

Approved Annual Town Meeting
MAY 13 2014
WHARF and FACILITIES ORDINANCE
TOWN OF TREMONT

SEC: 101 Authority: This Ordinance is enacted in accordance with 30-A M.R.S. § 3001, as am.

SEC: 102 Purpose: After May 11, 1993, the following rules and regulations shall govern the operation, maintenance and use of the Town of Tremont Wharf and Facilities located in Bass Harbor. (See Section 102-A for Seal Cove)

- a. All commercial vessels and all vessels 14 feet or under docked, loading, unloading, engaged in repair or maintenance of the vessels or equipment as set forth in Paragraph c. of this Section shall pay an annual fee to the Town of Tremont based on the overall length of each vessel and whether it is a resident vessel as described below and in the definitions within this ordinance:
 1. Resident vessels up to 50 feet shall pay the amount of \$12.50 per foot. Resident vessels over 50 feet shall pay \$25.00 per foot. Or vessel may tie up at a daily rate of \$100.00 day without paying the per foot fee provided the daily fee is paid in accordance with Section 103. Minimum annual fee of \$200.00.
 2. Non-resident vessels shall pay an annual fee of double the amount charged for a comparable resident vessel. A minimum annual fee shall be charged to non-resident vessels, of double the resident vessel minimum annual fee.
- b. Students 18 years of age or younger engaged in commercial fishing in vessels of 20' or less shall pay a fee of \$25.00 for an annual wharf permit.
- c. No person, company or corporation shall engage in providing repair services, transportation, fuel, repair, equipment or maintenance of vessels or to equipment or facilities situated within the bounds of the Town of Tremont Wharf, unless each such person, company or corporation has on board a vessel or vehicle a valid permit issued

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under this Section for such use and is in a position to make such permit available upon request by a designated Tremont Town official.

The fee payable to the Town of Tremont shall be \$437.50 annually for each such permit or a day use permit may be utilized at the rate of \$100.00 per day as described in Section 103.

- d. Each commercial entity transporting marine products off the Wharf or Town property shall obtain a permit in accordance with Section 103 of this ordinance authorizing such transportation and shall pay a \$2,500.00 annual fee to the Town of Tremont. Any owner/operator of a fishing vessel with a valid Wharf Use Permit shall be relieved of the fee in this section if said owner/operator is transporting his product and his product only. There will be no combining of product between individual fishermen without the \$2,500.00 permit. There will be no \$100.00 daily fee. Any other commercial uses shall be permitted only by agreement with the Board of Selectmen.
- e. A fee of \$100.00 per year for permits, shall be paid to the Town of Tremont by resident owners or lessees of boats 14' in length or Under who do not have a wharf use permit, moored at designated floats on a space-available basis at float spaces specifically authorized for such moorings.
- f. A fee of \$200.00 per year for permits shall be paid to the Town of Tremont by non-resident owners or lessees of boats 14' in length or Under who do not have a wharf use permit, moored at designated floats on a space-available basis at float spaces specifically authorized for such moorings. (Except for the Seal Cove Facility see a.2.)
- g. The operator of a vessel in possession of a valid Wharf Use Permit may moor a tender or boat 14' in length or less at specifically designated floats on a space-available basis and park his vehicle in accordance with Section 102-i of this Ordinance).
- h. No commercial fuel services will be allowed on the Wharf.

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- i. Parking along Rice Road below the stop sign at the top of the hill will be by permit only or with the permission of the Harbor Master on Monday through Friday from 4:30 a.m. to 12 noon and there will be no parking of vehicles over 20 feet, trailers, and no overnight parking without the permission of the Harbor Master.
- j. The Town of Tremont Selectmen may enter into agreements or contracts with commercial entities regarding Wharf usage that are financially beneficial to the Town.

