

# Harbor Management Ordinance Amendment

## Town of Tremont

*The Town of Tremont hereby ordains that the Harbor Management Ordinance is amended as follows:*

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### Harbor Management Ordinance

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#### **ARTICLE I, Purpose**

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The purpose of this Ordinance is to establish and maintain order for the arrangement and utilization of the mooring areas, public landings, boat ramps, harbor channels and related properties in the Town of Tremont in a manner that will best serve the interests of the residents of Tremont and the boating public, and in compliance with all applicable state and federal laws and regulations.

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#### **ARTICLE II, Authority**

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This Ordinance is adopted in accordance with Title 38 of the Maine Revised Statutes, Chapter 1, Subchapter 1 (38 M.R.S. § 1, *et seq.*), as amended, and the Home Rule provisions of the Constitution of the State of Maine.

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#### **ARTICLE III, Amendments**

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The effective date of this Ordinance or any amendments thereto shall be the day immediately following its/their adoption. This Ordinance shall be fully implemented as soon as practicable.

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#### **ARTICLE IV, Supersedure**

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The adoption of this Ordinance hereby repeals and supersedes all conflicting provisions of all ordinances adopted prior to the effective date of this Ordinance.

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#### **ARTICLE V, Validity and Separability**

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Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provisions of this Ordinance.

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## **ARTICLE VI, Amendments**

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This Ordinance may be amended in part or in whole by a majority vote of the voters of the Town at a regular or special Town Meeting.

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## **ARTICLE VII, Applicability**

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The provisions of this Ordinance shall apply to activities occurring within or directly affecting all mooring and berthing locations in Tremont.

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## **ARTICLE VIII, Harbor Committee**

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- A. Appointment.** The Board of Selectmen shall appoint a Harbor Committee, which committee shall consist of at least 7 residents of Tremont familiar with the harbors and the activities within the harbors, as follows:
1. two members shall be commercial fishermen;
  2. one member shall be the owner of or employed by a boat storage/repair business using the harbors;
  3. one member shall be a riparian property owner; and
  4. three members shall be representatives at large, who may also be within the above-noted categories.
- B.** Any member who misses three consecutive Harbor Committee meetings without being excused by a vote of the Committee shall by a vote of the Committee be considered as having resigned as a member of the Committee.
- C. Duties.** The Harbor Committee shall:
1. recommend plans for the development of and policy for Tremont harbors;
  2. recommend rules and regulations for use of Tremont harbors;
  3. recommend mooring, float, lobster car, and wharf fees to cover the cost of permits, and of harbor and wharf management;
  4. recommend individuals to the Town Manager for the position of Harbor Master and, as they deem necessary, for the position of Deputy Harbor Master;
  5. perform such duties as are assigned from time to time by the Board of Selectmen to the Harbor Committee;
  6. receive and review updates and reports from the Harbor Master; and

7. hear appeals of decisions of the Harbor Master where such appeals are permitted by this Ordinance.

**D. Term.** Members shall be appointed for terms of three years, except that to facilitate staggered terms, in June of 2017 the Selectmen shall appoint two members to two-year terms and one member to a three-year term, and in June of 2018 the Selectmen shall appoint two members to two year terms and two members to three year terms. Vacancies shall be filled for the remainder of the term of the person who is no longer a member of the Committee. All terms shall expire on June 30 of the year in which the term expires.

**E. Meetings.** The Committee shall meet at least every other month, unless the Committee agrees to meet more frequently.

**F. Quorum.** Four of the members appointed to the Committee shall constitute a quorum.

**G. Vote.** The Committee decisions will be made by vote of a majority of members present and voting.

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## **ARTICLE IX, Harbor Master**

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**A. Appointment.** The Harbor Master shall be appointed by the Town Manager, who shall be advised in such appointment by the Harbor Committee.

**B. Duties.** The Harbor Master shall:

1. enforce the provisions of the Harbor Ordinance;
2. provide advice and information to the Harbor Committee;
3. assign temporary and permanent locations within the harbors for berthings, moorings, floats, and lobster cars;
4. create and maintain a Harbor Plan that accurately plots moorings, floats and lobster cars, channels, anchorage areas, etc. (a copy of this plan shall be kept on file at the Town Office);
5. issue wharf permits, mooring permits, float permits and lobster car permits.
6. maintain records of the issuance of such permits and the location assignments for mooring berths, floats, and lobster cars; and
7. carry out responsibilities delegated by the Town Manager and by municipal, state and federal agencies.

