

# WATERFRONT ORDINANCE

## OF THE

### TOWN OF CASTINE, MAINE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 13<sup>TH</sup> DAY OF JANUARY 1997

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT. THE *WATERFRONT ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 13 JANUARY 1997 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 4 APRIL 2009, AS SHOWN.

DATED: 4 APRIL 2009

SIGNATURE: \_\_\_\_\_

AFFIX SEAL

SUSAN M. MACOMBER  
CASTINE TOWN CLERK

**WATERFRONT ORDINANCE OF THE  
TOWN OF CASTINE, MAINE**

**1. GENERAL PROVISIONS**

**1.1 TITLE**

This ordinance shall be known as the “Waterfront Ordinance of the Town of Castine, Maine. It shall be referred to herein as the “Ordinance”. [\[Am 4\]](#)

**1.2 AUTHORITY**

This ordinance is adopted pursuant to the authority granted by Title 38 M.R.S.A., Chapter 1, as amended, Title 30A, M.R.S.A., §§ 3001, 3007, 3009 and 4452, as amended and the Home Rule provisions of the Constitution of the State of Maine with additions and deletions. [\[Am 4\]](#)

**1.3 PURPOSE**

The Castine Harbor is a valuable but limited resource that has been subject to growing demand from recreational, commercial and institutional users; therefore, this Ordinance is adopted for the following purposes: [\[Am 4\]](#)

**1.3.1** To preserve and promote the maritime nature of the harbor; [\[Am 4\]](#)

**1.3.2** To minimize user conflicts and maximize the efficient use of the harbor for residents, visitors, commercial users and Maine Maritime Academy; [\[Am 4\]](#)

**1.3.3** To implement the relevant policies, guidelines and recommendations of the current Castine Comprehensive Plan; and [\[Am 4\]](#)

**1.3.4** To plan, establish and maintain the arrangement and utilization of the Mooring area, public landings, boat ramps, harbor channels and other related properties in the waters of Castine. [\[Am 4\]](#)

**1.4. APPLICABILITY**

The provisions of this ordinance shall apply to all tidal water areas located within the municipal boundaries of Castine, Maine, hereinafter referred to as Castine Waters.

**1.5 SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unenforceable by any Court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**1.6 CONFLICT**

Whenever any section, subsection, sentence, cause, phrase or portion of this ordinance is deemed to be in conflict with any existing state law and/or federal rule(s), then the stricter provision shall apply, unless preempted by federal law.

**1.7 EFFECTIVE DATE**

This ordinance shall become effective immediately upon adoption.

## 2. DEFINITIONS

For the purpose of interpreting this Ordinance, the following terms, phrases and words shall be defined as set forth below. [\[Am 3\]](#)

**FEE:** a charge for the use of Town owned waterfront facilities; all fees described herein are set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. [\[Am 3\]](#) [\[Am 4\]](#)

**FINE:** a civil penalty for a violation of this Ordinance or the Mooring, Dock and Launch Ramp Rules; all fines are set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. [\[Am 3\]](#) [\[Am 4\]](#)

**HARBOR MASTER:** a person appointed pursuant to Title 38 M.R.S.A. § 1 and this Ordinance; all references to the Harbor Master shall include any Deputy Harbor Master. [\[Am 4\]](#)

**MOORING:** an apparatus for securing a Vessel in a fixed location including a pennant, a permanent weight or permanent anchor on the harbor floor, a mooring buoy and everything between the latter two or otherwise permanently attached thereto; there are three classes of moorings, Private, Service and Transient, which are defined below. [\[Am 4\]](#)

**MOORING, PRIVATE:** a Mooring other than a Service Mooring or Transient Mooring that is permitted for the purpose of mooring a specific Vessel. [\[Am 4\]](#)

**MOORING, SERVICE:** a Mooring owned and utilized by a commercial marine enterprise or a marine dependant enterprise for the purpose of temporary mooring of customers' Vessels or other uses related to the operation of the enterprise. [\[Am 4\]](#)

