

## Chapter 153

### PORT AND HARBOR

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**[HISTORY: Adopted by the Town Council of the Town of Bar Harbor 10-2-1990 as §§ 10.01 and 10.02 of the 1990 Code; amended in its entirety 7-17-2012 by Ord. No. 2012-04. Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

Beaches — See Ch. 25.

Public places — See Ch. 147.

Harbor Committee — See Ch. 31, Art. IV.

Shellfish conservation — See Ch. 170.

Parks — See Ch. 144.

## ARTICLE I

**Channel Boundaries and Anchorage Areas; Definitions****§ 153-1. Authority; establishment of boundaries.**

- A. Pursuant to the authority granted by 38 M.R.S.A § 2, 1964, as amended, the Town Council of the Town of Bar Harbor hereby establishes the following boundaries wherein these regulations shall apply to activities occurring within or directly affecting the area to the fullest extent permitted by law:

Beginning at the northwestern point of Bar Island and running along the low water mark of Bar Island southeasterly and easterly to the southeasterly point of Bar Island; thence from the southeasterly point of Bar Island easterly to the southern tip of Sheep Porcupine Island; thence from the southern tip of Sheep Porcupine Island southeasterly to the western tip of Bald Porcupine Island; thence running along the low water mark of Bald Porcupine Island; thence southeasterly to the high water line at Dorr Point on Mount Desert Island; thence westerly and northerly to Israel Point in Mount Desert Narrows; thence following the high water line on Mount Desert Island from Old House Cove southerly and westerly to Crystal Cove in Western Bay on Mount Desert Island; thence northwesterly seaward to the Bar Harbor Town lines or 2,000 yards, whichever is lesser; thence easterly and southerly to the point of beginning. The area includes Compass Cove, Cromwell Harbor, Bar Harbor, Canoe Point, Hulls Cove, Lookout Point, Sand Point, Salisbury Cove, Emery Cove, Leland Point, Hadley Point, Thomas Island, Clark Cove, Northeast Cove, Indian Point, Long Cove, Green Island, Black Island, Crystal Cove, and all the waters within these boundaries.

- B. All that part of the waters of the Town of Bar Harbor encompassed by the above-described boundary lines is hereby assigned for anchorage except designated channels.

**§ 153-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**INNER HARBOR** — Includes all waters eastward of the bar to a line running northerly from Balance Rock to the harbor channel entrance buoy, thence northerly to the easternmost point of Bar Island, bounded on the north by Bar Island and bounded on the south by the shoreline of Mount Desert Island.

**WATERCRAFT** — Any type of vessel, boat or craft used or capable of being used as a means of transportation on water.

ARTICLE II  
**Harbor Rules and Regulations**

**§ 153-3. Statutory authority.**

The rules and regulations established by the Bar Harbor Town Council in this chapter are enacted pursuant to 38 M.R.S.A. § 2, as amended.

**§ 153-4. Harbor Master.**

The Harbor Master may appoint deputies who, under his/her direction, shall be authorized to enforce and carry out the rules and regulations of this chapter.

- A. Compensation. The compensation to be paid to the Harbor Master and deputies shall be determined by the Town Council and the compensation of deputies set as provided by the personnel rules.
- B. Duties. It shall be the duty of the Harbor Master to:
  - (1) Enforce the provisions of all rules, regulations, ordinances and other laws which are lawfully promulgated and which are within his/her jurisdiction pursuant to law.
  - (2) Provide copies of all rules, regulations, ordinances and other laws which pertain to the harbor, waterfront and watercraft within the Town of Bar Harbor and to make said copies available to those persons using said harbor.
  - (3) Promote order in the harbor and ensure safety and use of the harbor for the general public.
- C. The Harbor Master is hereby authorized and it shall be his/her duty to remove or cause to be removed any watercraft from any wharf or dock in Bar Harbor when so requested by the owner of said wharf or dock. Whenever he/she shall deem it necessary, he/she shall remove or cause to be removed any watercraft lying in tier or rafted from any dock, wharf or mooring within his/her jurisdiction. If any vessel, boat, or raft or any watercraft shall anchor or lie contrary to any ordinance, rule or regulation of the Town of Bar Harbor, said Harbor Master shall forthwith serve notice to the owner or master or the person in care of said watercraft to remove the same and, if the person given a notice does not comply with said notice of the Harbor Master without delay, the Harbor Master shall cause the removal of said watercraft at the expense of said owner, and the Harbor Master may recover the cost of any such removal from the watercraft owner upon complaint filed in the Maine District Court.

