

Article \_\_\_\_ Shall an ordinance entitled “2010 Amendments to the Rules and Regulations Governing the Use of the Harbors of Southport, Maine” be enacted?

[The proposed ordinance is available for review and inspection at the Town Office and will also be available at Town meeting.]

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The Rules and Regulations Governing the Use of the Harbors of Southport, Maine shall be amended as follows (deletions are ~~struck out~~; additions are underlined):

**RULES AND REGULATIONS GOVERNING THE USE OF THE HARBORS OF HARBOR ORDINANCE OF THE TOWN OF SOUTHPORT, MAINE**

**Including all amendments through 1998  
Supersedes All Previous Revisions  
EXISTING CONDITIONS**

~~1. A Harbor Management Board of Appeals consisting of three (3) people who are knowledgeable about waterfront matters shall be appointed by the selectmen. This board shall review and make recommendations when members of the general public are in serious disagreement with official rulings or judgments in matters pertaining to the Southport waterfront.~~

**ARTICLE I  
General Provisions**

**Sec. 1. Purpose:** The purpose of this Ordinance is to regulate the marine activities within or directly affecting the areas within the coastal waters of the town of Southport 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.~~

**Sec. 2. Harbor Master:** The Harbor Master shall be appointed by the Board of Selectmen and shall serve in that capacity until discharged by the Board of Selectmen or until resignation. The Harbor Master of the Town of Southport or authorized agent acting under the orders and jurisdiction of the Harbor Master shall have the power and duty to enforce the laws, ordinances, traffic and safety regulations covering usage of the waters of Southport ~~harbors~~ and other maritime

facilities, under his jurisdiction ~~and he may cite alleged offenders to appear before the District Court.~~

**Sec. 3. Harbor Committee:** There shall be a Harbor Committee consisting of ~~not less than five citizens~~ seven residents of Southport appointed by the Board of Selectmen. Said Committee shall (i) advise the Harbor Master and the Board of Selectmen in the custody, care and management of the waters of Southport; (ii) hear and decide applications of persons seeking more than one mooring permit within the waters of Southport; (iii) determine that there is insufficient space to assign allocations for all registered moorings in the location requested and thereby close a harbor; and ~~act as a Harbor management Board of Appeals~~ (iv) serve as a harbor board of appeals for decisions made by the Harbor Master under this Ordinance. ~~This board shall review and make recommendations when members of the general public are in serious disagreement with official rulings or judgments in matters pertaining to the Southport waterfront.~~ Committee members shall serve without compensation.

**Sec. 4. Designation of Gender:** Wherever the masculine gender is used herein, it shall be construed to include the feminine.

## ARTICLE II Definitions

~~For the purposes of this ordinance, the definition of all words, terms or expressions used shall be as defined and utilized in the U.S. Coast Guard Navigation Rules with the following additions:~~

**Commercial Vessel:** ~~Shall mean a~~ Any vessel used or engaged for any type of commercial venture, including but not limited to fishing, the display of advertising, or the carrying of cargo and/or passengers for hire.

**Commercial ~~Year-round~~ Fisherman:** A fisherman whose primary source of income involves engaging in the trade or occupation of fishing.

**Commercial Passenger Vessels:** Vessels that carry passengers for hire.

**Commercial Mooring:** ~~Shall mean a~~ A mooring that generates income such as a vessel for hire, rental, marina, boatyard, yacht club or nonresident fisherman.

**De Novo Review:** A review that looks at the factual and legal issues afresh, undertakes its own credibility determinations, evaluates the evidence presented, and draws its own conclusions.

**Dock/wharf/pier:** Dock, wharf, and pier shall all have the same meaning for purposes of this Ordinance, which is a permanent platform-type structure contiguous to the shoreline and used for berthing, loading, and unloading vessels.

