

Town of Lubec
Incorporated 1811

LUBEC

HARBOR

ORDINANCE

Amended: Special Town Meeting April 28, 2016

Amended: Annual Town Meeting August 4, 2015

Amended: Annual Town Meeting August 6, 2013

Amended: Annual Town Meeting August 5, 2008

Enacted by the Town of Lubec December 13, 1999

Attested:  , Town Clerk 4/28/16

TOWN OF LUBEC**HARBOR MANAGEMENT ORDINANCE****Article 1- Preamble****1.0 General****1.1 Authority**

This ordinance is adopted under the authority granted in Titles 12, 17, 30-A and 38 MRSA, as amended.

1.2 Short Title

This ordinance shall be known as the Lubec Harbor Ordinance and may be cited as such.

1.3 Purpose

The purpose of this ordinance is to provide for the just and orderly operation and regulation of marine activities on and within the harbors, shores, waterways and tidal water of the Town of Lubec, Maine, in order to ensure safety to persons and property, to promote availability and use of a valuable public resource. As a part of the framework the Harbor Board operates the Commercial Pier as an enterprise on behalf of the people of Lubec; deriving operating funds from the fees collected, and taxation.

1.4 Jurisdiction

The provisions of this ordinance shall govern marine activities in the rivers, great ponds, harbors, shores, waterways, and tidal waters of the Town of Lubec.

1.5 Rules of Construction

Captions and heading within this ordinance are an integral part of the ordinance and are intended to be utilized in determining the meaning and applicability of the sections they identify.

Article 2 – Harbor, Waterways, Channel and Coastline Limits**2.0 Purpose**

The purpose of this article is to define the limits and boundaries of the harbors, channels, waterways and shorelines of the Town of Lubec.

2.1 Lubec Channel, Lubec Narrows, and Lubec Coastal Waters (hereinafter Lubec Waters)

The Lubec Channel and the Lubec Narrows run between Quoddy Roads on the south and

Friar Roads to the north. The southwesterly entrance is past the West Quoddy Head Light through Quoddy Roads, the Middle Grounds to the Lubec Channel and the Lubec Narrows. A Fairway bell buoy marks the entrance to Quoddy Roads, and the approach to the Lubec Channel. The channel is marked with four red, numbered buoys (#2, #4, #6 and #6A), three numbered green can buoys (#1, #3, and #5) and the Lubec Channel Light, which also has an audible fog horn. The land side waters to the west of a line centered on the channel buoys are considered within Lubec waters.

The Lubec Harbor is defined as all waters adjacent to and included in Johnson's Bay, which extends from the Lubec Narrows west and northwest to Rodger's Island, to include adjacent inlets and coves.

The coastal waters and shorelines run from Bailey's Mistake, traveling north and west, until the southernmost point on Straight Bay is reached; these are considered Lubec waters. All coves and islands that attend the coast, Dudley Island, and Pope's Folly Island are included in Lubec waters.

Article 3 – Lubec Harbor Board of Trustees and Harbormaster

3.1 Lubec Harbor Board of Trustees

3.1.1 Appointment

The Lubec Harbor Board of Trustees (hereinafter "Trustees") shall be appointed by the Board of Selectmen and shall consist of five voting members. Four members shall be appointed and one seat will be filled by a current selectman. Trustees shall provide reports to the Town on an annual basis and shall provide information regarding the operation of the harbor to the Board of Selectmen as necessary. Members shall be appointed for staggered terms and shall be citizens of the Town of Lubec. The initial terms shall be for three year, two year and one year and begin in 2014

3.1.2 Duties and Responsibilities

The trustees work directly for the people of Lubec under the Board of Selectmen. As such they are directly responsible to the town for the following:

- a. To review the qualifications of persons seeking employment as harbormaster and to make recommendations to the Board of Selectmen as to filling said position.
- b. To propose and supervise fees and schedules.
- c. To monitor harbor activity, harbor related contracts, recommend obligation and expenditure of funds related to harbor issues, and conduct such other business as is necessary to discharge their oversight of the harbor.
- d. They are:
 1. To oversee care and management of the harbors and their facilities.

