

Chapter 13.4

TOWN OF LONG ISLAND

HARBOR AND WATERFRONT ORDINANCE AMENDED MAY 4, 2002

Sec. 13.4-1. Purpose.

The Town of Long Island and Waterfront Ordinance is hereby established to regulate marine activities within the town, to ensure the safety of its property, its inhabitants and the general public, to guarantee the availability and use of a valuable public resource and to create a fair and equitable framework for administration of these goals.

Sec. 13.4-2. Authority and Administration.

Sec. 2.1 *Authority..*

2.1.1 This ordinance is adopted pursuant to the Home Rule Powers as provided for in Article VII-A of the Maine Constitution and 30-A M.R.S.A., Chapter 187, Subchapter IV, as the same may be amended from time to time.

2.1.2 This Ordinance is also adopted pursuant to Title M.R.S.A. Subchapter I, as the same may be amended from time to time. All provisions of Title 38 M.R.S.A. Subchapter I are adopted as part of this Ordinance, except to the extent its provisions are inconsistent with the expressed terms herein.

2.1.3 The Ordinance shall be known as the Town of Long Island Waterfront Ordinance, and shall govern the specified activities within the limits of the Town of Long Island.

Sec. 2.2 *Administration.*

The Board of Selectmen shall administer this ordinance.

Sec. 2.3 *Severability and Separability.*

Should any section or provision of this Ordinance for any reason be held as void or invalid, it shall not affect the validity of any other section or provision.

Sec. 2.4 *Designation of Gender, Singular and Plural.*

2.4.1 Whenever the masculine gender is used herein, it shall be construed to include the feminine.

2.4.2 Whenever the singular is used herein, it shall be construed to include the plural.

Sec. 13.4-3. Definitions-Regulation and Administrative Processes.

Sec. 3.1 *Abandoned Moorings.*

A mooring in waters classified as Harbor and/or Anchorage shall be considered abandoned unless it is used by the owner or his family during the 90 day period July 1 – October 1, or unless the owner has notified the Town in writing of his intent to not use the mooring, registers the mooring in accordance with Section 4, and grants permission for the use of the mooring to be assigned to others. Any mooring which is unused for 365 days by the owner or his family shall be considered abandoned when the Harbormaster decides it is abandoned.

Sec. 3.2 *Abandoned Vessel.*

Any vessel which is unattended and determined by the Harbormaster to constitute a danger to navigation, or which is sinking or already sunk, or which is stranded on any property without the permission of the owner of the property.

Sec. 3.2.1 *Menace to Navigation (Adopted May 14, 2005)*

The Harbormaster is authorized to take whatever action is necessary and appropriate to remove any menace to navigation within the waters of the Town of Long Island. This shall include, but is not limited to, contracting for removal of the menace at the expense of the Town of Long Island, another governmental entity, or the person responsible for the creation of the menace.

Sec. 3.3 *Waters of Long Island.*

All waters below the ordinary high tide mark within the legal boundaries of the Town of Long Island as incorporated on July 1, 1993 and extending seaward three miles from the shoreline.

Sec. 3.4. *Harbormaster.*

The person appointed to serve as such by the Board of Selectmen.

Sec. 3.5 *Mooring.*

An anchoring device not carried aboard a vessel as regular equipment.

Sec. 3.6 *Rental Mooring.*

A mooring which is leased or rented to a person other than the holder of the mooring registration.

Sec. 3.7 *Non-Resident.*

Any individual who does not maintain a legal residence within the Town of Long Island.

Sec. 3.8 *Non-Resident Taxpayer.*

A non-resident who pays real estate taxes to the Town of Long Island.

Sec. 3.9 *Resident.*

An individual who maintains a legal residence in the Town of Long Island.

Sec. 3.10 *Town Float.*

A float owned and maintained by the Town of Long Island.

Sec. 3.11 *Town Landing.*

An area of land contiguous to the waters of Long Island which is owned by the town of which is impressed with a public right of access.

Sec. 3.12 *Vessel.*

A vessel shall include boats of all sizes powered by sail, machinery, by hand or by tow; scows; dredges; barges; and water craft of any kind.

Sec. 3.13 *Anchorage Areas.*

Areas within the waters of the Town of Long Island specified by the Board of Selectmen for temporary use for the mooring for time periods in excess of twenty four hours of vessels in excess of one hundred and fifty (150) feet in length using anchorage devices normally carried aboard those vessels.

