

**7.24 - Standards for Two Point Mooring Float Systems**

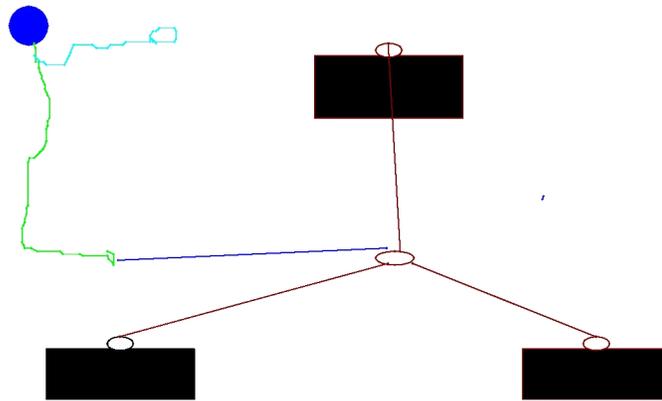
The following shall be the minimum specifications for all mooring floats not attached to shore in all tidal waters of the Town of Mount Desert except as otherwise provided:

Float Length	Max Float Width	Rock Size	Bottom Chain	Top Chain
10' but < 20'	6'	2000	W	W
20' but <30'	6'	2500	5/8"	W
30' but <40'	6'	4000	3/4"	W
40' but <50	6'	6000	1.0	5/8"
50' but <60'	6'	N/A	N/A	N/A
60' and over	6'	N/A	N/A	N/A

**7.25 - Standards for Three Point Mooring Systems**

The three (3) point mooring system for the 500 and 600 series shall consist of the following minimum gear size and diagram:

Boat Length Chain	Rock Size	Bottom	Top Chain	Nylon Size	Connecting Ring
50' but < 60'	3 @ 5,500 lbs	7/8	5/8	1.00	7/8
60' and over	3 @ 6,000 lbs	1.00	5/8	1.00	1.00



**Figure 1. Three (3) Point Mooring System**

**7.26 – Scope of Mooring Systems**

**7.26.1 - Single Point Moorings and Two Point Mooring Floats**

From May 15 to October 1, the mooring scope shall be equal to the depth of the water at mean low tide + 15 feet multiplied as indicated below, measured from the rock to the bow of the boat. From October 1 to May 15, pennants may be lengthened, provided such action does not interfere with nearby moorings.

Northeast Harbor and Somes Harbor: multiplied by 2  
Otter Creek, Seal Harbor, and Bartlett's Landing: multiplied by 3

When setting two point moorings, the Harbor Master or Deputy Harbor Master shall be present.

**7.26.2 - Three Point Moorings**

From May 15 to October 1, the mooring scope shall be equal to the depth of the water at mean low tide + 15 feet multiplied as indicated below, measured from the ring to the bow of the boat. From October 1 to May 15, pennants may be lengthened, provided such action does not interfere with nearby moorings.

Northeast Harbor and Somes Harbor: multiplied by 2  
Otter Creek, Seal Harbor, and Bartlett's Landing: multiplied by 3

When setting these three point moorings, the Harbor Master or Deputy Harbor Master shall be present.

**7.26.3 - String Moorings**

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String moorings are permitted for boats less than 20 feet long with the permission of the Harbor Master.

The bottom chain shall be no less than 10 feet in length.

Maximum string length shall be no greater than 300 feet with a 2,000 lb rock at each end. Shorter string lengths may be used with no less than a 1,000 lb rock at each end.

When setting these string moorings, the Harbor Master or Deputy Harbor Master shall be present.

### **ARTICLE VIII—USE OF PUBLIC FLOATS, DOCKS, PIERS, AND RAMPS**

#### **8.1 - Use of Floats, Docks, Piers and Ramps: In General**

No vessel may dock at a Town marina or be secured to a Town owned float in any harbor or in any tidal waters without first obtaining permission and a license from the Harbor Master. Any vessel docked in the marina or secured to a Town owned float without the Harbor Master's permission may be fined in accordance with Article X of this Ordinance, and removed at the vessel owner's expense and risk.

