

Town of Lamoine

HARBOR ORDINANCE

As Approved November 19, 2003 & Amended March 7, 2007

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1. Purpose

The purpose of this ordinance is to establish the rules by which the Town of Lamoine will assign mooring privileges to a person or persons who have made application and received a mooring permit. All in accordance with 38 MRSA § 1 et seq; and to provide for the public safety by promoting safe mooring anchoring and passage of vessels. This ordinance is adopted pursuant to the police power as set forth in 30A MRSA § 2671 et seq the specific authority granted to municipalities with respect to harbor masters as set forth in 38 MRSA § 1 et seq, and the power of municipal home rule as set forth in 30A MRSA § 3001 et seq and article VIII-A of the Constitution of the State of Maine.

2. Harbor Master

- A. The selectmen shall appoint a harbor master annually pursuant to 38 MRSA § 1. The harbor master will take office on July 1 of each year. He will have the duties and powers prescribed by law and this ordinance.
- B. The selectmen may appoint a deputy harbor master to act in case of the harbor master's absence or disability.

3. Harbor Limits

For the purpose of this ordinance the harbor limits shall be: Beginning at the mean high water mark at a point in Eastern Bay at the Eastern Boundary of Lamoine State Park (N 44° 26' 58", W 68° 17' 47") and proceeding southerly 2250 feet to the Lamoine/Bar Harbor Town Line (N 44° 26' 35", W 68° 17' 47"); then proceeding along the Lamoine/Bar Harbor Town Line 2250 feet generally northwesterly to a point (N 44° 26' 42", W 68° 17' 58"); then proceeding northerly 2750' to mean high water mark of the Western Boundary of Lamoine State Park (N 44° 27' 10", W 68° 17' 58"); then along the mean high water mark to the beginning.

4. Moorings

- A. No person shall place a mooring within the harbor limits as described above unless;
1. He or she has filed an application for a permit with the harbor master or town clerk, setting forth such information as shall be requested.
 2. The harbor master or town clerk has issued a written permit to the applicant, stating the location of the mooring.
- B. Any permit issued pursuant to part A above shall not exceed one year.
1. *A person receiving a mooring permit shall, within two years of initial issuance, register with the Lamoine Town Clerk or document with the United States Coast Guard a vessel to utilize the mooring. Failure to register or document AND pay excise tax for a vessel within two years of original mooring permit issuance shall be cause for forfeiture of the permit. Lobster car moorings shall present proof of compliance with Section 4G below and are not subject to registration/excise tax.*
 2. *No individual shall hold more than two (2) mooring permits at a given time.*
 3. *A permit holder must attain the age of 18 prior to application for a mooring permit in order to hold a mooring permit without written parental/guardian permission. A minor may obtain a mooring permit with the written permission of their parent or legal guardian. The parent or legal guardian shall share responsibility for adherence to all regulations within this ordinance. Residency of the parent or legal guardian shall be the determining factor for the minor's residential status (See section 4F). A minor shall be considered a separate individual for the purposes of section 4B2 above.*
- C. No mooring ropes of a type that float, including but not limited to polypropylene rope, shall be used within harbor limits.
- D. The harbor master is empowered to require that any mooring be moved at any time at the owner's expense. Failure to move or remove a mooring at the request of the harbor master will be a violation of this ordinance.
- E. The harbor master or town clerk will issue no permit for a mooring unless ~~he or she is~~ **they are** satisfied that the information set forth in the application is adequate to ensure that the mooring and vessels attached to it will not become a danger to persons or property.
- F. Notwithstanding the foregoing, the number of nonresident moorings shall always be at least equal to the minimum number of nonresident moorings required under 38MRSA § 7A, as amended from time to time.

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- G. All permit applications for lobster cars shall submit to the Harbor Master proof that application to the Army Corps of Engineers for placement of said lobster car has been made.
- H. ***WAITING LIST – The Harbor Master shall maintain a waiting list of mooring permit holders pursuant to 38 MRSA §7A and §8.. To be added to the waiting list, a qualified person shall make written application and submit the application fee (See Section 6) to the Harbor Master. The Harbor Master will note the date the application and payment in full are received and base the waiting list on a first-come/first-served basis. At least annually, the Harbor Master shall post the waiting list at the Lamoine Town Hall.***
- I. ***NON TRANSFERABLE - Mooring permits are non-transferable (38 MRSA §3), with the exception of a commercial fishing mooring, which may, by statute cited previously, be assigned upon request or death to a family member and only for commercial fishing purposes. A permit holder who no longer desires to possess a mooring permit must inform the Harbor Master of their decision. The permit will then be assigned to the next person on the waiting list maintained by the Harbor Master. Residents on the waiting list shall have first refusal until the point is reached that non-resident permits are required under section “F” above. A qualified person on the waiting list who does not desire to obtain the permit shall move to the bottom of the waiting list provided a new application fee is paid. Otherwise, a person who does not desire to obtain the permit shall be removed from the waiting list.***

