

**COASTAL WATERS AND HARBOR ORDINANCE
FOR THE TOWN OF SOUTHWEST HARBOR**

Attested by:



Beatrice Grinnell, Town Clerk

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COASTAL WATERS AND HARBOR ORDINANCE FOR THE TOWN OF SOUTHWEST HARBOR

SECTION 1. GENERAL REGULATIONS

A. Purpose

This Ordinance is to establish regulations for marine activities occurring within or directly affecting the area within the Harbor and coastal waters of the Town of Southwest Harbor in order to ensure 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 shall be subordinate to existing Federal and State Laws governing the same matters and is not intended to preempt other valid laws.

B. Jurisdiction

1. "Inner Harbor" shall include all navigable waters which ebb and flow between Clark Point spindle and Kings Point.
2. "Coastal Water" shall include all navigable waters which ebb and flow outside the *inner* Harbor but within the limits of Southwest Harbor between Valley Cove and Ship Harbor.

C. Fairways and Anchorage

There is one major and two minor fairways within the Harbor (see Harbor Mooring Plan). The anchorage is within the areas formed by these fairways.

D. Harbor Master

1. The selectmen shall annually appoint a Harbor Master upon the advice of the Town Manager and Harbor Committee.
2. The Harbor Master, acting under the orders of the Town Manager, shall have full authority in the interpretation and the enforcement of all regulations affecting the Harbor and the Coastal Waters of Southwest Harbor to the fullest extent permitted by law.
3. The Harbor Master may remove any hazards to navigation that may cause damage to others.

E. Harbor Committee

1. There shall be a Harbor Committee consisting of not less than five (5) nor more than twelve (12) citizens of Southwest harbor at large appointed by the Board of Selectmen for a three year term. A quorum shall consist of **a majority of the current members.**
2. Said Committee, under the general direction of the Board of Selectmen, shall advise in the custody, care and management of the Harbor and its facilities, and the Coastal Waters, not inconsistent with the duties of the harbor master as set forth in the Ordinance or by the Maine Revised Statutes.
3. The Committee shall serve without compensation.
4. ***The Harbor Committee shall serve as a Board of Appeals to hear the appeals of any person aggrieved by any decision, act or failure to act by the Harbor Master.***

F. Public Notice

1. Any project which is to be discussed at a Harbor Committee Meeting must be placed on the Agenda and the Agenda posted in two (2) places – one of which must be in the Town Office – at least **five (5) business days** before the Meeting.
2. ***Any applicant with a project to be discussed by the harbor Committee must return a completed application at least ten (10) business days before the Harbor Committee's regular meeting.***

SECTION II. DESIGNATED MOORING AREA

- A.** The project areas A, B, and C within the Inner Harbor are considered a commercial mooring area. These areas are as designated on the Harbor Mooring Plan in the Town Office.
- B.** Commercial boats, scows, lobster cars and floats may be moored in this area. Marine builders and repair facilities may own moorings for customer service-repair on a temporary basis only. ***More than one commercial mooring may be owned and used for year round purposes as deemed necessary by the Harbor Master.***
- C. Restrictions/requirements:**
1. No water craft will anchor or raft up in this area.
 2. Absolutely no moorings will be leased or rented within ***these project areas A, B, C.; all other mooring areas leased or rented require approval of the Harbor Committee and Harbor Master.***
 3. Fixed water objects such as lobster cars, floats, scows etc. will be equipped with reflective tape a minimum of four (4) inches in diameter or width, visible from all angles, installed and maintained at least four (4) feet above the water line on at least both ends of the moored contraption. Name and license number of owner will be carved or burned into a main structural member.
 4. ***If Project areas A, B, C becomes filled to capacity, the Harbor master may displace non-commercial vessels, giving priority to commercial fishing vessels, providing he has a mooring for the displaced vessel.***
- D. Qualifications:**
1. An exception to this rule will be riparian boat owners under the law.
 2. Status to moor in this designated area may be questioned and/or determined by the Harbor Master. Appeal will be to the Harbor Committee as necessary.

