

TOWN OF WINTHROP

MOORING FIELD ORDINANCE

I. TITLE

A. This ordinance shall be known as the “Winthrop Mooring Field Ordinance.”

II. AUTHORITY AND SCOPE

A. This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S. Section 3001 (Home Rule) and the provisions of Title 38 M.R.S. Sections 1-13 (Harbor Masters).

III. PURPOSE

A. The purpose of this Ordinance is to establish regulations to protect property and promote public safety and orderly use of the Town of Winthrop’s Lakes or Great Ponds to promote availability and the equitable and fair use of this valuable public resource, and to create a fair and efficient framework for the administration of that resource. The standards are designed to ensure that mooring installation neither impairs the health, safety, and welfare, nor results in lower water quality, loss of aquatic habitat, interference with navigation, and interference with a fairway, nor substantially infringes on the interests of shorefront property owners.

IV. APPLICABILITY

A. This Ordinance regulates the creation and use of public, non-commercial mooring fields for the purpose of securing watercrafts in a great pond within 200 feet of the shoreline in the Shoreland Zones of the Town of Winthrop. The Town of Winthrop will assign mooring sites and privileges within mooring fields under this Ordinance.

V. DEFINITIONS

A. **Mooring:** Shall mean any device designed to float and attached to an anchoring device that secures a watercraft to the bottom of a water body.

B. **Mooring Field:** Shall mean an area on a body of water that is defined as the shorefront width of a property with public access or that is Town-owned, and extending two hundred (200) feet from shore into a body of water or 1/3 the distance to the opposite shore, whichever is less, with a minimum of three (3) watercraft moored within this area. To define the limits of a mooring field, property lines shall be extended in a perpendicular line created by the average shoreline of each lot, from the shorefront terminus of that property line. All measurements for the “depth” of a mooring area, or the distance from shore, shall originate from the shoreline and extend out over the body of

- water and shall be measured in straight lines. In situations of coves, bays, and curving shorelines, said measurements must be made in a manner to minimize the loss of a mooring area and would be done so equally between abutters of mooring areas.
- C. **Mooring Location:** An area on a body of water in which the master or owner of a boat or vessel has been permitted to place a mooring.
 - D. **Right-of-Way:** Refers to a deeded right-of-way or easement of non-shorefront landowners over a designated portion of a shorefront property for waterfront access.
 - E. **Fairway:** Shall mean a navigable channel in a water body, which may, but need not be, marked with channel markers.
 - F. **Watercraft:** Shall mean any type of vessel, boat, barge, float or craft used or capable of being used as a means of transportation on water other than a seaplane.
 - G. **Great Ponds:** Shall mean any inland bodies of water in a natural state that have a surface area in excess of 10 acres and any inland bodies of water artificially formed or increased that have a surface area in excess of 30 acres.

VI. MOORING STANDARDS

- A. All anchors shall be constructed of stone, granite or cured reinforced concrete, or mushroom anchors without dangerous protrusions to adequately hold a watercraft in any anticipated storm and allows the watercraft to swing without going into the mooring circle of any other watercraft or over abutting mooring areas.
- B. Bolts, screws, rods, pads and other metallic fixtures shall be of adequate strength for the mooring and comply with all U.S. Environmental Protection Agency and Maine Department of Environmental Protection laws, rules, and regulations.
- C. Metal drums, engine blocks, demolition materials, and other materials that may release contaminants shall not be used in construction of anchoring structures. The anchoring device shall not extend up or out onto the ice zone or otherwise be subject to ice action.
- D. Moorings must conform to all specifications and registrations required by this Ordinance as well as all applicable Federal and State regulations and laws.
- E. No moorings are allowed beyond 200 feet off the shore's mean normal high-water line or 1/3 the distance to the opposite shore, whichever is less, or in any areas deemed a navigational hazard or blocking shorefront access as determined by the Harbormaster or the Maine Department of Inland Fisheries

and Wildlife or Department of Agriculture, Conservation and Forestry or other state agencies with designated authority.