2. To establish policy for municipal harbor facilities.
3. To create and implement rules and regulations for use of the harbors.
4. To make recommendations on the construction of piers, wharves, breakwaters and moorings, within the harbor waters to the Board of Selectmen.
5. To develop short and long range harbor plans.

3.1.3 Meetings

Shall be monthly set at a date and time agreeable to the trustees.

The Harbor Chairman may call for a special meeting of the Trustees.

3.1.4 Forfeiture of Office

A trustee shall immediately forfeit his office if he fails to attend three consecutive regular meetings without a valid reason agreeable to a majority of the Board.

3.1.5 Quorum

A simple majority of the members of the Trustees shall constitute a quorum.

3.1.6 Vote

The Trustees decisions will be made by vote of a majority of the members present and voting.

3.1.7 Chairman and Officers

A Chairman, vice Chairman, and secretary shall be elected by its members. The secretary shall keep a record of all proceedings.

3.1.8 Reports

The Trustees shall make the following reports:

- A. The Trustees shall make an operational report to the Town at the close of each fiscal year for inclusion in the annual Town report.
- B. The Secretary shall provide the Board of Selectmen a courtesy copy of the minutes of the meetings.

3.2 Harbormaster

3.2.1 Appointment

The Harbormaster shall be selected and nominated by the Lubec Harbor Board of Trustees and officially appointed by the Board of Selectmen. Upon appointment, the Harbormaster shall complete state certified training within 6 months of appointment or at the earliest time training is available thereafter.

3.2.2 Duties and Responsibilities

Certain duties and responsibilities of this office are prescribed by Titles 12, 17, and 38 MRSA and by the Town of Lubec's Personnel Policy. The Harbormaster shall administer and enforce the provisions of this ordinance within the limits granted by the provisions of all rules, regulations, ordinances and other laws, which are lawfully promulgated that are within his responsibility.

The Harbormaster shall be overseer of the Town's waterfront facilities to include but not limited to; moorings, floats, docks, ramps, channels, breakwaters, and adjacent municipal property, excluding parking lots.

The Harbormaster shall have the power to issue summonses, however shall not have the authority to make arrests or carry firearms.

The duties of the Harbormaster shall include:

- a. Promote safe and orderly use of all waters in Lubec.
- b. Regulate placement of moorings according to the approved mooring plan.
- c. Provide copies of all rules, regulations, ordinances and other laws which pertain to the harbors, their use and to vessels within the Town of Lubec and to make copies available to those persons using its harbors as needed
- d. Oversee moorings, docks, floats, piers, and wharves, from time to time as his judgment may dictate, in the geographic areas covered by this ordinance and give notice to the owner of such structures which have fallen into a state of disrepair or which may create a dangerous condition or may interfere with safe passage.

3.3 Deputy Harbormaster

The Deputy Harbormaster shall be appointed by the Board of Selectmen pursuant to the recommendation of the Harbor Board. A Deputy Harbormaster, who works under the Harbormaster, shall have the same powers, authority, duties and immunities of the Harbormaster to enforce all harbor regulations. The Deputy Harbormaster shall be encouraged to obtain the same qualifications as the Harbormaster.

Article 4 – General Provisions

4.1 Purpose

The purpose of this article is to set forth provisions for the safe and orderly operation of the harbors, to ensure safety to persons and property, and to minimize conflicts between the various harbor users.

4.2 Boat Owner or Operator

Any person using moorings, piers, slips, boat launches, walkways, hoists or other public facilities within the geographic limits covered by this ordinance shall assume all risks of damage or loss to his property.

4.3 Operations of Vessels

4.3.1 Speed of vessels

It shall be unlawful for any person to operate any boat or vessel in the harbors of the Town of Lubec in such a manner as to cause a wash, or a wake of waves that disturb or damage any wharf, float, anchored or moored boat, or a speed that endangers any person or property or is contrary to the provisions of Title 38, MRSA, as amended.