**§ 153-5. Condition of docks, piers and wharfs.**

- A. Any dock, pier, wharf or other such structure which is within the harbor of the Town of Bar Harbor and which has fallen into a state of disrepair or which remains in a dangerous condition so as to interfere with the keeping open of convenient channels for the passage of vessels in said harbor and/or suitable portions of said harbor for anchorage shall be deemed a nuisance. The Harbor Master shall give the owner of said dock, pier, wharf or other such structure written notice of said condition. Said notice shall also order said owner to abate said nuisance within a reasonable period of time which shall also be specified in the notice. In the event that the Harbor Master cannot give notice to said owner for any reason whatever, he/she shall give said notice to the occupant of said pier, dock, wharf or other such structure.
- B. If said owner or occupant refuses to comply with the terms of said order, he/she shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$20 nor

more than \$200 or by imprisonment for not less than 10 days nor more than 60 days, or by both, and in addition thereto or in lieu of said punishment or any part thereof, the court may order the nuisance abated or removed at the expense of said owner or occupant.

**§ 153-6. Use of watercraft as residences.**

No person shall moor or permit to be moored any watercraft owned or occupied by him/her and which is being used primarily for residence purposes within the harbor boundaries without the permission of the Harbor Master and the owner of the shore rights in front of which said watercraft is moored.

**§ 153-7. Unlawful use or destruction of channel markers.**

No person shall moor any watercraft to any buoy, beacon or other marker placed by the Town of Bar Harbor to define the harbor channels or in any manner make said watercraft fast thereto or willfully destroy or injure any such beacon, buoy or other marker.

**§ 153-8. Interference with passage of vessels.**

No person shall use any watercraft or any other device or structure within the harbor of the Town of Bar Harbor so as to interfere with or impede in any manner the keeping open of convenient channels for the passage of vessels in said harbor. This includes excessive and unnecessary prop wash from vessels alongside floats within the inner harbor except under weather conditions where such vessels properly made fast are unable to remain safely alongside while loading passengers or gear.

**§ 153-9. Compliance with Harbor Master's order required.**

No person shall refuse to obey any lawful order of the Harbor Master with reference to the operation, navigation or disposal of any watercraft owned or occupied by said person within the harbor channels.

**§ 153-10. Interference with Harbor Master.**

No person shall assault, intimidate or in any manner willfully obstruct, intimidate or hinder the Harbor Master while said Harbor Master is in the lawful performance of his/her duties.

**§ 153-11. Authority of Harbor Master.**

The Harbor Master shall have the authority and power to enforce the provisions of these rules and regulations and all other laws and ordinances which are applicable to the harbor, waterfront and watercraft, including the authority and power to make arrests pursuant to law.

**§ 153-12. Moorings within harbor channels.**

No person shall place, anchor or moor any watercraft within the harbor channels or within any part of the harbor without the permission of the Harbor Master.

**§ 153-13. Fisherman's Float.**

The Harbor Master shall designate, with suitable signs or markers, that float adjacent to the Municipal Pier which is to be used for the loading and unloading of fish, supplies and such other related uses as may be permitted by the Harbor Master and which is to be designated as the "Fisherman's Float."

A. Time limitations. No person shall tie up or permit to be tied up to the northern end of this float any

watercraft for a period longer than 15 minutes. No person shall tie up or permit to be tied up to any other part of this float any watercraft in such a manner as to permit any part of said watercraft to extend beyond the ends of the northern side of this float. No person shall tie up or permit to be tied up to any other part of this float any watercraft for a period longer than one hour without the permission of the Harbor Master.