**~~Distress:~~** ~~Shall mean a state of disability or a present or obviously imminent danger which if unduly prolonged could endanger life or property.~~

**~~Emergency:~~** ~~Shall mean a state of imminent or proximate danger to life or property in which time is of the essence.~~

~~**Entrance Channel:** Shall mean an access passageway through natural obstructions to navigate or a passageway defined by regulation to provide safe access through moored vessels to some particular point of interest such as a pier or ramp.~~

~~**Fairway:** Shall mean the parts of a waterway kept open and unobstructed for navigation.~~

~~**Individual Mooring:** Shall mean a mooring which is used solely by the Southport resident (?) holder of the mooring permit.~~

~~**Float:** Any floating platform used for storage space, staging areas, transportation of goods or for berthing vessels regardless of the type of construction.~~

~~**Harbor:** All areas within the waters of Southport that have been clear zones, buffer zones and mooring locations specifically established.~~

~~**Houseboats:** Any use of any watercraft, raft, hull, barge or vessel designed primarily to be occupied as living quarters and providing living, sleeping, cooking and/or sanitary facilities, whether temporarily or permanently, regardless of means of propulsion.~~

~~**Mooring:** Shall mean (1) a place where buoyant vessels are secured other than to a pier; (2) the equipment used to secure a vessel; and/or (3) the process of securing a vessel other than by anchoring.~~

~~**Overall Length:** Shall mean a vessel's total end to end length, including pulpits, anchors, outboard motors, sterndrives, swim platforms, stern davits and any other related hardware and equipment.~~

~~**Parcel of Land:** The larger of the minimum buildable lot size in the Town of Southport or 20,000 square feet and, in either case, including 100 feet of shore frontage.~~

~~**Permit Category:** Shall mean the range of overall length that may be assigned to a Southport mooring permit holder.~~

~~**Regulatory Marker or Waterway:** Shall mean any waterway markers defined as "regulatory markers".~~

~~**Resident:** A person who occupies a dwelling within resides in the Town of Southport for a period of more than 180 days in a calendar year or more.~~

~~**Riparian Owner:** Shall mean an owner of a parcel of land, as that term is defined herein, of at least 100 feet<sup>2</sup> of shore frontage.~~

~~**To Anchor:** Shall mean to secure a vessel to the bottom within a body of water by dropping an anchor or anchors or other ground tackle.~~

~~**Underway:** Shall mean the condition of a vessel not at anchor, without moorings, and not made fast to the shore nor aground.~~

~~**Watercraft:** Any and all floating apparatus, such as vessels, skiffs, boats, rafts, floats, airplanes and lobster crates, without distinction as to method of propulsion.~~

~~**Waterway:** Shall mean any water area providing access from one place to another, principally a water area providing a regular route for water traffic.~~

~~**Waters of Southport Harbor:** Means all waters of any harbor that is owned, managed or controlled or under the jurisdiction of the Town of Southport in which the tide ebbs and flows, whether or not the ordinary or mean high tide line of the~~

~~Atlantic Ocean has been fixed by ordinance, statute, court action or otherwise and whether or not the lands lying under said tidal water are privately or publically owned~~ All waters below the ordinary high tide mark and extending seaward three miles from the shoreline of property located with the territorial limits of the Town of Southport.

### ARTICLE III General Boating and Traffic Control Regulations

**Sec. 1. Traffic Control Authority:** The Harbor Master shall have authority to control waterborne traffic in any portion of the waters of ~~a harbor~~ Southport or maritime facility under his jurisdiction.

**Sec. 2. Basic Speed Law:** The operation of any vessel within the waters of Southport harbor area in excess of posted speed limits or, in the absence of such limits, in a manner to create a wash or at a speed which endangers persons or property shall constitute a violation of this ~~Ordinance~~; provided, however, that special written permission may be granted by the Harbor Master to conduct and engage in water sports and regattas in specific designated areas.

### ARTICLE IV General Regulations

**Sec. 1. Liability ~~of(a)~~ Boat Owner:** Any person using maritime or other~~the~~ facilities within the limits of waters of Southport a harbor or maritime facility shall assume all risk of damage or loss to his property, and the Town of Southport assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels within said watersharbor or maritime facilities.

**Sec. 2. Permits, Suspensions or Revocations:** All permits granted under the authority of the Ordinance shall be valid for the calendar year in which issued~~only for such period as may be determined by the Selectmen and permits of unqualified duration of validity shall not be granted~~. A violation of the provisions of this Ordinance or of any other applicable ~~Ordinance~~ by any permittee shall be grounds for suspension of fr revocation of such permit or permits.