Use of any Town owned marine facility, where rent or license fees are collected, is not allowed unless all rent, fees, fines and taxes owed to the Town of Mount Desert pertaining to a vessel or mooring(s) are paid in full. Privately owned moorings rented through the Town or with the permission of the Harbor Master shall be considered part of the Town owned facility for this purpose. To avoid court action and or loss of harbor privileges, tickets must be paid within 30 days of date of issue.

Use of any Town owned marine facility, is not allowed unless all rent, fees, tickets, fines and taxes owed to the Town of Mount Desert pertaining to a vessel or mooring(s) are paid in full.

Piers, floats, docks and ramps shall be kept clear of small boats, traps, vehicles and other materials at all times. Owners of boats renting Town owned floats or slips shall keep the same clear of snow and ice.

A round trip fee of \$5.00 will be charged to non-residents for the use of the Northeast Harbor launching ramp.

#### **8.2 - Licenses**

Any reservation for use of a dock, float, slip, marina, wharf, or other Town facility for any period of time is issued as a license, which grants revocable permission to use the Town facility to the licensee. The license does not grant any property interest to the licensee and is not transferable.

### **8.3 - Slip Reservations**

Reservations will not be accepted prior to 1 January of each year for that summer season. All reservations must be re-confirmed prior to 10 days of the scheduled date of arrival.

Mariners are encouraged to make reservations as early as possible. Those who do not re-confirm will be dropped to the bottom of the waiting list for that day. Credit card numbers will be taken on all confirmed reservations. Any vessel not showing up for a confirmed reservation will be charged for any confirmed dates not filled by the office on his or her credit card.

If a vessel has a reservation and decides to depart early they will be charged for those dates not filled by the office. Check out time is 11:00 a.m. on the day of departure.

### **8.4 - Waiting List**

When available, boats requesting a reservation will be recorded on a waiting list in the order in which the reservation is received.

At 9:30 a.m. and 2:30 p.m. each day, available dock space will be offered to those on the waiting list. Vessels on the waiting list for more than one day will be considered on a day-to-day basis.

Boats that are on the waiting list must confirm by 9:00 a. m. on the morning of their scheduled arrival and any day they are on the waiting list. Once a determination has been made if there is room for a vessel the vessels that can be confirmed into the marina will be called by VHF channel 9 or by telephone.

### **8.5 - Transient Vessels**

Transient vessels may not remain in a slip for more than thirty (30) days. After thirty (30) days, vessels must remain out for fourteen (14) days unless space is available. Boaters with confirmed reservations may enter their designated slips after 12:00 PM (noon). Boaters who wish may enter vacant slips before noon and pay for one-third (1/3) of a day's slip charge for the slip occupied.

### **8.6 - Seasonal Slips**

A confirmed seasonal slip renter will have a minimum reservation for at least forty-five (45) days during the periods of May 15 through September 30. Seasonal slip waitlist is maintained in the Harbor Master's office.

Seasonal slip licensees that are unable to use their slip for a season may keep their slip in future years if they pay for a period of 45 days. The slip will only be held for a period of one season.

Notification of absences from the slip by seasonal licensees is essential, as the Harbor Master may wish to license the space during the seasonal licensee's absence. Accordingly, a seasonal licensee shall inform the Harbor Master in writing of all periods when the slip will not be

occupied overnight. Seasonal slip licensees may return before noon if so stated in writing on their departure.

### **8.7 - Fees**

The Selectboard, with the recommendation of the Harbor Master and Harbor Committee, shall annually set applicable fees. The schedule of fees will be maintained on file in the Harbor Master's office and/or posted to the Town's website.

#### **8.7.1 - Vessel Length**

A vessel's length is considered to be its overall measured length and not its registered or documented length. Measurements are at the discretion of the Harbor Master whose decision will be final.

#### **8.7.2 - Payment**

Transient vessels shall pay, in advance, in U.S. currency. Travelers' or personal checks in U.S. currency will be accepted with two (2) forms of identification. Master Card and VISA are also accepted.

Payment of off-season slip fees shall be paid in advance. Payment is expected to the end of the month upon entering the slip, then on the first of the month thereafter.