4.3.2 Inspected Vessels

Whenever a vessel arrives in the Town of Lubec Harbors having on board any person afflicted with a contagious disease and of suspected of being afflicted with such disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Lubec shall comply with the provisions of Title 38, Section 283, MRSA as amended.

4.3.3 Abandonment

No person shall abandon any boat vessel, hulk, cradle, raft or any other possible obstruction within the geographic limits covered by this ordinance. Any property, as herein above described, which shall have been left unattended for a period of thirty (30) days, shall be deemed to have been abandoned. The Harbormaster will post notice when possible, on the vessel directing the owner to contact the Harbormaster. Said notice will also order the owner to remove the vessel within fifteen (15) days. If the owner fails to contact the Harbormaster, or remove the vessel within the aforementioned fifteen (15) days, he will be considered in violation of this ordinance.

4.3.4 Sunk or Swamped Vessels

No vessel, boat, hulks or other watercraft swamped, sunk or in danger of being sunk shall be left unattended in Lubec waters for more than 48 hours. Any such vessel that represents an immediate danger to docks, slips mooring or other vessels, or represents a possible hazard to navigation shall be deemed abandoned. If possible, the Harbormaster will post notice on the vessel directing the owner to immediately contact the Harbormaster. Said notice will also order the owner to remove the vessel within twenty four (24) hours. If the owner fails to contact the Harbormaster, or remove the vessel within the aforementioned twenty four (24) hours, he will be considered in violation of this ordinance. If the Harbormaster is unable to post notice on the vessel or determine the owner, or has not been contacted within the aforementioned twenty four (24) hours, the Harbormaster shall immediately undertake removal or destruction of the offending vessel at the cost of the owner.

4.3.5 Commercial Fishing

No person shall drag, trawl or otherwise cause to be towed any submerged apparatus within 100 yards of the Lubec commercial pier, and shall maintain adequate distance from all moorings in order to prevent accidental damage to moorings, boats and piers.

4.4 Obstruction of Channels, Launch Ramps, Berthing spaces and Removal of Vessels

It shall be unlawful to tie up or anchor a vessel in such a manner as to obstruct or prevent access to mooring areas, launch ramps or channels, public wharves or carelessly sink or allow to be sunk any vessel in any channel, mooring area, public wharves which shall impede navigation or cause damage to vessels therein or prevent the use thereof. If the Harbormaster receives a complaint from an owner, master or operator of any vessel that another vessel is obstructing free movement or safe anchorage, he shall investigate the situation and order such offending vessel to move to an appropriate location.

If the Harbormaster should observe a condition in which one vessel is obstructing the free movement or safe anchorage of any other vessel he may order the offending vessel to move to a designated location should space be available. If space is not available, the Harbormaster may at his discretion, order the vessel out of Lubec controlled waters.

Whoever neglects or refuses to obey the order of the Harbormaster will be considered in violation of this ordinance.

If the offending vessel has no crew on board or the master or person in charge neglects or refuses to move such vessel as directed by the Harbormaster, the Harbormaster may take steps to remove the offending vessel, in accordance with the provisions of Title 38, MRSA Section 5. Vessels so taken into custody shall be released to the owner by the Town Administrator only after satisfactory proof of ownership has been presented and all fines and expenses have been paid.

4.5 Correct an Unsafe Berthing

If any vessel shall be found in the judgment of the Harbormaster to be anchored or moored in an unsafe or dangerous manner, or in such a manner as to create a hazard to other vessels, persons, property, or facilities, the Harbormaster may order and direct necessary measures to eliminate unsafe or potentially dangerous conditions. Primary responsibility for compliance with such orders and direction shall rest with the owner of the offending vessel or his authorized agent. In an emergency situation and in the absence of the owner or other responsible individual, the Harbormaster may board said vessel and cause the improper situation to be corrected. The owner of the offending vessel shall be held responsible and liable for any costs incurred by the Town of Lubec in effecting such correction.