- C. **Term.** The Harbor Master shall serve for a 1-year term at the pleasure of the Town Manager.
- D. **Compensation.** The Harbor Master's compensation shall be set by the Board of Selectmen.
- E. **Deputy Harbor Masters.** As necessary, one or more Deputy Harbor Masters may be appointed by the Town Manager. The Town Manager shall be advised in said appointment by the Harbor Committee. Deputy Harbor Master(s) shall serve at the direction of the Harbor Master.

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## **ARTICLE X, Moorings, Floats and Lobster Cars**

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- A. **Placement of Moorings, Floats and Lobster Cars.** No person shall place a mooring or mooring buoy of any type, nor a float of any type, nor a lobster car of any type, within the boundaries of Tremont waters without the written permission of the Harbor Master in the form of a mooring permit, a float permit or a lobster car permit. Initial placement and relocation of moorings, floats and lobster cars must be done only upon the authority of the Harbor Master. It shall be the responsibility of the owner to do such initial placement or relocation and to ensure that such placement or relocation is done with the prior approval of the Harbor Master.
- B. **Inspection of Moorings, Floats and Lobster Cars.** Moorings, floats and lobster cars shall be inspected at least biennially by the Harbor Master or by his or her designee. Said inspection shall ensure the moorings floats and lobster cars are constructed to a standard reasonably satisfactory to the Harbor Master. Defects shall be corrected within a time period determined by the Harbor Master. Failure to correct defects will result in loss of mooring assignment, float assignment or lobster car assignment (as applicable).
- C. **Designation of Mooring Spaces, Float Spaces and Lobster Car Spaces.** The Harbor Master shall designate mooring spaces, float spaces and lobster car spaces and shall show those spaces on the Harbor Plan mentioned in Section IX(B)(4), above.
- D. **Assignment of Locations and Appeal Process.**
  - 1. On or before March 1 of each year, the Harbor Master shall: approve or disapprove of specific individual mooring locations, float locations and lobster car locations; send a notice concerning the use of said locations to the individuals who are to be permitted to use those locations and post a mooring assignment list on the bulletin boards at the Town Office and at the Town Wharf. Said notices shall be sent to the address on file with the Harbor Master for those individuals. It shall be the responsibility of the individuals that want to use such locations to keep their address current with the Harbor Master.

2. No later than April 1 of each year, any person adversely affected by the assignment of mooring locations, float locations or lobster car locations, may appeal to the Harbor Committee.
3. On or before June 1 of each year, the Harbor Master shall issue a permit for each approved application for a mooring permit, a float permit or a lobster car permit, and have available a diagram showing the location of all moorings, floats and lobster cars issued a permit in Tremont.
4. Each permit shall indicate the mooring permit fee, float permit fee or lobster car permit fee, and the requirement that the applicable permit fee be paid to the Town at the time the permit is issued.
5. Each mooring permit, float permit or lobster car permit shall be valid for one year following the Town's fiscal year (i.e., from July 1 to June 30th of the following year).
6. On or before thirty (30) days from the date of issuance of said mooring permit, float permit or lobster car permit, any person adversely affected by the issuance of a mooring permit, a float permit or a lobster car permit, may appeal to the Harbor Committee.

**E. Identification of Moorings and Floats.** All moorings and floats shall have their permit number permanently and clearly affixed thereon. Permit numbers shall be visible and legible at all times. The Harbor Master may at any time examine any mooring or mooring line, or float, to determine compliance with this provision and with all of the provisions of this Ordinance.

**F. Size of Moorings and Floats.** All moorings and floats set shall be of sufficient size to hold the vessel for which that mooring or float is used. What an "adequate mooring" is and an "adequately moored float" is shall each be defined by the Harbor Master.

**G. Floats.**

1. Floats shall be permitted in areas approved by the Harbor Master.
2. Application for permits for floats shall be the same as for a mooring, all other provisions pertaining to moorings shall be applicable; except that all floats located in a Federal Project Area shall be additionally permitted by means of a permit acquired from the Army Corp of Engineers in the name of the Town of Tremont and thus are subject to all laws, rules and regulations pertaining thereto. (Pursuant to federal law, all floats located outside of a Federal Project Area shall also be permitted by means of a permit acquired from the Army Corp of Engineers.)
3. Floats located in the Federal Project area shall not be rented except those floats located in a Federal Project Area that are permitted by means of a permit acquired from the Army Corp of Engineers in the name of the Town of Tremont and are designated by the Town as rental floats to be rented by the Harbor Master.

