

Wharf and Facilities Ordinance

Town of Tremont

The Town of Tremont hereby ordains that the Wharf and Facilities Ordinance last amended November 7, 2017 is repealed and a new ordinance is enacted as follows:

Wharf and Facilities Ordinance

ARTICLE I Terminology

§ 1. Definitions.

For the purposes of this Ordinance, the following words or terms shall have the meanings indicated:

CLOSSON LOT That lot or parcel of land owned by the Town and located as shown on Tremont Tax Map 17 as Lot 23.

SEAL COVE LANDING Any or all of those facilities situated on land owned by the Town and located as shown on Tremont Tax Map 8 as Lot 15.

RESIDENT’S VESSEL Any vessel for which Tremont Excise Tax is paid, and which is owned by a “Tremont resident”.

NON-RESIDENT’S VESSEL Any vessel that is not a “Resident’s Vessel”.

TOWN The Town of Tremont.

TOWN WHARF See “Wharf”, below.

TREMONT RESIDENT 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.

WHARF The wharf owned by the Town of Tremont and located in Bass Harbor on the Wharf Property.

WHARF HOUSE PROPERTY That house and its curtilage located on the northeast portion of the Wharf Property.

WHARF PROPERTY That lot or parcel of land owned by the Town and located as shown on Tremont Tax Map 17 as Lot 24.

§ 2. Word Usage.

"Shall" is mandatory, and "may" is permissive.

ARTICLE II Authority

This Ordinance is enacted in accordance with 30-A M.R.S. § 3001, as amended.

ARTICLE III Purpose

The following rules and regulations shall govern the operation, maintenance and use of the Town Wharf and related facilities and the Seal Cove Landing.

ARTICLE IV Fees and Permits

§ 1. Commercial Wharf Use Permits.

All owners of commercial fishing vessels docked, loading, unloading, engaged in repair or maintenance of the vessel(s) at the Wharf shall pay an annual fee to the Town based on the overall length of each vessel. For this fee said owners shall receive from the Town a Wharf Use Permit and three Wharf Use Permit decals, which decals must be affixed to the vessel, the punt, and the vehicle described in the Wharf Use Permit application. Vessels, punts or vehicles not displaying a valid decal will not be permitted to use the Wharf.

- A) **Fees.** Owners of vessels up to 50 feet of length overall shall pay a fee, to be set annually by the Board of Selectmen, per foot of length overall to obtain a Wharf Use Permit. Owners of vessels over 50 feet of length overall shall pay a fee, to be set annually by the Board of Selectmen, per foot of length overall to obtain a Wharf Use Permit. The owner of a vessel may pay a fee to obtain a Daily Use Fee Permit in accordance with § 4 of this Article, without paying the annual fee. Notwithstanding the foregoing, however, the minimum fee paid for an annual Wharf Use Permit shall be based on an overall length of 14 feet.

§ 2. Sternman Permits.

For an **extra** fee, to be set annually by the Board of Selectmen, fishermen who purchase Wharf Use Permits may purchase one extra permit that will entitle their sternman to park in the Closson Lot. These “Sternman Permits” shall be issued on a first come, first served basis. The number of Sternman Permits to be issued shall be determined each year by the Harbor Committee.

§ 3. Student Permits.

Students 18 years of age or younger engaged in commercial fishing in vessels of 25 feet in length or less shall pay a fee, to be set annually by the Board of Selectmen, for a Student Wharf Use Permit. For this fee said student shall receive from the Town a Wharf Use Permit and three Wharf Use Permit decals, which decals must be affixed to the vessel, the punt, and the vehicle described in the Wharf Use Permit application. Student vessels, punts or vehicles not displaying a valid decal will not be permitted to use the Wharf.

§ 4. Daily Use Fee Permits.

Notwithstanding the requirements of §§ 1-3, above, owners of commercial fishing vessels may use the Wharf if they have paid a daily use fee, to be set annually by the Board of Selectmen, for a Daily Use Fee Permit.

