

Article XXI

HARBOR USE AND MOORING REGULATIONS

(as adopted August 4, 2007)

I. Purpose

The purpose of this ordinance is to provide for the just and orderly operation of all activities in and around the marine facilities, the mooring areas of Bustin's Island, Maine, and the immediate surrounding waters.

II. Authority

This ordinance is adopted pursuant to the authority granted by Title 38 M.R.S.A. section 1 et seq. as amended and the Home Rule provisions of the Constitution of the State of Maine.

III. Definitions

For this Article only, the following terms shall have the meaning herein designated unless a contrary meaning is required by context or is specifically prescribed:

- A. Harbor Master: A person appointed by the Board of Overseers to administer and enforce this ordinance.
- B. Assistant Harbormaster: A person appointed by the Harbor Master to assist the Harbor Master in the administration and enforcement of this ordinance.
- C. Mooring Area: Any part of the harbor limits in which one (1) or more moorings are located.
- D. Resident: A person owning, or having a beneficial interest in a trust, corporation, or limited partnership or renting property on Bustins Island.
- E. Transient Vessel: A vessel whose intended stay does not exceed five (5) days.

IV. Harbor Limits and Thruway

- A. Bustin's Island harbor limits shall be that area surrounding Bustin's Island between mean high tide and a distance of three hundred (300) yards offshore. (Except for the throughway provisions below, those waters adjacent to Little Bustin's Island and Sow and Pigs Island shall be exempt from these regulations for the residents and invited guests of those two islands.)

- B. The Harbor Master shall maintain a thruway of at least seventy-five (75) feet in width, extending from the Bustin's Island float through the mooring area on the south side of the Island to the end of the harbor limits past Little Bustin's Island and may, with the approval of the Board of Overseers, designate additional throughways as safety may require.

V. Rules of Harbor Use

- A. Bustin's Island Float and Steamer Dock.

The use of the Float and the Dock is restricted to the Bustin's Island Ferry and to the residents of Bustin's Island and their invited guests. Use of the float by non-residents is allowed only with permission of the Harbor Master and/or the Island Superintendent.

- 1. The intended use of the Bustin's Island Float is solely for the loading and unloading of vessels, and for the mooring of skiffs. No skiff or gear shall be stored on the float for more than one tide. Tie-ups at the float shall be limited as follows:
 - a. Face: Restricted for use of the Bustin's Island Ferry and for the loading and unloading of passengers and freight by other vessels.
 - b. Rear: For the tie-up of skiffs under twelve (12) feet.
 - c. Sides: For the overflow tie-up of skiffs under twelve (12) feet. For the temporary tie-up of vessels over twelve (12) feet, limited to forty-five (45) minutes.

- 2. The intended use of the Steamer Dock is for the loading and unloading of freight and materials and for the occasional

loading and unloading of passengers, subject to the following restrictions:

- a. Material shall not be stored on the Steamer Dock without the permission of the Harbor Master and/or the Island Superintendent.
- b. Vessels or skiffs shall not be left unattended.

B. Operation of Vessels

Vessels shall be operated within the Bustin's Island harbor limits in a reasonable manner so as not to endanger persons or property or to cause excessive wash. In no case should speed exceed five (5) knots while operating within the mooring or accepted anchorage areas.

C. Moorings and Outhauls

1. For municipal use, the Bustins Island Village Corporation shall have priority on selection of mooring and outhaul locations.
2. Residents may place moorings and outhauls at will, provided that said moorings and outhauls comply with the priority guidelines in Sub-Section C.1 above and as set out below. Non-resident moorings and outhauls may be placed upon registration with and the approval of the Harbor Master. Transient vessels may anchor at will, subject to the approval of the Harbor Master. Within space-available limits, requests for a particular location or area shall be approved by the Harbor Master in the following order of priority:
 - a. Resident shorefront owners for locations immediately adjacent to frontage.
 - b. Resident pleasure vessel owners.
 - c. Resident pleasure vessel owners with multiple locations.
 - d. *Resident rental mooring owners.
 - e. Resident commercial vessel owners.
 - f. Non-resident pleasure vessel owners.

g. Non-resident commercial vessel owners.