4. After the effective date of this section of this Ordinance, all new floats shall be 8' X 20' in size – there shall be no grandfathering when floats are replaced. Vessels requiring float space longer than twenty feet shall, at the discretion of the Harbor Master, use two floats moored and secured end to end. In such circumstances, two float permits shall be required – one by each of two permit holders – and each permit holder shall berth their vessel on opposite sides of conjoined floats.

**H. Lobster Cars.**

1. Lobster cars shall be located in the Southeast portion of B Pool, shall be marked as deemed appropriate by the Harbor Master and shall be limited to the mooring of lobster cars.
2. Space in this area is on a first come, first served basis. A waiting list for lobster car moorings, as provided for vessel moorings, shall be maintained by the Harbor Master.
3. Each lobster car shall be considered as one mooring and shall be subject to the then current application, permit and fee provisions for vessel moorings; except that all lobster cars located in a Federal Project Area shall be additionally permitted by means of a permit acquired from the Army Corp of Engineers in the name of the Town of Tremont and thus are subject to all laws, rules and regulations pertaining thereto. (Pursuant to federal law, all lobster cars located outside of a Federal Project Area shall also be permitted by means of a permit acquired from the Army Corp of Engineers.)
4. All lobster cars shall have engraved, in two locations, directly on a main visible timber, the owner's initials and lobster license number and shall be marked with reflectors.
5. Maximum Lobster car size is 16' x 24'.

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**ARTICLE XI, Permits**

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**A. Application.** All moorings, floats and lobster cars shall be permitted annually. Application forms for renewal of mooring permits, float permits and lobster car permits will be mailed by February 1<sup>st</sup> of each year to existing mooring, float and lobster car permit holders. These renewal applications must be returned to the Harbor Master no later than April 1<sup>st</sup>. All new mooring, float or lobster car applications will be considered on an individual basis after that date. Permits for moorings, floats or lobster cars, in the Federally Dredged Area shall only be issued to a human person.

**B. Information.** Each application must indicate:

1. Applicant's name and address.
2. Name of vessel.
3. Name and address of vessel owner.

4. Vessel documentation and/or permit number.
5. Length, draft, beam of vessel.
6. Desired mooring, float or lobster car location.
7. Whether the application is a renewal.
8. Percentage of income derived from activities for which the vessel is used.
9. Whether the applicant is a riparian owner.
10. Date mooring, float or lobster car was placed (if renewal) \_\_\_\_\_ and by whom it was placed \_\_\_\_\_.
11. Type of mooring: Rock\_\_\_ Mushroom\_\_\_ Cable\_\_\_ Other (describe)\_\_\_\_\_
12. Weight of mooring stone/mushroom \_\_\_\_\_
13. Bottom chain, top chain and pennant sizes and lengths.
14. Buoy\_\_\_ Pole\_\_\_
15. Date of last inspection and the name of the inspector.

**C. Application and Permit Fee.**

1. The initial permit application and annual permit application for moorings, floats and lobster cars shall be accompanied by a fee, which fee shall be set from time to time by the Board of Selectmen. Residents and non-residents are charged the same fee. New moorings, floats or lobster cars may not be installed or used until the fee is received and the application is approved by the Harbor Master.
2. All fees are payable to the Town of Tremont.
3. All fees collected by the Harbor Master or by the Town from the permitting or use of moorings, floats and lobster cars are to be used for Harbor Management.

**D. All mooring, float or lobster car** renewal permit fees not paid by June 30 of the year billed will be charged a late fee, which late fee shall be set from time to time by the Board of Selectmen. Permits for moorings, floats and lobster cars that have not been paid by August 1 shall be forfeited.

**E. No mooring, float or lobster car** permits will be given or renewed for those persons with unpaid penalties pertaining to violations arising from either the Harbor Management Ordinance or to the Wharf and Facilities Ordinance.

