AGENDA

COASTAL WATERS & HARBOR ADVISORY COMMITTEE MEETING

Tuesday, August 13, 2024 – 5:30 p.m.
Town Hall

Item 1. Call to Order.

Item 2. Those Present.

Item 3. Approval of Minutes: July 9, 2024.

Item 4. Public Comment.

Item 5. Harbor Masters Update.

Item 6. Council Liaison Update.

Item 7. Old Business.

- Discussion and possible action on proposed amendments to the Chapter 1401 – the Town of Scarborough Harbor Ordinance regarding the Prouts Neck Yacht Club Special Anchorage .

Item 8. New Business. *[An item may be added to this agenda provided a majority of the committee votes to waive the rules to add said item.]*

- Discussion and possible action on proposed amendments to the Chapter 1401 – the Town of Scarborough Harbor Ordinance regarding Riparian Rights Verbiage
- Mooring Fee for other area moorings outside the Federal Anchorage.

Item 9. Set next agenda.

Item 10. Adjourn.

CHAPTER 1401
COASTAL WATERS AND HARBOR ORDINANCE FOR THE TOWN OF SCARBOROUGH, MAINE

Article I - General Provisions

Section 1. Purpose and Authority.

This ordinance is to establish regulations for marine activities within the harbors, waterways and tidal waters of the Town of Scarborough, Maine in order to ensure safety to persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource. This ordinance shall be subordinate to existing Federal and State Laws governing the same matters and is not intended to preempt other valid laws.

This Ordinance is enacted pursuant to the authority granted by Subchapter I of Chapter 1 of Title 38 of the Maine Revised Statutes, by 30-A M.R.S.A. §3001 and by Article VIII, Part 2, Section 1 of the Maine Constitution.

Section 2. Harbor Limits.

"Harbors and waterways" Shall include the entire navigable portion of the Spurwink River, Libby River, Nonesuch River, Scarborough River, and Dunstan River located within the Town of Scarborough and all coastal waters within the Town of Scarborough.

Coastal wetlands. "Coastal wetlands" means all tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. [PL 2005, c. 330, §13 (AMD).] [Adopted 11/09/2022]

Section 3. Channels.

The entrance channel shall be determined and marked annually by the United States Coast Guard and/or the Harbormaster. The approximate location of the channel is as follows: 200 feet wide beginning at the entrance buoy (Can #1) and shall extend to a point between the jetty and Ferry Rock where it narrows to 50 feet and then continues to the anchorage of the Public Landing. The entire channel extends some 2,400 feet from the entrance buoy to the anchorage. The channel is to include the area set forth as a federal navigation project deemed by the US Army Corp of Engineers.[Amended 04/04/2007; 11/09/2022]

Other channels may be established by the Corps of Engineers and/or the Town of Scarborough from time to time.

Section 4. Anchorage.

The anchorage shall include all harbors and waterways, as defined in Section 2, located outside channels as defined in Section 3. The approximate location of the anchorage is as follows: an irregularly shaped polygon of approximately 14 1/2 acres located at the terminus of the entrance channel off the public landing. The anchorage is set forth as a federal navigation project deemed by the US Army Corp of Engineers. [Amended 11/09/2022]

Other anchorages may be established by the Corps of Engineers and/or the Town of Scarborough from time to time.

Section 5. Other areas.

The Town of Scarborough may from time to time include other tidal areas under this ordinance as necessary to promote and regulate this public resource.

Section 6. Harbormaster.

The Harbormaster shall be appointed annually by the Town Manager for a term of twelve months commencing on January 3, 1994. Certain duties and responsibilities of this office are prescribed by Title 38, M.R.S.A. The Harbormaster has the additional duty to administer and enforce the provisions of this ordinance with the authority granted by law and through her/his appointment as harbor master. [Amended 11/01/17]

An Assistant Harbormaster may be appointed annually by the Town Manager for the same term as the Harbormaster.

The compensation for the Harbormaster and the Assistant Harbormaster shall be established by the Town Council.

In addition to the duties prescribed under Title 38 M.R.S.A., the Harbormaster and the Assistant Harbormaster shall be the overseers of the Town's waterfront facilities such as moorings, floats, docks, ramps and channels. They shall make recommendations to the Town Council for maintenance and improvements to all town-owned waterfront facilities. They shall have full authority to enforce all harbor regulations affecting the waterfront to the fullest extent permitted by law.

Section 7. Invalidity Provisions.

If any provisions of this ordinance are held invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provisions had not been made.

Article II - Definitions

1. Abandoned Watercraft:

Abandoned watercraft means any watercraft that is inoperative and neglected, submerged or partially submerged or that has been left by the owner in coastal waters without intention of removal. This term includes motors, electronics and mechanical equipment and other machinery customarily used in the operation of watercraft. [Adopted 11/09/2022]

2. Anchorage:

See Article I, Section 4. [Amended 11/09/2022]

3. Basin:

Shall mean a naturally or artificially enclosed or nearly enclosed body of water where small craft may lie.

4. Beach:

Shall mean a public or private beach area bordering the coastal waters of Scarborough harbor.

5. Commercial Fisherman:

A commercial fisherman who derives more than 50% of his/her annual income from lobstering, fishing or clamming, or any other marine fishery and who has legally obtained all necessary permits, licenses and

approvals. At the Town of Scarborough's request, an individual must present proof of income prior to being considered a commercial fisherman. [Adopted 02/20/2013]

6. Commercial Vessel:

Shall mean any vessel used or engaged for any type of commercial venture, including but not limited to fishing or the carrying of cargo and/or passengers for hire.