- B. Property. No person shall leave any property on or attached to this float for any period of time except during the actual period of loading or unloading of fish and fishing supplies or during the period of such other related use as may be permitted by the Harbor Master. If any person refuses or neglects to remove his/her property as directed by the Harbor Master, or if the property owner cannot be located or identified, the Harbor Master shall remove or have the property removed at the owner's risk and collect from the master or owner of that vessel \$100 for this service plus the necessary expense.
- C. Fishing and swimming. No persons shall engage in swimming from this float or from any watercraft moored in any manner to this float. Fishing, with hand line only, may be permitted with the permission of the Harbor Master.
- D. Other activities. No person shall use or permit this float to be used for any purpose or activity other than that which is permitted by this section.
- E. Violation. Any person violating any provision of this section shall first receive a warning, written or verbal, which may be followed with a summons for subsequent violations of the same provision.

#### **§ 153-14. Public floats.**

The Harbor Master shall designate, with suitable signs or markers, the floats on the eastern side of the Municipal Pier which are to be used for the loading and unloading of passengers and supplies from visiting ships (watercraft), vessel dockage and other activities authorized by the Harbor Master and which are to be designated as the "public floats."

- A. Fishing and swimming. No persons shall engage in swimming from these floats or from any watercraft moored in any manner to these floats. No person shall engage in fishing from the public floats whenever any watercraft is docked, in any manner, at the public floats.
- B. Time limitations. No person shall tie up or permit to be tied up to the eastern end of these floats any watercraft for a period longer than 15 minutes. No person shall tie up or permit to be tied up to any other part of these floats any watercraft without the permission of the Harbor Master.
- C. Other activities. No person shall use or permit these floats to be used for any purpose or activity other than that which is permitted by this section, except the Harbor Master may give permission to any person to use these floats to moor fishing or lobster boats.
- D. Violation. Any person violating any provision of this section shall first receive a written or verbal warning which may be followed with a summons for subsequent violations of the same provision.

#### **§ 153-15. Finger floats.**

The Harbor Master shall designate, with suitable signs or markers, those floats adjacent to the Municipal Pier which are to be designated as "finger floats."

- A. Time limitation. No person shall tie up or permit to be tied up any watercraft on the western side of these floats for a period longer than one hour except with the permission of the Harbor Master.

- B. Watercraft size limitation. No persons shall tie up or permit to be tied up any watercraft on the eastern side of these floats, except watercraft which are of the tender type and are less than 14 feet in length and which are not propelled by machinery of 15 or more horsepower.

**§ 153-16. Unsafe watercraft.**

No person shall tie up or permit to be tied up to the fisherman's float, public floats, finger floats or to any part of the Municipal Pier any watercraft which is not in a safe condition or which is in a state of disrepair.

**§ 153-17. Moorings.**

No person shall moor or permit to be moored any watercraft to any mooring placed within the harbor by the Town of Bar Harbor without the permission of the Harbor Master, who shall designate which mooring is to be used and the conditions of such use, and no person having permission of the Harbor Master shall use said moorings in any manner which is inconsistent with the conditions prescribed by the Harbor Master.

- A. No person shall place a mooring within the harbor without first making application to the Harbor Master, who shall designate the location in which said mooring shall be placed with terms and conditions that ensure the safety of said mooring and the best use of available space within the harbor.
- B. The mooring shall be registered annually with the Harbor Master and provide the following information:
- (1) Name of owner, vessel, name/number/length, and intended use.
  - (2) Location of mooring (charted position).
  - (3) Size and type of the mooring stone and chain.
  - (4) Last inspection and condition found.
- C. All moorings shall be registered annually prior to May 1, and the approximate location of the mooring shall be noted on a harbor chart provided to the owner. An annual registration fee for each mooring shall be determined by the Town Council and paid by the owner to the Town of Bar Harbor.
- D. All moorings not registered by June 1 each year shall be removed by the owner, and the mooring privilege shall be revoked. When the owner of an unregistered or unsafe mooring cannot be located or identified or refuses to remove his/her mooring or replace it with one of different character, when so directed by the Harbor Master, the Harbor Master shall cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom, or shall make such change in the character of the mooring as required, and collect from the master or owner of that vessel the sum of \$100 for either of these services rendered plus the necessary expense.
- E. Before removing a mooring or a buoy, the Harbor Master shall notify the master or owner, if the owner can be determined, by mail at his/her last known address of the action desired of him/her, the fact that the mooring will be removed and the fine to be assessed. If the matter is not settled to the Harbor Master's satisfaction within two weeks, the Harbor Master may take the action provided for in this section.
- F. All moorings shall be assigned a number within a series that indicates the maximum size vessel that may use the mooring. The number shall be prominently displayed on the mooring in contrasting shade, at one inch minimum height. The Harbor Master shall assign the number and it shall be the owner's responsibility to apply and maintain the number.