5. Rules of Harbor Use

- A. Vessels shall be operated within harbor limits in a safe and prudent manner. No person shall operate a vessel within harbor limits in a manner which threatens danger to any person or property, or which causes excessive wash or wake.
- B. ***All mooring balls shall be white in color with a blue stripe painted around the entire ball. The mooring ball shall display the permit number associated with the mooring in a manner prescribed by the Harbor Master.***
- C. ***Any tender tying up to a mooring shall display the permit number on the tender in addition to any boat registration number. Tenders on shore shall also display the corresponding mooring permit number. Failure of tenders to display a permit number shall be considered grounds for declaring said vessel a derelict boat pursuant to 38 MRSA § 9***
- D. ***Mooring blocks, mushrooms, chains and ropes are the private property of the permit holder. Such mooring equipment is subject to inspection by the Harbor Master pursuant to 38 MRSA §1 et seq. As such equipment is private property it may be sold by the owner to any party, but must be properly removed from the assigned mooring spot if the new owner is not the newly assigned permit holder.***

6. Fees

Each applicant for a mooring at Lamoine harbor shall pay a fee of **\$15** to make application and a fee of **\$50** for a mooring permit. Fees established by this ordinance may be increased or decreased by the Lamoine Board of Selectmen. All fees accrue to the Town of Lamoine for the operation of the harbor.

7. Appeals of Decisions of the Harbor Master

Any person may appeal a decision of the harbor master to the Lamoine Board of Selectmen. Any such appeal shall be made within ten days after the date upon which the person is notified of the decision of the harbor master if the notification is verbal or in a written form that is personally delivered. If the harbor master's decision is mailed, the person shall have 13 days from the date of mailing to appeal the decision.

Appeals shall be in writing, and shall state in detail (1) the intended conduct of the appellant; (2) the decision of the harbor master; and (3) a statement setting forth the reasons why the decision of the harbor master is not consistent with this ordinance or with state or federal law. The applicant or the harbor master may request a hearing, when he or she will appear in person or with witnesses, and state their case through oral testimony or other evidence. An appeal of the decision of the Selectmen may be taken pursuant to rule 80B of the Maine Rules of Civil Procedure.

8. Penalties

Any person who violates any part of this ordinance shall be liable to the Town of Lamoine for the following penalties:

- A. The minimum penalty for a specific violation shall be \$25 and the maximum penalty shall be \$2,500. Each day that the penalty exists shall be a separate violation.
- B. In addition, the offender shall pay to the Town of Lamoine an amount equal to reasonable attorney's fees, expert witness fees, and other expenses incurred by the Town in the prosecution of any proceeding to enforce the provisions of this ordinance, including proceedings in equity to abate any nuisance or other condition in violation of this ordinance.

9. Severability

If any part of this ordinance shall be found to be in violation of law, then the remaining parts of this ordinance, not found in violation of law, shall remain in effect.

10. Effective Date

The effective date of this ordinance is 15 days after initial enactment by a properly held Lamoine Town Meeting.

Mooring Permit Application

Fee: \$15.00

Please print or type

Date of application: _____ Boat use: Personal Commercial Other

Mooring type: Mushroom Block

Boat Reg/Doc.# _____ Name: _____

Owner's Name _____ Phone # _____

Owner's Date of Birth _____

Address: _____

Winter Address: _____

Description of boat: Color: _____ Length: _____

Type of Propulsion: _____ Type of Boat: _____

Applicant's Signature: _____ Date: _____

For Harbor Master's use only:

Date Application Received: _____ Total Fees Received: _____

Application was : approved approved with conditions denied

If conditions, please list

Reasons for denial

Harbor Master's Signature _____ Date: _____

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**Town of Lamoine
Mooring Permit**

For the sum of \$50, the municipality of Lamoine, Maine hereby authorizes:

(Name of permittee): _____ of

(Address:) _____

to place a mooring in the waters off Lamoine State Park in an area designated by the Harbor Master or designee.

The owner shall be responsible for the following:

1. Compliance with all federal, state, and local laws, rules and regulations;
2. Maintenance of the vessel in a seaworthy condition;
3. Protection from hull damage to own and other vessels;
4. Set and maintain a safe mooring.

The owner further agrees to hold the municipality, it's employees, agents, or designees harmless from any damage, risk, or liability as a result of the authorization.

Boat Information:

Reg. # _____ Exp. date: _____

Make _____ Length: _____

Hull _____

Signature _____ Date: _____

This permit is non-transferable and is for the use of the above named person only, except on a temporary basis at the discretion of the Harbor Master or designee.

Holder of permit is responsible to set mooring and make adjustments as required for the safety of all adjacent boats. Each mooring float must be marked with the permit number in at least three inch numbers.

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Signature Page

We, the undersigned Selectmen of Lamoine do certify that on November 19, 2003, a majority of voters attending an open town meeting approved of an amendment to the Town of Lamoine Harbor Ordinance in section 4G. Given under our hands this 20th day of November, 2003

/s/ S. Josephine Cooper, Chair, Board of Selectmen

/s/ Glenn Crawford, Selectman

/s/Thomas Spruce, Selectman

Amended Date: _____, 2006 Approved at a special town meeting:

_____, S. Josephine Cooper, Chair

_____, Brett Jones

_____, Cynthia Donaldson

_____, Richard Fennelly, Jr.

_____, Perry Fowler

Attest: A True Copy _____
Stuart Marckoon, Deputy Town Clerk