7. Committee:

Shall mean the Coastal Waters and Harbor Advisory Committee.

8. Distress:

Shall mean a state of disability or a present or obviously imminent danger which is unduly prolonged could endanger life or property.

9. Emergency:

Shall mean a state of imminent or proximate danger to life or property in which time is of the essence.

10. Float Structure:

Shall mean any floating structure normally used as a point of transfer for passengers and goods and/or for mooring purposes.

11. Headway Speed:

Shall mean just enough power to allow your boat to navigate safely through the water. Depending on the size of your boat, headway speed may vary. [Amended 11/09/2022]

12. Houseboat:

A "houseboat" is, for registration and certificate of ownership purposes, any watercraft , as defined by 38 M.R.S.A. § 11, whose primary purpose is navigation and as a means of transportation, that has propulsion, has living quarters for habitation as a secondary purpose, is equipped with propulsion and steering controls in a location on the watercraft that also provides its operator a 180-degree forward view, and has all safety and sanitation devices required by the United States Coast Guard. A houseboat shall not be defined to include any building on a float used in whole or in part for human habitation as a single-family dwelling which is not powered by self-propulsion, mechanical means, or wind. [Adopted 02/20/2013; Amended 11/09/2022]

13. Mooring:

Shall mean any appliance used by a craft for anchoring purposes and which appliance is not carried aboard such craft when underway as regular equipment.

14. Non-resident:

Shall mean any person who is not a resident.

15. Resident:

Shall mean a person who has been domiciled in the Town of Scarborough for at least three months prior to the time his or her claim of residence is made.

16. Riparian Owner:

Shall mean an owner of a parcel of land located in the Town of Scarborough which borders upon the harbor as described in Article I, Section 2.

17. Sailing Vessel:

Shall mean any vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or its motor, or both.

18. Shore:

Shall mean that part of the land in immediate contact with a board of water, including the area between the high and low water lines.

19. Shall and May:

"Shall" is mandatory, "May" is permissive.

20. State:

Shall mean the State of Maine.

21. To Anchor:

Shall mean to secure a vessel to the bottom within a body of water by dropping an anchor or anchors or other ground tackle.

22. Underway:

Shall mean the condition of a vessel not at anchor; without moorings; and not made fast to the shore nor aground.

23. Watercraft:

Shall mean any type of vessel, boat, barge, float, canoe or craft capable of being used as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, that are customarily used in the operations of watercraft. "Watercraft" does not include a vessel, canoe or craft located and intended to permanently docked in one location and not used as a means of transportation on water. [Adopted 11/09/2022]

24. Waterway, (fairway):

Shall mean any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

Article III - General Boating and Traffic Control Regulations

Section 1. Water-borne/Water Control Authority.

The Harbormaster shall have the authority to control water-borne traffic in any portion of the waters of a harbor or maritime facility under her/his jurisdiction by use of authorized State regulatory markers, signal, orders or directions any time preceding, during and after any race, regatta, parade or other special event held in any portion of the waters of a harbor or maritime facility or at any time when the Harbormaster deems it necessary in the interest of safety of persons and vessels or other property, and it shall be unlawful for any person to willfully fail or refuse to comply with any authorized State regulatory marker utilized by the Harbormaster, or with any signal, orders of direction of the Harbormaster. [Amended 11/01/17; 11/09/2022]

Section 2. Headway Speed Law.

The operation of any vessel within the Anchorage Area in excess of headway speed, shall constitute a violation of this Ordinance; however, the Harbormaster may grant special written permission to exceed

headway speed in connection with water sports and regattas in specific areas designated by the Harbormaster.

Article IV - General Regulations

Section 1. Liability.

(a) Boat Owner:
Any person using the facilities within the limits of a harbor or maritime facility shall assume all risk of damage or loss to her/his property and the Town of Scarborough assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels within the harbor or maritime facility. [Amended 11/01/2017]

(b) Marine Facility Owner and/or Operator:
It shall be the responsibility of the owner, licensee, lessee covers, or operator of any marina, anchorage, repair yard, or other marine facility, located within the harbor, waterway or other maritime facility, to maintain the physical improvements under her/his jurisdiction in a safe, clean, and visually attractive condition at all times, to provide adequate security and fire prevention measures and appropriate fire-fighting equipment as may be directed by the Town Manager. Failure to initiate activity within 30 days of receipt of written notice from the Town Manager to correct unsafe or otherwise unsatisfactory conditions and to pursue same to completion to the satisfaction of the Town Manager shall be a violation of this section. [Amended 11/01/2017]

Section 2. Launching and Recovery of Vessels.

(a) None other than the driver may occupy a motor vehicle while it is present upon the area known as a launching ramp located within the Town of Scarborough. It is recommended [2/22/94] all motor vehicles using said ramp should securely block at least one wheel of the said motor vehicle while it is standing upon said ramp.

(b) No person shall use a boat launching facility owned or operated by the Town of Scarborough without first obtaining an annual boat launching permit or a one-day boat launching permit from the Town. Annual permits shall be valid from April 1st of the year of issuance until March 31st of the following year, and one-day permits shall be valid for the calendar day specified on the permit. Fees for the boat launching permits shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. [Amended 05/07/03]

Section 3. Permits, Suspensions or Revocations.