SECTION III. REGULATIONS CONCERNING MOORINGS, DOCKS & MARINAS

A. Mooring Registration Procedure

1. Each owner of a mooring within the Boundaries of Southwest Harbor must annually pay a fee set forth by the Selectmen; said fee must be paid to the Town Office on or before July 1st of each year. Failure to comply may result in removal of mooring and loss of berth.
2. All new applicants must fill out and return an application to the Harbor Master. The Mooring Registration Application form may be obtained from the Town Office. ***Applicant shall pay an annual fee set by the Selectmen to remain on a waiting list until approved or denied by the Harbor Master.***
3. The harbor Master shall use the mooring Plan and shall grant, deny or defer each application. The Harbor master may deny an application because of insufficient information on the Mooring Registration Application, or because of other reasons as specified by the Harbor master. The Harbor Master may defer an application because of insufficient space for the desired mooring location or because of other reasons as specified by the harbor master. The Harbor master may grant an application with priority to be given applicants who owned moorings in place (prior to date of Ordinance), and with priority to be given applicants who are riparian owners in the Town of Southwest Harbor.
4. Each applicant shall be notified by the Harbor master of the action decided upon. The Harbor master shall keep a written record of each decision made on all applications. The Harbor master shall issue a Mooring Permit, which shall include location instructions and the Permit Number to each applicant of a granted application. Each mooring permit shall be valid for a period not to exceed one year.
5. All moorings shall have attached a ball or similar device of at least 18 inches indiameter, and be at least 2/3 above water at all times. This device will be marked with owner's name and permit number in a manageable and legible manner.
6. Each owner of a Mooring Permit shall be responsible for procurement, installation and maintenance of their mooring.
7. All moorings shall be inspected at least every three (3) years by a qualified person. All defects found will be corrected within a reasonable time to be determined by the Harbor Master. A record of all inspections will be maintained by the Harbor Master. A list of qualified inspectors will be made available by the Harbor master. No watercraft will be allowed to remain on an unsafe mooring until it is (***the mooring***) is certified corrected.

8. Defective/unregistered/abandoned moorings shall be removed from the Harbor within a reasonable time frame after written notification to owners if possible. Such removal will be at the expense of the owner with the mooring becoming the property of the Town. Reasonable time (10-30 days) *is* to be determined by the Harbor master. All moorings will be set and moved only by direction of the Harbor Master.
9. Mooring permits will only be issued to **bona fide** boat owners who intend to use such mooring for the boat so documented to that owner. Multiple mooring requests will not be considered unless significant and anticipated long-term mooring space is available. Lease/rental moorings will fall within this same category for approval plus a Federal mooring permit certificate must be made available at time of application request. The Harbor Master will determine this status.
10. Existing year-round mooring users have preference on a first come basis to vacated moorings, unless otherwise determined by the Army Corps of Engineers of the State of Maine.
11. All boat excise taxes must be paid to the Town of Southwest Harbor each year to obtain mooring owner status.

B. Docks/Floats

1. Docking time at all Town floats will be no longer than two (2) hours within a twenty-four (24) hour period. The Harbor Master may permit otherwise on a bona fide emergency basis.
2. Time limit at the Heat of all Town floats will be load/unload only, not to exceed twenty (20) minutes. The Harbor Master may permit otherwise on a bona fide emergency basis.
3. Absolutely no gear of any type, to include rowboats, fish/dragging equipment or any other type may be left unattended on Town floats.
4. No type of repair, maintenance, operation, storage or business will be conducted on any Town float. Work may be done aboard a vessel tied to a float, but not on the float itself.
5. All Town launching ramps will be used for launch and haul purposes only. All obstructions will immediately be removed from ramp.
6. Town dock priority load/unload – Priority access to the lower Town dock, and the Manset Town dock will be given to commercial vessel loading/unloading requirements as the tide/access level permits. Vessels which are moved or disturbed to provide this priority service have first priority to return to their original berth upon completion of loading/unloading.

7. Within the waters of Southwest harbor, no dock, pier, bridge and/or float will extend beyond the six foot mean low-water line as defined by 12/414/88 Harbor Mooring Plan unless the applicant can show the Harbor Committee that:
 - a. To be usable, the dock, pier and/or float must be extended beyond this point;
 - b. The intended use is shown and the specific requirements of this use proved;
 - c. The extension will not jeopardize the safety and navigation in the Harbor;
 - d. Displaced moorings can be relocated in a reasonable manner; and
 - e. The extension will meet any and all special regulations of the Federal, State and Local Governments.

