

FRENCHBORO TOWN DOCK, FLOAT AND HARBOR ORDINANCE

§ 1. Authority; applicability; effectiveness; transition.

A. Pursuant to the authority granted by 30-A M.R.S. § 3001 and 38 M.R.S. § 7, these regulations shall apply to all tidal waters located within the Town of Frenchboro, including all activities occurring within or directly affecting tidal waters.

B. All that part of the waters of the Town of Frenchboro encompassed by the above-described boundary lines is hereby assigned for anchorage except designated channels.

C. This Ordinance shall take effect immediately upon its adoption at Town Meeting and shall repeal and supersede the prior ordinance adopted June 15, 1983, and amended June 23, 2003.

D. At the Town Meeting where this Ordinance is adopted, the Town shall elect three Harbor Committee members to a two year term, at least one of whom is a commercial fisherman; and at the same Town Meeting the Town shall elect the remaining two Harbor Committee members to a one year term, at least one of whom is a commercial fisherman.

§ 2. Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

A. Frenchboro Harbor: All waters bounded by a line running generally easterly from the northernmost point on Harbor Island to the northernmost tip of Northeast Point, then south westerly along the shore to a point due south of the southernmost point on Harbor Island, then to the southernmost point on Harbor Island, and then along the shoreline of Harbor Island to the beginning point.

B. Resident: A person who owns real property in the Town of Frenchboro, who is registered to vote in the Town, or who occupied a dwelling in the Town on at least 180 days during the preceding year.

C. Watercraft: Any type of vessel, boat or craft used or capable of being used as a means of transportation on water.

§3. Harbor Committee

A. The Town of Frenchboro Harbor Committee (henceforth referred to as the Committee) is hereby established. It shall consist of five (5) voting members elected by Town Meeting. At least two of the Committee members must be commercial fishermen. Except as set forth above in § 1, the term of a Committee member is two years. Three (3) members shall constitute a quorum. Committee decisions will be made by vote of a majority of members present and voting. The Harbormaster shall serve as non-voting adviser to the Committee, and the Select Board may appoint a non-voting member to act as a liaison between the Committee and the Select Board. The Committee members shall all be residents of the Town of Frenchboro and be familiar with the waters of the Town and activities conducted thereon. In the event of a vacancy or failure to elect a member, the Committee may appoint a replacement to complete the term of the vacant position. If the Committee fails to do so within 90 days of the vacancy or failure to elect occurring, the Select Board may appoint the replacement.

B. The Chairperson of the Committee shall be elected annually by a vote of the Committee at its first meeting following the Annual Town Meeting. The Committee shall meet on the call of the Select Board, the Chairperson or the Harbormaster. Meetings shall be held at least quarterly. Notice of all meetings shall be transmitted to each member and posted at the Town Office and on the Town web site at least 10 days in advance, and meetings shall be open to the public. Any Committee member who misses three consecutive meetings shall lose his or her membership, and the position shall be deemed vacant as of the date of the third missed meeting.

C. The duties of the Committee shall be:

(1) To make a recommendation to the Select Board by May 1st of each year to reappoint the incumbent Harbormaster or to appoint a new Harbormaster from a list of one or more individuals identified by the Committee as qualified and willing to serve as Harbormaster.

(2) To oversee the duties of the Harbormaster and to provide to the Selectmen an evaluation of the Harbormaster's performance by May 1st of each year.

(3) To review this ordinance at least annually and to recommend changes as needed to the Select Board.

(4) To review and approve or disapprove the Harbormaster's assignment of mooring locations.

(5) To make recommendations to any Town Meeting, board, or committee or any outside body regarding subjects within the scope of this ordinance.

(6) To develop an annual budget for activities covered by this ordinance to be submitted to the Select Board and to recommend fees and civil penalties associated therewith.

(7) To hear appeals of any person aggrieved by any decision, act, or failure to act of the Harbormaster or deputies.

§ 4. Harbormaster.

The Harbormaster may appoint deputies who, under his/her direction, shall be authorized to enforce and carry out the rules and regulations of this chapter.

A. The Harbormaster shall be appointed by the Select Board annually at its first meeting after the Annual Town Meeting or as soon thereafter as possible. The term of the Harbormaster shall be from July 1 through the following June 30, except that the incumbent shall remain in office past the end of his or her term until a successor is appointed and sworn.

B. Duties. It shall be the duty of the Harbormaster to:

(1) Enforce the provisions of all ordinances and other laws which are lawfully promulgated and which are within his/her jurisdiction pursuant to law.

(2) Promote order in the harbor and ensure safety and use of the harbor for the general public.

(3) Within Frenchboro Harbor, the Harbormaster shall have all those duties and responsibilities of that office which are prescribed by 38 M.R.S. §§ 1-13.

(4) Manage the Town dock, float, and ramp, including enforcement and coordination of maintenance.

(5) Manage the permitting process and waiting lists, if any, in Frenchboro Harbor.