Sec. 3.14 *Anchorage.*

Occupancy of any space within the waters of Long Island by a vessel while at anchor whether or not the anchoring device is resting on lands underwater within the boundaries of the Town of Long Island.

Sec. 3.15 *Harbor Use.*

Holding a mooring permit, boating within, traversing or anchoring in the waters of the Town of Long Island, rental or occupancy of public or private berths in the Town.

Sec. 3.16 *Oil.*

Any and all petroleum products and their by-products of any kind and in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes and crude oil.

Sec. 13.4-4. Registration of Moorings.

Sec. 4.1 *Registration.*

All moorings located below low water in waters of Long Island shall be registered with the Town Clerk. Permits will be issued for the calendar year from January 1 through December 31. Any applicant who completes re-registration by March 1 of any year shall be given preference for the location occupied by that registrant's mooring the prior year, unless the Harbormaster determines that a demonstrated need for that site has been shown by someone higher on the list of priorities in section 4.4.3 below. In such an event, the Harbormaster will provide a mutually agreeable site and relocate the mooring at the expense of the mooring owner taking over the old site.

Sec. 4.2 *Registration Fees. (Amended May 12, 2007)*

Registration fees to be reviewed annually and adjusted, if necessary, by the Board of Selectmen.

Personal use by resident or
Non-resident taxpayer:_____ \$30.00

Personal use by non-resident:_____ \$60.00

Rental use:_____ \$60.00

4.2.1 Upon registration, the Town Clerk will issue a registration number which is to be painted on to the mooring float in three inch high characters; i.e., L1005, L303, etc..

Sec. 4.3 *Unregistered Moorings.*

If any mooring in the waters of Long Island is unregistered after May 1, the Town Clerk or Harbormaster shall notify the owner and if registration is not completed within ten (10) days of notice, the Harbormaster may remove the mooring at the expense of the mooring owner plus a fee of \$100, to be paid to the Town.

Sec. 4.4 *Assignment of Mooring Space.*

4.4.1 Registered moorings shall be assigned locations by the Harbormaster on a first-come, first-served basis as space permits with due regard to navigation and the safety of persons and property, and, where feasible, the prior year location.

4.4.2 If there is insufficient space to assign allocations for all registered moorings in the location requested, the applications not assigned mooring locations shall be placed on a waiting list which will be maintained by the Town Clerk, posted and available for inspection in the Town Office.

4.4.3 As space in Harbors and Anchorages of the waters of Long Island becomes available, assignments of mooring locations shall be made from the waiting list in accordance with the terms of 38 M.R.S.A. (7A) (2) on the basis of the date of the applicants request and with the following priorities:

- 4.4.3.1 Resident Commercial Fisherman;
- 4.4.3.2 Resident Taxpayer;
- 4.4.3.3 Non-Resident Taxpayer;
- 4.4.3.4 Resident;
- 4.4.3.5 Commercial Non-Fishery;
- 4.4.3.6 Non-Resident

Notwithstanding the above, Resident and Non-Resident taxpayers who are owners of shoreline property contiguous to the location where a mooring (is adjacent to) is requested shall have priority for a maximum of one mooring space adjacent to their onshore property. Additional moorings requested by Resident and Non-Resident taxpayers shall be assigned as in 4.4.3 above.

Sale of a mooring to a second party, when a waiting list exists, shall not convey the assigned location, unless sold to the person holding the next assignment on the mooring list. The Harbormaster shall be notified of all sales of moorings in Harbors and Anchorages.

4.4.4 When any mooring within the waters of Long Island is located such that danger to other property is inherent due to its position, the Harbormaster shall be responsible for relocating the mooring or moorings involved whenever he is notified of the danger. Such relocation shall be handled in accordance with the priority list in Section 4.4.3, and the expense shared equally by the mooring owners involved.

4.4.5 Effective July 1, 2005 all mooring balls will be white with a blue stripe amidships.

4.4.6 Mooring applicants are responsible to construct their mooring in a manner suitable for its intended purpose.

4.4.7 Permit number must be no less than (3) three inches in height, black paint or quality adhesive lettering.

4.4.8 Catch storage moorings will be considered temporary moorings and be registered at Town Hall with no fee. These moorings will be assigned a number by the Harbor Master and identified with the letter "S".