4.6 Non Seaworthy Vessels

Except with the express written permission of the Harbormaster, no badly deteriorated or unseaworthy vessel, which is likely to sink or to cause damage to docks, slips, moorings, or other vessel, or to represent a hazard to navigation, shall be allowed to anchor, operate or moor in Lubec waters. Any vessel, boat, hulk or other watercraft either swamped, sunk or in danger of being sunk that is left unattended in Lubec waters for more than 48 hours shall be deemed abandoned and shall be dealt with as prescribed in 4.3.4 above.

4.7 Tampering With or boarding Vessels without Permission

Unless specifically provided for in this ordinance, it shall be a violation of this ordinance for any person to willfully board, break-in, enter, damage, move, or tamper with any vessel or part thereof, that is located within Lubec waters, unless authorized by the master, operator or owner of such vessel.

4.8 Noise

Between the hours of dark to dawn, it shall constitute a nuisance to operate motors and/or other appliances such as bilge pumps, television sets, stereos, radios or electric tools in an unreasonably loud manner so as to disturb neighboring vessels and/or their occupants. Repeated notification by the Harbormaster that a vessel or person is in violation of this ordinance will require the removal of the appliance or tool from the vessel. At the discretion of the Harbormaster, the removal of the offending vessel from Lubec waters may be required. Repeat offense will be considered in violation of this ordinance as subject to the penalties specified in Section 8

4.9 Shelling of Shellfish

Shelling of shellfish on Town owned moorings is prohibited.

4.10 Fishing

Hook and Line fishing from the commercial pier/wharf is allowed at the individual's own risk provided the pier is not being used by a commercial boat. Fishing in a reckless manner and the use of harpoons or spears from any boat, wharf, float or pier within Lubec waters is prohibited

4.11 Water-skiing or Personal Watercraft

Water-skiing shall not be permitted within 100 yards of the commercial pier. Personal watercraft when being operated in proximity of the commercial pier, mooring fields, and public boat ramps will adhere to a No Wake Zone standard of safe operation. Violation of these standards can result in action being taken by the Harbormaster.

Article 5 - Wharves, Docks, Piers, Floats and Ramps**5.1 Purpose**

The purpose of this article is to set forth provision for the safe and orderly operation of town owned wharves, docks, piers, and floats in order to ensure safety to persons and property and minimize conflicts between harbor users.

5.2 Removal of Debris and Oil

Persons shall not deposit or leave rubbish, trash or debris on any wharves, docks, piers, ramps and/or floats owned and operated by the Town of Lubec. Oil shall not be left on or around the Town Pier or associated facilities under any circumstances. If a boat captain uses the Town Pier to do maintenance on their craft, they are to remove any and all debris, rubbish, and oil at the time they do these repairs. Anyone in violation of this ordinance will be subject to severe fine, jail, and loss of Town pier privileges.

5.3 Snow Removal

Snow removal at the Commercial Pier will be performed by the Town of Lubec, Public Works Department. This will be performed as time becomes available to their crew after normal snow removal duties have been taken care of.

5.4 Vessel Safety and Condition

Water craft berthed at any Town owned pier or float shall be maintained in a safe, serviceable and presentable condition at all times.

5.5 Concessions and Permits

Concessions of all kinds, including water craft operated on a commercial basis, shall be allowed at Town owned wharves, docks, piers, or floats only with the express written approval of the Trustees and then only on the terms deemed to be in the best interest of the Town and the operation of the harbor.

Permits to operate a concession shall be issued on an annual basis and be renewable only at the discretion of the Trustees. Concessions failing to maintain good order and acceptable general appearance, and failing to conduct operations within the guidelines of generally accepted business practice shall be banned from all Lubec wharves, docks, piers, or floats.