(a) Mooring permits granted under Article V of this Ordinance shall be valid from April 1 of the year of issuance to March 31 of the following year. Other permits granted by the Harbormaster shall be valid for the period of time specified on the permit. The fees shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

(b) If the Harbormaster finds that a holder of a permit under this Ordinance has violated any of the provisions of this ordinance, the Harbormaster may suspend or revoke the permit. The Harbormaster shall notify the permit holder of the suspension or revocation in writing. The suspension or revocation shall take effect as soon as the Harbormaster (1) delivers the notice in person to the permit holder, (2) posts a copy of the notice on the permit holder's vessel or (3) mails a copy of the notice to the permit holder at the most recent address which the permit holder has provided to the Harbormaster. The permit holder may appeal a suspension or revocation under this paragraph as provided in Article XI of this Ordinance.

(c) If the Harbormaster finds that a mooring has not been used for at least thirty days between April 1 and October 1 of the year in which the permit was issued or if the Harbormaster finds that the holder of the permit no longer owns the vessel specified in the mooring permit application, the Harbormaster shall give notice to the permit holder of the Harbormaster's intent to revoke the permit. Notice shall be given and shall take effect as specified in paragraph (b) above. Unless, within fifteen days of the effective date of such notice, the permit holder demonstrates extenuating circumstances to the Harbormaster, the Harbormaster shall revoke the permit using the procedure set forth in paragraph (b) above. "Extenuating circumstances" means circumstances which make it impossible or impractical to have a boat in the water during the boating season, such as, but not limited to loss or destruction of the vessel, mechanical breakdowns or unexpected repairs, and death or serious illness of the permit holder. Decisions of the Harbormaster under this paragraph (c) may be appealed as provided in Article XI of this Ordinance.

(d) A person whose permit is revoked under paragraph (b) or (c) above shall be treated as a new applicant for purposes of placement on any waiting list in the next permit year.

Section 4. Damage to Harbor or Other Property.

It shall be unlawful to willfully or carelessly destroy, damage, disturb or interfere with any public or private property in the Harbor area.

Section 5. Tampering with or Boarding Vessels without Permission.

It shall be a violation of this Ordinance for any person willfully to board, break in, enter, damage, move or tamper with any vessel or part thereof, located within the harbor unless authorized by the rightful owner of such vessel or Harbor Master, or their designee, in an emergency. [Amended 11/09/2022]

Section 6. Willful Obstruction of Facilities.

It shall be a violation of this Ordinance for any person willfully to prevent any other person from the use and enjoyment of the harbor facilities. [Amended 11/09/2022]

Section 7. Signs, Placement and Maintenance.

The Town of Scarborough may place and maintain, or cause to be placed and maintained, either on land or water, such signs, notices, signal buoys or control devises as the Harbormaster deems necessary to carry out the provisions of this Ordinance, or to secure public safety and the orderly and efficient use of the harbor or maritime facility.

Section 8. Securing Permission for Debarkations.

It shall be a violation of this Ordinance to disembark passengers or discharge cargo from a commercial vessel onto any public or privately-owned float, pier or wharf within the harbor, without the consent of the owner thereof or of the Harbormaster, as the case may be, except at piers and wharfs expressly designed for such purposes.

Section 9. Protected Swimming Areas.

It shall be a violation of this Ordinance to operate or navigate any vessel within a designated swimming area. Developed swim area means an area delineated by line buoys in accordance with the aids to navigation system established pursuant to Title 12, Section 1894. The Town of Scarborough may identify swimming areas by signs, buoys, or other means. [Amended 11/09/2022]

Section 10. Shellfish Areas.

Shellfish regulations are contained in the Town of Scarborough's Shellfish Conservation Ordinance.

Section 11. Marking of Boats Left on Shores or Flats.

Any boat that is left on the shores or flats of the Town of Scarborough must have owner information attached to the inside of its stern. If the owner is a mooring holder, the boat must also have the mooring number attached as well. Skiffs in violation of this section will be impounded and stored at the owner's expense. [Adopted 02/18/09; Amended 02/20/13]

Article V - Regulations Concerning Anchoring, Mooring and Security of Vessels

Section 1a. Placement of Private Moorings.

It shall be a violation of this Ordinance to place any mooring in the harbor without a permit from the Harbormaster issued in accordance with 38 M.R.S.A. Sections 3, 7-A and 8. Proof of boat registration and insurance, in the same name as the mooring applicant, must be shown prior to a mooring permit being issued. No more than two (2) moorings will be issued to the same household. No more than three (3) moorings will be issued to the same commercial entity. A person whose application for a mooring permit is denied may appeal as provided in Article XI of this Ordinance There shall be no appeal from the issuance of a permit. [Amended 12/19/18]

The sale of a recreational boat does not include the sale of the mooring locations. The mooring permit holder must notify the Harbormaster immediately upon the sale of their boat. Commercial moorings may be transferrable with the approval of the Harbormaster.

Section 1b. Minimum Mooring Requirements. [Amended 02/20/13; 12/19/18]

All mooring gear shall be inspected and/or serviced by a mooring service company, or by the owner with Harbor Master approval, at least once bi-annually to determine the condition of gear and to ensure compliance with minimum standards set forth by this ordinance.

All mooring owners or mooring service companies shall notify the Harbormaster's office in writing of all inspections and service completed to mooring gear.