Sec. 4.5 *Removal of Abandoned Moorings.*

The Selectmen shall notify the owner of an abandoned mooring of his duty to remove the mooring within thirty (30) days of the date of notice. If the mooring is not removed or re-registered within the applicable thirty (30) day period, it may be removed by the Harbormaster at the expense of the owner in accordance with the provision of 38 M.R.S.A. § 4. Nothing in this Section shall impede enforcement (Section 7.1.7) or collection of penalties (Section 7.2).

Sec. 4.6 *Removal of Abandoned Vessels.*

Except where the vessel constitutes an immediate hazard to public health, safety and welfare, the Selectmen shall notify the owner of an abandoned vessel of his duty to remove any abandoned vessel within thirty (30) days of the date of notice. If the vessel is not removed within the applicable thirty (30) day period, it may be removed by the Harbormaster at the expense of the owner in accordance with the procedures of M.R.S.A. §5. Where the Selectmen determine that the abandoned vessel constitutes a threat to public health, safety and welfare, they may authorize the Harbormaster to remove the vessel immediately and without notice at the expense of the owner. Nothing in this Section shall prevent the Town from enforcing Section 7.1.5 or from collection of penalties (Section 7.2).

Sec. 4.7 *Anchorage.*

4.7.1 Any vessel desiring temporary anchorage within the waters of Long Island for periods in excess of twenty four (24) hours shall notify the Harbormaster in advance for permission and location of the anchorage to be assigned. Notification requirements are as follows:

4.7.1.1 Vessels less than one hundred fifty (150) feet in length – Notice in advance up to the time of arrival.

4.7.1.2 Vessels one hundred fifty (150) feet in length or greater – Notice a minimum of forty eight (48) hours in advance of arrival.

4.7.2 Anchorage fees – Payable to the Town of Long Island.

4.7.2.1 Anchorage for vessels less than one hundred fifty (150) feet in length:

- Placement of anchoring device on submerged lands – No fee.
- Anchorage, Twenty four (24) hours or less – No fee.
- Anchorage, More than twenty four (24) hours - \$10 per day.

4.7.2.2 Anchorage for vessels greater than one hundred fifty (150) feet in length:

- Placement of anchoring device on submerged lands - \$100.
- Anchorage for each day or part of a day - \$10.

Sec. 4.8 *Harbor Use.*

A major occupation in the Town of Long Island is in the fishing industry. Any activity within the waters of Long Island that would have the potential to threaten this livelihood and the health, safety and welfare of its residents shall first be approved by the Town of Long Island. Any vessel desiring to conduct activities within the waters of Long Island that may injure, damage, disrupt the normal activities or occupations or otherwise harm the residents of Long Island or their property shall first provide notice and receive permission from the Town of Long Island a minimum of forty eight (48) hours in advance. Such activities may include but not be limited to operations such as oil spill training and spill boom deployment exercises, large scale fish seining, construction within the waters of Long Island, dredging and salvaging.

Sec. 13.4-5. Harbor and Waterfront Harbor Committee.

Sec. 5.1 *Committee Make-up.*

The Harbor Committee shall be comprised of 5 people each of whom is either a resident tax-payer, a non-resident taxpayer, or a resident. The purpose of the Harbor Committee is to oversee development and activities on the waterfront, and to make recommendations to the Board of Selectmen.

Sec. 13.4-6. The Harbormaster, Qualifications and Salary.

Sec. 6.1 The Harbormaster shall be appointed by the Board of Selectmen and shall serve in that capacity until discharged by the Board of Selectmen or until resignation.

Sec. 6.2 *Appeal to Selectmen.*

Any person aggrieved by a decision of the Harbormaster may appeal the decision to the Board of Selectmen for review. The Committee Board of Selectmen shall make a decision.

Sec. 6.3 *Salary.*

The salary of the Harbormaster shall be recommended by the Board of Selectmen and approved by vote at the Annual Town Meeting.

Sec. 6.4 *Management.*

The Harbormaster shall manage the Floats, Docks, Ramps. Moorings and Landings that are owned by the Town and shall make recommendations regarding their operation, use and maintenance to the Board of Selectmen'

Sec. 6.5 *Meetings.*

The Harbormaster shall regularly attend meetings of the Harbor Committee, but shall not be a member of the Committee. He shall keep the Committee fully informed of all his activities, problems encountered, solutions effected, and activities which have required his special attention. He shall also provide information on matters pertaining to the Committee's duties and responsibilities. The Harbormaster shall also attend Selectmen's meetings when necessary in order to report any problems or changes needed.