SEC. 102-A a.2. Seal Cove Ramp and Floats:

- a. All commercial vessels and all vessels 14 feet and under docked, loading, unloading, engaged in repair or maintenance of the vessels or equipment as set forth in Paragraph 102 C of this Ordinance shall pay an annual fee to the Town of Tremont based on whether or not it is a Resident Vessel as described below and the definitions and prescriptions within this ordinance:
- b. Resident vessels shall pay a fee of \$200.00 per commercial fishing vessel and its dinghy per year, and a fee of \$100.00 per dinghy per year for any dinghy not associated with a commercial vessel, for the use the Town Landing Facilities at Seal Cove.
- c. Non-resident vessels shall pay an annual fee of double the amount charged for a comparable resident vessel and dinghy. A minimum annual fee shall be charged to non-resident vessels, of double the resident vessel minimum annual fee for the use of the Town Landing Facilities at Seal Cove.
- d. The Town of Tremont Selectmen may enter into agreements or contracts with commercial entities regarding Seal Cove that are financially beneficial to the Town.
- e. The use of both the Seal Cove and Bass Harbor wharf facilities requires a separate permit for each.

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SEC. 103 Permits: Applications for Wharf Use Permits must be obtained from the Tremont Town Office. Following approval and payment of the prescribed fee, a key to the lock box for the hoist control will be issued and decals will be issued which must be affixed to the vessel or vehicle described in the application, and will be valid for 1 year from September 1, through August 31, On September 2 the keys to the lock box shall be updated and holders of unpaid wharf permits will no longer have access to the hoists. Vessels or vehicles not displaying a valid decal will not be permitted to use the Wharf unless they have paid the applicable daily fee of \$100.00 to be paid in advance at the Town Office.

Wharf Permits shall be capped at a ratio of 75% for Tremont resident permits to 25% non-resident permits. This shall be accomplished by not issuing new non-resident wharf permits until the ratio is obtained. (The cap rule will not affect current wharf permit holders who have maintained a continuous permit issued on or before May 14, 2013.) The Resident to Non-resident ratio calculation shall not include student, punt, or dinghy permits.

Suspension or Revocation of Permits and Appeals. All permits granted under the authority of this Ordinance shall be valid only for such period as specified and permits of unqualified duration of validity shall not be granted. A violation of the provisions of this Ordinance by any permittee shall be grounds for suspension or revocation by the Harbor Master of such permit or permits. Within thirty (30) days of the date of said suspension or revocation, if they have first paid all applicable fees, fines and penalties, a permittee may appeal the suspension or revocation by the Harbor Master of their permit or permits to the Harbor Committee, which committee shall either affirm or overturn the suspension or revocation. Such an appeal shall be on a *de novo* basis. Within thirty (30) days of the date of a decision of the Harbor Committee to uphold or overturn the suspension or revocation, the permittee or the Harbor Master may appeal the decision of the Harbor Committee to the Tremont Board of Appeals. Such an appeal shall be on an appellate basis.

SEC. 104 Berthing: Overnight use by vessels and vehicles is strictly forbidden without written permission of the Harbor Master.

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SEC. 105 Gear/Bait on Wharf: No gear shall be left on the Wharf for more than 24 hours from the time first placed there. Gear may be left beyond this time limit only with prior approval of the Harbor Master. No bait shall be left on the Wharf. No vehicles shall be left unattended on the Wharf or they will be towed at owner's expense. No gear or bait shall be left unattended at the Seal Cove Town Landing Facility.

SEC. 106 Trash and Debris: Depositing of trash, waste oil and debris on the Wharf is expressly prohibited. No dumping of bait from Wharf, Ramp, Floats or other areas within the scope of Town Property is allowed. There will be no culling of marine products such as urchins, dead crabs or lobsters at the Wharf. Deliberate incineration of wastes or other matter from vessels may constitute pollution of marine environment and is expressly prohibited.