No present dock or pier may be extended by any means if its length presently meets or exceeds this six foot (MLW) rule unless it meets the same criteria.

C. Leased Docks and Floats

1. ***No person shall use as a base of operation, one of the Town docks or floats without the permission of the Board of Selectmen.***

A fee may be charged for the operations.

The harbor master and the Harbor Committee may advise the Selectmen.

A lease application may be picked up at the Town office or from the Harbor Master.

3 Year Limit:

The lower Town dock and the Manset town dock shall give priority of use to:

- 1. Commercial full-time resident fishermen***
- 2. Commercial part-time resident fishermen***
- 3. Other marine related resident businesses***
- 4. Non resident full time fishermen***
- 5. Non resident part time fishermen***
- 6. Other marine related businesses***

All uses must conform to the Southwest Harbor Land Use Ordinance

2. Lessee will paint the name-holder on the float.
3. Leased floats may be used 24 hours a day if a qualified operator is on board the craft during the hours of darkness.
4. If the leased float is not being used by the lessee, the float may be used for loading and unloading by the public as long as the craft is attended by a qualified operator.

5. **Establishment leases** will be given priority to those with prior year lease, unless notice is given to lessee stating the reason for termination of this arrangement.
6. Dockage fees: leased docks at Town docks for the months of May through September are due at the start of the season. Public dock user fees will be determined by the Board of Selectmen after referral to the Harbor Committee.

Marinas

1. No marina may extend beyond the six foot mean low-water line as defined by the 12/14/88 Harbor Mooring Plan unless the criteria in B.J. has been met.
2. A detailed feasible and effective evacuation plan of all watercraft located at any commercial marina within the Harbor must be submitted to and approved by the harbor Committee prior to Harbor Committee project approval. All watercraft must have either an assigned and secure mooring within the Harbor or it must be able to leave the harbor prior to extreme weather conditions. All details of this plan will be in written form, reviewed and updated as need be on an annual basis, and submitted to the Harbor master for review and/or ongoing approval. The authority to initiate this plan may be by Marina owners, appropriate government or state agency or the harbor master based on his discretion.
3. Any marina within the Harbor shall have an adequate and approved breakwater on the seaward side (East to Southwest) to prevent potential storm and sea surge loss and/or damage to the Marina and to all other interests within the Harbor which may be affected by such loss or damage to the Marina. The Harbor Committee reserves the right to review and approve any breakwater plan or scheme prior to marina approval. The breakwater must be constructed prior to any marina operation.

SECTION IV. PROHIBITED ACTS

- A. No person shall install or cause to be installed any mooring in any location not designated by his/her Mooring Permit.
- B. No person shall assign or otherwise transfer a Mooring Permit except as designated in the State Harbor Mooring Guide, Section 3A, Mooring Transfer Permitted by Ordinance.
- C. Any mooring within the limits of the Town of Southwest Harbor whose fee has not been paid by its owner for a period of thirty (30) days after it was due shall be deemed to have been abandoned and shall be removed by the owner after he/she has been directed to do so by the harbor master. If no owner is forthcoming, the Harbor Master may remove the mooring.
- D. No person shall refuse to obey a lawful order of the Harbor Master.
- E. No person shall operate or cause to be operated any aircraft to land or take-off from the Inner Harbor of Southwest Harbor.