5.6 Boat Cradles and Trailers

All boat cradles and trailers shall be removed from public harbor areas and parking lots when not in actual use. Boat trailers shall not be left or caused to be left on any Town owned ramp, wharf, dock, parking lot or pier or other Town facility without the permission of the Harbormaster. Trailer parking permits for designated areas will be issued by the Harbormaster.

5.7 Signs

Private signs are not permitted on any harbor owned facility without permission of the Board of Trustees.

5.8 Repair Work

Permission of the Harbormaster shall be required before long-term work begins for any repair work on vessels at any Town owned wharves, docks, piers, or floats. Normal maintenance and minor repairs are permitted without consent of the Harbormaster if the work can be completed within 24 hours.

5.9 Ramps and Landings

Grounding of boats on the landing is prohibited.

5.10 Blockage of Ramps and Parking Areas

No person shall place or cause to be placed any object, boat for repair, trailer or vehicle in such a way as to block free and safe access to the ramp, landing or parking area by others.

5.11 Condition of Privately Owned Facilities

Any wharves, docks, piers, floats or other structures which have fallen into a state of

disrepair and dangerous condition and which interfere with the keeping open of channels for the passage of vessels in said harbor or waters or suitable portions of said waters for anchorage shall be deemed a nuisance. The Harbormaster shall give the owner of said offending facility written notice of the offense; the notice shall also order the owner to abate the nuisance within a reasonable period of time, the termination of such time to be clearly stated in the notice. In the event the Harbormaster is unable to give notice to the owner it shall be given to the occupant.

If the said owner or occupant refuses or fails to comply with the terms of the notice, he will be considered in violation of this ordinance. Each day the offending condition continues shall be considered a new and separate violation of the ordinance and subject to civil action and fine.

5.12 Storage of Tackle and Equipment

Owners and operators of vessels berthed in Lubec waters shall not store in the open or leave unattended any dragging gear, machinery, vessel equipment or tools on any Town owned wharves, docks, piers, or floats. All equipment must have owner identification on it marked in a permanent manner. Unidentifiable equipment will be cause for removal by order of the Harbormaster. Any such equipment left unattended for more than 48 hours shall be deemed abandoned. If possible, the Harbormaster will post notice on the vessel directing the owner to immediately correct the condition. If the owner is unable to do so they must contact the Harbormaster within twenty four hours. If the owner fails to contact the Harbormaster, or remove the equipment within the aforementioned twenty four (24) hours, he will be considered in violation of this ordinance. If the Harbormaster is unable to post notice or determine the owner, or has not been contacted within the aforementioned twenty four (24) hours, the Harbormaster shall immediately undertake removal or destruction of the offending equipment at the cost of the owner.

Article 6 – Moorings

6.1 Purpose

The purpose of this article is to set forth the provisions for the safe and orderly placement, use, type, fees, and administration of all moorings and mooring spaces within Lubec waters to ensure safety to persons and property of harbor users.

6.2 Responsible Authority

The Harbormaster shall have authority over all moorings and mooring locations, whether privately owned or Town owned, in accordance with the provisions of this ordinance, the laws of the State of Maine and applicable federal regulations.

6.3 Placement of Moorings

No person shall place a mooring or mooring buoy in the waters designated in Article 2 except with the express permission and written approval of the Harbormaster and trustees. The Harbormaster shall specify the minimum size, type and scope of the mooring and the maximum size and type of boat moored thereon whether initial placement or relocation of the mooring. The Harbormaster shall approve or be otherwise satisfied that each

mooring is in safe condition prior to its placement in the harbor. Moorings shall conform to the approved mooring plan.

6.4 Designation of Mooring Spaces

The Harbormaster shall designate mooring spaces and shall maintain a mooring and traffic plan of the anchorage areas indicating location of moorings and size of boats. A copy of the Mooring Plan will be kept in the Town office. The Harbormaster shall assign the location for each mooring and ensure the mooring location is in accordance with the Mooring Plan as approved by the Trustees.