**Sec. 3. Tampering with or Boarding Vessels without Permission:** It shall be a ~~violation~~violation of this Ordinance for any person other than the Harbor Master as set forth in Article V, Sec. 6 to willfully ~~to~~ board, break in, enter, damage, move or tamper with any vessel or part thereof, located within the waters of Southportharbor unless authorized by the rightful owner of such vessel. ~~Violation of this provision shall constitute a misdemeanor, punishable by the penalties not to exceed in the aggregate \$1,000 and six months imprisonment for each offense.~~ Any person violating this provision shall, in addition to being liable as set forth in Article IX, be responsible to the rightful owner of any such vessel for any damages caused by such

violation ~~and to the reasonable cost of any attorney's fees, necessarily incurred as a result thereof as provided by law.~~

**Sec. 4. Signs Erection and Maintenance:** The Harbor Master may place and maintain or cause to be placed and maintained, either on land owned or controlled by the Town or on water, such signs, notices, signals, buoys, waterway markers or control devices as he deems necessary to carry out the provisions of this Ordinance or to secure public safety and the orderly and efficient use of the waters of Southport a harbor or maritime facility.

**Sec. 5.** No person shall deposit, throw, sweep or cause to be deposited, thrown or swept into the waters of Southport or into waters adjacent thereto any gas or oil or bilge water containing the same, ashes, stones, gravel, mud, logs, planks, craft or any other substances tending to obstruct the navigation of said waters of Southport or waters adjacent thereto, or to shoal the depth of said waters or pollutes said waters.

**Sec. 6.** No person shall dump or dispose of any refuse or garbage upon any shore of the Town of Southport, at or between high and low water mark, or upon the waters of the ocean within the Town of Southport.

## ARTICLE V

### Regulations Concerning Anchoring, Mooring, and Security of Vessels

**Sec. 1. Placement of ~~Private~~ Moorings without a Permit:** It shall be a violation of this Ordinance to place any moorings in the watersharbors of Southport without a permit from the Harbor Master.

**Sec. 2. Anchoring:** It shall be a violation of this Ordinance to moor or anchor a vessel in the watersharbors of Southport for more than ten (10) days without obtaining a permit from the Harbor Master.

**Sec. 3. Obstructed Channels:** It shall be a violation of this Ordinance to knowingly or willfully obstruct the free use of any channel or waterway with the waters of Southportharbor.

**Sec. 4. Abandoned Vessels:** Except where the vessel constitutes an immediate hazard to public health, safety and welfare, the Harbor Master shall notify the owner of an abandoned vessel of his duty to remove any abandoned vessel within thirty (30) days of the date of the notice. If the name of the owner of the vessel is not known to the Harbor Master after a reasonable attempt to identify the owner, the Harbor Master shall publish a notice of the intended removal of the vessel along with a general description of the vessel location and approximate GPS coordinates of the vessel in the Boothbay Register newspaper. The notice shall state that a digital photograph of the vessel is available at the Town Office and on the Town's website. Publication of said notice shall constitute notice to the vessel owner. If the vessel is not removed within the applicable thirty (30) day period, it may be removed by the Harbor Master at the expense of the owner in accordance with the procedures of 38 M.R.S.A. § 5, as may be amended from time to time. Where the Harbor Master determines that the abandoned vessel constitutes an immediate threat to public

health, safety and welfare, he may authorize the vessel to be immediately removed without notice at the expense of the owner. Nothing in this section shall prevent the Town from collecting costs and penalties.

~~When, in the opinion of the Selectmen, a vessel has been abandoned in the harbor, they may take custody and control of such vessel and remove it, store it or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of such disposal shall be publically given.~~

**Sec. 5. Secure Berthing and Anchoring of Vessels:** The owner of any vessel moored or anchored within the waters of a Southport ~~harbor~~ shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent breakaway and resulting damage, and shall thereafter provide for periodic inspection for maintenance, replacement, and adjustment of anchor, mooring or tie lines at least once every four years.

**Sec. 6. Correcting an Unsafe Berthing:** If any vessel shall be found in the judgment of the Harbor Master to be anchored or moored within the waters of Southport~~any harbor~~ or maritime facility 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 shall order and direct necessary measures to eliminate such unsafe or dangerous condition. In an emergency situation, the Harbor Master shall forthwith board such vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the Harbor Master in effecting such correction.