### **8.8 - Northeast Harbor Regulations**

#### **8.8.1 – Generally**

Due to parking limitations, dock space limitations, safety considerations, and the restrictive size of the present ticket booth facility at the Northeast Harbor Marina, the Selectboard shall consider any new commercial boat operations in the Town of Mount Desert subject to the policy outlined in this Ordinance.

Any vessel docked in the marina or secured to a Town owned float without the Harbor Master's permission may be fined in accordance with Article X of this Ordinance, and removed at the vessel owner's expense and risk.

All vessels moored at the Northeast Harbor Marina must be kept in a presentable condition at all times.

Charcoal grilling in the open within the Marina is prohibited.

#### **8.8.2 - Maintenance Float**

Before docking, vessels needing minor mechanical work or maintenance must obtain permission of the Harbor Master. No more than 2 vessels may use the float at one time.

When work on vessels cannot be performed during one workday, such vessels may be moved at the Harbor Master's discretion. Vessels requiring major mechanical work or maintenance must make arrangements with the Harbor Master prior to commencing any work.

Users of the maintenance float are responsible for cleaning up so that the float is neat and tidy at all times.

Sanding, welding and use of torches is not allowed without specific permission from the Harbor Master.

If the maintenance float in the Northeast Harbor Marina is not occupied at or after 5:00 p.m., it may be used for overnight dockage, provided any vessel using it shall depart not later than 7:00 a.m. the following morning. Vessels remaining at the float after 7:00 a.m. without permission will be fined in accordance with Article X of this Ordinance and any reservation for subsequent slip space may be canceled.

In the spring and fall when boats are being rigged and unrigged, if the Maintenance Float is unavailable, boats may remain in the marina for forty-eight (48) hours without charge, if space permits, at the Harbor Master's discretion.

### **8.8.3 - Commercial Float**

Only commercial vessels authorized to do so by the Selectboard may use the commercial float. Unauthorized use by vessels shall be subject to a fine in accordance with Article X of this Ordinance and the vessel may be removed at the owner's expense and risk.

### **8.8.4 - Public Float**

Any vessel, with the exception of those actually carrying passengers or freight for hire, may use the portions of the float so marked within the limits posted. The back of the Public Float will be divided into 2 sections, one for boats of 17 feet or less to be limited to 4 hours, and commercial dinghies. These dinghies will be 14 feet or less and if powered be powered by 25 hp or less, they will also be required to display decals on the inside of their transoms to certify that they are mooring owners in Northeast Harbor. The Harbor Masters office will issue the decals.

Violators may be fined in accordance with Article X of this Ordinance and the vessel may be removed at the owner's expense and risk.

No vessel docked at the public float at the Northeast Harbor Marina may engage in repair work without permission of the Harbor Master.

### **8.8.5 - Parking**

New operators carrying passengers or freight for hire applying to operate from the Northeast Harbor Marina, or existing operators seeking to expand their capacity beyond the approved capacity, must show there is sufficient parking for the new or expanded marine business in order to obtain approval to operate from the Northeast Harbor Marina. Parking relied on to meet this requirement must comply in all respects to the Land Use Zoning Ordinance for the Town of Mount Desert.

Applicants may satisfy the parking requirement by providing new parking, or by showing that sufficient parking is presently available to handle the proposed venture because (i) changes in the approved vessel fleet have reduced demand for parking, or (ii) the Town has provided additional parking sufficient to handle the new or expanded operation.

### **8.8.6 - Dinghies and Outboard Floats**

Town residents shall tie up their dinghies (14 ft limit with 25 hp/ob motors or less) to the float near the Yachtsmen Building at no charge. Transient yachtspersons will also use the same area.

Dinghies used to tend both commercial fishing and commercial vessels will not be charged but will carry a decal issued by the Harbor Masters Office and will be limited to 14 ft with 25 hp o/b motors or less and will tie up behind the public float marked accordingly. The decal will only be issued to commercial float operators and commercial fishermen with moorings in Northeast Harbor.

### **8.8.7 - Limits on Numbers and Size of Boats**

Except as provided below, the Harbor Master shall not approve more than thirteen (13) boats to use the Northeast Harbor Marina, or a lesser number of boats which exceed a maximum licensed load carrying capacity for the combined total number of trips for all vessels of more than 1175 passengers/day, in order to manage the safe and efficient use of the marina facility.