§ 5. Commercial Services Permits.

No person or commercial entity shall engage in providing repair services, transportation, fuel, repair, equipment, or maintenance, of vessels or to equipment or facilities situated within the bounds of the Wharf Property, unless each such person or commercial entity has paid a fee, to be set annually by the Board of Selectmen, and has on board his, her or its vessel or affixed to his, her or its vehicle a valid permit issued under this Article for such use and is in a position to make such permit available upon request by the Harbor Master or by the Harbor Master's designate. Such a permit shall be known as a Commercial Services Permit. As an alternative to obtaining a Commercial Services Permit, such a person or commercial entity may obtain a Day Use Fee Permit, as described in § 4 above.

§ 6. Marine Products Permits.

Each person or commercial entity transporting marine products off of the Wharf Property or from other nearby Town property shall first pay a fee, to be set annually by the Board of Selectmen, to the Town to obtain a Marine Products Permit authorizing such transportation. Any owner/operator of a fishing vessel with a valid Wharf Use Permit shall be relieved of the fee described in this section if said owner/operator is transporting her or his product and her or his product only. There will be no combining of product between individual fishermen without first obtaining a Marine Products Permit. Obtaining a Day Use Fee Permit shall not be used as an alternative to obtaining a Marine Products Permit.

§ 7. Transportation Company Permits.

Each person or commercial entity using the Wharf Property for commercial transportation services, such as kayak companies, stand-up paddle board companies and similar businesses, shall first pay to the Town a fee, to be set annually by the Board of Selectmen, to obtain a Transportation Company Permit authorizing such transportation.

§ 8. Punt Permits.

Owners or lessees of boats 14 feet or under in length overall who do not have a Wharf Use Permit, shall pay to the Town a fee, to be set annually by the Board of Selectmen, for a Punt Permit to keep such boats at designated floats on a space-available basis at float spaces specifically authorized for such boats.

§9. No commercial fuel services.

No commercial fuel services will be allowed on the Wharf.

§ 10. Permit Parking.

Parking along Rice Road below the stop sign at the top of the hill shall be allowed by permit only Monday through Friday from 4:30 a.m. to 12:00 noon.

On the Wharf Property, there shall be no parking of vehicles over 20 feet in length, no overnight parking, no parking of vehicles with trailers and no parking of trailers. Notwithstanding the two sentences immediately preceding, the Harbor Master may give permission to park such vehicles on the Wharf Property for a limited period of time in exceptional circumstances, or as provided in § 12, below.

§ 11. Wharf House Parking.

Overnight parking at the Wharf House Property shall only be allowed with the prior written permission of the Harbor Master.

§ 12. Other Commercial Permit Agreements.

Except for those persons or commercial entities acting pursuant to a commercial permit, like a Commercial Services Permit, a Marine Products Permit or a Transportation Company Permit as aforesaid, any other commercial uses of the Wharf shall be permitted only by agreement with the Board of Selectmen. The Town of Tremont Selectmen may enter into other written agreements or contracts with commercial entities regarding other commercial usage of the Wharf that are financially beneficial to the Town.

§ 13. Transient Float User Fee Permits.

The Town Selectmen may establish a Transient Float User Fee, and accompanying permit.

ARTICLE V Seal Cove Landing Ramp and Floats

§ 1. Seal Cove Landing Use Permits.

All owners of commercial fishing vessels loading, unloading, engaged in repair or maintenance of vessel(s) at the Seal Cove Landing shall pay an annual fee to the Town based on the overall length of each vessel and whether it is a Resident's Vessel or a Non-resident's Vessel. For this fee said owners shall receive from the Town a Seal Cove Landing Use Permit, and three Seal Cove Landing Use Permit decals, which decals must be affixed to the vessel, the punt, and the vehicle described in the Seal Cove Landing Use Permit application. Vessels, punts or vehicles not displaying a valid decal will not be permitted to use the Seal Cove Landing.

