

## Chapter 133. Port Regulations

[HISTORY: Adopted by the Town of Boothbay Harbor 5-3-2004 by ATM Art. 22.<sup>[1]</sup> Amendments noted where applicable.]

[1] *Editor's Note: This article also repealed former Ch. 133, Port Regulations, adopted 3-1-1982 by ATM Art. 50 (Art. 12 of the 1958 Ordinances), as amended.*

### § 133-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **ABANDONED MOORING**

Any mooring for which a renewal application and payment have not been received by July 31.

#### **ANCHOR**

A portable device carried aboard a watercraft that is used to hold the watercraft in place.

#### **ASSOCIATION/CLUB**

Any dock, pier, wharf, float, floating business, or combination of such facilities that serves five or more boats and does not collect fees for moorings.

[Added 6-13-2007 by STM Art. 17]

#### **CHANNELS**

Those paths designated by this chapter for navigation in or access to the waters of Boothbay Harbor.

#### **CURRENT PERMIT YEAR**

The current permit year is from July 1 through June 30.

#### **DEPUTY HARBOR MASTER**

Any person appointed by the Harbor Master and confirmed by the Board of Selectmen under 38 M.R.S.A. § 1.

#### **DINGHY**

A small watercraft less than 12 feet in length.

#### **FLOAT**

A floating platform affixed to a mooring or otherwise held in position for use by swimmers, boats, or the storage of equipment, gear, or supplies.

[Added 6-20-2020 ATM by Art. 22]

#### **FLOATING BUSINESS**

A building constructed on a raft or hull that is represented as a place of business, including but not limited to waterborne hotels, restaurants, marinas or marina-related businesses.

#### **HARBOR MASTER**

The person appointed by the Board of Selectmen under 38 M.R.S.A. § 1.

## **HARBOR PATROL BOAT**

Any vessel owned or used by the Town and operated by the Harbor Master or Deputy.

## **HOUSEBOAT**

A building constructed on a raft, barge or hull that is used primarily for single or multifamily habitation; if used for transportation, this use is secondary.

## **IDLE SPEED**

The minimum speed necessary to maintain steerage and control of a moving watercraft.

## **INNER HARBOR**

For the purpose of this chapter, all of the area of water and shoreline north of a line drawn from the high-water mark on the south shore of Factory Cove (described or shown by the April 1, 2009, Assessor's Tax Maps as the northwestern most property line of Map No. 5, Lot No. 12) going in a westerly direction, 310 degrees magnetic, passing through Tumbler Island, and Buoy N8, to a point at the end of Rock Road, approximately at the Lat-Lon position of 42° 50' 40.4" N, 69° 38' 53.5" W. [Amended 5-8-2010 by ATM Art. 64]

## **MARINE ENTERPRISE**

Any dock, pier, wharf, float, floating business, or combination of such facilities that serves five or more boats and that has moorings for the express purpose of rental.

[Added 6-13-2007 by STM Art. 17]

## **MOORING**

Any appliance used by a watercraft or float for anchoring purposes and not carried aboard such watercraft or float.

[Amended 6-20-2020 ATM by Art. 22]

## **RESIDENT**

Any person who occupies a dwelling within the Town of Boothbay Harbor for more than 180 days in a calendar year.

## **RIPARIAN OWNER**

An owner of land with a minimum of 100 feet of shorefront.

## **TOWNSEND GUT**

All of the tidal waters inside and northerly of Red Nun No. 2 at Juniper Point to Red Nun No. 6, approximately one mile northwesterly at Cameron Point.

## **WATERCRAFT**

Any type of vessel, boat, barge, float or craft used as a means of transportation on water other than a seaplane.

## **§ 133-2. Applicability.**

These regulations shall apply to activities occurring within or directly affecting the area within the waters of Boothbay Harbor to the fullest extent permitted by law.

## **§ 133-3. Channels and anchorage areas.**

The following channels are hereby designated in the waters of Boothbay Harbor:

- A. The navigational channel is a fairway 200 feet wide, more or less, from Buoy R8, located west of Tumbler Island, running northeasterly toward Buoy FL-G-9, located east of Harbor Island, also known as McFarland's Island. The navigational channel turns at Buoy FL-G-9 in a northeast direction toward the spire of the Congregational Church.