6.4.5 Description of Mooring Areas:

The Lubec mooring field shall consist of Johnson's Bay and Bailey's Mistake and accessible by the State of Maine Boat Ramp.

The outer limits of each mooring area is defined as:

The Town Mooring Area is defined as beginning at the boat ramp breakwater and extending north to Pope's Folly, then west to the southern edge of Roger's Island, following northwest along Roger's Island and continuing through the thoroughfare to the northwestern tip and continuing in a northwest direction until the nearest point of land in North Lubec. This includes the areas known as Globe Cove and the town boat ramp. Baily's Mistake mooring area is defined as from Jim's Head to the Trescott Line.

6.4.7 Waiting Lists

Waiting List shall conform to 7-A

§7-A. Waiting lists; nonresident moorings

1. Waiting lists. If a municipality receives more applications for mooring privileges on state-owned lands that are controlled by its rules or ordinances than there are mooring spaces, or facilities, the municipality shall assign spaces as they become available from a waiting list or lists according to its rules or ordinances, except as provided in this section. Waiting lists in effect at the time that this section becomes law may continue in effect, but persons shall be selected from those lists in accordance with the allocation provisions of this section. If at the time a person applies for a mooring there is no waiting list, this person may be assigned a mooring without regard to the allocation provisions of this section.

[1987, c. 655, §6 (NEW) .]

2. Allocations of Moorings: All new mooring applications for mooring space will follow a 10% rule for resident and non-resident applications. After 10 new resident moorings are installed 1 new non-resident mooring shall be added. This will apply to all applications not having a legally installed mooring according to the date this ordinance is adopted. All nonresident applicants will be added to a waiting list according to the time and date their paid applications are received. Their applications will be reviewed with the Harbormaster when their place on the list is selected. The burden of proof in determining residency and the principal use of a vessel shall be upon the applicant.

6.5 Mooring Registration and Permit

All moorings shall be registered with the Harbormaster. All registrations must be renewed annually. The year will run from July 1 to June 30. Failure to obtain or update a permit shall result in a notice to remove the mooring. Failure to remove a mooring within a time specified by the Harbormaster will result in the Harbormaster removing the mooring and the owner will bear all costs. All costs must be paid to the Town of Lubec prior to returning the mooring to the prior owner. No mooring shall be registered or reregistered without the proper Latitude and Longitude for its location. The safety of all moorings shall be the responsibility of the owner and it is recommended that they are inspected annually

If the owner of an unregistered or unsafe mooring cannot be located, identified or refuses to remove his mooring, or replace it with one of a different character, when so directed, the Harbormaster shall cause the entire mooring to be removed and shall collect from the owner any expense incurred.

Before removing a mooring or a buoy, the Harbormaster shall notify the master or owner, allowing two (2) weeks for a response. Notification, if owner can be determined, will be by registered mail at his last known address. Notification will include the fact that the mooring will be removed and a violation to be assessed. If no response is received, the Harbormaster may take the action provided for in this section.

All moorings shall be assigned a number. The number shall be prominently displayed on the mooring in contrasting color, with letters two (2) inches minimum height. The Harbormaster shall assign the number and it shall be the owner's responsibility to apply and maintain the number.

6.6 Registration Not Transferable

Moorings registrations are not transferable, except to the members of the owner's immediate family, immediate family meaning assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood or an assignee's spouse (38 M.R.S.A. § 3-A) and only if they are a commercial fisherman and the transferred mooring will be used in commercial fisheries.

6.7 Private Rental

The owner of any mooring, located in any area designated a Federal Project by the U.S. Army Corps of Engineers, shall not rent such mooring. A vessel owned by another, with the permission of the mooring owner, may be secured to the mooring provided no charge is made therefore and the approval of the Harbormaster is obtained.

Privately owned moorings not located in areas designated Federal Projects may be rented

6.8 Town Owned Rental Moorings

The Town may own, operate and maintain rental moorings. If the Town establishes a system of rental moorings, they will be operated in two classes. Class 1, consisting of at

least 80% of available Town owned rental moorings shall be classified as transient and shall not be occupied by the same boat for more than seven (7) successive nights unless the period is extended by the Harbormaster. Class 2, consisting of not more than 20% of the available Town owned rental moorings may be rented for an extended period of time.