**Sec. 7. Fees Incidental to Recovery, Movement and Storage:** Charges imposed ~~by the Selectmen~~ for recovery and/or movement of vessels shall be in accordance with the “Schedule of Harbor Ordinance Fees~~Charges for services rendered~~” as approved by order of the Board of Selectmen ~~or as subsequently amended from time to time~~, and whenever a vessel is impounded or held for safekeeping, there shall be an additional charge for storage as set forth on said schedule ~~in addition a charge for storage at the rate of \$10.00 per day.~~

**Sec. 8. Mooring Waiting Lists:** In harbors that the Harbor Committee has closed to additional moorings, applicants for a mooring in those locations will be placed on a waiting list maintained by the Harbor Master. Those on the waiting list must submit in writing, annually by September 1, a request to the Harbor Master to remain on the waiting list. Movement from the list will be according to the rules for assigning moorings (Article VI, Sec. 1(8)) as well as date of placement on the waiting list, vessel length and draft, and number of moorings already assigned to the applicant. The waiting list shall be published on the Town’s website and available at the Town Office.

## ARTICLE VI

### Rules Concerning Moorings, Registration and Permits

**Sec. 81. ~~General Miscellaneous Mooring(s) Rules:~~**

1. The Harbor Master shall be promptly notified of a change in the use of any moorings in the ~~harbor waters of Southport~~. Use of a mooring location is not transferable, except with the written permission of the Harbor Master. However, the use of the mooring location by an owner with property abutting the ~~Harbor waters of Southport~~ is transferable with transfer of the property ownership, unless multiple moorings are involved, in which case, transfer of said moorings must be approved by the ~~Board of Appeals Harbor Committee~~.

2. In Cozy Harbor, during the months of July and August, any moored or anchored vessel's outboard motor or stern drive must be affixed in the down position at all times.

3. Annual mooring permit renewals will only be issued if the designated vessel's overall length remains equal to the applicant's previous year's permit or permit category. Any permit renewal application which proposes to increase the designated vessel's overall length greater than the pervious year's permit or permit category will be considered as a new application.

4. Inspection of a mooring at least once every four years is required in order to obtain a mooring permit.

~~5.—b.~~ Permanent moorings shall not be placed, altered or shifted without the written permission of the Harbor Master. Seasonal moorings shall be replaced ~~we~~ach year in the assigned location as closely as possible.

~~6.—e.~~ Any person not planning to use a mooring for the following season or for an extended period of time (during the summer season) shall notify the Harbor Master in writing of his intention. In the event a vessel owner does not notify the Harbor Master of an intended non-use, the vessel owner shall forfeit any mooring privilege.

~~7.—d.~~ Whoever willfully destroys any buoy or beacon defining the channels for vessels shall be liable upon complaint of the Harbor Master for a sum ~~not less than \$100.00 nor more than \$200.00~~ in accordance with the Schedule of Harbor Ordinance Fees.

~~8.—e.~~ Moorings: Subject to the provisions of 38 M.R.S.A. § 7-A(2) with regard to non-resident non-commercial mooring allocations, ~~the~~ the following standards shall ~~constitute a guideline to the govern the assignment of Harbor Master for assigning~~ mooring locations by the Harbor Master in the waters of Southport~~harbor~~ in the following order of ~~preference~~ priority:

- ~~1a.~~ Southport ~~Shorefront Property Riparian~~ Owner
- ~~2b.~~ Resident Licensed Commercial Fisherman
- ~~3c.~~ Southport ~~Property Owner~~ Resident
- ~~4d.~~ Southport ~~Resident~~ Property Owner
- ~~5e.~~ Other Approved Commercial Use
- ~~f.~~ Non-resident
- ~~6g.~~ None of the Above (Describe)

The foregoing order of priority preference applies to the first mooring location granted to a person, business or corporate entity. All who require more than one (1) mooring location must apply to the Harbor Management Board of Appeals Committee for approval of any additional mooring locations.

~~9.—f.~~ The Harbor Master shall register all moorings with the following information:

- ~~1a.~~ 1a.      Name and address of owner
- b.      E-mail address of owner, if available
- c.      Description of the vessel
- d.      Registration or documentation number of the vessel
- e.      Resident status
- 2.      Description and number of the vessel
- 3f.      Size of the mooring and chain
- 4g.      Mooring number and location
- 5h.      Type and use of mooring.