- A) **Resident's Vessel Permits for Seal Cove Landing.** For the use of the Seal Cove Landing, owners of Resident's Vessels shall pay a fee of \$200.00 per commercial fishing vessel and one dinghy per year.
- B) **Non-resident's Vessel Permits for Seal Cove Landing.** For the use of the Seal Cove Landing, owners of Non-resident's Vessels shall pay a fee of \$400 per commercial fishing vessel and one dinghy per year.

§ 2. Seal Cove Landing Student Permits.

Students 18 years of age or younger engaged in commercial fishing in vessels of 25 feet in length or less shall pay a fee of \$100.00 for a Seal Cove Landing Student Facilities Use Permit. For this fee said student shall receive from the Town a Seal Cove Landing Use Permit and three Seal

Cove Landing Use Permit decals, which decals must be affixed to the vessel, the punt, and the vehicle described in the Seal Cove Landing Use Permit application. Student vessels, punts or vehicles not displaying a valid decal will not be permitted to use the Seal Cove Landing.

§ 3. Seal Cove Landing Daily Use Fee Permits.

Notwithstanding the foregoing, however, owners of commercial fishing vessels may use the Seal Cove Landing if they have paid a daily use fee of \$100.00 for a Seal Cove Landing Daily Use Fee Permit.

§ 4. Seal Cove Landing Commercial Services Permits.

No person or commercial entity shall engage in providing repair services, transportation, fuel, repair, equipment, or maintenance, of vessels or to equipment or facilities situated within the bounds of the Seal Cove Landing, unless each such person or commercial entity has first paid a fee of \$200.00 for resident and \$400.00 for non-resident persons or commercial entities to obtain a Seal Cove Landing Commercial Services Permit and is in a position to make such permit available upon request by the Harbor Master or by the Harbor Master's designate. Alternatively, a Seal Cove Landing Day Use Fee Permit may be obtained as described in § 3, above.

§ 5. Seal Cove Landing Marine Products Permits.

Each person or commercial entity transporting marine products off of the Seal Cove Landing or from other nearby Town property shall first pay to the Town a fee to obtain a Seal Cove Landing Marine Products Permit authorizing such transportation. Any owner/operator of a fishing vessel with a valid Seal Cove Landing Wharf Use Permit shall be relieved of the fee described in this section if said owner/operator is transporting her or his product and her or his product only. There will be no combining of product between individual fishermen without first obtaining a Seal Cove Landing Marine Products Permit. Obtaining a Seal Cove Landing Day Use Fee Permit shall not be used as an alternative to obtaining a Seal Cove Landing Marine Products Permit.

§ 6. Seal Cove Landing Transportation Company Permits.

Each person or commercial entity using the Seal Cove Landing or other nearby Town property for commercial transportation services, such as kayak companies, stand-up paddle board companies and similar businesses, shall first pay to the Town a fee to obtain a Seal Cove Landing Transportation Company Permit authorizing such transportation.

§ 7. Seal Cove Landing Resident Punt Permits.

Tremont Resident owners or lessees of boats 14 feet or under in length overall who do not have a Seal Cove Landing Use Permit, shall pay to the Town a fee for a Seal Cove Landing Resident Punt Permit to keep such boats at designated floats on a space-available basis at float spaces specifically authorized for such boats.

§ 8. Seal Cove Landing Non-resident Punt Permits.

Non-resident owners or lessees of boats 14 feet or under in length overall who do not have a Seal Cove Landing Use Permit, shall pay to the Town a fee for a Seal Cove Landing Non-resident Punt Permit to keep such boats at designated floats on a space-available basis at float spaces specifically authorized for such boats.

§ 9. Other Commercial Permit Agreements for Seal Cove Landing.

As with the Wharf as noted above in § 12 of Article IV of this Ordinance, except for those persons or entities acting pursuant to a commercial permit, such as a Seal Cove Landing Commercial Services Permit, a Seal Cove Landing Marine Products Permit or a Seal Cove Landing Transportation Company Permit as aforesaid, any other commercial uses of the Seal Cove Landing shall be permitted only by agreement with the Board of Selectmen. The Town Selectmen may enter into other written agreements or contracts with persons or commercial entities regarding the Seal Cove Landing that are financially beneficial to the Town.