6.9 Fees

6.9.1 Mooring Fees: The Board of Trustees with the recommendation of the Harbormaster shall review fee schedules annually and set applicable mooring fees.

Mooring application fees and mooring permit fees shall be set and published by the Select Board with advice of the Harbor Board annually.

Revenue generated from the collection of mooring fees and fines will go into an account designated for the operation and maintenance of town owned waterfront facilities.

Article 7 – Regulations

7.1 Purpose

Each of the areas, within the Lubec waters, is unique and requires individual treatment for its most efficient and satisfactory operation. Accordingly, within the intent and scope of this ordinance rules and regulations may be promulgated, as hereinafter set forth, by the Harbormaster in each of those areas upon approval by the Board of Trustees.

7.2 Procedures for Regulations

The Harbormaster in consultation with the Trustees shall promulgate rules and regulations governing the use of docks, piers, slips, floats, moorings and marine activity within the waters of Lubec. These shall be approved by the select board and where appropriate submitted at the annual Town meeting for voter approval.

7.3 Violations

Violations of the harbor regulations shall be considered a violation of this ordinance and carry such penalty as may be provided for therein.

7.4 Display of Regulations

Harbor rules and regulations shall be displayed in an appropriate location readily visible to the public.

Article 8 - Legal Status Provisions

8.1.1 Enforcement

It shall be the duty of the Harbormaster or his designees to enforce the provisions of this ordinance. If the Harbormaster or his designees shall find that any provisions of this ordinance, or any rule or regulation promulgated pursuant to its authority, is being violated, he shall notify the person responsible for such violation, either verbally or in writing, indicating the nature of the violation and ordering the necessary action to correct it. A copy of written notices shall be maintained as a permanent record.

8.1.2 Prosecution

Violations of this ordinance shall be punished and prosecuted pursuant to Title 30-A MRSA, Section 4452, as amended.

8.1.3 Penalties

Except as enumerated elsewhere in this ordinance or as stated by the Maine Revised Statutes, a violation of this ordinance shall be punishable as follows: Any person who shall violate any provision of this ordinance or failing to obey the Lubec Harbormaster shall be punished upon admission or conviction a fine of not less than one hundred dollars (100.00) and not more than five hundred dollars (\$ 500.00) with each day that such violation exists shall constitute a separate offence. All fines must be made payable to the Town of Lubec. Any expense incurred by the Town of Lubec to enforce this ordinance shall be recovered from the offender.

Any person found in violation of this ordinance can and may have their mooring privileges revoked by the Lubec Harbormaster Upon the order for mooring removal, the violator will have up to ten (10) days to abate any and all concerns or will be subject to having their mooring removed from the mooring area. The owner must satisfy all cost associated with the mooring removal in addition to abating all concerns prior to applying for a mooring permit. Once the mooring is removed the space becomes available for occupancy and the former owner will lose all rights to the space. Notice to abate will be served by a certified letter with the date received or attempt to deliver and refused beginning the ten (10) day abatement period.

8.2 Appeals

8.2.1 Harbor Board of Trustees

Any and all persons aggrieved directly or indirectly by a decision, order, rule, act, or the failure to act of the Harbormaster may appeal said decision, order, rule, act, or failure to act. Such appeal must be in writing directed to the Board of Trustees and filed within 10 days of said decision, order, rule, act, or failure to act. The appeal must state with specificity the decision, order, rule, or act and state the reasons for appeal. The Board of Trustees shall convene a meeting and reviews said appeal and thereafter render a decision. If the board agrees with the aggrieving party that the action taken was improper they are to take action that would correct said aggrieved parties situation.