- F. No mooring shall create a navigational hazard adversely affecting wildlife or habitat or interfere with other duly registered moorings, established swim areas, or access to a fairway.
- G. All moorings shall be recorded at the Town Office and registered annually, showing proof of insurance for the watercraft.
- H. No mooring may be rented, sold, or transferred by the party receiving the permit.
- I. A boat on a mooring cannot cross the property line projected from the shoreline.
- J. A mooring cannot be located closer than 25 feet to the projected property line from the shore and no closer than 100 feet to privately owned property.
- K. **Line Standards:** The line between the mooring and the buoy shall be chain of a size to fit boat exposure and water depth. The buoy, as set by the Maine Department of Agriculture, Conservation and Forestry, shall be colored white with a single blue horizontal band clearly visible above the water line.
- L. **Mooring Removal:** The complete mooring ball must be removed no later than Dec. 1 and not installed until after the ice is out. A floating device that hangs below the water line is acceptable through “ice in” season to assist with access to the mooring chain attached to the anchor. A mooring owner may place a plastic jug with the owner’s name and mobile phone number written on the jug in permanent black marker.
- M. **Mooring Labels:** All mooring buoys shall be clearly labeled with the boat owner(s) last name and phone number.
- N. **Minimum Tackle Standards:** Mooring gear and tackle used in the Town shall meet or exceed those specified in the current edition of *Chapman’s Piloting & Seamanship*. The Town assumes no liability whatsoever for the actual performance or adequacy of any mooring system employed by a mooring holder whether such system conforms to these minimum standards. The mooring owner is responsible for the adequacy and performance of all mooring gear, tackle, and maintenance thereof.
- O. **Mooring Inspection:** At least once every two years, each mooring shall be either self-inspected by the mooring owner or inspected through a mooring service company chosen by the mooring owner, and in either case, must be in a safe condition before being placed in any Town anchorage. Mooring owners are responsible for all expenses associated with the mooring systems placed within the designated mooring area as described herein.

VII. MOORING FIELD REGULATIONS

- A. Public, non-commercial mooring fields must be approved by the Winthrop Town Council; the approval process shall include the establishment of designated boundaries. Mooring fields shall be no closer than 25 linear feet to the shore, no closer than 100 linear feet to privately owned property, and no closer than 100 linear feet to any watercraft landing.
- B. Mooring field applications must be signed by all owners of the proposed moorings.
- C. Approved mooring fields must be publicly accessible. Access to a mooring field may not be gained by traversing across private property.
- D. Applicants seeking to establish a public, non-commercial mooring field must demonstrate 1.5 available parking spots per mooring that are within one mile from the mooring field's public access point.
- E. A mooring shall be placed no closer than 40 linear feet from any other mooring.
- F. Mooring fields, and the moorings within them, are prohibited from blocking or impeding the use of fairways.
- G. Anyone seeking to establish a public, non-commercial mooring field must complete an application provided by the Town of Winthrop and pay a non-refundable fee of \$250. The Town Harbormaster will review all applications and make a recommendation regarding approval or denial to the Town Council for its consideration during a public meeting. The Town Council will have the ultimate authority to approve or deny an application.
- H. Watercraft moored within a public, non-commercial mooring field must register their mooring annually. During the registration process, watercraft owners must provide current proof of insurance and State of Maine registration for their watercraft. The annual mooring registration fee is \$25 per watercraft.
- I. Mooring registrants will have the first right of refusal to renew their annual registration no later than June 30. Should demand for moorings exceed the number of available moorings within a mooring field, the Town Clerk shall maintain a waiting list of interested prospective registrants. When a mooring becomes available, it will be offered in chronological order beginning with the person who has been on the waiting list longest.
- J. No fewer than 10% may be non-residents of the Town of Winthrop. The balance of registrants must be full-time residents of the Town of Winthrop.
- K. Any mooring or mooring field that does not comply with this Ordinance must be discontinued and shall be removed by the owner who placed it within 30

days of notification of the Harbormaster. Such discontinued moorings will be subject to the enforcement and penalties delineated in Section XI of this ordinance. In such cases, the mooring owner shall provide proof of removal to the Harbormaster.

- L. Nothing in this ordinance shall restrict the Town of Winthrop from owning, leasing, and operating single or multiple moorings on any of the freshwater bodies within its boundaries and within the boundaries of the designated mooring field of Town-owned or -leased properties except that the Town shall follow the requirements and standards of this ordinance.

VIII. MOORING REGISTRATION

- A. The town office will provide an application for annual mooring registrations, valid from June 30 to the following June 29, at the town office and through the website. The registration period is May 1 to June 30.
- B. New applications will be issued mooring numbers after being reviewed by the Harbormaster.
- C. Registration is required before the mooring ball goes in the water.

IX. DESIGNATED MOORING ZONE

All moorings in this area require Harbormaster approval before installation. Moorings are available to residents and non-residents according to the following:

- A. Mooring privileges shall be granted upon an application to the Harbormaster on an annual / renewal available basis. Applications will be available by April 15.
- B. Swim floats shall not be allowed in the designated mooring area.
- C. **Waitlist:** When the number of applications exceeds the number of available mooring spaces as determined by the Harbormaster, the Town Clerk shall maintain a waiting list of all applicants who have not been issued a mooring permit. The waiting list shall be maintained and available at the Town Office. The list shall be used by the Harbormaster in issuing mooring permits as mooring spaces become available, as the first person on the list will get the next available mooring space, except as follows:
 - 1. If a non-resident wishes to moor a watercraft, the principal use of which is noncommercial, and less than 10% of the moorings are currently assigned to persons fitting this description, the next mooring available shall be assigned to the first such person on the list. (*State law*)
 - 2. A new application needs to be filed yearly by June 30 to maintain position on the waitlist. Moorings are granted on a first-come, first-served basis.