**MOORING, TRANSIENT:** a Mooring set aside for temporary (7 days or less) use by Vessels cruising along the coast. [\[Am 4\]](#)

**MOORING PERMIT:** an annual permit that is issued by the Harbor Master to a Mooring Permittee authorizing the placement of a specific class of Mooring at a specific Mooring Site and which expires on May 31 of the year following its issue. [\[Am 4\]](#)

**MOORING PERMITTEE:** a person granted a Mooring Permit. [\[Am 4\]](#)

**MOORING PERMIT WAITING LIST:** a list of persons (resident and non-resident) desiring a Mooring Permit; the list will be maintained by the Harbor Master and will be posted in the Town Office; names on the list will be maintained in chronological order; issuance of a Mooring Permit to individuals on the list will be in accordance with Title 38, M.R.S.A, § 7A, as amended. [\[Am 4\]](#)

**MOORING RELOCATION WAITING LIST:** a list of persons (resident and non-resident) desiring relocation of a Mooring Site assignment; the list will be maintained by the Harbor Master and will be posted in the Town Office; names on the list will be maintained in chronological order; a Mooring Site assignment will be made in accordance with Title 38 M.R.S.A, § 7A, as amended. [\[Am 4\]](#)

**MOORING SITE:** a specific location assigned by the Castine Harbor Master for placement of a Mooring, defined by GPS coordinates where practicable. [\[Am 4\]](#)

**PERSON:** an individual, a corporation, a firm, partnership, an association or any other entity. [\[Am 4\]](#)

**RESIDENT:** a person who owns real property listed on the current tax rolls of the Town of Castine or resides in Castine more than 180 days in a calendar year; all other persons shall be non-residents. [\[Am 4\]](#)

**RIPARIAN OWNER:** a person who owns Castine shorefront property of the minimum buildable lot size and is thereby entitled to a Mooring Permit for a Mooring Site fronting their property whenever practicable. [\[Am 3\]](#) [\[Am 4\]](#)

**SHIP CHANNELS:** ship channels as described herein and depicted on the NOAA nautical chart and other such channels designated by the Harbor Master which shall be kept open for the passage of watercraft.

**VESSEL:** any type of watercraft, including a ship, boat, barge, float or craft, other than a seaplane, used or capable of being used as a means of transportation on water.

**VESSEL OWNER:** the person who can demonstrate the controlling interest in a Vessel and who is named on the boat registration or the person identified as the managing owner on the U.S.C.G. Certificate of Documentation. [\[Am 4\]](#)

### 3. HARBOR COMMITTEE

The Board of Selectmen shall appoint seven persons to a Harbor Committee for three (3) year staggered terms and two persons as alternate members for one (1) year terms, attempting to represent in their selections the following interests: downtown businesses, recreational boaters, commercial boaters, Maine Maritime Academy and the Castine Yacht Club. The Committee will hear appeals pursuant to Article 14 of this ordinance and will also act in an advisory capacity to the Board of Selectmen and the Harbor Master in matters such as fees, fines, maintenance, purchases, personnel, contracts, construction, budget and its administration, safety and any other matters of concern on the waterfront. Meetings will be held at least quarterly and will be posted and open to the public in accordance with Title 1 M.R.S.A., §§ 401 *et seq.*, as amended. [\[Am 1\]](#) [\[Am 3\]](#) [\[Am 4\]](#)

### 4. HARBOR MASTER

#### 4.1 APPOINTMENT AND COMPENSATION

**4.1.1** The Town Manager shall annually appoint a Harbor Master who shall be subject to all the duties and liabilities of that office as prescribed by state law, regulations adopted by the municipal officers and municipal ordinances. The Town Manager shall establish compensation and may remove the Harbor Master for cause after notice and hearing and appoint another instead. [\[Am 2\]](#) [\[Am 4\]](#)

**4.1.2** The Town Manager may appoint and fix the compensation and term of one or more temporary Deputy Harbor Masters. The Town Manager may remove any Deputy Harbor Master in the same manner as the Harbor Master. A Deputy Harbor Master is authorized to exercise the powers of the Harbor Master, subject to the provisions of this ordinance, and shall be subject to the direction of the Harbor Master except as otherwise directed by the Town Manager. [\[Am 2\]](#) [\[Am 4\]](#)