8.2.2 Board of Appeals

An appeal from the decision of the Board of Trustees may be taken to the standing Town of Lubec board of appeals by the aggrieved party. That board upon hearing the appeal, may affirm, modify or set aside a decision depending on its understanding of facts as they apply to the intent and specific provisions of this ordinance.

8.3 Severability

Should any section or part of a section or any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be

unconstitutional or invalid.

8.4 Conflict with Other Laws

This ordinance is subordinate to all Federal or State statutes that deal with the same subjects. Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the provision imposing the greater restriction shall control.

8.5 Repeal of Prior Ordinances

All prior Lubec Harbor Ordinances are repealed.

8.6 Amendment

Any amendment to this ordinance shall be adopted by the legislative body after due hearings and consideration.

8.7 Effective Date

This ordinance shall become effective upon adoption by the legislative body and shall remain in effect until amended or repealed by the legislative body.

Article 9 - Definitions

9.1 Construction of Language

In the interpretation and enforcement of this ordinance all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this ordinance and any map, illustration of table, the text shall control.

9.2 Definitions

In this ordinance the following terms shall have the following meanings:

1. Anchorage - An area of the harbor set aside for permanent moorings or for the temporary anchoring of boats and vessels.
2. Auxiliary - A vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or by its motor, or both.
3. Berth - A place where a boat lies when at anchor or at a wharf.
4. Boat - A vessel for transport by water constructed to provide buoyancy by excluding water and shaped to give stability and permit propulsion.
5. Breakwater - A permanent solid structure or a floating system of wave attenuators or combinations thereof extends from the shoreline into the waters for the principal purposes of breaking and reducing the force of waves.

6. Bulkhead - A permanent solid structure or wall built along the shore to retain and protect the upland from wave action and sea erosion.
7. Channel - Areas of the harbor kept open for navigation or other purposes by rule or regulation of the Town of Lubec, the Department of the Army Corps of Engineers, or other regulatory or Legislative body.
8. Commercial Vessel - 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, push-boats, tugs and barges.
9. Dock - The slip or waterway extending between two piers, a projecting wharf or a cut into the land intended for the reception of vessels.
10. Float - A floating structure which is anchored, moored or secured at or near the shore, used for landing, transfer of passengers or goods, or other purposes.
11. Harbor - An area or areas as defined in Article 2.
12. Harbormaster- An official nominated by the Board of Trustees, appointed by the Selectmen and employed by the Town of Lubec to enforce the provisions of this ordinance and certain duties and responsibilities as prescribed by Title 38, MRSA.
13. Landing - A place for landing or discharging persons or things from a vessel.
14. Mooring -An appliance used by a vessel for anchoring purposes, providing a permanent, adequate means of securing a vessel to the bottom in an anchorage, and which cannot be carried aboard such vessel, when such vessel is underway, as regular equipment.
15. Pier - A platform type structure contiguous with the shoreline and built there from over the water, supported by wooden, concrete or stone piles and used for the berthing, loading and unloading of vessels.
16. Resident - Any person who registers his boat in the Town of Lubec is considered a resident for the purposes of this ordinance.
17. Seaworthy Vessel - A vessel in a fit state for travel or movement without extraordinary efforts or assistance provided to affect such travel or movement.
18. Stray Vessel - An abandoned vessel, a vessel the owner of which is unknown, or a vessel adrift without a competent person in command.

19. To Anchor - To secure a vessel to the bottom by dropping an anchor or anchors or other ground tackle.
20. Vessel - Vessel shall include boats of all sizes propelled by machinery , hand, or sail, scows, dredges, shellfish cars, and craft of any kind whose purpose is to float, and/or transport persons or goods on the water.
21. Wharf - A structure of timber, masonry, cement, earth or other material, built on the shore either parallel or perpendicular to the shoreline, so that vessels may tie to and discharge persons or goods.
22. Commercial Fisherman -An individual whose trade or occupation is fishing with intent to earn an income doing so.
23. Dinghy - A dinghy shall mean any powered or un-powered punt, skiff, tender or the like less than fourteen feet in length.