## G. Specifications.

- (1) All moorings shall meet the minimum specifications shown in Table 1.

**Table 1**  
**Mooring Specifications**

Series	Boat Length (feet)	Stone Weight (pounds)*	Chain Size (inches)	
			Low	High
100	To 20	500	3/8	1/2
200	20 to 30	1,000	1/2	1/2
300	30 to 40	1,500	1/2	1 5/8
400	40 to 60	2,000	1/2	1 3/4
500	Over 60	**	**	**

**NOTES:**

\*Only granite or concrete stones with minimum one-inch staples are permitted, except that the Harbor Master may permit different specifications for moorings that are established only during the summer season. Seasonal mooring numbers shall be preceded by the letter "S."

\*\*As approved by the Harbor Master.

- (2) The Harbor Master may require different specifications exceeding those listed if the vessel is of large tonnage or unusual configuration.
- (3) The minimum scope of chain shall be 1 1/2 times the depth at mean high water, and the maximum shall not exceed twice the depth at mean high water within the high density portion of the harbor as determined by the Harbor Master.
- (4) Mooring poles shall float a minimum of two feet above the water surface. Mooring buoys shall be a minimum of 12 inches in diameter; 1/3 shall float above the surface of the water.

**§ 153-18. Municipal Pier.**

- A. Tie up time limit. No person shall tie up or permit to be tied up at the Municipal Pier any watercraft for a period longer than one hour without the permission of the Harbor Master. No person shall tie up or permit to be tied up to the Municipal Pier any watercraft for any commercial purpose except with the permission of the Town Council and the Harbor Master.
- B. Swimming or diving. No person shall engage in swimming and/or diving from the Municipal Pier or from any watercraft moored in any manner from said pier except for the purposes of maintaining and/or repairing watercraft, and said diving shall be conducted with the proper safety signals and flags.
- C. Loading and unloading. Loading and unloading of vessels shall be permitted only during the hours

from 4:00 a.m. to 11:00 a.m. except in the marked loading zone. The designated zones shall be used during actual loading and unloading of vessels. The time limit for loading and unloading shall be 30 minutes.

- D. Repairs. No repairs to machinery, nets or gear shall be permitted on the pier or floats, except the Harbor Master may authorize emergency work between the hours of 4:00 a.m. and 11:00 a.m. Any work authorized shall be totally done and kept within a space of six feet from the end of the pier, floats, parking spaces or any other obstructions. Occupational Safety and Health Administration (OSHA) approved safety lines, barriers or nets shall be placed around such work or loading area when work or loading is in progress to provide for public safety. The Harbor Master may require the removal of any machinery, gear or nets without delay when, in his/her opinion, it is necessary for the public safety.
- E. Fishing prohibited. No person shall engage in fishing from the east side of the Municipal Pier whenever any watercraft is docked, in any manner, at the public floats without the permission of the Harbor Master.

#### **§ 153-19. Use of Municipal Pier to solicit business.**

No person shall use, or permit to be used in any manner, the Municipal Pier or any part thereof or any float attached or adjacent thereto or any part thereof for the purpose of conducting business or soliciting potential customers, nor shall any person use or permit to be used any watercraft moored to said pier or floats for the purpose of displaying any signs which solicit business or potential customers. The term "watercraft" as used in this section means any type of vessel, boat or craft used or capable of being used as a means of transportation on water.

#### **§ 153-20. Gear to be inboard.**

No watercraft shall be permitted to tie to the Municipal Pier or any float unless all nonfixed and retractable gear is inboard of the railings.

#### **§ 153-21. Launching ramp.**

The Harbor Master shall designate, with suitable signs or markers, that part of the Municipal Pier which is to be used for the launching of watercraft and which is to be designated as the "launching ramp."