(6) Provide advice and information to the Harbor Committee on all matters concerning Frenchboro Harbor or the waters of the Town of Frenchboro, attend all Harbor Committee meetings, and aid the Harbor Committee in the preparation of its annual budget and recommendations.

(8) Attend Maine Harbormaster seminars and become certified within 12 months of appointment.

(9) Manage the registration of moorings and resolve conflicts between parties relating to moorings and operation of Watercraft.

(10) Manage the hoist at the ferry terminal.

C. The Harbormaster is not authorized to carry a weapon or to make arrests in the conduct of any duties required by his/her office.

§ 5. Regulation of Moorings and Mooring Floats

A. Moorings

(1) Registration. For all Frenchboro waters, the owners of all new and existing moorings shall by January 15 of every year register the mooring with the Harbormaster and pay the registration fee to the Tax Collector. Registration forms may be obtained from Frenchboro Town Office, and renewal applications will be sent to all mooring owners. Registration fees shall be set annually by the Select Board after considering recommendations of the Harbor Committee. Any registration fees not paid within six months after said due date may result in mooring removal by the Harbormaster.

(2) Identification. Each mooring shall be clearly identified with the mooring number assigned by the Harbormaster. When the owner of an unsafe mooring cannot be located or identified, or refuses to repair or replace the mooring when so directed by the Harbormaster, the Harbormaster may cause the entire mooring to be removed.

(3) Size. Each mooring shall be of sufficient size to hold the vessel for which it is used and shall comply with minimum requirements to be established by the Harbor Committee and made available at the Town Office.

B. Mooring Floats. Mooring floats shall be permitted in areas approved by both the Harbormaster and Harbor Committee. Mooring floats, except Town-owned floats, are prohibited by federal law in the federally dredged harbor. Mooring floats in other areas require both a Town permit and a permit from the Army Corps of Engineers. All mooring floats shall be anchored with two moorings, only one of which is required to be registered in accordance with § 5(A)(1).

C. Special Regulations for Frenchboro Harbor

(1) Placement of Moorings. After adoption of these ordinances no person shall place a mooring or mooring buoy in Frenchboro Harbor without first receiving a permit from the Harbormaster for placement in the specified location. No additional permit fee is required. The Harbormaster shall maintain a mooring and traffic plan indicating location of moorings and size of boats. A copy of this plan will be kept in the Town Office.

(2) Inspection of Moorings. Each mooring owner is responsible for the safety of the owner's mooring and toward that end shall periodically inspect the mooring or cause the mooring to be inspected.

(3) Mooring Assignment and Use. The privilege of maintaining a mooring in Frenchboro Harbor shall be allocated according to the following guidelines:

(a) Once the Harbor has reached capacity as determined by the Harbormaster and the Harbor Committee, a waiting list shall be established and made available in the Town Office.

(b) As moorings become available after establishment of a waiting list, the Harbormaster shall make assignments consistent with allocations required under State and

federal law, which prohibit discrimination on the basis of residency. To the extent permitted under State and federal law, priority in the federally-dredged inner harbor (sometimes referred to as the 6' anchorage), as depicted in Appendix A, shall be given to commercial fishermen.

(c) Moorings may not be rented, sold, or otherwise transferred to another person, except that, pursuant to 38 M.R.S. § 3-A, a mooring used for commercial fishing may be assigned to a family member of the owner, or pass to the family member upon the owner's death, as long as the commercial fishing use of the mooring is continued. Any such transfer must be reported to the Harbormaster within 30 days. Notwithstanding the above, a mooring may be rented outside the federally dredged area if the owner has obtained a valid Army Corps of Engineering permit.

§ 6. Regulation of Watercraft

A. General. No person shall use or operate any watercraft so as to cause danger, annoyance, disturbance or inconvenience to the public.

B. Reckless Operation. No person shall operate any watercraft in a reckless or negligent manner or while under the influence of intoxicants or drugs so as to endanger the life, limb or property of any person.

C. Speed Limits. All water vessels must observe any posted speed limit. Such speed limits shall be set by the Harbor Committee in its discretion to ensure safe and efficient use of the waters and posted in a conspicuous place by the Harbormaster. In the absence of such limits, all Watercraft must operate in a manner and at a speed which does not disturb or endanger persons or property, and make no wake while operating in the harbor south of the ferry pier.

D. Obstruction. No owner or master of any Watercraft shall permit his or her Watercraft to be docked or moored in such a manner as to obstruct the free passage of other vessels going into and coming out of any public dock.

E. Abandonment. No person shall cause to be abandoned any Watercraft, hulk, cradle, raft or any other possible obstruction in the waters or on the shores of Frenchboro. Any such object unattended for a period of 90 days shall be deemed to be abandoned. The Harbormaster, upon his own complaint or the complaint of another shall order the last owner of record of any such abandoned Watercraft, hulk, cradle, raft, or other possible obstruction, if such owner is ascertainable, to remove the same within 30 days. If the owner cannot be located or identified or if the owner fails to timely remove the object, the Harbormaster shall cause its removal or destruction at the cost of said last owner of record.