Mooring use shall be classified by the Harbor Master as one of the following:

- (i) **Individual, non-commercial mooring:** A mooring placed by a vessel owner for his private use. This includes moorings of commercial fishermen.
- (ii) **Rental/commercial mooring:** A mooring for which any type of fee for use is charged. An Army Corps of Engineers permit is required prior to issuance of a Town permit.
- (iii) **Guest mooring:** A mooring retained by a permit holder who does not currently have a vessel but which is used for the purpose of transient/guest use with no income generated.

g. **Registration:** All moorings shall be registered at the Town Office each year, before April ~~July~~ 1, and the moorings shall be noted on the harbor chart. Any applicant who does not complete re-registration without notifying the Harbor Master before July 1 of any year shall lose all mooring privileges.

- 1. **Registration Tags:** Upon registration, the Harbor Master will issue a registration tag showing year and number which is to be attached to the top of the mooring float of pennant.
- 2. **Rental Moorings:** No registration of any rental moorings shall be effected without proof that an Army Corps of Engineers Permit has been issued in the name of the applicant for registration; and where such application is pending, registration with the Town shall be temporary pending final Army Corps approval.
- 3. **Unregistered Moorings:** If any mooring in the waters of Southport is unregistered, unmarked, or not tagged after June 1, the mooring will be considered illegal and removed at the expense of the owner.

~~10.—h.~~ 10.—h. All moorings shall be numbered, as assigned by the Harbor Master, with an identity tag as issued by the Town and 2" numbers permanently affixed to a floatable, visible buoy attached to the mooring. As of 2001, the U.S. Coast Guard

recommends the use of white buoys with a blue stripe. It is recommended that owners permanently place their name on their buoythe mooring ball. Any moorings found without the proper identity stickertag and/or numbers after JulyJune 1 will be considered illegal, and removed at the expense of the owner.

11.—i. The Harbor Master shall keep a log of the assignment of moorings and submit this log to the Board of Selectmen annually, on or before October 15<sup>th</sup>. The Harbor Master He shall also compose a grid showing the moorings for all boats in Cozy Harbor, Ebenecook Harbor, Cape Harbor and Decker's Cove for annual submission to the Board of Selectmen.

12.—j. A mooring registration fee shall be set by the Board of Selectmen at the first Board of Selectmen's meeting in February every year, and said mooring registration fee must be paid before June 1May 1 of each year. Failure to make payment of the registration fee by June 1 will result in the addition of a late fee. If, in the following year, the previous year's permit fee and late fee are not paid and no payment is timely made for the new year, the mooring will be regarded as abandoned and subject to removal under Article VI, Sec. 1(20). Mooring registration fees collected shall be used for harbor related activities, including Harbor Master fees, public dock maintenance, etc.

13.—k. In Cozy Harbor, the maximum mooring scope from staple to bit shall be the mean high water depth plus five feet.

14.—l. **Subletting the Mooring Space:** Subletting of an individual, non-commercial mooring is prohibited. Charging a fee for the sublet of a guest mooring is prohibited. Subletting of a guest mooring The owner of any vessel having space shall not sublet said space to another boat owner unless requires the advance, written permission is given by of the Harbor Master in order for another boat owner to use the mooring; permission shall not be granted unless provided the mooring owner pays the any outstanding fee or fees assessed under this Ordinance and has requested permission from the Harbor Master to moor said vessel.

15.—m. No person shall place floating structures of any type within the waters of Southport so as to cause obstruction or danger to navigation within the boundaries of said waters.

16.—n. In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character when so directed by the Harbor Master, the Harbor Master shall cause said mooring to be removed or shall make such change in the character, thereof, as required, and shall collect from the master or owner of such boat or vessel all necessary expenses for his services and any fees as allowed under State Law, all as provided by Title 38 M.R.S.A., Section § 4, as may be amended from time to time.

17.—o. In addition to the foregoing specifications for moorings, the Harbor Master may enforce additional written specifications. These additional written specifications shall be conveniently available to the public on request and shall be posted at the Town Office.

~~\_\_\_\_\_ **Sec. 9.** No additional mooring privileges will be granted in Southport waters except to Southport property owners.~~

**18.** It is recommended that any float that is not attached to a wharf by traditional means have a radar reflector on it or reflective tape on each corner.