- (1) The eastern limit of the navigational channel is a line drawn in a southerly direction approximately 208° magnetic from the center span of the footbridge to the point of intersection of a line drawn in a westerly direction approximately 280° magnetic from the Catholic church spire and then southerly to Buoy R8. Buoy R8 marks the southeast side of the navigational channel.
  - (2) The western limit of the navigational channel is a line drawn in a north-northeast direction from Buoy FL-G-9 to the spire on the Congregational church. Buoy FL-G-9 marks the northwest side of the navigational channel.
  - (3) The navigational channel terminates 100 feet from the piers and floats on the shore of Boothbay Harbor.
- B. Access channels are those channels which commence from the navigational channel and are designated in the mooring maps of Boothbay Harbor. All access channels will be 100 feet wide unless otherwise determined and approved by the Port Committee and Harbor Master.
- C. Two anchorages are hereby designated in the [boundaries and/or waters] of Boothbay Harbor:  
[Amended 5-2-2009 by ATM Art. 81]
- (1) An area of the harbor south of McFarland Point between McKown Point and Harbor Island (formally McFarland Island) and shall be bounded by the following coordinates:

NW.	SE.
L 43 50.892 N	L 43 50.736 N
L 069 38.263 W	L 069 38.113 W
NE.	SW.
L 43 50.892 N	L 43 50.736 N
L 069 38.113 W	L 069 38.263 W

- (2) An area in Lewis Cove (on the west shore of Linekin Bay west of Cabbage Island and southeast of Lobster Cove) shall be bounded by the following coordinates:

NW.	SE.
L 43 50.705	L 43 50.676 N
L 069 36.953 W	L 069 36.788 W
NE.	SW.
L 43 50.775 N	L43 50.579 N
L 069 36.887	L 069 36.845 W

## § 133-4. Port Committee.

- A. Membership: There shall be a Port Committee consisting of five regular members and a 1st alternate and 2nd alternate member appointed by the Board of Selectmen from residents of Boothbay Harbor. The term of each member shall be three years. The Board of Selectmen is empowered to make appointments of less than three years in order to stagger the terms of office. At the beginning of each fiscal year the members shall elect one of the Committee's regular members to serve as Chairman and one as Vice Chairman to serve one-year terms. A Secretary shall be appointed to maintain a record of actions taken by the Committee.
- B. Quorum: No decisions will be made by the Port Committee unless there is a quorum of three members present. Decisions shall be made by a majority of the Port Committee members. The Chairman of the Committee shall appoint the 1st alternate member as a voting member in the

event of the absence or conflict of a regular member or, in the absence or conflict of the 1st alternate member, the Chairman shall appoint the 2nd alternate member as a voting member.

C. Vacancies:

(1) A vacancy shall occur upon the resignation or death of any member or when a member fails to attend three consecutive regular meetings or fails to attend at least 75% of all meetings during the preceding twelve-month period. The 1st alternate member may, with majority agreement of the Board of Selectmen, fill a vacancy for the unexpired term of a regular member. In that case, the 2nd alternate shall become the 1st alternate for the length remaining in his term as the 2nd alternate, and the Board of Selectmen may appoint a new 2nd alternate to fill the vacancy for a new three-year term.

(2) Any member of the Port Committee may be removed for cause, after notice and hearing, at any time by recommendation of the Port Committee to the Board of Selectmen.

D. Powers and duties: The Port Committee shall have the following powers and duties:

(1) Advise the Board of Selectmen on harbor-related issues;

(2) Establish and revise channels and anchorage areas;

(3) Hear appeals from decisions of the Harbor Master;

(4) Establish and revise guidelines for mooring hardware;

(5) Hear concerns of and assist Harbor Master as needed; and

(6) Make recommendations concerning port regulations to the Board of Selectmen.

(7) Review all new mooring applications with the Harbor Master.

[Amended 5-2-2009 by ATM Art. 82]

(8) Establish and revise guidelines and rules for the safe use and operation of floats, including, but not limited to, the use of slides, swings, diving boards, trampolines, and other recreational equipment.