#### 4.2 POWERS AND DUTIES

**4.2.1 Removal of Vessels:** The Harbor Master, upon complaint to the master, owner or agent of any Vessel, shall cause any other Vessel or Vessels obstructing the free movement or safe anchorage of that Vessel to be removed to a position to be designated by the Harbor Master and to cause, without any complaint being made, any Vessels anchoring within the ship channels to be removed to such anchorage as the Harbor Master may designate. Whoever neglects or refuses

to obey such orders of the Harbor Master is guilty of a Class E crime. If that Vessel has no crew on board or if the master or other person in charge neglects or refuses to move such Vessel as directed by the Harbor Master, the Harbor Master may put a suitable crew on board and move that Vessel to a suitable berth at a wharf or anchorage at the expense and risk of the owner(s) of the Vessel and shall charge a Vessel Removal Fee plus expenses, to be paid to the Town of Castine by the master or owner of that Vessel. [\[Am 3\]](#) [\[Am 4\]](#)

**4.2.2 Mooring Removal or Replacement:** In case of neglect or refusal of the Mooring Permittee to remove a Mooring or to replace it by one of a different character when so directed by the Harbor Master, the Harbor Master shall cause the entire Mooring to be removed or shall make such change in the character of the Mooring as required and shall charge a Mooring Removal/Replacement Fee, plus expenses, to be paid to the Town of Castine by the Mooring Permittee for either of those services rendered. Before removing a Mooring, the Harbor Master shall notify the Mooring Permittee by email or first class mail at the address on the current Mooring Application, of the action desired, the fact that the Mooring will be removed and the amount of the Mooring Removal/Replacement Fee. If the matter is not settled to the Harbor Master's satisfaction within 14 days, the Harbor Master may take the any action provided for in this section. [\[Am 3\]](#) [\[Am 4\]](#)

**4.2.3 Training:** The Harbor Master and Deputy Harbor Master shall complete training as required by Title 38 M.R.S.A. §1-A, as amended. [\[Am 4\]](#)

**4.2.4 Weapons:** The Harbor Master and Deputy Harbor Master are not authorized to carry a weapon. [\[Am 4\]](#)

## 5. MOORING

### 5.1 ANCHORAGES

No person shall place or allow to anchor or lie any Vessel in any position in Castine waters prohibited by any ordinance, rule, regulation or law.

### 5.2 DESIGNATION OF MOORING SITES

The Harbor Master shall designate Mooring Sites in accordance with Title 38 M.R.S.A., § 1, as amended. Mooring Sites shall be permitted for the sole use of the Vessel indicated on the application. Any change in the Vessel using the Mooring Site must be in accordance with this ordinance and state law and have the written approval of the Harbor Master. [\[Am 3\]](#) [\[Am 4\]](#)

### 5.3 MOORING PERMIT

**5.3.1 Application:** Application for a Mooring Permit shall be made annually and shall contain the information set forth on the application. An application will not be processed unless it is complete, the payment of required fees, including excise taxes or other taxes or charges owed to the Town of Castine, or its agent, are made prior to May 15 and there is a current Mooring Inspection Certification on file with the Harbor Master. At the time of each annual review of Mooring Permits, existing Mooring Permittees shall be given priority over other applications for a Mooring. [\[Am 4\]](#)

**5.3.2 To Whom Issued:** A Private Mooring Permit shall only be issued to the Vessel Owner and a Service Mooring Permit shall only be issued to an officer or

principal of the commercial marine enterprise or a marine dependant enterprise.  
[\[Am 4\]](#)

**5.3.3 Conversion:** A Mooring shall not be converted from the class of Mooring originally permitted, i.e., Private, Service or Transient, to a different class. [\[Am 4\]](#)