The Town of Scarborough recommends a 2.5 to 1 ratio for permanent moorings with the following minimum specifications:

Mushroom, Granite Block, or Pyramid (of ample size/weight) - see chart below

Heavy Chain	1.0 times maximum water depth plus one foot
Light chain or Nylon line (not floating line)	1.0 times maximum water depth
Pennant	1.5 times the distance from chock to waterline

Buoy (white poly ball preferred)

Must have assigned number and blue band painted 3" (or larger) on buoy

Total scope = Heavy chain + light chain and/or nylon line + Pennant

Example: 25 ft. cruiser;
20 ft. maximum water depth;
Distance from chock to waterline = 3 ft.

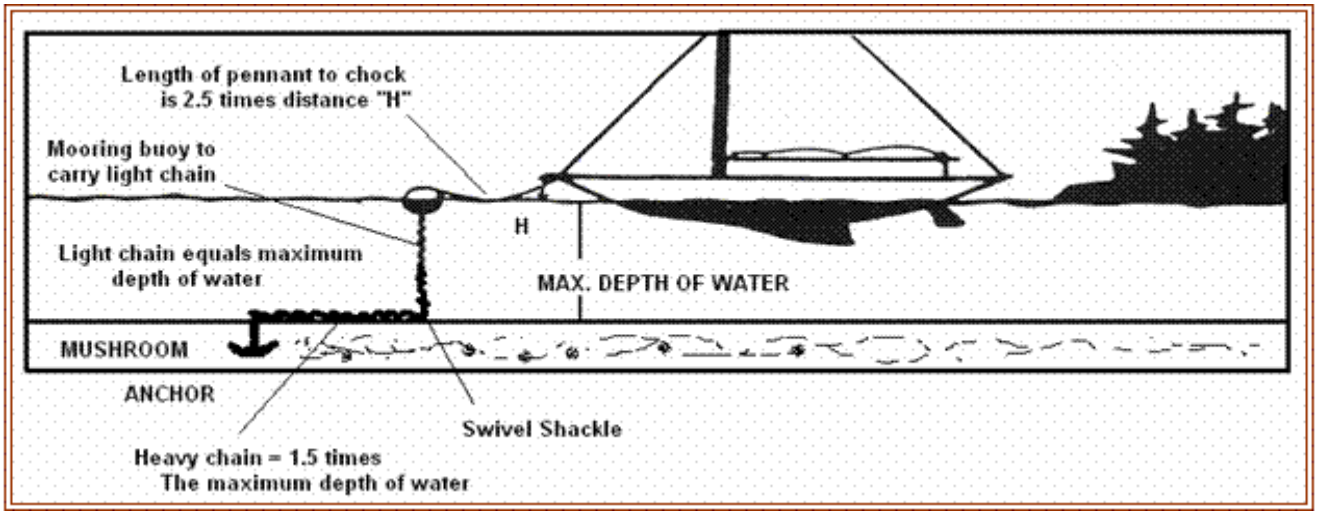
Requires: 1.05 x 20 = 30 ft. of heavy chain plus one foot
1.0 x 20 = 20 ft. of light chain or equivalent nylon line
1.5 x 3 = 4.5 ft. pennant

The following chart contains the minimum requirements for seasonal moorings in sheltered waters. Vessels moored year-round and/or in open areas should upgrade 1-3 steps.

Boat Length	Boat Weight	Mushroom Weight	Block Weight	Chain Size (Bottom)	Chain Size (Top)
22’	1,500 lbs	75lbs	300 lbs	1/2”	3/8”
26’	5,000 lbs	150 lbs	500 lbs	3/8”	3/8”
30’	8,000 lbs	200 lbs	1,000 lbs	5/8”	3/8”
35’	12,000 lbs	250 lbs	2,000 lbs	3/4”	1/2”
40’		500 lbs	3,000 lbs	3/4”	1/2”
50’+ over	Reviewed on an individual Basis.				

For the safety of his/her boat and that of adjacent boats, mooring permit holders are responsible for having their mooring set and making any required adjustments or repairs.

Boats must have been moored by July 1 of the permitted year or the mooring permit shall be revoked subject to the Harbormaster’s discretion. The denied applicant may appeal the Harbormaster’s decision to the Coastal Waters and Harbor Committee.



The Harbormaster may permit variations from these specifications, if in his or her judgment, the proposed mooring has holding power equivalent to that which would be provided by a mooring meeting these specifications.

All moorings that are to be placed up river from the day marker in Scarborough must be built using granite block only and cannot be any higher than 24 inches in overall height.

Marker Buoys to show at all tides. All chains to be at least one foot above high water mark. All moorings to be inspected every two years - no later than July 1st.

The Harbormaster shall maintain a plot plan of the anchorage area indicating locations of moorings, size of boats, and areas to be used as waterways. A copy of this map will be kept on file at the Town Office.

Subletting of Mooring Space:

The owner of any vessel having mooring space shall not sublet said mooring or mooring space to another user or boat owner; however, another boat owner may use the mooring, provided the original owner pays the fee or fees and has requested permission from the Harbormaster to moor such vessel through a completed notice of intent form that can be found on the Town of Scarborough website, scarborougmaine.org.

Section 1c. Creation and Maintenance of a Mooring Waitlist.