§ 7. Regulation of Wharves, Docks, Piers, and Floats.

A. Tying to Public Floats. No person shall leave any Watercraft tied at the public floats in Frenchboro for any purpose, including fueling, discharging, or taking on supplies, for longer than two hours during daylight hours or for longer than four hours after daylight without the consent of the Harbormaster. Boats used as tenders may be allowed at the public floats with

the permission of the Harbormaster provided they do not block access by other craft and are properly cared for by the owner.

B. Placement of Cradles. No person shall leave or cause to be left any boat cradle on the Town launching ramp, harbor parking lot or any other Town-owned facilities or property in Frenchboro without permission from the Harbormaster.

C. Blockage of Public Ramps/Facilities. No person shall place or cause to be placed any Watercraft, trailer or vehicle on the town landing, parking lot or other Town harbor facilities in Frenchboro in such a way as to block access by other users.

D. Bait. No person shall leave on public facilities any fish or lobster bait so as to cause a public nuisance.

E. Storage. No person shall place or maintain on public facilities any barrels, boxes, gear, traps, pots or any other equipment for a time longer than reasonably necessary without permission from Harbormaster. Any of these items that are left without permission for more than 30 days may result in a civil penalty to the owner or person who placed the items.

F. Removal of Debris. No person using the public wharf, float or launching ramp shall leave any rubbish, trash, or debris.

§ 8. Regulation of Aquaculture Moorings. Moorings related to aquaculture projects requiring a permit from any State or federal authority also require a permit from the Town of Frenchboro. Moorings connected to any aquaculture project requiring a permit from State or Federal authority may be subject to review with special consideration to the economic, scenic, ecological, recreational, and commercial fishing effects of the project.

§ 9. Enforcement.

A. Obedience to Orders. No person shall fail to comply with any lawful order of the Harbormaster.

B. The Harbormaster, upon finding that any provision of this ordinance is being violated, is authorized to issue notices of violations, orders to correct, or schedules to correct and to initiate legal proceedings as authorized by the Select Board to enjoin violations and to recover penalties and costs.

C. A person who violates the provisions of this ordinance shall be guilty of a civil violation. The Harbormaster shall serve the violator with a citation stating (1) the date and place of the offense; (2) the nature of the offense and the ordinance provision violated; and (3) the civil penalty assessed. Civil penalties will begin to take effect after the Harbormaster has declared that the schedule to correct a violation has not been met. In the event that the violator fails to pay the penalty assessed by the Harbormaster, pursuant to the Select Board's schedule, the Town shall commence an enforcement action in the Maine District Court, pursuant to 30-A M.R.S. § 4452 and Rule 80K of the Maine Rules of Civil Procedure. The Town shall also collect from the

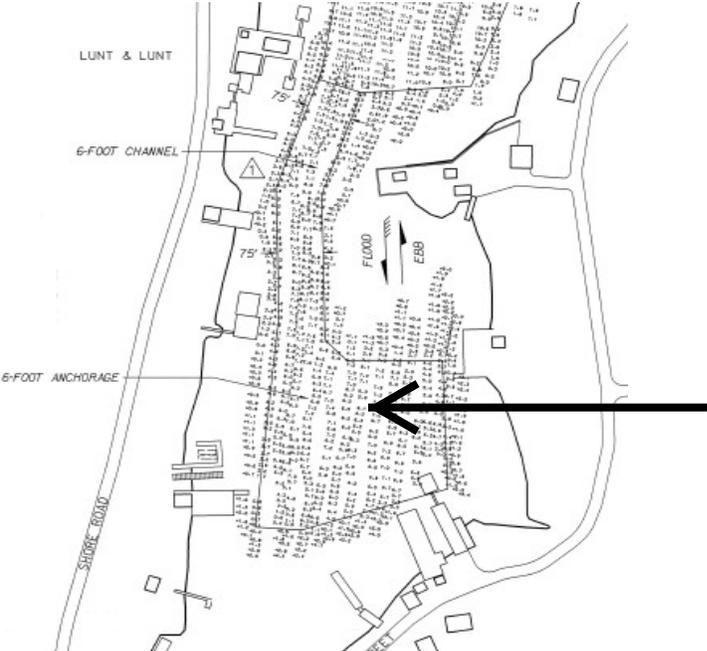
violator attorney's fees, expert witness fees, and costs. After consulting with the Harbor Committee, the Select Board may enter into administrative consent agreements.

D. The Select Board shall establish a schedule of civil penalties for specific violations of this ordinance consistent with 30-A M.R.S. § 4452(3) and from recommendations of the Harbor Committee. The Selectmen shall annually review the schedule of civil penalties and may amend them after consulting with the Harbor Committee.

E. Written decisions made by the Harbormaster may be appealed to the Harbor Committee within 30 days of the decision. Decisions of the Harbor Committee may be appealed directly to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

§ 10. Severability. If any provision of this Ordinance is held to be invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provision had not been made.

Appendix A: Map of Frenchboro Inner Harbor



Inner Harbor