#### **5.4 MOORING IDENTIFICATION**

All Moorings shall have the number and name of the Mooring Permittee indicated on the float or buoy above the water line for the purposes of identification. Such number and name shall be displayed in at least three (3) inch letters and be legible at all times. Mooring buoys shall be white with a single blue horizontal band clearly visible above the water line. [\[Am 3\]](#) [\[Am 4\]](#)

#### **5.5 PLACEMENT OF MOORINGS**

No person shall place a Mooring of any type within the boundaries of Castine waters without a Mooring Permit issued by the Town of Castine's Harbor Master. [\[Am 4\]](#)

#### **5.6 SIZE AND CONSTRUCTION**

All Moorings shall be of a suitable size and construction for the Vessel using the Mooring and the Mooring Site as agreed between the Mooring Permittee or his agent and the Harbor Master. [\[Am 4\]](#)

#### **5.7 INSPECTION OF MOORINGS**

All Moorings are required to be inspected when initially installed and every three (3) years thereafter by an inspector approved by the Harbor Master. Such inspector shall certify such inspection in writing by completion of the Mooring Inspection Certification Form. The Mooring Inspection Certification shall contain a description of any necessary repairs or replacement. Copies shall be delivered to the Harbor Master by the Mooring Permittee. Any extension of time to inspect a Mooring is at the Harbor Master's sole discretion and shall be made in writing. The Harbor Master may require inspection of a Mooring more frequently than once every three (3) years should he deem it necessary for the safety of the Vessel or other adjacent Vessels. The Mooring Permittee shall make necessary repairs or replacements to all parts thereof in such time as the Harbor Master requires. If such repair or replacement is not completed within such period, the Mooring Permit shall be void and the Mooring Site shall be reassigned to the next eligible individual on the Mooring Permit Waiting List. [\[Am 3\]](#) [\[Am 4\]](#)

#### **5.8 DENIAL**

The Harbor Master may deny the replacement or use of a Mooring or the use of Town owned docks, floats or launch ramps if in the judgment of the Harbor Master, the Vessel is: [\[Am 4\]](#)

**5.8.1** Structurally unsafe;

**5.8.2** Emitting obnoxious fumes, oils, or any other substance detrimental to the safety or comfort of others, including any pollution of its waters, shores and flats;

**5.8.3** Of inappropriate size for the dock, float or Mooring; or

**5.8.4** Causing damage to Town owned waterfront facilities. [\[Am 4\]](#)

## **5.9 NON-USE OF MOORINGS**

If a Mooring Permittee fails to use the assigned Mooring Site or Mooring for the Vessel listed on the current Mooring Permit during the term (June 1 to May 31) of that permit, the Mooring Permit shall not be renewed. A Mooring Permittee may appeal such non-renewal to the Harbor Committee pursuant to Section 14 of this Ordinance. [\[Am 3\]](#) [\[Am 4\]](#)

## **5.10 MOORING ASSIGNMENTS**

**5.10.1** There shall be no transfer of a Mooring Permit or an assigned Mooring Site and no renting of a Private Mooring, except for good cause with the written approval of the Harbor Committee for a period not to exceed the term (June 1 to May 31) of the current Mooring Permit or the written approval of the Harbor Master for a period not to exceed thirty (30) days. [\[Am 4\]](#)

**5.10.2** A Mooring Permittee shall promptly notify the Harbor Master of a proposed change of Vessel on a Private Mooring. Such change of Vessel shall be permitted only with the written approval of the Harbor Master. [\[Am 4\]](#)

## **6. WHARVES, DOCKS, PIERS, FLOATS AND RAMPS**

### **6.1 CLOSURE**

The Harbor Master and/or the Town of Castine have the authority to close all Town waterfront facilities at their discretion.

### **6.2 USER'S OWN RISK**

The Town waterfront facilities are accessible at the user's own risk and the area shall be posted accordingly.

### **6.3 OBSTRUCTION**

No owner, master, or operator shall permit a Vessel to be docked or moored in such a manner that it obstructs the free passage of other Vessels going into or coming from any pier or wharf in Castine waters.