**F. Priority.**

1. Assignment of locations for all moorings, floats and lobster cars shall be made by the Harbor Master on a one boat, one mooring, float or lobster car basis (as applicable),

and in accordance with the provisions set forth in this section and consistent with provisions of 38 M.R.S. § 3.

- a. In a Federal Project Area, the Harbor Master shall assign all moorings, floats and lobster cars using the Open-to-All-on-Equal-Terms basis (see Definitions).

Whenever practicable, the harbor master shall assign mooring privileges in those waters where individuals own the shore rights to a parcel of land, are masters or owners of a boat or vessel and are complainants, and shall locate suitable mooring privileges therefor for boats and vessels, temporarily or permanently, as the case may be, fronting their land, if so requested, but not to encroach upon the natural channel or channels established by municipal officers; provided that not more than one mooring may be assigned to any shorefront parcel of land under this privilege. Notwithstanding title 38 Maine Revised Statutes section 11, persons who, prior to January 1, 1987, owned shore rights of at least 100 feet of frontage regardless of the size of the lot have mooring privileges assigned according to this section. The limitation of one mooring assigned under this privilege does not prevent the owner of a shorefront parcel from receiving additional mooring assignments under the allocation system for all other residents.

- b. A riparian owner who is issued a permit for a riparian mooring may be issued an additional mooring in the Federally Dredged Area only if the riparian owner owns multiple boats or vessels and said permits are issued upon availability and status on the mooring waiting list.
  - c. Mooring, float or lobster car sites shall be assigned by the Harbor Master on a "first come, first serve" basis to qualified applicants for mooring, float or lobster car sites. Applicants shall be identified on a waiting list by date of receipt of the application. In the event that the Harbor Master receives more applications for mooring, float or lobster car sites than there are mooring, float or lobster car spaces, then the Harbor Master shall use the (applicable) waiting list set forth below for mooring, float or lobster car sites.
  - d. Commercial docks shall not be allowed any moorings or any floats for transient use in a Federal Project Area.
2. Transient Moorings and Floats. Not less than ten percent (10%) of the total moorings and of the total floats shall be available for transient use. Moorings and floats are available for limited periods as determined by the Harbor Master, but under no circumstances shall a transient vessel occupy a mooring or a float for more than one week, except with the express written consent of the Harbor Master.



Additionally, no person shall moor or permit to be moored any watercraft owned or occupied by him or her and which is being used primarily for residential purposes within any of the tidal waters of the Town of Tremont for seven days or more without the permission of the Harbor Master and, if applicable, the permission of the riparian owner of the shore rights in front of which said watercraft is moored.

3. General priorities and waiting list.

- a. The Harbor Master shall establish a waiting list for permits for mooring locations.
- b. In the event that the Harbor Master receives more applications for mooring, float or lobster car sites than there are mooring, float or lobster car spaces, then the Harbor Master shall (as applicable) select the next available mooring, float or lobster car site from the applicants on the waiting list, without regard to the residency of the applicant, except as specifically stated in the following provisions of this section. Within the Federal Project Area, no priority or preference shall be given based on residency. An annual fee of \$5.00 shall be paid to the Town to maintain position on the waiting list after initial application fee. Consistent with policies established by the Board of Selectmen, and consistent with the requirement that permits for moorings, floats or lobster cars, in the Federally Dredged Area shall only be issued to a human person and shall only be issued for recreational boats or for commercial boats, the Harbor Master shall designate certain mooring sites and certain float sites as commercial and certain other mooring sites and certain float sites as non-commercial.
- c. Within A Pool only commercial vessels will be assigned mooring sites within the dredged area.

**G. Permits are Non-Transferable.** Unless prior written permission of the Harbor Master is obtained, mooring, float and lobster car permits are not transferable. In regard to mooring permits, such permission of the Harbor Master shall only be granted when the mooring assignment to be transferred has been used for commercial fishing purposes, and such a mooring assignment shall be transferred only at the request or death of the assignee, only to a member of the assignee's family, and only if the mooring assignment will continue to be used for commercial fishing purposes. For the purposes of this section, "member of the assignee's family" means an assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood, or an assignee's spouse. (See 38 M.R.S. § 3-A, as am.)

**H. Sublet.** No moorings, floats or lobster cars, other than Town transient moorings and floats, shall be sub-leased to any person for the use of any vessel except the vessel set forth in the permit for that mooring float or lobster car location.