The Harbor Master may recommend to the Harbor Committee increasing the number of boats allowed to use the Northeast Harbor Marina if the existing boats authorized to use the facility decrease trip frequency thereby creating available space or time slots at the commercial dock, provided that the total passenger carrying capacity of the approved fleet of vessels does not exceed the maximum number as outlined above.

Due to the limited size and load constraints of the present commercial float system, no vessel over 50 feet maximum may dock at the Northeast Harbor commercial float.

### **8.8.8 - Application Process for Approved Boats**

Each approved operator must sign an Operator License Agreement with the Town which includes a commitment to operate for the upcoming season, verifies the size and licensed passenger capacity of the approved vessels, maximum number of trips allowed per day, approved time for these trips, a certificate of liability insurance (which names the Town of Mount Desert as an additionally insured), copy of all vessel operators' current Coast Guard license, a copy of each inspected vessel's current certificate of inspection, as well as other provisions consistent with this Ordinance. The Town shall provide the Contract form.

Operator Contracts are issued by the Town as a license, which grants revocable permission to the licensee to use Town marina facilities. This license does not grant any property interest to the licensee and is not transferable.

On or before September 30 of every third year after an Operating Contract is executed, every approved operator must submit to the Harbor Master an "Application for Approval to Operate from the Northeast Harbor Marina." Applications shall be submitted on forms supplied by the Town and shall, at a minimum, require each operator to submit a detailed operating plan for its use of the marina. The purpose of the Application shall be to provide the Town with a periodic opportunity to review use of the Northeast Harbor Marina. Decision criteria shall include the operator's record of safety, compliance, courteous use of the float, public feedback, and other factors related to the safe and efficient use of the Northeast Harbor Marina.

The Harbor Master shall forward all Applications to the Harbor Committee with a recommendation of Approval, Approval with Conditions, or Non-Approval. The Harbor Committee shall review the Applications and the Harbor Master's recommendations, and forward the Applications to the Selectboard with the Committee's recommendations. The Selectboard shall make the final determination on all Applications.

Proposals for replacing an existing approved vessel by a present operator which involves no increase in passenger carrying capacity, and otherwise complies with this Ordinance, the Contract, and the Application, may be submitted at any time to the Harbor Master for review and approval.

Proposals for changing an existing Contract, Application, or approval in a manner that does not increase use of the Northeast Harbor Marina, ticket booth, or parking for the upcoming season may be submitted to the Harbor Master between January 15 and March 1st of every year for review and approval and, if appropriate, amendment of the Contract.

Proposals from approved operators to change operations in any manner which would increase use of the marina, ticket booth, or parking shall be treated as proposals for new or expanded business, and evaluated accordingly.

All proposals to transfer existing business operations with existing approved operating plans and vessels to new owners (“Direct Replacement of Services”) will be considered on a case by case basis at any time and must first be submitted to the Harbor Master for review and comment, next obtain the recommendation for operational status by the Harbor Committee and finally receive approval by the Selectboard in order to operate from the commercial float.

#### **8.8.9 - New or Expanded Operators**

On or before September 30 of any year, the Selectboard will advertise for proposals to be submitted for consideration by potential new passenger vessel operators, as well as proposed additional vessels or proposed higher passenger capacity replacement vessels by presently approved operators, to fill any vacancies which have been created at the Northeast Harbor Marina. Proposals must meet all criteria as outlined in this document, and be submitted on the Application for Approval to Operate from the Northeast Harbor Marina. Selection of new operators, additional vessels, or higher passenger capacity replacement vessels will be on a “space available basis” and will be determined by a lottery system if the number of acceptable proposals exceeds the operating space available. All new or expanded operators will be required to enter into Contracts in this Ordinance.

#### **8.8.10 - Classification of Passenger Vessels**

Passenger vessels operating from the marina will be classified and approved for operation in the following categories:

1. “Regular Trip” Operator (includes Drop Off and Pickup privileges); or
2. Operator Approved for “Drop Off and Pickup” (on Demand Services only)

All vessels approved for operation from the Northeast Harbor Marina will also be permitted drop off and pickup privileges in the other harbors of Mount Desert. Regular scheduled trip operations will only be allowed from the Northeast Harbor Marina.