Sec. 6.6 *Records.*

The Harbormaster shall maintain a permanent bound record in which he shall record all complaints received (both written and oral), the date and time received, the response made to the complaint, and the date and time of such response. This record shall be maintained in ink.

Sec. 6.7 *Enforcement.*

The Harbormaster shall have the authority and responsibility to enforce the Rules and Regulations contained in this Ordinance and the provisions of 38 M.R.S.A. Subchapter 1.

Sec. 13.4-7. Rules and Regulations.

Sec. 7.1 *Operation of Vessels.*

7.1.1 It shall be unlawful to operate a vessel in the waters of Long Island so as to endanger persons or property.

7.1.2 It shall be unlawful to operate a vessel in a manner which creates excessive wake/wake-wash.

7.1.3 It shall be unlawful to establish or maintain an unregistered mooring or to maintain a temporary anchorage within the waters of the Town of Long Island without authorization.

7.1.4 It shall be unlawful to part a motor vehicle so as to block or restrict access to a Town Landing.

7.1.5 It shall be unlawful to abandon a vessel within the waters or upon the shoreline of Long Island.

7.1.6 It shall be unlawful to abandon lobster, crab and shellfish traps, cars or crates within the waters of Long Island.

7.1.7 It shall be unlawful to abandon a mooring within the waters of Long Island.

7.1.8 **(Replaced May 14, 2005)** The “main float”, located at Marriner’s Landing is to be used for loading and unloading of passengers and cargo and official public safety vessels only. Therefore, it shall be unlawful to leave a vessel unattended at the “main float” at Marriner’s Landing for any length of time. It shall be unlawful to leave a vessel at any Town wharf, dock or float (with the exception of the “main float”) for a period exceeding two (2) hours without the permission of the Harbormaster.

(a) Penalties for violation of Sec. 7.1.8:

1. Exceeding Posted Time Limit - \$25.00
2. Leaving an unattended vessel at main float - \$50.00

7.1.9 It shall be unlawful to refuse to obey any lawful Order of the Harbormaster.

7.1.10 It shall be unlawful for any vessels at anchor in or passing through the waters of Long Island to violate any laws, rules or regulations of any local, state or federal agency with regard their operation or any overboard discharges, cargo transfers, lading of dangerous cargo, emissions to the atmosphere or any other activity deemed unsafe to the residents of the Town of Long Island.

7.1.11 It shall be unlawful to transfer oil in bulk in quantities in excess of 4,200 gallons, including bunker fuel, between vessels within the waters of Long Island without first deploying sufficient oil spill containment boom around the area of the transfer to contain any potential spill. Should the oil spill containment boom not be able to be secured sufficiently to the vessels to prevent any potential spill from escaping the boom, then sufficient boom must be deployed to encircle both vessels in their entirety and held in such a manner that will prevent any contained oil from escaping until cleanup is completed.

7.1.12 It shall be unlawful for any large vessel, greater than one hundred fifty (150) feet in length to enter and transit either through the waters of Long Island or to and from an anchorage within the waters of Long Island without first providing notice forty eight (48) hours in advance so that adequate notice may be given fishermen or others who may be affected in order to protect or relocate any fishing equipment, mooring or other equipment that may be endangered by such transit.

7.1.13 It shall be unlawful for barges in tow to be moved within or through the waters of Long Island on long tow lines such that the towed vessel cannot be directly and promptly slowed, turned or stopped should it become necessary in an emergency. Such non-powered vessels shall either be directly secured to the towing vessel and be close hauled or be held fore and aft using a second towing vessel to provide adequate restraint and control in the event of an emergency.

7.1.14 It shall be unlawful to transfer oil cargoes between vessels, including bunker fuel, without first providing notice to the Town of Long Island a minimum of twelve (12) hours in advance.

7.1.15 It shall be unlawful to conduct activities as outlined in 4.8 above without first receiving permission from the Town of Long Island.

Sec. 7.2 *Violation of Ordinance.*

The violation of any rule or regulation established by the Ordinance shall be a civil violation punishable by a fine not to exceed \$250. For purposes of this Section, each day that a violation continues shall be considered a separate offense.