§ 10. Applicability of the Heath Point Ordinance.

Notwithstanding anything stated to the contrary in this Ordinance, use of the Seal Cove Landing shall also at all times be subject to the provisions of the Heath Point Ordinance.

§ 11. Separate Permits.

A separate permit is required for use of each of the Seal Cove Landing or the Wharf.

ARTICLE VI Permits Generally

§ 1. Applications.

Applications for all permits described in this Ordinance must be obtained from and returned to the Tremont Town Office. No such permits shall be issued, nor shall any such permits be valid, unless they are first approved by the Harbor Master.

§ 2. Forms.

The Tremont Town Manager shall prescribe the forms necessary to obtain a valid permit under this Ordinance.

§ 3. Duration of Permits.

All permits granted under the authority of this Ordinance shall be valid for 1 year, from September 1 through August 31, unless another specific time period of validity is stated on the face of the permit. Permits of unqualified duration of validity shall not be granted.

§ 4. Fees for Permits.

All fees described in this Ordinance, for any and all permits described in this Ordinance and otherwise, shall be set from time to time by the Selectmen of the Town, unless the fee is specifically set herein. The Selectmen shall ask the Harbor Committee for a recommendation prior to setting any fee.

§ 5. Payment for and Non-refundability of Fees for Permits.

All fees for all permits described in this Ordinance shall be paid at the Tremont Town Office and are nonrefundable.

§ 6. Suspension or Revocation of Permits and Appeals.

Upon a violation of any of the provisions of this Ordinance by any permit holder, the Harbor Master may, in the interest of maintaining appropriate law and order, and in his or her sole and absolute discretion, temporarily suspend or permanently revoke the use of any permit granted pursuant to this Ordinance. Said permit holder may appeal such a suspension or revocation by the Harbor Master of their permit or permits to the Harbor Committee within thirty (30) days of the date of said suspension or revocation, if said permit holder has first paid all applicable fees, fines and penalties. The Harbor Committee shall either affirm or overturn the suspension or revocation. Such an appeal shall be on a *de novo* basis. Within thirty (30) days of the date of a decision of the Harbor Committee to uphold or overturn the suspension or revocation, the permit holder or the Harbor Master may appeal the decision of the Harbor Committee to the Tremont Board of Appeals. Such an appeal shall be on an appellate basis.

ARTICLE VII Berthing

Without written prior permission of the Harbor Master, overnight use by vessels of the Wharf, or of the Wharf Property, or of the Seal Cove Landing, is strictly prohibited.

ARTICLE VIII Unattended Gear or Bait

Except with prior approval of the Harbor Master, no gear shall be left on the Wharf or at the Seal Cove Landing for more than 24 hours from the time first placed there. No bait shall be left on the Wharf or at the Seal Cove Landing. Without an appropriate decal, no vehicles shall be left unattended on the Wharf. Vehicles left unattended shall be subject to being towed at their owner's expense.

ARTICLE IX Trash and Debris

Depositing of trash or debris on the Wharf or at the Seal Cove Landing, except in the trash receptacles that are provided, is expressly prohibited. Depositing of waste oil on the Wharf or at the Seal Cove Landing is expressly prohibited. Dumping of bait from Wharf, Ramp, Floats or other areas of the Wharf Property or from the Seal Cove Landing is prohibited. There shall be no culling of marine products such as urchins, dead crabs or lobsters at the Wharf or at the Seal Cove Landing. Deliberate incineration of wastes or other matter from vessels may constitute pollution of the marine environment and is expressly prohibited.

ARTICLE X Enforcement

Enforcement of the provisions of this Ordinance is delegated to State and local law enforcement officers and to the Harbor Master of the Town. Personnel, services and equipment of any other agency of State or Federal government may be utilized in performance of this provision. Any

officer having vested authority shall, pursuant to authority provided by law and with or without warrant or other process, arrest any person if he or she has reasonable cause to believe such person has committed an act as prohibited by this Ordinance.

