

**HARBOR ORDINANCE  
TOWN OF PHIPPSBURG, March 16, 1991  
Amended through May 12, 2004**

**1. PURPOSE:**

This ordinance is adopted in compliance with applicable state laws and the home rule powers of the Town of Phippsburg. The purpose is to avoid conflicts in the mooring of boats and the use of harbors in the Town's coastal waters, to give priority for available mooring spaces to townspeople and those engaged in commercial fishing, to allot scarce mooring space equitably and within the priorities of the community and the guidelines of state law, to assure that unobstructed passage is maintained to the town pier at Sebasco and to other public or private piers and boat landing sites, to establish a procedure for resolving conflicts over the use of harbors and to carry out the responsibilities vested in the town by Title 38, Sec. 17A and Title 12 of the Maine Revised Statutes. This ordinance establishes regulations for marine activities within the harbors, waterways and tidal waters of the town in order to ensure safety to persons and property, to promote the availability use of a public resource and to create a fair and efficient framework for the administration of that resource. Where conflicts exist between this ordinance and state and federal laws that preempt local regulations of harbors, those laws shall take precedent.

**2. HARBOR COMMISSION:**

The Board of Selectmen shall appoint a Harbor Commission, consisting of residents knowledgeable about boats and water access issues, said commission shall consist of not less than five members nor more than seven members. Commission members shall serve terms of two years, except that the first year some members shall be appointed for one year so that in future years about half of the terms shall expire annually, thus assuring continuity of membership. The Harbor Master and any Assistant Harbor Masters that may be appointed shall be ex-officio, non voting members.

**3. HARBOR COMMISSION ORGANIZATION AND MEETINGS:**

The Commission shall annually select a chairman from among its membership. The Commission shall meet at 7 p.m. in the Phippsburg Town Hall on the second Mondays of January, May, and October, and with a seven day notice at such other reasonable times and places as deemed appropriate by the chairman of the Harbor Commission or the Board of Selectmen, or upon petition signed by five or more boat owners using the coastal waters of the town. Failure of a member to attend more than two consecutive meetings of the commission without the approval of the Selectmen shall be deemed a resignation from the Harbor Commission and the Board of Selectmen shall appoint a replacement member to fill the remaining portion of the term of the person so resigning.

4. **HARBOR COMMISSION DUTIES:**

- A. The Commission shall at least annually review each of the harbors where three or more boats are moored or where private or public piers are located to determine the likelihood or existence of overcrowding or conflicts. Harbors where such conditions are found shall be designated by the Harbor Commission for regulation under the terms of this ordinance. In addition, if five or more boat owners who regularly use a harbor petition for regulation, the Harbor Commission shall control mooring spaces in accordance with this ordinance and appropriate state laws.
- B. The commission shall determine the boundaries of each harbor subject to regulation, said boundaries to include all areas of conflict, overcrowding or which have a potential for same. Boundaries of regulated areas shall be based on natural features of the landscape or manmade objects such as points of land, rock outcroppings, buoys, prominent buildings or other easily identified marks.
- C. If it finds overcrowding, conflicts or the potential for same, the Harbor Master shall assign mooring spaces consistent with state and federal law and the provision of this ordinance and in accordance with the priorities ordained by this ordinance.
- D. The Commission shall sit as a Board of Appeals to hear appeals of any person aggrieved by any decision, act or failure to act of the Harbor Master or Assistant Harbor Masters. Only those appeals shall be heard that are brought to the attention of the commission within 30 days of the incident that prompted the appeal.
- E. The Harbor Commission and Harbor Master shall forbid the placement of new moorings and shall require the removal of existing moorings that unreasonably interfere with the safe approach to any wharf or pier.
- F. The Commission shall study and evaluate the harbor needs of the Town of Phippsburg and make whatever recommendations it deems appropriate to the Board of Selectmen or Town Meeting.

5. **HARBORMASTER:**

The Harbor Master shall be appointed for a two year term by the Board of Selectmen and his/her appointment shall be subject to confirmation by a majority vote of the Harbor Commission. In addition, the Board of Selectmen may appoint assistant Harbor Masters, subject to confirmation by the commission for two year terms upon the recommendation of the Harbor Commission and the Harbor Master. Assistant Harbor Masters shall have the same power and authority as the Harbor Master. Persons so appointed shall perform the duties prescribed by Title 38 MRSA

and enforce the provisions of this ordinance and the regulations adopted by the Harbor Commission.