#### **8.8.11 - Ticket Booth**

Use of the ticket booth at the marina will be governed by the present “Ticket Booth Cooperative” Bylaws. All vessels approved by the Selectboard for regular trip operation from the marina will be allowed use of this facility upon payment of their joining fee. All vessels approved for “Drop-Off and Pickup” on demand services at the commercial float will be allowed to display their advertising at the ticket booth. Any disputes arising from the operation of the ticket booth will be resolved by the Harbor Master.

#### **8.8.12 - Penalties**

Approval to use the Northeast Harbor Marina may be suspended, limited, or revoked by the Harbor Master upon violation of this Ordinance or any applicable Contract or

Application, which violation is not corrected as soon as possible and in any event within 30 days of notice from the Harbor Master. The Harbor Master shall not be required to allow a cure period for repeat violations. In addition, the Harbor Master shall have the authority to impose fines as described in Article X of this Ordinance.

## **ARTICLE IX—HARBOR REGULATIONS**

### **9.1 – Harbor Regulations: In General**

#### **9.1.1 - Purpose**

All harbors within the Town of Mount Desert are unique and require individual treatment for their most efficient and satisfactory use and operation. Similarly, areas outside harbors within Town waters present ever changing conditions and issues. Accordingly, within the intent and scope of this Ordinance, rules and regulations may be promulgated, as hereinafter set forth, by the Harbor Master, with the approval by Harbor Committee and the Selectboard.

#### **9.1.2 - Procedure for Regulations**

The Harbor Master, in consultation with the Harbor Committee, and upon the further approval by the Selectboard, shall promulgate rules and regulations governing the use of docks, piers, slips, floats, moorings, other Town facilities and marine activity generally within the harbor limits and the tidal waters of the Town of Mount Desert.

### **9.2 - Speed limits on Vessels**

It shall be unlawful for any person to operate any boat or vessel in the harbors of the Town of Mount Desert in such a manner as to cause a wash, or a wake of waves that disturb or damage any wharf, float, dock, Town facility, anchored or moored boat, or at a speed that endangers any person or property or is contrary to the provisions of Title 38, Section 281 of the Maine Revised Statutes, as amended. In no event shall a vessel exceed a speed of five (5) miles per hour in this area.

### **9.3 - Reckless operation**

No person shall operate any vessel in a reckless or negligent manner or while under the influence of alcohol, marijuana, drugs, or other intoxicants so as to endanger the life, limb or property of any person, or contrary to the provisions of Title 38, Section 283 of the Maine Revised Statutes, as revised.

### **9.4 - Obstructions**

It shall be unlawful to tie up or anchor a boat or vessel in violation of the mooring provisions of Article VII in such a manner as to obstruct mooring areas, launch ramps or channels, or to permit or carelessly sink or allow to be sunk any boat or vessel in any channel, mooring area, or berthing space, which shall impede navigation or cause damage to boats or vessels therein. The

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Harbor Master may order any such boat or vessel to move. If the Harbor Master receives a complaint from an owner, master, or operator of any boat or vessel, that another boats or vessels are obstructing free movement or safe anchorage, he or she shall investigate the situation and order such other boat or vessel to move to an appropriate location, if necessary.

If the Harbor Master should observe a condition in which one boat or vessel is obstructing the free movement or safe anchorage of any other boat or vessel, he or she may order the other boat or vessel to move. If any boat or vessel is anchored within the channel limits established by the Town of Mount Desert the Harbor Master shall order the boat or vessel to move. If space is available the Harbor Master may designate the location to which the obstructing boat or vessel may proceed to anchor.

Whoever neglects or refuses to obey the orders of such Harbor Master be subject to the penalties and fines as described in Article X of this Ordinance. If a boat or vessel described in this section has no crew on board or if the owner, master, or person in charge neglects or refuses to move such boat or vessel, or if the Harbor Master is unable to locate the owner or master or person in charge after reasonable efforts, then the Harbor Master may take steps to remove said boat or vessel, in accordance with the provisions of Title 38, Section 5 of the Maine Revised Statutes, as amended. The Town of Mount Desert or its officials shall not be held liable for any damage to such boat or vessel nor liable to its owners before or after assuming custody. Boats or vessels so taken into custody shall be released to the owner by the Town Manager only after satisfactory proof of ownership has been presented, full reimbursement made to the Town for all costs incident to recovery, movement and storage, and a signed release of all claims is executed by the boat or vessel owner or duly authorized representative.