### **6.4 TYING TO PUBLIC FLOATS**

No person shall leave any Vessel tied to the ends or fronts of any public float of the Town of Castine for any purpose, including fueling, discharging or taking on passengers or supplies, for longer than the posted period except for emergencies or with the approval of the Harbor Master. [\[Am 4\]](#)

### **6.5 BLOCKAGE OF PUBLIC RAMPS/FACILITIES**

No person shall place or cause to be placed any Vessel, boat cradle, trailer, vehicle or other object on the Town ramp, dock/wharf, parking lot, or other Town harbor facility in such a way that it blocks access by other users. [\[Am 4\]](#)

### **6.6 TENDERS, DINGHIES, OR SKIFFS**

Small Vessels used as tenders may be allowed at the Town dock/wharf provided they are on the inside tied by the bow only and are properly cared for by the owner. Tenders shall not be tied to the ends or outside of Town-owned wharves or floats. Tender owners must register the Vessel with the Town Office and pay all fees required. [\[Am 4\]](#)

## **6.7 BAIT**

No person shall place or maintain on public facilities any fish or other bait, except for immediate delivery to a Vessel ready to receive same, without written permission from the Harbor Master and/or the Town of Castine.

## **6.8 EQUIPMENT**

No person shall place or maintain on public facilities any barrels, boxes, gear, traps, pots, or any other equipment for a period longer than is reasonably necessary without written permission from the Harbor Master and/or the Town of Castine.

## **7. FEES AND FINES**

The Board of Selectmen shall establish and provide for the collection of Fees for Mooring Permits and for various uses of any waterfront facilities owned or operated by the Town of Castine, including but not limited to the use of wharves, docks, piers and floats for landing, parking, launching, lying alongside, tying up, storage, private functions or sales of food or goods and Fines for infractions of dock and speed limit rules and violations of this Ordinance. Such Fees may be a flat amount or vary according to the size of a Vessel or vehicle. Such Fees may also vary as between residents and non-residents, provided that no fee chargeable to a non-resident shall exceed five (5) times the amount charged to residents. Such Fines may be a flat amount or vary according the infraction or violation. A schedule of the Fees and Fines established under this section shall be available at the Town Office and from the Harbor Master. Fees and Fines shall be set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. If a Fee and Fine is not paid in the prescribed time, after billing, the Mooring Permit will be void and the Mooring Site reassigned to the next eligible individual on the Mooring Permit Waiting List. [\[Am 3\]](#) [\[Am 4\]](#)

## **8. OPERATION OF VESSELS**

### **8.1 RECKLESS OR NEGLIGENT OPERATION**

No person shall operate any Vessel in a reckless or negligent manner. [\[Am 4\]](#)

### **8.2 HAZARD TO NAVIGATION; SHOALING OF CASTINE WATERS**

No person shall deposit, throw, sweep or cause to be deposited or swept, from any Vessel, wharf, dock or any other place, into Castine waters any ashes, dirt, stones, gravel, mud, logs, planks or any other substances that may create a hazard to navigation or that may shoal the depth of Castine waters. [\[Am 4\]](#)

### **8.3 PROHIBITED ACTIVITIES**

No water skiing, tubing or wakeboarding will be allowed in Castine waters within two hundred and fifty (250) feet of moored or anchored Vessels. [\[Am 3\]](#) [\[Am 4\]](#)

### **8.4 SPEEDING**

All types of Vessels operating within Castine waters shall maintain a speed that is reasonable and proper, having due regard for traffic, proximity to docks, floats and other Vessels. No Vessel shall be operated in Castine waters in a manner that causes a danger or nuisance to the public. All Vessels shall be operated so as to cause minimal wake and in no case at a speed greater than five (5) knots within two hundred and fifty (250) feet of moored or anchored Vessels. Any operation of a Vessel in

violation of this section will subject the violator to prosecution for a Class E misdemeanor under Title 38 M.R.S.A. § 281, as amended. The Harbor Master may establish no wake zones as necessary. [\[Am 4\]](#)