Two mooring waitlists shall be maintained by the Town Clerk and available for inspection in the Town Clerk's office. The first shall be for commercial applicants and the second for recreational applicants. Commercial applicants will be verified by the Harbormaster and shall provide proof of a commercial State license or a Federal permit. Commercial applicants will, if requested by the Harbormaster, provide proof of commercial waterfront activity equaling 20% of their annual household income. Applicants seeking a mooring shall be placed on the waitlist in order of date and time of application. No one household shall be allowed to hold more than two (2) spots on the waitlist at any one time. When a mooring becomes available the Town Clerk will first consult the commercial waitlist which will be given priority. If the next name on either waitlist is unable to accept the mooring they may request to stay on their respective waitlist until the next mooring becomes available. If, at the time of the second mooring becoming available, the applicant again is unable to accept the mooring their name shall be removed from the waitlist and the applicant would need to reapply if they wished to again be listed. If an applicant on the waitlist has died their spot may be reassigned to a legal heir providing the Town of Scarborough has been notified within six (6) months of the applicant's death. [Adopted 12/19/18]

Section 1d. Allotment of Moorings to Prouts Neck Yacht Club.

Pursuant to an agreement with the Coastal Waters and Harbor Advisory Committee, the Prouts Neck Yacht Club has been alloted 90 moorings in Saco Bay for the use of its members. Prouts Neck Yacht Club shall administer those 90 moorings, including but not limited to:

(1) maintaining and managing moorings in the designated area,
(2) providing oversight of member mooring use, including inspecting moorings in accordance with the rules and regulations of the Coastal Waters Harbor Advisory Committee,
(3) providing the Harbormaster with completed mooring applications and mooring holder rosters, tendering the appropriate fees, and submitting a map showing the location of each mooring yearly.

If members of the Yacht Club should leave it for any reason, mooring spaces which have been assigned to them will revert back to the Prouts Neck Yacht Club and may not be assigned by the person who formerly used them.

OR

The Harbormaster shall consult with the Prouts Neck Yacht Club and will, insofar as permissible and not otherwise inconsistent with this Ordinance, delegate to the Yacht Club the authority to establish and enforce mooring plans in those areas traditionally regulated by the Yacht Club, and shall provide support enforcement services to the Yacht Club in the administration of the mooring plans.

Mooring areas controlled by the Yacht Club shall be subject to the following requirements:

(1) The Yacht Club maintains a controlled mooring field.
(2) The Yacht Club provides oversight of member mooring use, including inspections.

(3) The Yacht Club is registered with the Harbormaster and provides member/mooring holder rosters and mooring location plants to the Harbormaster.

Section 2. Obstructing Channels.

It shall be a violation of the ordinance to knowingly or willfully obstruct the free use of any channel or waterway within the harbor or to fail to report to the Harbormaster any collision between vessels or other accident or incident causing damage to persons or property.

Section 3. Abandonment of Watercraft.

When, in the opinion of the Harbormaster, a vessel has been abandoned in the harbor, he/she may take custody and control of such vessel and remove it, store it or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of such disposal shall be publicly given. The vessel owner may appeal the action of the Harbormaster under this Section 3 as provided in Article XI of this Ordinance. [Amended 11/01/17]

No person may bring into or maintain in the harbor any derelict watercraft, watercraft for salvage, or abandon any watercraft in the harbor without a permit from the Harbormaster or if there is not Harbormaster, the appropriate official. Failure to obey an order of the Harbormaster is a Class E crime. Watercraft which are to be salvaged by firms licensed to the State to do salvage work shall be excluded from this section. The municipal board or commission entrusted with harbor management shall be the sole determiner as to what a watercraft that is derelict and what constitutes a watercraft that is abandoned. [Adopted 11/09/2022]

Section 4. Vessels Making Fast.

No person shall make fast or secure a vessel to any mooring already occupied by another vessel, or to a vessel already moored except a rowboat, dinghy or yacht tender regularly used by such a larger vessel. If tied within a slip, such rowboat, dinghy, or tender shall not extend into the fairway beyond the larger vessel if such larger vessel is also occupying the slip, or otherwise beyond the slip itself.

Section 5. Secure Berthing and Anchoring of Vessels.

The owner of any vessel moored or anchored within Scarborough Harbor or maritime facility shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent breakaway and resulting damage, and shall thereafter provide for periodic inspection maintenance, replacement and adjustment of anchor, mooring or tie lines at reasonable intervals.

Section 6. Unseaworthy Vessels Prohibited in Harbor.

A person shall not moor or permit to be moored in any harbor a vessel of any kind whatsoever which is unseaworthy or in a badly deteriorated condition or which is likely to sink or to damage docks, wharves, floats or other vessels or which may become a menace to navigation, except in cases of emergency, the Harbor Master, or their designee, has authority to remove any vessel that has been deemed unseaworthy.[Amended 11/09/2022]

Section 7. Correcting an Unsafe Berthing.

If any vessel shall be found in the judgment of the Harbormaster to be anchored or moored within any harbor or maritime facility in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property, the Harbormaster shall order and direct necessary measures to eliminate such unsafe or dangerous condition. Primary responsibility for compliance with such orders and

directions shall rest with the owner of the improperly anchored or moored vessel or her/his authorized agent; in the absence of such owner or agent, said responsibility shall rest with the authorized operator of the facility at which the vessel is anchored or moored. In an emergency situation and in absence of any such responsible person, the Harbormaster shall forthwith board such vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the Town of Scarborough in effecting such correction. The responsible person under this Section 7 may appeal the action of the Harbormaster as provided in Article XI of this Ordinance. [Amended 11/01/17]

Section 8. Removal and Custody of Illegally Berthed or Abandoned Vessels.