### **9.5 - Unsafe Berthing**

If any vessel shall be found, in the judgment of the Harbor Master, to be anchored, docked, or moored in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property, the Harbor Master may order such vessel to move and direct or undertake necessary measures to eliminate such unsafe, unauthorized, or dangerous condition.

Primary responsibility for compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his or her authorized agent; in the absence of such owner or agent, said responsibility shall rest with the mooring owner or the authorized operator of the facility at which the vessel is anchored, docked, or moored. In an urgent situation, and in the absence of any such responsible person, the Harbor Master may board any vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the Town of Mount Desert in effecting such correction. The Town or its officials shall not be held liable for any damage to such vessel or property that occurs during or as a result of being boarded pursuant to this section.

### **9.6 - Abandoned Vessels**

No person shall abandon any boat, vessel, hulk, cradle, raft, or any other possible obstruction within the tidal waters and geographic limits covered by this Ordinance. Any property, as herein

above described, which shall have been left unattended for a period of sixty (60) days, shall be deemed to have been abandoned. The Harbor Master may order the owner to remove the same within fifteen (15) days. In default of removal or in the event the Harbor Master is unable to identify the owner or master of the vessel after reasonable efforts, the Harbor Master may undertake its removal or destruction at the cost of the owner. Any violation of the above shall be deemed a violation and be subject to the penalties and fines as described in Article X of this Ordinance.

### **9.7 - Removal of Illegal Vessels**

A person shall not moor or permit to be moored, in any harbor or tidal waters of the Town of Mount Desert, a vessel of any kind whatsoever which is un-seaworthy or is in a badly deteriorated condition or which is likely to sink or to damage docks, wharves, floats or other vessels or which may become a menace to navigation, except with the express written permission of the Harbor Master.

### **9.8 - Infected Vessels**

Whenever a vessel arrives in the Town of Mount Desert Harbors having on board any person afflicted with a contagious disease or suspected of being afflicted with such disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Mount Desert shall comply with the provisions of Title 22 of the Maine Revised Statutes, as amended.

### **9.9 - Debris and Refuse**

Unless specifically permitted pursuant to State or Federal law, no person shall deposit or dispose of any refuse, trash, waste, petroleum distillate, or hazardous substance or material in the waters of the town.

No person shall throw, drop, discard, deposit or dispose of any personal property or litter on property owned by the Town, including but not limited to docks, piers, floats and ramps. The Harbor Master is authorized to remove personal property or litter in violation of this Ordinance. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

### **9.10 - Concessions**

Concessions of all kinds, including those conducted from watercraft, that are operated on a commercial basis shall be allowed at any Town owned dock, pier, float or boat ramp while doing business only by the express permission of the Harbor Committee and Selectboard.

### **9.11- Boat Cradles**

All boat cradles shall be removed from general harbor areas and parking lots when not in actual use. Boat cradles shall not be left or caused to be left on any town owned ramp, dock, pier, or

harbor parking lot or any town owned facilities without the express permission of the Harbor Master.

### **9.12 - Signs**

Private signs shall not be displayed on any town owned area without the express permission of the Selectboard.

### **9.13 - Repair Work**

Permission of the Harbor Master shall be required for any repair work on boats at any Town owned float, dock or pier before such work is started.

### **9.14 - Ramps**

The grounding out of boats on Town ramps is prohibited except with the express permission of the Harbor Master.

No person shall place or cause to be placed any float or boat, trailers, other vehicles or gear in such a way as to block access to the ramp for use by others.