- F.** No person shall anchor or cause to be anchored any craft in the Inner Harbor so as to obstruct a channel or mooring from free passage of boats.
- G.** No person shall deposit, throw, sweep or cause to be deposited, thrown or swept into the waters of Southwest Harbor or into waters adjacent thereto any gas or oil or bilge water containing same, ashes, stones, gravel, mud, logs, planks, craft or any other substance tending to obstruct the navigation of said waters of Southwest Harbor or water adjacent thereto, or to shoal the depth of said waters or pollutes said waters.
- H.** No person shall dump or dispose of any refuse or garbage upon any shore of the Town of Southwest Harbor, at or between high and low water mark, or upon the waters of the ocean within the Town of Southwest Harbor.
- I.** Craft under 12' in length shall not be tied up at Town floats. They shall be required to tie-up at finger floats designated for this purpose.
- J.** No person shall intentionally, knowingly, recklessly, or negligently destroy, damage, disturb, deface or interfere with any sign, notice, channel marker, buoy, float, life preserver, Harbor Master Boat or any other municipal property under the jurisdiction of the Town of Southwest Harbor.
- k.** No person shall permit or place more than one craft at a mooring unless such craft does not interfere with adjacent moorings and anchorages or other navigational considerations as determined by the Harbor Master.
- I.** No person shall water ski within the Inner Harbor.
- M.** No craft in the Inner Harbor shall exceed five (5) miles per hour.
- N.** No person, including any owner or operator of any craft, shall [processor] permit to be processed any seafood products at any Town float.
- O.** No person shall fish from any Town dock between the hours of 8:00 a.m. and 5:00 p.m.
- P.** No personal property shall be left on the Town docks for more than 24 hours.
- Q.** At dinghy floats, vessels may not exceed 14 feet in length or 6 feet in beam.

SECTION V. FEES

Fees shall be set from time to time by the Board of Selectmen for the following:

1. Resident Mooring Permit Application
2. Non-Resident Mooring Permit Application
3. Resident Mooring Permit Renewal Application
4. Non-Resident mooring Permit Renewal Application
5. Seasonal tender Tie-ups at Town Docks
6. Daily Transient Guest Moorings
7. Seasonal Leased Floats
8. Leased Docks or Pier
9. Resident and Non-resident Use of Town Launching Ramps
10. Non-resident Fees – Harbor Facilities

SECTION VI. PENALTIES AND ENFORCEMENT

- A. Any person who shall violate any provision of this Ordinance shall be punished upon conviction by revocation of their mooring permit, or by a fine of not less than \$100.00 and no more than \$500.00 to be recovered upon complaint by the Harbor Master before the District Court. All fines shall inure to the Town of Southwest Harbor. Each day that such a violation continues to exist shall constitute a separate offense.
- B. Boat docking tickets shall be \$25.00 for an illegal overnight stay and \$15.00 for an illegal daytime stay. Non-payment shall constitute a violation of this Ordinance.
- C. It shall be illegal to bring in, to retain in, or abandon in the Harbor of the Town of Southwest Harbor, any derelict craft, float, lobster car or craft to be salvage, without first obtaining permission from the Harbor Committee or the Harbor Master. Non-compliance with this regulation will constitute a violation and shall be subject to the maximum fine of \$500.00 and the cost of clean-up.

SECTION VII. APPEAL

Any person adversely affected by a decision of the Harbor Master may appeal to the Harbor Committee.

- B. Any person adversely affected by a decision of the Harbor Committee may appeal to the Board of Appeals of the Town of Southwest Harbor.

SECTION VIII. DEFINITIONS

ACCESSORY CHANNEL – Those channels which commence from the Navigational Channel and are designated in the Mooring Plan of Southwest Harbor.

ANCHOR – Any appliance used by a craft for anchoring purposes and which appliance is carried aboard such craft when under way as regular equipment.

BREAKWATER – Any structure that would create a safe haven for craft.

CHANNEL – An area of movement which shall be determined by the Harbor committee, marked by the standard Coast Guard colors and maintained by the Town of Southwest Harbor.

CRAFT – Every description of watercraft including boats of all kinds, seaplanes, floats, scows and lobster cars used or capable of being used for any purpose on water.

FLOAT - Any floating structure normally used as a point of transfer for passengers and goods and/or for mooring purposes.

INNER HARBOR – All of the tidal water inside and west of a line drawn from Clark Point to Kings Point.

MARINA – A business establishment having frontage on navigable water and, as it's principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat repair, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

MOORING – Any appliance used by a craft for anchoring purposes and which appliance is not carried aboard such craft when under way as regular equipment.

RESIDENT – Any person who occupies a dwelling within the Town of Southwest Harbor for more than 180 days, or pays Real Estate Taxes to the Town of Southwest Harbor.

RIPARIAN OWNER – The owner of the land or an interest in land in Southwest Harbor to high water mark or low water mark.