In any unattended vessel shall be found to be anchored or moored illegally within a harbor or maritime facility, or if the Harbormaster has reasonable grounds to believe that a vessel has been abandoned within a Scarborough Harbor or maritime facility, the Harbormaster may assume custody of such vessel and cause it to be removed and held or placed in storage. The Town of Scarborough or its officials shall not be held liable for any damage to such vessel or liable to its owners before or after assuming custody. Vessels so taken into custody shall be released to the owner by the Town Manager only after satisfactory proof of ownership has been presented and full reimbursement made to the Town for all costs incident to recovery, movement and storage. The vessel owner may appeal the action of the Harbormaster under this Section 8 as provided in Article XI of this Ordinance.

Section 9. Obstruction of Fairways, Channels, Launch Ramps or Berthing Spaces, and Removal of Sunken Vessels.

(a) It shall be unlawful to tie up or anchor a vessel in Scarborough Harbor or maritime facility in such a manner as to obstruct the fairways, launch ramps or channels or to prevent or carelessly sink or allow to be sunk any vessel in any channel, fairway, berthing space; or to float loose timbers, debris, logs or piles in any channel, fairway, or berthing space in such a manner as to impede navigation or cause damage to vessels therein. Wrecked or sunken vessels within a harbor are subject to the published rules and regulations of the United States Coast Guard, inside the Federal Navigation Project governed by the US Army Corp of Engineers, and any applicable local, State or Federal laws, rules or regulations.[Amended 11/09/2022]

(b) Whenever the navigation of any waters within a Scarborough Harbor or maritime facility, including anchorages and berths therein, shall be obstructed or endangered by any sunken vessel or other obstruction or danger has existed for a period of more than ten (10) days, the vessel or obstruction shall be subject to removal, sale or other disposition. The owner or owners of such vessel or other property causing said obstruction or danger shall be liable to the Town of Scarborough for all costs incident to said removal and disposition, and the Town of Scarborough, its employees, agents, and officers, shall not be liable for damages of any nature whatsoever arising out of or in any way connected with removal, sale or disposition of such vessel or other property. The vessel or property owner may appeal the action of the Harbormaster under this Section 9(b) as provided in Article XI of this Ordinance.

Section 10. Houseboats. [Adopted 02-20-13]

Notwithstanding any other provision of this article to the contrary, houseboats are prohibited from mooring or anchoring in the anchorage except at marinas which provide the following:

(1) A permanent float, dock or slip from which the houseboat may be directly boarded from land;
(2) Connection to a public water supply by means of an individual anti-backflow valve:
(3) A sewer connection to a public sewage system;
(4) A year-round, all weather supply of electricity;

(5) Parking as required by the codes and ordinances of the municipality where the marina is located; and
(6) Compliance with the applicable land use codes.

Article VI - Regulations Concerning Commercial Activity

Section 1. Vessels for Hire - Passenger Information.

The owners, master or person in charge of or operating any vessel using Scarborough Harbor or maritime facility shall be required to furnish to the Harbormaster information regarding the number of passengers carried. Failure to provide such information to the Harbormaster on demand shall be a violation of this article.

Article VII - Sanitation Regulations

Section 1. Discharge of Refuse.

It shall be a violation of this Ordinance to discharge or permit the discharge into the waters of the harbor of any refuse or waste matter, petroleum or petroleum matter, paint, varnish or any other foreign matter, including dead animals, fish and bait.

Section 2. Responsibility for Sanitation of Facilities.

The owner, lessee, agent, manager or person in charge of a facility or water area adjacent to or within Scarborough Harbor shall at all times maintain the premises under her/his charge in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials. Should the Harbormaster find that any facility or water area is not so maintained, he/she shall in writing notify said owner, lessee, agent, manager or other person in charge of said facility or area to immediately commence and diligently prosecute to completion of the necessary correction of the unsanitary condition to the satisfaction of the Harbormaster. Failure to do so with reasonable dispatch shall be a violation of this Article, and the Harbormaster may then cause condition to be corrected and the cost of such correction shall be charged to said owner, lessee, agent, manager or person in charge. The owner, lessee, agent, manager or person in charge may appeal actions of the Harbormaster under this Section 2 as provided in Article XI of this Ordinance. [Amended 11/01/17]

Article VIII - Safety and Maintenance

Section 1. Welding and Burning.

Except at specially designated areas, open fires are prohibited within the harbor, except for stoves or fireplaces permanently installed on board and below decks on vessels or hibachis or barbecues [sic] used for cooking and/or heating purposes. Major repairs to vessels requiring welding or other open flame devices may be performed only upon special authorization by the Harbormaster and within the time period stipulated in such authorization. In the case of extreme emergencies notification is waived.

Section 2. Flammable and Combustible Liquids and/or Materials.

Within a Scarborough Harbor or Maritime facility no person shall sell, offer for sale, or deliver in bulk any class of flammable liquid or combustible material, nor dispense any flammable or combustible liquids into the fuel tanks of a vessel except when in compliance with all requirements of the N.F.P.A. Fire Code and any other laws or regulations applicable thereto.

Section 3. Obstruction to Docks and Walkways.