### **9.15 - Condition of Docks, Piers, Wharves, Floats and Lobster Cars**

Any dock, pier, wharf, float, lobster car or other such structure which is within the Town of Mount Desert and its tidal waters and which has fallen into a state of disrepair or which remains in a dangerous condition, or interferes with the keeping open of convenient channels for the passage of vessels in said harbor and or suitable portions of said harbor for anchorage, shall be deemed a nuisance. The Harbor Master shall give the owner of the dock, pier, wharf or lobster car or other structure written notice of the condition. The notice shall order the owner to abate the nuisance within a reasonable period of time, which shall be specified in the notice. In the event that the Harbor Master cannot give notice to the owner it shall be given to the occupant. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

### **9.16 - Seafood Buying Regulations**

Seafood Buyers shall be registered with the Harbor Master's Office. Buyers shall provide the Harbor Master with a copy of their State of Maine Seafood Wholesale Buyer's License, as well as registration numbers for vehicles to be utilized in buying, and any other pertinent information.

The permit shall be effective for the applicable fishing season as established by the Maine Department of Marine Resources. Seafood buyers will only be allowed to have one buying vehicle in use at a time per registration. The number of permits issued will be limited to four (4) and no buyer will be issued more than one (1) permit. With prior approval of the Harbor Master, buyers may use the main pier to load their product, but will be limited in time (30 minutes) on the pier. All buyers are responsible for the cleanliness of the area they use and for the personnel

selling their product. All buyers must also have proper insurance that names the Town of Mount Desert as an additional insured.

Anyone wishing to buy on a one-time basis will be allowed to do so after registering with the Harbor Master and paying a one-time fee of \$35.00, providing there is space available. For the applicable fishing season, the cost is \$1,000.00 for as established by the Maine Department of Marine Resources.

#### **9.17 - Noise**

It shall constitute a nuisance to cause a noise in an unreasonably loud manner so as to disturb neighboring vessels and/or their occupants. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

#### **9.18 - Flammable Substances**

Within a Mount Desert Harbor or on any maritime facility, no person shall sell, offer for sale, or deliver in bulk any class of flammable liquid or combustible material, nor dispense any flammable or combustible liquids into the fuel tanks of a vessel except when in compliance with all requirements of the N.F.P.A. Fire Code and any other laws or regulations applicable thereto. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

#### **9.19 - Drug and Alcohol Use**

No person shall consume alcoholic beverages, smoke or consume marijuana, or use any illegal drug within publicly accessible areas of any Town pier, dock or float or any vessel tied to such areas. The Harbor Master shall post signs designating the publicly accessible areas where consumption of alcoholic beverages and other intoxicants shall be prohibited. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

#### **9.20 - Water Skiing and Surfing**

No person shall water ski or surf within the harbors of the Town of Mound Desert. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

#### **9.21 - Shelling of Shellfish**

Shelling of shellfish is prohibited within the harbors unless the shells are removed from the harbor area and disposed of in a legal and proper manner. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

### **9.22 - Fishing**

Fishing in a reckless manner and the use of harpoons or spears from any boat, wharf, float or pier within the harbors is prohibited. Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

### **9.23 - Compliance with Maine and Federal Boating Laws**

All vessels operating within the tidal waters of Mount Desert shall comply with Title 12 of the Maine Revised Statutes, as amended. Additionally, all vessels operating within the tidal waters of Mount Desert shall comply with CGM1672-2D (Navigation Rules). Any violation of this section is subject to the penalties and fines as described in Article X of this Ordinance.

## **ARTICLE X – PENALTIES**

The Harbor Master, or his or her designees, shall enforce all provision of this Ordinance, or any rule or regulation promulgated pursuant to its authority.

The master or owner of any vessel or any other person who violates any of the provisions of this Ordinance, for which a specific penalty is not set forth herein, or for which a specific penalty is not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties set forth in 30-A M.R.S. § 4452, as amended, which includes, without limitation, a minimum penalty for a specific violation in the amount of \$100 and a maximum penalty for a specific violation in the amount of \$2,500.

Violations of this Ordinance, which also constitute violations of State laws with regard to speed restrictions, reckless operation of a vessel or operation of a vessel under the influence of drugs or liquor, as, set forth in 38 M.R.S. § 281-285, as amended, shall be subject to the penalties set forth in State law.

In addition to the monetary penalties set forth herein, a violator of this Ordinance shall also be subject to an order of abatement of the violation as set forth in 30-A M.R.S. § 4452, as amended, and that violator shall further be subject to an action by the Town of Mount Desert, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this Ordinance.