[Added 6-20-2020 ATM by Art. 22]

E. Conflict of interest: Any question of whether a member shall be disqualified from discussing and voting on a particular matter shall be decided by majority vote of the members present except the member who is being challenged. A member shall recuse himself when a matter being considered would personally affect the member or one of his family members.

F. Appeals: Decisions of the Port Committee may be appealed to the Board of Appeals.

G. Rules of procedure: The Committee shall adopt Robert's Rules of Order or some other rules for the transaction of business, and the Secretary shall keep a record of its resolutions, transactions, correspondence, findings, and determinations, with all such records available to the public for inspection at reasonable times.

H. Meetings: The Chairman may call at least one regular meeting of the committee each month.

[Amended 5-8-2010 by ATM Art. 65]

## § 133-5. Harbor Master.

A. The Board of Selectmen shall annually appoint a Harbor Master.

B. The Harbor Master shall have the following powers and duties:

(1) To the extent of jurisdiction, enforce any and all federal, state and local laws, ordinances, codes, rules or regulations relating to the management and control of Boothbay Harbor's

waters, shores, coastline, floats, docks, piers and footbridge and may seek input from the Port Committee, Town Manager or Board of Selectmen. This power also includes, but is not limited to, the management and enforcement of rules, ordinances or codes relating to fishermen's use of the Town's Fish Pier and Barrett's Park.

- (2) Upon direction by the Board of Selectmen and successful completion of the training requirements prescribed in 25 M.R.S.A. § 2804-I, make arrests and/or carry a firearm.
- (3) Issue warnings, summonses or citations and appear in court as needed.
- (4) Approve and control the placement of moorings within the waters of Boothbay Harbor.
- (5) Process mooring applications and maintain a permanent record of applications and permits.
- (6) Attend all meetings of the Port Committee.
- (7) Patrol and investigate complaints, disturbances and reports of violations in, on and around the waters of Boothbay Harbor.
- (8) Assist the boating public and offer advice and opinions to citizens and the boating public upon request.
- (9) Be responsible for maintenance of the Harbor Master's patrol boat and equipment.
- (10) Upon request, assist any or all federal, state and local enforcement agencies or officers with the performance of their duties.
- (11) Be responsible for hiring, firing, and supervising the work of any Deputy Harbor Master(s).

## § 133-6. Mooring permit procedure.

- A. New and renewal mooring permit applications must be filed at the Town Office.
- B. Mooring fees. Upon approval of each new or renewal mooring permit application, there shall be a fee for an individual mooring or for a marina mooring, plus any late charges, all as set by the Board of Selectmen annually from year to year. Nonresident mooring fees shall be double the amount of resident fees, unless the applicant pays a boat excise tax or property tax to the Town of Boothbay Harbor.
  - (1) Late fee. Failure to submit a completed renewal mooring permit application and applicable fees to the Town Office on or before June 30 will result in a late fee for each mooring. The renewal mooring permit application will not be processed without full payment of mooring fee(s) and any applicable late charges. Any mooring for which payment has not been received by July 31 shall be considered abandoned. It will then be the responsibility of the owner to remove their hardware within 30 days after notification.
  - (2) No applications will be processed until all blanks are completely filled in and related fees, excise taxes, charges, or penalties have been paid in full. The Harbor Master shall reject an application because of insufficient information on the application form.
- C. Each application must include the following:
  - (1) The applicant's name and address and telephone numbers (including both summer and winter residences, if applicable).
  - (2) Boat length.
  - (3) Current or desired mooring location.
  - (4) Whether the application is a renewal.
  - (5) Whether the applicant is a riparian owner.