Unless the person or persons named as Harbor Master or assistant Harbor Masters are also police officers or reserve law enforcement officers, they shall not carry weapons and shall not have the power of arrest. However, the Harbor Master and any assistants shall notify the Board of Selectmen of any violations of this ordinance, of violations of state laws dealing with harbor management, or violations of any regulations that may from time to time be adopted by the Harbor Commission. Selectmen shall take any and all legal steps needed to assure compliance with and to enact penalties against violators of these provisions.

**6. GENERAL REGULATIONS:**

- A. Any persons using the harbors and coastal waters of Phippsburg shall assume all risk of damage or loss to his property and the Town of Phippsburg assumes no risk on account of fire, theft, Act of God, or damages of any kind to watercraft.
- B. All moorings must be registered. No new moorings shall be installed or maintained in Harbors designated for regulation by the Harbor Commission until the mooring location shall be registered and approved by the Harbor Commission or its agents, the Harbor Master and Assistant Harbor Masters. A new mooring is any mooring installed or used in a regulated harbor for the first time after March 1, 1990. In the event that usage of a harbor shall require regulation by the Harbor Commission in subsequent years after the adoption of this ordinance, any existing mooring shall be registered with the Harbor Commission within six months of its designation as a regulated harbor. Moorings installed or used prior to March 1, 1990 are grandfathered and may remain, subject to other provisions of this ordinance. Moorings installed after March 1, 1990, shall be subject to the requirements and priorities of this ordinance.
- C. The annual fee to register a mooring is fifty dollars (\$50.00). The fee to register a mooring in the second and subsequent years shall be twenty-five dollars (\$25.00). The fee shall be waived:
  - (1) for a person who is a resident of the Town on the date the mooring is registered;
  - (2) for a person, not a resident, who has paid property tax to the Town of Phippsburg during the twelve (12) month period prior to the date on which the mooring is registered.

Moorings fees received by the Town shall be placed in a Harbor Commission account to be used for the expense of the Harbor Commission, the Harbor Master and the Assistant Harbor Masters.

- D. No commercial fishing activity shall be regulated by this ordinance.
- E. Moorings or mooring locations installed or used in regulated harbors prior to March 1, 1990 shall be registered with the Harbor Commission within six months of such designation. It shall be the responsibility of the mooring owner to provide evidence of installation prior to March 1, 1990 if requested to do so by the Harbor Commission.
- F. Moorings that are registered and approved by the Harbor Commission may remain providing the owners comply with the reasonable regulations of the Harbor Commission and providing the owner continues to qualify under Section C.
- G. The following priorities shall govern all moorings placed after March 1, 1990 in each regulated harbor of Phippsburg:
  - (1) One mooring to be assigned along the waterfront owned by a riparian owner of more than 25 feet of shorefront, except that when shorefront has more than one owner, only one priority #1 mooring shall be allowed for each lot of land as shown on the municipal tax maps of the Town of Phippsburg.
  - (2) One mooring for each commercial watercraft that is owned by a Phippsburg resident who demonstrates to the satisfaction of the Harbor Commission that for at least one of the past three years he or she earned at least a third of his or her income or at least \$5,000 annually, whichever is less, from commercial fishing, the operation of a commercial fishing pier, a watercraft repair facility, the ownership of commercial fishing watercraft, or the use of a boat for a commercial venture, including but not limited to fishing or the carrying of cargo or passengers for hire. Provisional commercial mooring spaces shall be assigned to anyone who demonstrates to the satisfaction of the Harbor Commission that he or she has acquired commercial gear for the purpose of entering a water-based marine or fishing business. The provisional mooring privileges shall be revoked unless the person involved demonstrates compliance with the income requirements of this priority category within three years.
  - (3) One mooring for each other watercraft owned by a resident.
  - (4) One mooring for each commercial watercraft that is owned by a non-resident of Phippsburg, but otherwise meets the income requirements for Priority two above.
  - (5) Other non-resident watercraft owners who pay property taxes to the Town of Phippsburg.