**I. Reassignment.** Mooring float and lobster car locations not used 30 days in the preceding calendar year in Bass Harbor pools A, B, and C and in Seal Cove shall be

reassigned by the Harbor Master who shall have authority to waive the requirement for reasonable cause.

**J. Limited-Purpose Aquaculture.** Prior to submitting a limited-purpose aquaculture (LPA) lease application to the Department of Marine Resources, applicants are required to request Harbor Master's approval of their Application. In order to determine whether to approve, or to disapprove, of such an application, the Harbor Master shall follow the following procedure.

- a. The Harbor Master shall present a copy of the Application to the Harbor Committee for a possible recommendation.
  - Said copy of the Application must be received at least one week prior to the next scheduled Harbor Committee meeting; if submitted less than one week before a Harbor Committee meeting, this review shall be placed on the following meeting's agenda.
  - Applicants are encouraged to attend the Harbor Committee meeting.
  - The Harbor Committee will attempt determine whether the lease if approved and acted upon will not unreasonably impede safe navigation; will not unreasonably interfere with fishing or other uses of the area; and will not unreasonably interfere with riparian ingress and egress.
  - Such determinations by the Harbor Committee shall be made by asking questions including, but not limited to, the following:
    - i) How might this proposal affect navigation within the area?
    - ii) Are there any permitted moorings within the boundary of this proposed site?
    - iii) How might this proposed lease affect traditional storm anchorages?
    - iv) How might this proposal effect the ability of any riparian owners located within 1,000 feet of the proposed lease to get to and from their property?
    - v) What is the extent and type of commercial and recreational fishing within the area of the proposed lease?
    - vi) Is the mooring gear specified in the application adequate and appropriate? If not, the Applicant will be asked to explain.
    - vii) How might the proposed lease affect any local, state, or federally owned beaches, parks, or docking facilities within 1,000 feet of the proposed area?
- b. At the conclusion of said hearing, the Harbor Committee shall determine whether to issue a recommendation of approval, or of disapproval, to the Board of Selectmen.
- c. At their next regularly scheduled meeting, the Board of Selectmen shall review the copy of the Application, and said possible recommendation of the Harbor Committee, if any is made. The Board of Selectmen shall determine whether or

not to authorize the Town Manager to authorize the Harbor Master to approve, or to disapprove, of the Limited-Purpose Aquaculture Application.

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## ARTICLE XII, Wharves, Docks, Piers, Floats

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- A. Obstructions.** No owner or master of any vessel, boat or watercraft of any kind, shall permit or suffer her or his watercraft to be docked or moored in such a manner as to obstruct the free passage of other vessels going in and coming out of any wharf in Tremont.
- B. Tying to Public Floats.** Without the consent of the Harbor Master no person shall leave any watercraft tied at the public floats in Tremont for any purpose, including fueling, discharging, or taking any supplies, for longer than 2 hours during daylight hours, nor for longer than 4 hours after daylight.
- C. Placement of Cradles.** Without permission from the Harbor Master no person shall leave or cause to be left any boat cradle on the Town launching ramp, harbor parking lot or any Town-owned facilities in Tremont.
- D. Blockage of Public Ramps/Facilities.** No person shall place or cause to be placed any watercraft for repairs, trailers or vehicles on the Town landing, parking lot or other Town harbor facilities in Tremont in such a way as to block access by other users.
- E. Boats Used as Tenders.** Boats used as tenders may be allowed at the Town float with the permission of the Harbor Master provided they do not block access by other craft and are properly cared for by their owner.
- F. Bait.** No person shall leave on public facilities any fish or lobster bait so as to cause a public nuisance.
- G. Storage.** No person shall place or maintain on public facilities, barrels, boxes, gear, traps, pots or any other equipment for a longer period than is reasonably necessary for the prompt loading of same.
- H. Removal of Obstructions.** The Harbor Master is authorized, and it shall be his or her duty, to remove any obstructions, such as vessels, boats, watercraft, vehicles, trailers, or moorings, in violation of the provisions of this Ordinance.
- I. Removal of Debris.** No person using the public wharf, float or launching ramp shall leave any debris, including rubbish or trash.