- D. The Town office shall be responsible for dating each application as of the date of receipt and for delivering each application received to the Harbor Master.
- E. The Harbor Master shall notify an applicant in writing if an application is not granted. The Harbor Master shall issue mooring permits, which shall include location instructions and the permit number, to each applicant of a granted application. Each mooring permit shall expire June 30.
- F. Each mooring permit holder shall display the permit number in three-inch black letters and numbers above the two-inch blue horizontal center line on a white floatation buoy.
- G. Each mooring permit holder shall be responsible for the procurement, installation and maintenance of the mooring hardware. The mooring hardware shall be inspected every two years.
- H. The Harbor Master shall maintain a waiting list of all applicants who have not been assigned a mooring. A copy of the waiting list will be posted in the Town Office and the Harbor Master's office. The waiting list will be in chronological order as received and in accordance with the following priorities:
  - (1) Riparian owner.
  - (2) Resident commercial fisherman.
  - (3) Resident.
  - (4) Nonresident commercial fisherman.
  - (5) Nonresident.
- I. Notwithstanding the above, the Harbor Master shall comply with 38 M.R.S.A. § 7-A, as it may be amended from time to time. A mooring permit used for commercial fishing purposes may be transferred at the request or death of the assignee only to a member of the assignee's family and only if the mooring permit will continue to be used for commercial fishing purposes. For purposes of this subsection, member of the assignee's family means an assignee's parent, child or sibling, by birth or by adoption, including a relation of half blood, or an assignee's spouse.
- J. Other than as specified in Subsection I, no mooring permit is transferable.
- K. Abandoned boats, vessels, wreck, etc.:  
[Added 5-8-2010 by ATM Art. 66]
  - (1) Abandonment prohibited. No person shall cause to be abandoned any watercraft or related equipment or appurtenances on the shores within Boothbay Harbor, or on the waters of Boothbay Harbor whether on a mooring or at anchor. Nor shall any person abandon or cause to be abandoned any boat, vessel, hull, or raft at any of the wharves, docks, or permanent floats within Boothbay Harbor. No person shall abandon any boat, vessel, hull or watercraft upon unimproved shoreline, dock, float, mooring or at anchor except with the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master.
  - (2) Presumption. Any boat, vessel, hulk or raft left within the confines of the waters of Boothbay Harbor and which has been unattended for a period of 30 days without the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master, shall be declared abandoned.
  - (3) Disposal. Property deemed to be abandoned under this section shall be handled by the Town according to the procedures established in 25 M.R.S.A. § 3501.
  - (4) Penalty: as allowed in 38 M.R.S.A. § 12. Each day the violation is permitted to exist beyond the limits above shall be considered a separate offense.
  - (5) Impounding. If an abandoned watercraft is deemed to be a nuisance, a threat to navigation, or a safety hazard, the Harbor Master may impound the watercraft at a site designated for this

purpose. Impounding shall continue until such time as all procedures pursuant to 25 M.R.S.A. § 3501 et seq. have been completed or the owner of the watercraft has paid all costs involved with the impounding as well as any fines which have been assessed.

## § 133-7. Winter dockage fees.

[Amended 5-2-2009 by ATM Art. 83]

The Board of Selectmen shall annually set seasonal dockage fees for the period October 15 to May 15. In setting the dockage fees, the Board of Selectmen shall consider the following criteria: boat length, dockage duration and overall cost of upgrading, maintaining and supervising the Town's public landings, including Town floats. These facilities shall not be used for wet storage and will be issued on a first-come, first-served basis, with Boothbay Harbor resident commercial fishermen having priority. The Harbor Master shall control the placement of watercraft at public landings and floats. Each person granted winter dockage shall be responsible for removal of all snow and ice from that part of the public landing floats occupied by that person's vessel.

## § 133-8. Prohibited acts.

- A. No person shall install or cause to be installed any mooring in Boothbay Harbor in any location not designated by a mooring permit.
- B. An abandoned mooring shall be removed, after notice in writing by the Harbor Master, at the owner's expense.
- C. No person shall refuse to obey a lawful order of the Harbor Master. In addition, a person who intentionally, knowingly or recklessly fails to obey any lawful order of the Harbor Master commits a Class E crime.
- D. No person operating an aircraft may land or take off from the waters of Boothbay Harbor inside a line drawn from the south end of Clam Rock to the south end of Railroad Point.
- E. No person shall anchor any watercraft in the inner harbor without the written approval of the Harbor Master.
- F. No person shall anchor any watercraft in any other location in the Town of Boothbay Harbor so as to obstruct a channel or the free passage of boats. Regardless of location, anchoring is limited to two weeks without the written permission of the Harbor Master.
- G. No person shall deposit, throw, sweep into the waters of Boothbay Harbor or into waters that flow into the waters of Boothbay Harbor any substance or liquids containing gas, oil, ashes, dirt, stones, gravel, mud, logs, planks, or any other substance containing these pollutants. No person shall dump or dispose of any refuse, gurry, or garbage upon shorelines or in the waters of the Town of Boothbay Harbor.
- H. No person shall leave a watercraft tied up to the Commercial Street Town Landing for over three hours within any twenty-four-hour period, except for dinghies tied to the inner fingers designated "dinghies only," without written permission of the Harbor Master.
- I. Restricted areas.
  - (1) No person shall leave a watercraft tied up on the south and east sides of the Footbridge Town Float for over three hours without written approval from the Harbor Master. Only the north side of the Footbridge Town Float shall be used for dinghy tie-up. No watercraft other than dinghies shall be tied to the Footbridge Town Float between sunset and sunrise, except for winter dockage.
  - (2) No person shall leave a watercraft for purposes other than landing, loading or unloading in the 40 feet marked off on the southerly side of the Commercial Street Town Float designated "No