Obstructing docks and walkways within the harbor by mooring lines, water-hoses, electrical cables, boarding ladders, permanently fixed stairs or any other materials is strictly prohibited. Dinghies may not be left on the launch ramp, floats and piers, but may be stored only in areas designated for that purpose.

Section 4. Motor Vehicles.

Motor vehicles are not to be left unattended on launch ramps or on the Public Pier. All motor vehicles are to be parked only in designated areas and motor vehicle operators are to comply with all parking regulations as posted by the Town of Scarborough. [Adopted 02/20/13]

Section 5. Defective or Dangerous Conditions.

Whenever any buildings, structures or floating facilities within or adjacent to Scarborough Harbor or a maritime facility either on land or water are found to be defective or damaged so as to be unsafe or dangerous to persons or property, it shall be the duty of the owner, agent, lessee, operator or person in charge thereof to immediately post a proper notice and/or fence or barricade and at night to adequately light such unsafe area or areas, and such unsafe area or areas shall be kept posted and lighted and/or fenced or barricaded until the necessary repairs are made. In the event and owner, agent, lessee, operator or person in charge fails or neglects to repair or to put up fences or other barriers to prevent persons from using or going upon the unsafe area or areas, the Harbormaster may then take such measures as he/she may deem necessary for the protection of the public and charge the cost of same to such owner, lessee, agent, person or persons having charge of the buildings, structures, or floating facilities that are defective or dangerous. The owner, lessee, agent, operator or person in charge may appeal actions of the Harbormaster under this Section 5 as provided in Article XI of this Ordinance. [Amended 11/01/17]

Article IX – Pier

[Adopted 02-01-2012]

Section 1. Permit Required.

All users of the pier shall obtain a permit for use by the Harbormaster. There shall be a fee established for the permit, the proceeds of which shall be used to defray the costs of operation and provide for regular maintenance on the pier and related infrastructure.

Section 2. Establishment of Policies and Procedures.

a) The Harbormaster, in consultation with the Committee, shall establish operating guidelines, policies and procedures relating to proper use and operation of the pier to ensure safety of users and to avoid damage to pier infrastructure.

b) Such policies and procedures shall balance the needs of commercial and recreational use of the pier.

Section 3. Regulations Relating to Use.

a) No vessel other than a permitted skiff shall be made fast to the town wharf except for twenty (20) minutes as required for loading or unloading. There shall be no overnight tie-ups. Exceptions may be made in emergencies only by permission of the harbormaster. No vessel other than the harbormaster's patrol boat shall tie up to the town wharf in the space marked for use by the harbormaster.

b) No person shall store traps, bait, fishing gear, boats or waste materials on the float at Pine Point at any time. Traps, gear, etc., may be loaded and unloaded only.

c) No person shall store any traps, bait, fishing gear, or waste material on floats for more than 24 hours for loading and unloading purposes throughout the year.

d) The Town Council may make any and all other reasonable rules for the proper maintenance and use of any floats or wharves, which rule or regulation shall be in writing and shall be posted on the wharf and filed in the office of the Town Clerk.

e) Rules and Regulations pertaining to all piers, floats and wharves controlled by said Town of Scarborough shall be posted in a conspicuous place on or adjacent to said piers, floats and wharves.

f) Skiff's or Dinghy's may be left tied in designed areas of the float's provided they are used more than twice a week for the purpose of getting back and forth from there mooring.

g) No boat or vessels at any time are to be left unattended in the area of the cranes on the front of the dock or floats.

Section 4. Violations Relating to Pier Use.

Any person violating any sections of this Article IX shall be subject to a fine of not less than $100.00 nor more than $500.00 plus costs, which fine shall be recovered on complaint to the use of the Town of Scarborough. Additional costs shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. [Adopted 11/09/2022]

Article X – Coastal Waters and Harbor Advisory Committee

[Adopted 02/01/2012]

Section 1. Establishment

There is hereby established a Coastal Waters and Harbor Advisory Committee consisting of five (5) voting members and two (2) alternate members serving without pay, to be appointed by the Town Council for staggered three (3) year terms. The Harbormaster shall attend and serve as staff support at all meetings of the Committee. A member of the Town Council shall serve as liaison to the Committee.

Section 2. Duties

The Committee shall:

(a) Exist for the general purpose of studying and evaluating public usage of and boating access to coastal waters under the jurisdiction of the Town of Scarborough, working closely with the Harbormaster to advise the Town Council on all matters pertaining to the Coastal Waters and Harbor Ordinance;

(b) Make recommendations for balancing the enhancement of harbor facilities with the conservation of natural, cultural and aesthetic resources for the long-term benefit for all stakeholders;

(c) Propose regulations and policies or the use of waterways, navigational lanes, anchorage areas, town docking facilities and mooring areas, such regulations and policies shall be consistent with federal and state law;

(d) Regularly inform the Town Council and other boards, committees, commissions or officials of the Town, as is appropriate, of its activities. Will present an annual report to the Town Council in December.

Section 3. Organization and Procedure.

The Committee shall adopt rules and regulation for the transaction of its business, which shall be subject to Town Council approval. The Committee shall maintain a permanent record of its proceedings and correspondence. All records maintained or prepared are deemed public and shall be filed in the Town Clerk's Office.