- J. Removal Costs.** In the event that the Harbor Master removes an obstruction or debris as set forth in this Ordinance, such removal shall be at the cost and risk of the owner of the obstruction and/or debris. The Harbor Master shall charge \$100.00, to be paid by the master or owner of the vessel or debris; which charge, together with the cost of the crew and/or equipment for removing that vessel and/or debris, the Harbor Master may collect by a civil action, including legal fees, in the appropriate Maine court, as set forth in 38 M.R.S. § 5.
- K. Reflectors Required on Lobster Cars.** Reflectors or reflective tape, a minimum of 4" in diameter or width and visible 360 degrees, shall be installed and maintained 4' above the water line on at least both ends of all lobster cars moored in the Inner Harbor.
- L. Private Floats.** Private floats located in a Federal Project Area shall be additionally permitted by means of a permit acquired by the Town from the Army Corp of Engineers in the name of the Town of Tremont, and thus such floats are subject to all laws, rules and regulations pertaining to said permit. At the time of the enactment of this section of this Ordinance it is contemplated that there will be no private floats located in a Federal Project Area. It is also contemplated that instead a permit for all floats in a Federal Project Area shall be obtained by the Town, and then permitted through this Ordinance.

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### ARTICLE XIII, Operation of Vessels

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- A. General.** No person shall use or operate any watercraft in Tremont Harbors so as to cause danger, annoyance, disturbance or inconvenience to the public.
- B. Reckless Operation.** No person shall operate any motor or sail vessel in a reckless or negligent manner or while under the influence of intoxicants or drugs so as to endanger the life, limb or property of any person.
- C. Navigation Hampered.** No person shall deposit, throw, sweep, or cause to be deposited or swept, from any vessel, wharf, dock or any other place, into the waters of Tremont Harbors or into the waters adjacent thereto, any gas, oil or bilge water containing same, ashes, dirt, stones, gravel, mud, logs, planks, or any other substances tending to obstruct the navigation of said Harbors or waters adjacent thereto. This provision shall not apply to the washing down of commercial fishing boats and wharves.
- D. Speed Limits.** All water vessels must observe the posted speed limit within Tremont Harbors. Such speed limits shall be posted in a conspicuous place by the Harbor Master. In the absence of such limits, all water vessels must operate in a manner which does not create a wash and at a speed which does not endanger persons or property.

- E. Abandonment.** No person shall cause to be abandoned any boat, vessel, hulk, cradle, raft or any other possible obstruction on the shores of Tremont or within Tremont Harbors. Any such abandonment left on the shores of Tremont or within Tremont Harbors which has been unattended for a period of 90 days shall be deemed to be abandoned. The Harbor Master, upon her or his own complaint or upon the complaint of another shall order the last owner of record of any such abandoned boat, vessel, hulk, cradle or raft, if such owner is ascertainable, to remove same within 30 days. The Harbor Master shall cause its removal or destruction at the cost of said last owner of record. Any violation of the above shall be considered a misdemeanor and shall be punishable as stipulated in the penalties section of this Ordinance.
- F. Oil Pollution.** Except in case of an emergency imperiling life or property, or in case of an unavoidable accident, collision or stranding, no person shall discharge, or suffer or permit the discharge of, oil by any method, means or manner into or upon the waters of Tremont Harbors.
- G. Infected Vessels.** Whenever a vessel arrives in Tremont Harbors having on board any person afflicted with a contagious disease or suspected of being afflicted with such a disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Tremont, shall comply with the provisions of the Revised Statutes of Maine.

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## **ARTICLE XIV, Definitions**

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For the purposes of this Ordinance, the definitions of all words, terms or expressions used shall be as defined and utilized by the U.S. Coast Guard Navigation Rules with the following additions, wherein the following words or terms shall have the following meanings.

- A. Bass Harbor.** All waters under the jurisdiction of the Town of Tremont in which the tide ebbs and flows, north of a straight line drawn from the southernmost point of Lopaus Point to the southernmost point of Bass Harbor Head; 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 waters are privately or publicly owned.

For the purposes of this Ordinance, Bass Harbor shall be further divided into “Pools”, as follows:

- i) A Pool (Lower Pool) shall mean all tidal waters under the jurisdiction of the Town of Tremont north of a straight line drawn from the southwest end of the Underwood Dock to the eastern most point of Try House Point and south of a straight line running southeast from the northern end of the Town Dock to Strauss Point.