Sec. 7.3 *Enforcement of Ordinance.*

All Law enforcement officers of the Town of Long Island and the State of Maine, including Harbormasters and their deputies, shall have the authority to enforce this Ordinance and, in the exercise thereof, shall have the authority to stop and board any vessel found in violation of this Ordinance. It shall be unlawful for any operator of such vessel to fail to stop upon request of such officer and violation shall be punishable as provided in Title 30 M.R.S.A. § 4452.

Sec. 7.4 *Notifications.*

Notice of vessel movements, cargo transfers and other activities specified herein where notices to the Town of Long Island are required shall be directed as follows:

- Primary contact – Harbormaster, Town of Long Island
- Secondary contact – Long Island Town Clerk
- Third contact – any member of the Board of Selectmen

Making contact with any of the above shall satisfy the notification requirements specified herein.

Sec. 13.4-8 Shellfish Conservation Ordinance. (Rescinded by State 09/26/07)

Sec. 13.4-9. Floating Businesses and Houseboats. (Adopted May 3, 2003)

9.1 Definitions.

The following terms shall have the following meanings for purposes of this ordinance:

A. Floating Business. A "floating business" is the use or occupancy of a raft, hull, barge or other vessel floating on the waters adjacent to and within the jurisdiction of the Town of Long Island for any commercial operation such as, but not limited to, the providing of personal services, retail operations, restaurants, drinking establishments, galleries, performing arts, studios and other such service or business operation. Fishing vessels used primarily for the harvesting, processing, transport or storage of fish or seafood products or vessels used for dredging or other navigational purposes are not floating businesses as defined herein.

B. Houseboat. Houseboat means the use or occupancy of a raft, hull, barge or other vessel floating on the waters adjacent to and within the jurisdiction of the Town of Long Island for human habitation, living quarters, sleeping areas, or for cooking or sanitary facilities or for any other similar use or residential purposes associated with a "Dwelling" or "Dwelling Unit" as defined under the Town of Long Island Land Use Ordinance, Chapter 14, whether such use is temporary or permanent.

9.2 Prohibition and Requirements for Floating Businesses and Houseboats. Except as specifically excepted hereafter and notwithstanding any provision of this chapter or other provisions of the Town of Long Island Code of Ordinances to the contrary, floating businesses or house boats are prohibited from mooring or anchoring in the waters under the jurisdiction and control of the Town of Long Island unless the floating business or houseboat conforms with all of the following requirements:

A. The floating business or houseboat must be permitted and in compliance with all applicable sanitation, navigational, building and land use standards under the Town of Long Island Code of Ordinances and under state and federal law;

B. For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Long Island it must be serviced by a permitted and permanent float, dock or slip from which the floating business or houseboat may be directly boarded from land;

C. The floating business or houseboat must have a minimum of 875 square feet of floor space of habitable area;

D. For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Long Island the floating business or houseboat must be serviced by permanent, year round and all-weather electric service that is in compliance with state and local electrical codes; and

E. For all times that a floating business or house boat is anchored or moored within the waters under the jurisdiction and control of the Town of Long Island the floating business or houseboat must have legal rights to, and at all times must maintain, parking sufficient to satisfy the standards and requirements of the Town of Long Island Code of Ordinances.

9.3 Exception. The requirements set forth in Section 9.2 do not apply to floating pleasure vessels that might otherwise be defined as a houseboat hereunder if the vessel occupies the waters within the jurisdiction of the Town of Long Island only temporarily and for three or fewer consecutive days.

Sec. 13.4-10.1 Aquaculture (Adopted May 14, 2005)

All aquaculture ventures (mussel rafts, oyster farming, salmon pens, etc.) must be brought before the Town Selectmen, and the Harbormaster, who shall hold a public hearing on the proposed venture. All aquacultural ventures within the tidal waters of the Town of Long Island require prior approval from the Harbormaster subject to location, navigational safety, area and compatibility and to alleviate any problems regarding commercial or recreational fishing and/or navigation. No aquaculture venture involving rafts, pens or other structures within the legal boundaries of Long Island, Maine may proceed without the approval of the Harbormaster. The Harbormaster may require that the person or organization proposing the aquaculture venture to have all applicable local, State and Federal permits before granting his/her approval.

All structures associated with the approved aquacultural activities shall be maintained in good and serviceable condition.