- (6) One mooring for each non-resident household that rents property in Phippsburg.
- (7) Rental Moorings installed by commercial marinas or other water dependent businesses.
- H. Notwithstanding the above, at least 10 percent of the moorings in any harbor designated for regulations shall be reserved for non-residents in accordance with the provisions of Title 38, MRSA.
- I. Other mooring spaces that may be available shall be filled on a first-come, first served basis by the Harbor Master.
- J. If the Harbor Master or assistants receive more applications for mooring privileges than there are mooring spaces, they shall assign spaces as they become available from a waiting list in the order of the priorities of this ordinance and in the order in which names were placed on the waiting list.
- K. Any person assigned a priority two mooring shall demonstrate to the satisfaction of the Harbor Commission his or her continued compliance with the income requirements.
- L. All new moorings shall be placed in the location designated by the Harbor Commission or its agents the Harbor Master and/or assistants, but the placement shall be the responsibility of the person requesting a mooring. The size and type of mooring shall be sufficient to hold the boat desired to be moored. No mooring shall be installed that causes the discharge of any oil, grease or other pollutant.
- M. All moorings shall use a flotation device large enough to float the chain. All flotation buoys shall be marked with a number assigned to the owner by the Harbor Master or Assistant Harbor Masters.
- N. Moorings assigned or grandfathered under this ordinance shall be registered with the town and re-registered every four years prior to July 1 on forms provided by the town.

7. **VALIDITY:**

If any provision of this ordinance is found by the courts to be invalid, it shall not affect other provisions of this ordinance.

8. **ABANDONED MOORINGS:**

A mooring shall be considered abandoned and shall be reassigned when:

A. The Harbor Commission or the Harbor Master is notified in writing by the owner of the mooring.

B. The mooring is not registered with the Harbor Commission and the owner does not comply within 30 days to written notice that registration is required.

C. Or the mooring has not been used for 12 months.

9. **RECORDS:**

The Harbor Master shall maintain accurate records of all registered moorings in regulated harbors. All regulations, decisions and orders issued by the Harbor Commission shall be in writing and available for public inspection.

10. **PLANNING BOARD:**

The Planning Board shall not approve the construction or installation of new wharves, piers or other obstructions that interfere with the safe passage by watercraft, or which obstruct the approach to an existing pier or wharf. The existence of a mooring shall not be grounds under this ordinance for denying an application from a waterfront owner seeking permission to construct one pier from a parcel of land that existed in one ownership at the time of passage of this Ordinance unless the waterfront property already had a pier or wharf in place.

11. **MOORING CONFLICTS:**

Should moorings permitted or grandfathered under this ordinance conflict with a proposed pier or wharf that has received all the required local, state and federal permits, the Harbor Commission shall require the conflicting moorings to be moved to the extent necessary to allow the pier or wharf to be constructed.

12. **PENALTY:**

Any person who violates any provision of this ordinance or any owner of a watercraft who allows his boat to be in violation of any provision of this ordinance shall be subject to a fine of not less than \$10 nor more than \$250 for each offense. Each day a violation continues shall be considered a separate offense. Penalties levied under this Ordinance shall be paid to the Town of Phippsburg.

13. **DEFINITIONS:**

Words used in this ordinance shall have their ordinary dictionary meaning with the exception of the following:

- A. Mooring. Any appliance used to anchor a craft and which is not carried aboard when the craft is underway as regular equipment.
- B. Resident. A resident is any person:
  - i. Who makes his or her year round home in Phippsburg;
  - ii. Who registers their motor vehicles, if any, in Phippsburg;
  - iii. And who, if 18-years or older, would be eligible to register and vote in the Town of Phippsburg.
- C. Non-Resident: Phippsburg Taxpayer. A person 18 years or older who owns real estate property in Phippsburg, but who otherwise does not meet the requirements of B above.
- D. Non-Resident. A person 18 or older who does not meet the requirements of (B) and (C) above.

| <b>Amendment Summary</b> |                |  |
|--------------------------|----------------|--|
| <b>Date</b>              | <b>Section</b> | <b>Amendment</b>   |
| 3/20/1992                | Section 5.     | Clarified Harbormaster weapons carriage requirement and arrest authority |
| 3/20/1992                | Section 6.     | Requires “All moorings” to be registered                                 |
| 5/18/1996                | Section 2.     | Changed number of Commission Members from “nine” to “seven”              |
| 5/18/1996                | Section 3.     | Changed “July” meeting date to “October”                                 |
| 5/18/1996                | Section 6.N.   | Changed mooring registration requirement from “annually” to “four years” |
| 5/18/1996                | Section 6.C.   | Changed registration fee to annual                                       |
| 5/18/1996                | Section 8.B.   | Deleted “annually” to be consistent with registration change             |
| 5/12/2004                | Section 5.     | Added “her” and “reserve law enforcement officers”                       |