ARTICLE XI Penalties

§ 1. Fines and Penalties.

- A) In accordance with 30-A M.R.S. § 4452(3), failure to comply with, or violation of, any of the provisions of this Ordinance will result in a fine of not less than \$100.00 nor more than \$2,500.00, to be recovered in an appropriate Maine Court, on complaint of the Harbor Master or other Town officials. The Court may enter into restraining orders or prohibitions and/or minimum fines of \$100.00 and maximum fines of \$2,500.00 in each instance. Each day a violation exists constitutes a separate violation. All such fines shall be in addition to all applicable fees.
- B) In accordance with 38 M.R.S. § 13, failure to obey a lawful order of the Harbor Master is a Class E crime prosecuted in the appropriate Maine Court; the penalties for which may include a fine or imprisonment or both.
- C) In accordance with 30-A M.R.S. §§ 4452(3)(D) & (5)(R), persons or entities ordered by a court of law to pay such a fine, shall also pay to the Town of Tremont its reasonable attorney's fees, expert witness fees and costs.

§ 2. Waiver of court action and payment of fees.

Notwithstanding any other provision of this Ordinance to the contrary, any person who in the opinion of the Harbor Master commits a violation of this Ordinance, and who receives a summons from the Harbor Master in regard to said violation, may waive all court action by payment to the Town of \$100.00 within seven days of the date of the issuance of said summons. Persons failing to pay said \$100.00 within fourteen days of the date of the issuance of said summons may nevertheless waive all court action by payment to the Town of \$200.00 within fourteen days of the date of the issuance of said summons.

§ 3. Habitual Offender.

In addition to the penalties noted above, and notwithstanding any other provision of this Ordinance to the contrary, any person who in any one year period is found by said court or courts to have committed three violations of this Ordinance, or who receives a summons from the Harbor Master in regard to three violations and waives all court action by paying the fine as aforesaid, or any combination of said court judgments and admissions by waiver adding up to three, shall forfeit any and all permits that person holds pursuant to this Ordinance for the remainder of the permit year (*i.e.*, September 1 to August 31) and shall not be able to obtain any permits pursuant to this Ordinance for the following permit year.

ARTICLE XII Severability and Titles

§ 1. Severability.

In the event that any article, section or paragraph of this Ordinance shall be declared invalid for any reason by any court having jurisdiction over this Ordinance, such decision shall not be deemed to affect the validity of any other section or paragraph of this Ordinance.

§ 2. Use of Titles.

The headings used at the start of articles, sections and paragraphs of this Ordinance are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

[end of ordinance]

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

Katie A. Dandurand
Town Clerk

LEGISLATIVE HISTORY:

05-11-93 First Passed at Town Meeting
05-09-95 Amended by Town Meeting
05-15-01 Amended by Town Meeting
05-14-03 Amended by Town Meeting
05-11-04 Amended by Town Meeting
05-10-05 Amended by Town Meeting
05-11-10 Amended by Town Meeting
09-21-11 Amended by Town Meeting
05-14-03 Amended by Town Meeting
05-13-14 Amended by Town Meeting
05-12-15 Amended by Town Meeting
08-25-17 Draft Reviewed by Town Attorney
08-31-17 Draft Approved by Harbor Committee
09-05-17 Draft Certified by Selectboard
10-16-17 Public Hearing
11-07-17 Adopted by Town Meeting
02-24-20 Draft prepared by Town Manager
02-27-20 Draft Approved by Harbor Committee
03-09-20 Draft reviewed by Selectboard
03-16-20 Draft revised by Town Manager
03-16-20 Draft reviewed by Selectboard
03-18-20 Draft revised by Town Manager
03-30-20 Approved by Selectboard, ordered to be placed on 2020 Town Meeting Warrant
07-14-20 Adopted by Town Meeting