- A. Time limitation. No person shall use the launching ramp for a period of time in excess of 1/2 hour without the permission of the Harbor Master.
- B. Other uses prohibited. No person shall ground out, tie up or moor or permit to be ground out, tied up or moored any watercraft on the launching ramp.
- C. Fishing prohibited. No person shall engage in fishing from the launching ramp whenever any watercraft is docked, in any manner, at the public floats.

#### **§ 153-22. Fees.**

- A. No person shall tie up any watercraft to any municipal float, mooring or pier or utilize the boat launching ramp without registering with the Harbor Master and paying such fee as may be required in accordance with such schedule as may be in effect at that time, said schedule of fees to be fixed by the Town Council from time to time.



- B. Port fees. No person shall berth or anchor any cruise ship within the boundaries established by § 153-1 of this chapter or anchor any cruise ship outside such boundaries and transport its passengers by watercraft for disembarkation in the Town of Bar Harbor without registering with the Harbor Master and paying such fee as may be required in accordance with such schedule as may be in effect at that time said schedule of fees to be fixed by the Town Council from time to time by order. For the purposes of this subsection, "cruise ship" means a watercraft carrying passengers for hire which is capable of providing overnight accommodations for 49 or more passengers.

**§ 153-23. Watercraft carrying passengers for hire.**

Passenger for hire operations not fitting the description of "cruise ship" as defined in § 153-22 are prohibited from operating from the Municipal Pier or any float attached thereto. This includes excursion vessels, sightseeing vessels, ferries and any other vessels carrying passengers for hire on a continual basis regardless of where the voyage originates. The owner and/or operator of any watercraft operating within any waters of the Town of Bar Harbor and carrying passengers for hire must file with the Harbor Master the following documents before commencing such operations:

- A. The current certificate of inspection issued by the United States Coast Guard for watercraft carrying more than six passengers for hire.
- B. A current operator's license issued by the United States Coast Guard for each operator of said watercraft.
- C. Proof of an agreement with the owner/operator of the intended Bar Harbor base of operation where the passenger for hire operation will normally originate and/or terminate voyages.

**§ 153-24. Operating under sail.**

No person shall operate any watercraft under sail, which watercraft is equipped with an auxiliary engine in operable condition, within the inner harbor of the Town of Bar Harbor.

**§ 153-25. Speed limit.**

Watercraft shall be operated at such rate of speed and in such manner as not to endanger other craft or persons. In special anchorage areas, narrow channels, and congested mooring areas the speed of all vessels shall be reduced to headway speed. For the purpose of these rules, "headway" is the slowest speed that a power boat may be operated to maintain steerage way.

**§ 153-26. Cleaning of marine life.**

No persons shall clean or dispose of any fish, lobsters, scallops, shrimp, clams, bait, other marine life, or parts thereof at any float, pier, mooring or anchorage within the inner harbor.

**§ 153-27. Dragging.**

No person shall operate any watercraft when towing a drag or trawl within 300 feet of any dock, pier or wharf, or within 100 feet of any mooring within the Town of Bar Harbor, or within the area described in § 153-1 of this chapter.

**§ 153-28. Revocation of mooring and berthing privileges.**

- A. In addition to the penalties provided for elsewhere in this chapter, the Harbor Master may revoke the

privilege of the master and/or owner of any vessel to moor or berth at the Municipal Pier, floats and launch ramps for any of the following reasons:

- (1) Failure to comply with the instructions of the Harbor Master without delay in the movement of a vessel or gear from public facilities.
  - (2) Actions that demonstrate a disregard for the public safety.
  - (3) Repeated conduct by crew or guests that creates a public nuisance.
  - (4) Failure to pay any mooring fees within 30 days of receipt.
  - (5) Failure of the owner of any vessel to pay any and all taxes or liens due.
  - (6) Actions that violate any federal, state or local laws, ordinances or lawful regulations.
- B. A vessel denied privileges by the Harbor Master under this section may be reinstated by demonstrating to the satisfaction of the Town Council, or a representative authorized by it, that further infraction of this section will not occur.

#### **§ 153-29. Appeals.**

Any person adversely affected by a decision of the Harbor Master may appeal the decision to the Harbor Committee. Persons filing appeals must make written application to the Town Clerk within 30 days of a written decision of the Harbor Master and pay such fee as determined and set by the Town Council from time to time.