- ii) B Pool (Upper Pool) shall mean all tidal waters under the jurisdiction of the Town of Tremont north of a straight line running southeast from the northern end of the Town Dock to Strauss Point.
- iii) C Pool shall mean all tidal waters under the jurisdiction of the Town of Tremont between a straight east-west line drawn from the southwest end of the Underwood Dock to the easternmost point of Try House Point and a straight line drawn from the southern end of the Ferry Terminal Dock to the southernmost point of Back Beach.
- iv) D Pool shall mean all tidal waters under the jurisdiction of the Town of Tremont between a straight east-west line drawn from the southern end of the Ferry Terminal Dock to the southernmost point of Back Beach and a straight line drawn from the southernmost point of Lopaus Point to the southernmost point of Bass Harbor Head.

Note: A plan of said pools shall be readily available to the public from the Harbor Master.

- B. Commercial Dock.** Any facility used to provide water access for remuneration in the Town of Tremont; including, but not limited to, marinas, boatyards, yacht clubs, lobster buying facilities, and aquaculture facilities.
- C. Commercial Fishing Vessel.** A vessel that is used to harvest marine resources, which marine resources are later sold.
- D. Commercial Passenger Vessel.** A vessel which is licensed by the U.S. Coast Guard to carry passengers.
- E. Commercial Vessel.** Any vessel used as a commercial fishing vessel or as a commercial passenger vessel, or which is used in commercial activities.
- F. Entrance Channel.** An access passageway through natural obstructions to navigation 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.
- G. Federal Project Area.** Those areas shown on a map furnished by the Army Corps of Engineers and located at the Tremont Town Office; or such map as is amended from time to time to show such areas, and which map is kept on file at the Tremont Town Office.
- H. Lobster Car.** A float used commercially by a licensed lobster fisherman
- I. Mooring.** Either:
  - 1. a place where buoyant vessels are secured other than to a pier or to a float; or
  - 2. the equipment used to secure a vessel; or
  - 3. the process of securing a vessel other than by anchoring.

- J. Open-to-all-on-equal terms.** Federal navigation projects must be managed in the general public interest and must be accessible and available to all on equal terms.
1. The Town will make no arbitrary distinction or requirement of any kind in allocating use of a federal navigation project and ancillary facilities and services to the public, except as may be consistent with the purpose for which the federal navigation project was constructed.
  2. The Town will not impose arbitrary fees or arbitrary variations in fees among users. The cost of providing necessary management and ancillary facilities and services may be offset through equitable user fees based on the actual cost incurred.
- K. Parcel of Land.** The larger of the minimal buildable lot size in the municipality or 20,000 square feet and, in either case, including 100 feet of shoreline frontage
- L. Pleasure Vessel.** Any vessel used for activities which do not produce a significant portion of the vessel user's income.
- M. Resident of Tremont.** Any person who occupies a dwelling within the Town of Tremont for more than 180 days in a calendar year; all other persons are non-residents of Tremont.
- N. Resident Vessel.** Any vessel for which Tremont Boat Tax is paid.
- O. Riparian Owner.** Any person who owns the shore rights to a parcel of land and who is master or owner of a boat or vessel; in this context, "parcel of land" means the larger of the minimal buildable lot size in the Tremont at the time the mooring permit is requested or 20,000 square feet and, in either case, including 100 feet of shoreline frontage. Notwithstanding the foregoing, however, persons who, prior to January 1, 1987, owned shore rights of at least 100 feet of frontage regardless of the size of the lot are also considered to be a "riparian owner".
- P. To Anchor.** To secure a vessel to the bottom within a body of water by dropping an anchor or anchors or other ground tackle.
- Q. Vessel.** The word vessel as used herein shall include boats of all sizes powered by sail, machinery or hand, scows, dredges, lobster, crab and shellfish cars, and craft of any kind.
- R. Waterway.** Any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

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## ARTICLE XV, Administration