Article XI – Enforcement/Violation/Penalties

This Ordinance may be enforced by the Harbormaster, Assistant Harbormaster or any law enforcement officer vested with the authority to carry a weapon and make arrests. Violations shall be prosecuted as provided in 38 M.R.S.A. §12 (which incorporates the enforcement mechanism of 30-A M.R.S.A. §4452) and, where applicable, 38 M.R.S.A. §13. Any person violating any sections of this Ordinance shall be subject to fines for each violation as follows:

> First violation: not less than $100.00 and not more than $500.00, for each violation plus costs.
> Second violation: not less than $500.00 and not more than $1,000.00, for each violation plus costs.
> Third and subsequent violations: not less than $1,000.00 and not more than $1,500.00, for each violation plus costs.

Article XII - Appeals

Any action or decision of the Harbormaster as to which this ordinance expressly provides a right of appeals may be appealed to the Town Manager pursuant to this Article XI. No other action, non-action, decision or determination of the Harbormaster is appealable under this Ordinance.

An appeal must be submitted in writing to the Town Manager no later than thirty (30) days after the action or decision appealed from. Upon receipt of a written appeal, the Town Manger shall promptly schedule an appeal hearing, giving notice to the applicant and to the Harbormaster of the date, time and place of the hearing. The appellant and the Harbormaster each shall have an opportunity to be heard and to present written and oral evidence. After the hearing the Town Manager shall promptly issue a written decision. There is no appeal under this ordinance from the decision of the Town Manager.

Article XIII - Repeal of Previous Regulations

This Ordinance repeals and replaces the Ordinance Establishing Harbor Rules and Regulations for the Town of Scarborough and any other prior ordinances, rules or regulations inconsistent herewith.

Town of Falmouth Harbor Ordinance

Under Definitions:

Riparian, direct and indirect: Notwithstanding the provisions of 38 M.R.S.A. § 11 to the contrary, the owners of property which fronts upon the anchorage and which is used as a residence are direct riparian owners and, as such, qualify for a single mooring. Where property with at least fifty (50) feet of frontage on the anchorage is a common element physically integrated within a condominium or is land owned by a homeowners association and physically integrated within a residential subdivision, unit owners in the condominium and house owners in the subdivision who are members of the association, as the case may be, are indirect riparian owners and, as such, qualify for a single mooring per unit or lot.

Noted under Mooring Assignments:

Mooring assignment: All persons who received and used a mooring assignment in the previous year and all persons who will access their mooring from a place other than town landing, and whose mooring application was received in a complete and timely fashion, will receive a mooring assignment for the current year before June 1st of that year. The harbormaster shall also, whenever practicable, locate a mooring for boat owners who are direct riparian owners or indirect riparian owners in front of their property if requested to do so, or if that location is determined by the harbormaster to be impracticable, at another location within the anchorage chosen by the harbormaster, provided that the total number of indirect riparian owner moorings in the anchorage shall not exceed two hundred fifty (250).

Chapter 311 – Schedule of Fees

Chapter 1401 – Coastal Water and Harbor Fees [amended 02-20-13]	**Fee**
Annual Mooring & Pier Use Fees	
Recreational Pier Use - Resident and/or Taxpayer (amended 05/05/04; 12/20/17; 02/15/23)	$250.00
Recreational Pier Use - Non-Resident (amended 05/05/04; amended 12/20/17; 02/15/23)	$500.00
Commercial Pier User – Resident and/or Taxpayer (amended 12/20/17; 02/15/23)	$450.00
Commercial Pier User – Non-Resident (amended 12/20/17; 02/15/23; 05/03/2023)	$700.00
Recreational Mooring & Pier Use Fee – Resident and/or Taxpayer (amended 12/20/17; 02/15/23; 05/03/2023)	$300.00
Recreational Mooring & Pier Use Fee – Non-Resident (amended 12/20/17; 02/15/23)	$500.00
Commercial Mooring & Pier Use Fee – Resident and/or Taxpayer (amended 12/20/17; 02/15/23; 05/03/2023)	$500.00
Commercial Mooring & Pier Use Fee – Non-Resident (amended 12/20/17; 02/15/23)	$700.00
Mooring Fee for area outside of the Federal Anchorage	$500.00
One Time Pier Use Fee Resident (adopted 02/15/23; amended 05/03/2023)	$150.00
One Time Pier Use Fee Non-Resident (adopted 02/15/23)	$350.00
Mooring Wait List Annual Fee: Annual fee will be allied over the course of time on waiting list. Once the mooring is issued and what monies have been paid while on the wait list will be credited, not to exceed the annual mooring fee, for the first year only. (Adopted on June 26, 2024)	$35.00
BOAT LAUNCHING FEE	
Launching from any town facility, includes Ferry Beach Boat Launch and Co-op Boat Launch (Note – Ferry Beach – parking is not included)	
Resident – Daily Boat Launching Fee (amended 05/05/04; 02/15/23)	$25.00
Resident – Seasonal Boat Launching Fee (amended 02/15/23)	$125.00
Resident – Additional Boat Launching Fee Registered to the Same Address (Amended 05/18/16; 02/15/23)	$15.00
Resident Commercial Fisherman Seasonal Boat Launch Pass	Free
Non-Resident - Daily Boat Launching Fee (amended 05/05/04; 02/15/23)	$45.00
Non-Resident - Seasonal Boat Launching Fee (amended 12/20/17; 02/15/23)	$250.00
Resident - Commercial Charter Boat Fee- Seasonal (Adopted 02/15/23)	$400.00
Non- Resident - Commercial Charter Boat Fee- Seasonal (Adopted 02/15/23)	$600.00
Special Anchorage Fee	$2,500.00