(* Private mooring rental requires prior written approval of Harbormaster and US Army Corps of Engineers.)

3. Any person using the Island facilities or the mooring areas shall assume all risk of damage or loss to his person or property. The Bustin's Island Village Corporation shall not be responsible for any loss resulting from fire, theft, or an act of God; or for any damage of any kind to persons or vessels operating within the mooring areas or using said facilities.

D. Outhauls: Outhauls may be placed by residents without registration or fee but shall be placed so that the outhaul lines and the vessels attached thereto do not interfere with navigation through the mooring area or to existing or approved docks and/or moorings and the vessels normally tied thereto. Placement of outhauls shall be in accord with the priorities of Sub-Section C.2 above.

E. Registration: All moorings shall be registered with the Harbor Master.

1. Residents or designated family members of residents shall be entitled to register up to four (4) moorings. A separate specific boat owned by the resident shall be listed for each of these moorings except that one mooring may be designated and labeled as a guest mooring. Guest moorings may not be rented. Harbor Master may assign unoccupied guest moorings to transient vessels.

2. Non-Residents shall register moorings with the Harbor Master.

3. Each registration application shall be on a form provided by the Harbor Master.

4. Mooring ball markings: All mooring balls shall be white with a blue horizontal stripe and shall be clearly marked and visible at high tide with either the mooring owner's name, the vessel's name as it appears on the mooring registration or the mooring number assigned by the Harbor Master.

5. The Harbor Master may remove from the anchorage area moorings that do not comply with this ordinance except that

a grace period for existing moorings will extend through July 31, 2008.

6. The Harbor Master shall keep a harbor plan showing at least the location of all moorings and all thruways through them.

F. Waiting List: In the event that there be multiple requests for the same mooring site, the Harbormaster shall maintain a waiting list on a first-come-first-served basis within the priorities established in Sub-Section C.2 above.

VI. Restrictions

The following restrictions shall apply to the mooring area:

- A. The operation of Jet ski-type vessels is prohibited within the mooring area.
- B. No vessel involved in the towing of a person or persons on water skis, surfboards, aqualungs or similar device shall be permitted within the mooring area except for the purpose of entering or exiting the landing area.
- C. No person shall discharge, allow to be discharged, or spill sewage, garbage or other waste matters from watercraft within the mooring area.
- D. Lobster cars and work floats may be located in the harbor area with permission of the Harbor Master. Lobster buoys shall not be located in a thruway.
- E. Aquaculture in the harbor area requires a Conditional Use Permit from the Planning Board.
- F. Pier construction requires a Conditional Use Permit from the Planning Board and the Harbor Master shall advise the Planning Board on the merits of such pier construction.

VII. Enforcement

The Harbor Master of Bustin's Island shall administer the rules of Harbor Use and Mooring Regulations, as set out herein, governing the marine facilities and mooring areas of Bustin's Island. Said Harbor Master shall be appointed by the Board of Overseers for a term of not less than one year. The duties and responsibilities of the office are to be as prescribed by Title 38, M.R.S.A., and such additional duties as may be required to administer and enforce the provisions of this ordinance within the authority granted by law.

VIII. Penalties for Violations

- A. Violations of any of the provisions of this ordinance shall be deemed a civil violation for which a fine of not less than \$25.00 nor more than \$250.000 shall be adjudged. Said fines shall be enforceable by the Harbor Master or any other law enforcement officer with jurisdiction in the Town of Freeport. Each day a violation continues shall be considered a separate offense.

- B. Other violations of the laws of the State of Maine shall be penalized as provided in Title 38 M.R.S.A., Sect. 1 thru 285.

IX. Appeal

Persons aggrieved by the decisions of the Harbor Master may appeal to the Board of Overseers. Such appeal shall be made in writing and all decisions of the Board of Overseers shall be considered final.