**19. Relocation of Moorings:** For purposes of increasing the efficiency of a mooring area, for the safety of watercraft or for other harbor management improvements, the Harbor Master may direct that any mooring site be vacated and that the mooring tackle be moved at the owner's expense to a new location. The Harbor Master's relocation decision may be appealed to the Harbor Committee.

**20. Abandoned Moorings:** When the Harbor Master has determined that a mooring is abandoned, he shall tag the mooring buoy. He shall record the date of the determination, location of the mooring, and, if possible, the name of the owner in his records. He shall notify the owner of the abandonment in writing at his last known address and order the owner to remove the mooring within thirty (30) days of the date of notice. If the name of the owner of the mooring is not known to the Harbor Master after a reasonable attempt to identify the owner, the Harbor Master shall publish a notice of the intended removal of the mooring along with a general description of the mooring buoy location and approximate GPS coordinates of the mooring in the *Boothbay Register* newspaper. The notice shall state that a digital photograph of the mooring location is available at the Town Office and on the Town's website. Publication of said notice shall constitute notice to the mooring owner. If the mooring buoy is not removed or appropriately marked and re-registered with payment of all outstanding fees within the applicable thirty (30) day period, the mooring may be removed or dropped by the Harbor Master at the expense of the owner in accordance with the provisions of 38 M.R.S.A. § 4, as may be amended from time to time.

**Sec. 2. Registration and Permits**

**1. Registration:** All moorings shall be registered at the Town Office each year, before July 1, and the moorings shall be noted on a harbor chart by the Harbor Master. Any applicant who does not complete re-registration without notifying the Harbor Master before July 1 of any year shall lose all mooring privileges.

**a. Registration Stickers:** Upon receipt of all registration information, including proof of payment of excise tax, if applicable, the Harbor Master will issue a registration tag showing the current year and mooring number, which is to be attached to the top of the mooring buoy.

**b. Rental Moorings:** No registration of any rental moorings shall be effected without proof that an Army Corps of Engineers permit has been issued in the name of the applicant for registration; and where such application is pending, registration with the Town shall be temporary pending final Army Corps approval.

c. **Unregistered Moorings:** If any mooring in the waters of Southport is unregistered, unmarked, or not tagged by July 1, the mooring will be regarded as abandoned and subject to removal under Article VI, Sec. 1(20).

2. **Permits:** Application forms for mooring permits may be obtained from the Town Office or downloaded from the Town website.

3. A maximum of one mooring per vessel may be allowed to permit applicants. A waiver of this limitation as required to meet the business and/or personal needs of residents and property owners (e.g., storm moorings) may be granted after review and written approval by the Harbor Master.

4. Mooring permits are issued for the purpose of mooring a vessel. If no boat is to be moored on the mooring for a season due to special circumstances (e.g., the applicant's boat is on the hard and for sale or a new boat has not yet arrived), as determined in the sole and exclusive discretion of the Harbor Master, no increase in the mooring permit fee will be charged in the subsequent calendar year. Should there be no boat moored in the subsequent calendar year, the permit applicant shall identify the mooring as either a guest or rental mooring with the appropriate increase in mooring fee.

5. Upon request, the yearly mooring fee for one (1) individual, non-commercial mooring belonging to a resident 70 years or older may be waived by the Harbor Master.

### **Sec. 3. Prohibited Activities in Anchorage and Mooring Fields**

1. No person shall be allowed to anchor watercraft within a closed mooring area. Closed mooring areas are those harbors where the Harbor Committee has determined that there is insufficient space to assign allocations for all registered moorings in the location requested and thereby a waiting list is being maintained by the Harbor Master.

2. No person shall moor or permit to be moored any watercraft owned or occupied by him/her that is being used primarily for residence purposes within the Town's boundaries without the written permission of the Harbor Master. This prohibition does not pertain to transient watercraft on rental moorings.

3. Structures on floats are prohibited. This prohibition does not affect floats that are connected to wharves by traditional means, to floats used to raise, move, or maintain moorings, or to floats used in conjunction with commercial operations.