SEC. 107 Enforcement: Enforcement of the provisions of this Ordinance is delegated to State and local law enforcement officers and the Harbor Master of the Town of Tremont. Personnel, services and equipment of any other agency of State or Federal government may be utilized in performance of this provision. Any officer having vested authority shall, pursuant to authority provided by law and with or without warrant or other process, arrest any person if he has reasonable cause to believe such person has committed an act as prohibited by SEC. 102-108 of this Ordinance.

The Town of Tremont Town Manager, in consultation with the Town Selectmen, shall prescribe the forms for permit necessary to constitute a valid permit. The Harbor Master may, in the interest of maintaining appropriate law and order, in his sole discretion, elect to temporarily suspend the use of any permit granted. Such suspension will normally not be made except in emergency situations.

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SEC. 108 Penalty:

- a. In accordance with 30-A M.R.S. § 4452(3), failure to comply with or violation of any of the provisions of this Ordinance will result in a fine of not less than \$100.00 nor more than \$2,500.00 to be recovered in the Hancock County, Maine, District or Superior Court, on complaint of officials named in SEC. 107 of this Ordinance. The Court may enter restraining orders or prohibitions and/or minimum fines of \$100.00 and maximum fines of \$2,500.00 in each instance. Each day a violation exists constitutes a separate violation. All such fines shall be in addition to all applicable fees.

In accordance with 38 M.R.S. § 13 failure to obey a lawful order of the Harbormaster is a Class E crime prosecuted in the Hancock County Court. The penalty is up to 6 months imprisonment and/or a \$1,000 fine.

In accordance with 30-A M.R.S. §§ 4452(3)(D) & (5)(R), persons or entities ordered by a court of law to pay such a fine, shall also pay to the Town of Tremont its reasonable attorney's fees, expert witness fees and costs.

- b. **Waiver of court action and payment of fees.** Notwithstanding any other provision of this Ordinance to the contrary, any person who in the opinion of the Harbor Master commits a violation of this Ordinance, and who receives a ticket from the Harbor Master in regard to said violation, may waive all court action by payment to the Town of Tremont of \$100.00 within seven days of the date of the issuance of said ticket. Persons failing to pay said \$100.00 within fourteen days of the date of the issuance of said ticket may nevertheless waive all court action by payment to the Town of Tremont of \$200.00 within fourteen days of the date of the issuance of said ticket.

- c. **Habitual Offender.** In addition to the penalties noted above, and notwithstanding any other provision of this Ordinance to the contrary, any person who in any one year period is found by said court or courts to have committed three violations of this Ordinance, or who receives a ticket from the Harbor Master in regard to three violations and waives all court action by paying the fine as aforesaid, or any combination of said court judgments and admissions by waiver

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adding up to three, shall forfeit any and all permits that person holds pursuant to this ordinance for the remainder of the permit year (*i.e.*, September 1 to August 31) and shall not be able to obtain any permits pursuant to this ordinance for the following permit year.

SEC. 109 Severability: In the event any section or subsection of this Ordinance shall be declared invalid for any reason by any court having jurisdiction, such decision shall not be deemed to affect the validity of any other section or subsection of this Ordinance.

SEC. 110 Definitions Used for the Purpose of this Ordinance:

1. Resident Vessel: is a Vessel on which is paid excise taxes that remain within the Town of Tremont.
2. Non-resident Vessel: is a Vessel on which is not paid excise taxes that remain within the Town of Tremont.
3. Tremont Resident: is a person who is a current resident of Tremont, has lived in Tremont for 12 months prior to the permit application date, who has on file in the Town Office copies of a valid Maine State Driver's License or Government Issued Identification Card and past year's utility bills showing the physical residential address. In lieu of utility bills, written acknowledgment of Tremont residency by the Harbor Committee must be on file in the Town Office.

Passed at Town Meeting May 11, 1993
Amended at Town Meeting May 9, 1995,
May 15, 2001, May 14, 2003,
May 11, 2004, May 10, 2005,
May 11, 2010, September 21, 2011
May 14, 2013
May 13, 2014