- D. **Renewals:** Permits issued during a previous year may be renewed by the owner for the same location. Any mooring permit not renewed by June 30 will be canceled.
- E. **Abandonment:** Any mooring that has not been occupied with a watercraft for one boating season will lose its permit. Notice of the loss of the permit shall be sent to the owner by certified and first-class mail. If the mooring is not removed within two (2) weeks (14 days), the Harbormaster may cause the mooring ball to be removed and a fee will be assessed to the owner as well as any incidental expenses. See the Town's Fee Schedule.
- F. **Trespassing:** Any owner of a mooring permit who trespasses on private property to reach the mooring will automatically forfeit the mooring permit, and that owner may not reapply for a new mooring permit for the following two boating seasons.

X. GRANDFATHERING

- A. At the effective date of this ordinance, existing moorings in the south cove of Maranacook Lake are grandfathered from the mooring field approval process. Owners of those moorings must adhere to all other provisions of this ordinance.

XI. ENFORCEMENT AND VIOLATION

A. Enforcement

1. The Winthrop Town Manager shall annually appoint for a term of no less than one (1) year an individual to carry out and enforce provisions of this Ordinance, and that person for the purposes of this Ordinance, shall be known as the "Harbormaster." The Harbormaster shall serve as the harbormaster for the purposes of 38 M.R.S. Chapter 1, and shall be subject to the provisions related therein, including training requirements. The Harbormaster shall be subject to all the duties and liabilities of that office as prescribed by municipal ordinances and regulations adopted by the Town Council. The Town Council may establish the Harbormaster's compensation as part of the Town's annual budget. The Town Manager, for cause by him/her declared in writing and after due notice to the Harbormaster and hearing, if requested, may remove the Harbormaster and appoint a replacement.
2. Given approval by the Town Manager, the Harbormaster may appoint deputies who, under his/her direction, shall aid in enforcing and carrying out the rules and regulations of this Ordinance. Deputies shall also be subject to the provisions of 38 M.R.S. Chapter 1, including training requirements.

B. Violations

1. If the Harbormaster finds any provision of this Ordinance is being violated, he/she shall notify, in writing via certified mail and first-class mail, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. If the above action does not result in the correction or abatement of the violation or nuisance condition, the Town Manager is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this chapter in the name of the municipality.
2. Any person who violates any provision of this Ordinance shall be subject to a civil penalty of not less than \$100 and not more than \$5,000 for each day the violation exists. Each day that such a violation continues to exist shall be considered a separate violation. The violator may be ordered to correct or abate the violation unless the court finds that such action will create a threat or hazard to public health or safety, substantial environmental damage, or substantial injustice. This Ordinance shall be enforced pursuant to 38 M.R.S. § 12 and 30-M.R.S. 4452, and the Town shall be entitled to recover its costs, including attorney's fees and expert witness fees, if it prevails. The failure to obey the lawful order of a Harbormaster may be punished as a Class E crime pursuant to 38 M.R.S.A. 13.

C. Appeals

Any decision of the Harbormaster may be appealed to the Zoning Board of Appeals. An appeal must be submitted in writing to the Board no later than 30 days after the action or decision appealed from. The Board shall hear and decide any administrative appeal of the Harbormaster's decision on a *de novo* basis and may receive and consider new evidence and testimony, be it oral or written. When acting in a *de novo* capacity, the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

The Harbormaster shall attend hearings and shall present to the Board plans, photographs, or other material deemed appropriate for an understanding of the appeal. Decisions of the Board shall be in writing and contain a statement of findings and conclusions, as well as the reasons or basis therefore. A copy of the decision shall be sent to the appellant.

Appeals must be made on appropriate appeal application forms provided by the Town. The appeal shall set forth the date and nature of the decision appealed and a concise statement of the basis for the appeal together with any other relevant information, as required on the appeal application form.

Appeals from the decision of the Board may be taken to Superior Court in accordance with 30-A M.R.S. Sec. 2691.

XII. EFFECTIVE DATE

- A. This ordinance becomes effective 30 days after enactment by the Winthrop Town Council pursuant to requirements in the Winthrop Town Charter.

XIII. SEVERABILITY

- A. When a provision of this Ordinance conflicts with or is inconsistent with any other ordinance, regulation or statute, the more restrictive provision shall apply. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.