## **9. ABANDONMENT**

No person shall cause to be abandoned any Vessel, floating device, cradle, or any other obstruction on the shore within Castine waters. Any such object left within the confines of Castine waters and which has been unattended for a period of ninety (90) days shall be deemed to be abandoned. The Harbor Master shall then order the last owner of any such abandoned Vessel, floating device, cradle or other obstruction, if such owner is ascertainable, to remove same within thirty (30) days. Upon refusal or failure to do so, the Harbor Master shall cause its removal or destruction at the cost of the said last ascertainable owner. Any violation of the above shall be considered a misdemeanor and punishable as set forth in this Ordinance. [\[Am 4\]](#)

## **10. POLLUTION**

Except in case of emergency imperiling life or property or unavoidable accident, collision, or stranding, no person shall discharge, or suffer, or permit the discharge of sewage, garbage, trash or other refuse of any kind, by any method, means, or manner into or upon Town wharves or docks or Castine waters.

## **11. INFECTED VESSELS**

Whenever a Vessel arrives in the Castine waters, having on board any person infected with a contagious disease or suspected of being infected with such disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Castine shall comply with the applicable provisions of Maine state law, as amended.

## **12. RULES AND REGULATIONS**

The Harbor Master and the Harbor Committee shall recommend to the Board of Selectmen for adoption such rules and regulations as shall be necessary to implement the intent of this ordinance. These rules and regulations shall include, but are not limited to: size of tenders allowed on the dinghy dock, time limits and use rules for the Town dock/wharf and Fines for infractions of dock rules and speed limits. These rules and regulations shall be reviewed annually, shall be posted on the Town wharf, and shall be available at the Town Hall and from the Harbor Master. [\[Am 3\]](#) [\[Am 4\]](#)

## **13. ENFORCEMENT**

### **13.1 ENFORCEMENT BY THE HARBOR MASTER**

It is the duty of the Harbor Master to enforce the provisions of this Ordinance. No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposition of Vessels or Moorings within Castine waters. The Harbor Master may impose Fines as recommended by the Harbor Committee and approved by the Board of Selectmen as may be appropriate to enforce any provision of this Ordinance.

**13.2 ENFORCEMENT BY LAW ENFORCEMENT OFFICERS**

In addition to the Harbor Master, any law enforcement officer vested with the authority to carry a weapon and make an arrest shall have the authority to enforce the provisions of this Ordinance.

**13.3 MISDEMEANOR FINES; SEPARATE VIOLATIONS**

Any person who violates any provision of this Ordinance or a lawful order of the Harbor Master shall be guilty of a Class E misdemeanor and subject to a Fine. Each day that a violation continues, without action to effect abatement after receipt of notification by the Harbor Master, shall be considered a separate violation for purposes of this section. [\[Am 4\]](#)

**13.4. LEGAL ACTION**

The Board of Selectmen, upon notice from the Harbor Master, is hereby authorized and directed to institute any and all action and proceedings, either legal and/or equitable, including seeking injunctions of violations and the collection of Fees or Fines together with the cost of suit and reasonable attorney’s fees, as may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town. [\[Am 4\]](#)

**14. APPEALS**

The Harbor Committee shall hear and decide appeals alleging error by the Harbor Master in the administration of this ordinance. The aggrieved person must make a written appeal within thirty (30) days of the date of the decision being appealed and the Harbor Committee shall hold a public hearing within thirty (30) days from the date of receipt of the appeal. When hearing an appeal at least five (5) committee members must be present and any decision will require a majority vote of those present. The Harbor Committee may establish additional rules and procedures for such hearings. A party aggrieved by the decision of the Harbor Committee may appeal it to Superior Court within thirty (30) days from the date of the original decision pursuant to Maine Rules of Civil Procedure, Rule 80B. [\[Am 3\]](#) [\[Am 4\]](#)

**15. AMENDMENTS**

Sections of this Ordinance have been amended as indicated on the following dates:

- Amendment 1 [\[Am 1\]](#) ..... 27 March 2000
- Amendment 2 [\[Am 2\]](#) ..... 7 June 2005
- Amendment 3 [\[Am 3\]](#) ..... 24 March 2008
- Amendment 4 [\[Am 4\]](#) ..... 4 April 2009