tying, for loading and unloading only." In addition, no person shall leave a watercraft tied up to the remaining areas of the Commercial Street Town Float for over three hours.

(3) No watercraft except the Harbor Patrol Boat shall be tied in the area of the Fish Pier Town Float designated "Harbor Master."

- J. No person shall consume liquor or offer liquor to another on any float, wharf, pier or dock owned by the Town.
- K. No person shall leave any personal property on any float, wharf, pier or dock owned by the Town.
- L. No person shall damage, disturb, deface or interfere with any sign, notice, channel marker, buoy, float, life preserver, Harbor Patrol Boat or any other municipal property.
- M. No person shall permit or place more than one watercraft at a mooring unless such additional watercraft does not interfere with adjacent moorings and anchorages or other navigational considerations. No person may attach or secure to a mooring any float larger than 16 feet by 32 feet.  
[Amended 5-2-2005 by ATM Art. 66]
- (1) No person may attach or secure a float to a mooring without first attaching reflective devices (yellow or white) to all corners of such float and in each direction to increase night visibility. All floats must display the owners name, telephone number and mooring number.
- (2) No person shall leave a boat unattended while rafted to another watercraft, a float, or mooring without permission of the Harbor Master.
- (3) All floats will be maintained in a good, serviceable, and seaworthy condition at all times. All floats shall be used and operated only in compliance with all guidelines and rules established by the Port Committee or otherwise set forth in this chapter.  
[Amended 6-20-2020 ATM by Art. 22]
- (4) All fishing material, equipment or gear stored on a float must be limited to the uses of the float. All items stored must be secured in a neat and orderly fashion.
- N. No person shall water-ski within the inner harbor.
- O. No person shall operate any windsurfer, pedal boat, bicycle boat, aqua bike or any other similar watercraft within the inner harbor.
- P. No person shall use or explode or cause or permit to explode any fireworks from a watercraft, dock, pier, shore, waters or any other area within Boothbay Harbor without a permit as provided by law.
- Q. No person shall process or permit to be processed any seafood products at any Town float.
- R. No person shall operate any watercraft at a speed greater than idle speed and no person shall create an excessive wake while within the inner harbor or Townsend Gut areas.
- S. No person holding an individual mooring permit shall rent it to any other person or entity.
- T. Houseboats and floating businesses must meet all state and federal standards and regulations and are prohibited from mooring or anchoring in all waters of the Town unless within the boundaries of a marina.
- U. Discharge of sewage into waters from watercraft, houseboats or floating businesses is prohibited. Watercraft, houseboats and floating businesses shall utilize a marine holding tank or pump-out facilities.

## § 133-9. Enforcement.

[Amended 5-8-2010 by ATM Art. 67]



Pursuant to 38 M.R.S.A. § 12, any person(s), firm, business, contractor, corporation or otherwise, who violates the provisions of this chapter shall be prosecuted pursuant to 30-A M.R.S.A. § 4452 and thereby shall be guilty of a civil offense and punishable by a fine of not more than \$2,500 and not less than \$100 for each offense. Each day said violation is allowed to continue shall constitute a separate offense.

## § 133-10. Appeals.

- A. Any person adversely affected by a decision of the Harbor Master may appeal to the Port Committee.
- B. Any person adversely affected by a decision of the Port Committee may appeal to the Board of Appeals.