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- A. Enforcement.** It shall be the duty of the Harbor Master to enforce the provisions of this Ordinance. If the Harbor Master shall find that any provision of this Ordinance is being violated, she or he shall notify in writing the persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of every such notice shall be maintained as a permanent record.
- B. Obedience to Orders.** No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposal of her or his watercraft within the limits of Tremont Harbors. The Harbor Master may arrest and deliver to District Court or to the Town Constable any person committing an assault upon her or him or upon another person acting under his or her authority as provided by the Revised Statutes of Maine (see, *e.g.*, 38 M.R.S. § 13, as am.).
- C. Legal Action.** When notification of violation does not result in the correction of the violation or nuisance condition, the Selectmen, upon complaint from the Harbor Master and/or the Harbor Committee, are hereby authorized and directed to institute any and all action and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- D. Penalties.** Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine not less than \$100, nor more than \$2,500, for each violation. A repetition or continuation of any violation of any provisions of this Ordinance on successive days after notification by the Harbor Master constitutes a separate offense for each day during any portion of which such violation is committed, continued or permitted. In addition to the foregoing, penalties shall be assessed in accordance with the scheme set out in Maine statutory law for civil penalties for land use violations. (See 30-A M.R.S. § 4452.)
- E. Suspension or Revocation of Permits and Appeals.** All permits granted under the authority of this Ordinance shall be valid only for such period as specified and permits of unqualified duration of validity shall not be granted. A violation of the provisions of this Ordinance by any permittee shall be grounds for suspension or revocation by the Harbor Master of such permit or permits. Within thirty (30) days of the date of said suspension or revocation, if they have first paid all applicable fees, fines and penalties, a permittee may appeal the suspension or revocation by the Harbor Master of their permit or permits to the Harbor Committee.
- F. Appeals Generally.**
1. Per this Ordinance, appeals of decisions of the Harbor Master may be taken to the Harbor Committee in the following instances:



- a. per Article X(D)(2), regarding the designation by the Harbor Master of specific individual locations of moorings, floats or lobster cars;
  - b. per Article X(D)(6), regarding the issuance by the Harbor Master of permits for moorings, floats or lobster cars; and
  - c. per Article XV(E), regarding the suspension or revocation by the Harbor Master of a permit.
2. Any of these three types of appeals to the Harbor Committee shall be heard and decided upon on a *de novo* basis, and not on an appellate basis.
  3. All written materials and exhibits in support of the appeal must be filed seven days before the hearing, and an opposing party may file a response to such materials 3 days before the hearing. No exhibits or other written materials that were not filed within these time limits shall be admitted at the hearing except by leave of the Chair of the Harbor Committee for good cause show
  4. The Harbor Committee shall use the rules for hearings stated in Section IX of the Board of Appeals Ordinance of the Town of Tremont, except that publication of notice of an appeal shall only be made once.
  5. A decision of the Harbor Committee on any of these three types of appeals may in turn be appealed within thirty (30) days of the date of the written decision of the Harbor Committee to the Tremont Board of Appeals. Such an appeal to the Board of Appeals shall be heard and decided upon on an appellate basis, and not on a *de novo* basis.
  6. As part of its written decision on any of these three types of appeals, the Harbor Committee shall make findings of fact and conclusions of law.

**G. Liability.** Any person using the facilities within the limits of a harbor or maritime facility shall assume all risk of damage or loss of her or his property and the Town of Tremont assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels within said harbors or maritime facility(ies).

*[end of ordinance]*

*I attest this to be a true copy of this ordinance.*

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*Katie A. Dandurand  
Town Clerk*

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LEGISLATIVE HISTORY:

05-14-13 Approved by Town Meeting  
10-27-16 Draft Approved by Harbor Committee  
11-16-16 Draft Approved by Town Attorney  
11-21-16 Draft Approved by Selectboard  
01-17-17 Public Hearing  
01-26-17 Draft revised by Joint Meeting of the  
Harbor Committee and Selectboard  
02-02-17 Draft Approved by Corps of Engineers  
02-06-17 Draft Certified by Selectboard  
05-09-17 Draft Rejected by Town Meeting  
05-25-17 Draft Amended by Harbor Committee  
09-05-17 Draft Certified by Selectboard  
11-07-17 Adopted by Town Meeting  
04-25-19 Aquaculture amendment requested by Harbor Committee  
05-06-19 Aquaculture amendment requested by Selectboard  
05-30-19 Draft revised by Town Manager  
07-25-19 Draft approved by Harbor Committee  
09-03-19 Draft approved by Selectboard, ordered to be placed on 2020 Town Meeting  
Warrant  
06-29-20 Public Hearing  
07-14-20 Adopted at Town Meeting