4. Notwithstanding any other provision of this Ordinance to the contrary, houseboats occupied for more than seven (7) days are prohibited from mooring or anchoring in Southport waters except when the following requirements are met:

a. They are moored to a permanent float, dock or slip from which the houseboat may be directly boarded from land;

- b. There is a connection to a public water supply by means of an individual anti-backflow valve;
- c. Sanitary facilities meet all U.S. Coast Guard requirements and pump-out facilities are available;
- d. There is a year round, all weather supply of electricity; and
- e. There is compliance with any and all applicable land use laws, ordinances and regulations.

## **ARTICLE VII**

### **Town Docks and Floats**

Sec. 1. Rowboats tied to public floats must be properly and reasonably maintained. The owner of any vessel ~~that, which~~ is not properly maintained, shall lose any privileges to tie to said public float, and the vessel shall be removed from said float at the owner's expense.

Sec. 2. No boats over 13 feet in length shall be attached to ~~athe~~ public landing or any public floats except for short periods of time in order to load and unload.

Sec. 3. No lobster traps or other equipment may be stored on public landings or any public floats except for loading and unloading purposes without for any excessive period of time except with the advance, written permission of the Harbor Master.

## **ARTICLE VIII**

### **Appeals**

Sec. 1. Any person aggrieved by a decision of the Harbor Master may appeal the decision to the Harbor Committee within thirty (30) days of the Harbor Master's decision. The Harbor Committee reviews decisions of the Harbor Master *de novo*. When acting in a *de novo* capacity, the Harbor Committee shall hear and decide the matter afresh, undertaking its own independent analysis of the evidence and the law, and reaching its own decision. For all matters before the Harbor Committee, the person filing the appeal or request shall have the burden of proof. Decisions of the Harbor Committee, when acting as a harbor board of appeals, may be appealed to Superior Court within thirty (30) days of the Harbor Committee's decision.

Sec. 2. Any person aggrieved by a decision of the Harbor Committee, when acting pursuant to its original jurisdiction as set forth in Article I, Sec. 3(ii) and (iii), may appeal the decision to the Board of Appeals within thirty (30) days of the Harbor Committee's decision. The Board of Appeals reviews decisions of the Harbor Committee on an appellate basis. When acting in an appellate capacity, the Board of Appeals may reverse the decision of the Harbor Committee only upon a finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Harbor Committee. For all matters before the Board of Appeals, the person filing the appeal or request shall have the burden of proof. Decisions of the Board

of Appeals may be appealed to Superior Court within forty-five (45) days of the Board of Appeals' decision.

## **ARTICLE IX** **Violations and Enforcement**

~~Violation of this Ordinance is a misdemeanor. Unless otherwise provided for, the master, owner or owners of any vessel, boat or raft or any other person who shall violate any of the provisions of any rule or regulation lawfully promulgated for the government of the Harbor, to which a specific penalty is not annexed or otherwise provided by law, shall forfeit and pay a sum not less than \$25 nor more than \$500, to be recovered on complaint by the Harbor Master before the District Court. Violations of these rules and regulations, which also constitute violations of the laws of the State of Maine with regard to speed restrictions, operation of a vessel so as to endanger persons or property, reckless operation of a vessel, and operation under the influence of drugs or liquor, will be governed by Title 38 MRSA, Section 281 through Section 285, and the penalties described in the aforementioned Sections, where appropriate. A repetition or continuation of any violation of any provisions of this Ordinance on successive days constitutes a separate offense for each day during any portion of which such violation is committed, continued or permitted.~~

**Sec. 1. Violations.** Except as provided in Title 38 M.R.S.A. § 13, as may be amended from time to time, a violation of this Ordinance shall be a civil violation and may be prosecuted and relief, fees, fines and penalties granted and assessed pursuant to the provisions of Title 30-A M.R.S.A. § 4452, as may be amended from time to time. For purposes of this Article, each day that a violation continues shall be considered a separate offense.

**Sec. 2. Enforcement.** The Harbor Master shall have the authority and responsibility to enforce this Ordinance and the provisions of Title 38, Chapter 1, Subchapter 1, as may be amended from time to time. All law enforcement officers of the State of Maine, including the Harbor Master, shall have the authority to enforce this Ordinance and, in the exercise thereof, shall have the authority to stop and board any vessel found in violation of this Ordinance. It shall be unlawful for any operator of such vessel to fail to stop upon request of such officer and violation shall be punishable as provided in Title 38 M.R.S.A. § 282, as may be amended from time to time.

## **ARTICLE X** **Separability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.