NEWCASTLE-DAMARISCOTTA HARBOR MANAGEMENT ORDINANCE

&

INTERLOCAL AGREEMENT

Adopted at the Special Town Meeting by both Towns: December 10, 2024.

SECTION 1: PURPOSE

The purpose of this Interlocal Agreement and Ordinance ("Ordinance") is to ensure boater and public safety, provide for consensus among towns bordering the territorial waters of Damariscotta and Newcastle, and to balance the public's interest in the recreational, commercial, natural and cultural resources and other uses in Damariscotta's and Newcastle's waters in the Damariscotta River, Great Salt Bay and the tidal waters of the Sheepscot River.

This ordinance may be terminated by a vote of either Damariscotta or Newcastle upon fourteen days' notice to the other municipality.

SECTION 2: AUTHORITY

This Ordinance has been prepared under the authority granted to the Towns by 38 MRSA § 1-§13, operation of vessels and 30-A MRSA, Chapter 141, § 3001 – 3012, home rule ordinance promulgation and 30-A § 4456

SECTION 3: APPLICATION

This Ordinance applies in all tidal waters of the Damariscotta River, Great Salt Bay and the Sheepscot River in the Towns of Damariscotta and Newcastle.

SECTION 4: ADMINISTRATION

Pursuant to 38 MRSA § 2 through 7, the responsibility for administration of this Ordinance shall be as follows:

4.1 Damariscotta/Newcastle Harbor Committee (Harbor Committee) authorization:

4.2 The Harbor Committee is authorized to:

a. oversee and plan the general operation of the activities on and in the Damariscotta River, Great Salt Bay, and the Sheepscot River including defining channels and their boundary lines in harbors and waterways, provide guidance in assigning suitable portions of harbors and other coastal and tidal waters for anchorages, mooring districts, and boating facilities owned by the Towns and aquaculture sites,

b. establish regulations governing uses of the waterways, navigation lanes, anchorage areas, the towns' boating facilities, and mooring districts,

c. oversee the Harbor District system for mooring permit management in coordination with the Harbor Master and administering town,

d. establish permit charges and fee schedules for noncompliance with permitting requirements,

e. adopt written policies and procedures to facilitate administration of the Ordinance,

f. make recommendations for balancing the enhancement of harbor usage with the conservation of natural, cultural, and aesthetic resources for the long-range benefit of all stakeholders,

g. assure public participation in deliberations and recommendations to the Select Boards with four meetings per calendar year, one each quarter, with all meetings open to the public and following due public notice.

4.3 Committee Composition:

a. The Harbor Committee shall be comprised of six members.

b. The two Towns' Select Boards shall each designate three members of the public to serve on the Harbor Committee.

c. Appointment to the Committee shall be for staggered three-year terms.

d. The Committee shall annually at the first meeting after the Select Board has appointed any new members, elect a chair, a vice chair and a secretary from among its own members. Those so elected shall take office at the close of the meeting and shall continue in office until the next annual election. If the chair's position becomes vacant, the vice chair shall succeed to that position and a new vice chair shall be elected.

e. If any Committee member's position becomes vacant, a replacement shall be appointed by the Select Board from the community in which the vacancy occurred to serve out the remainder of the term.

f. Either Select Board can, at any time, remove one of their appointed members, with or without cause and initiate replacement.

g. If a vacancy occurs within three months of a normal term's expiration, the Select Board that made the initial appointment may either leave the position vacant for the remainder of the term or appoint a new member whose term will fulfill the remainder of the unexpired term.

4.4 Damariscotta River Harbor Master:

A Harbor Master shall be appointed annually by the administering town's Select Board and receive compensation determined by the administering town. The Harbor Master shall not make arrests or carry a weapon.

The duties of the Harbor Master are to:

a. promote public safety within the Harbor Districts.

b. determine acceptable uses and their locations to ensure boater and public safety.

c. administer and enforce the regulations of this Ordinance.

d. assign mooring sites; conduct or direct inspection, employ Harbor Master approved divers, relocation, and/or removal.

e. exercise jurisdiction over all moorings in the Harbor Districts of the Damariscotta River, Great Salt Bay and the tidal waters of the Sheepscot River.

f. create, update and maintain waiting lists for moorings.

g. update annually charts for Harbor Committee review (available at the Town office) depicting Damariscotta River/Great Salt Bay/Sheepscot Harbor Districts, navigation channels, hazard areas, moorings, anchorage areas, public wharves, boat launch facilities, aquaculture sites and marine protected areas.

h. understand and perform statutory duties and responsibilities as set forth in 38 MRSA § 1-§13 and mandated by federal statute.

i. exercise jurisdiction over the entry of any vessel into the harbor districts.

j. assist local, County, State and Federal authorities in the operation of the Harbor Districts.

k. attend all Committee meetings and be a non-voting advisor to the Harbor Committee.

4.5 Deputy Harbor Master(s)

The administering town may appoint one or more Deputy Harbor Masters, set their compensation and describe their responsibilities. A Deputy Harbor Master is authorized to exercise the powers and duties of the Harbor Master subject to the provisions of this Ordinance under the direction of the Harbor Master.

4.6 Select Boards

The Select Boards of either Town shall have the authority to approve wharves, and floats within their respective jurisdictions in District 1.

The Select Board of the Town having jurisdiction over the harbor territory in an appeal shall hear appeals of decisions, orders, rulings, or actions taken by the Harbor Master and Deputy Harbor Master pursuant to Section 14 of this ordinance**.**

4.7 Permits and Records

The administering town shall maintain records of such licenses and permits as requested by the Committee, the Town Managers, and the Select Boards.

SECTION 5: PLAN & REGULATIONS ON ALL USES

A districting plan of designated Damariscotta River, Great Salt Bay, and Sheepscot River tidal waters within Damariscotta and Newcastle is established to implement the purposes of this Ordinance. The Plan consists of designated locations and the regulations governing marine activities within them.

5.1 The Harbor Master shall promulgate a Harbor Map in consultation with the Harbor Committee.

5.2 Establishment of Harbor Districts

There shall be five districts as depicted on the map and as follows:

a. District 1: Inner Harbor - On the Damariscotta River from the western-most point of Lewis Point downstream to the southern-most edge of Walker's Point (also known as Jack's Point or Barroll's Point) defined by a line across the Damariscotta River to the southern-most edge of Belknap's Point.

b. District 2: Lower Harbor – On the river from the southern boundary of District 1 (Inner Harbor) downstream to a line connecting the southernmost points of the two town's boundaries.

c. District 3: Upper Harbor - On the Damariscotta River from the western-most point of Lewis Point upstream into Great Salt Bay to the Marine Protected Area.

d. District 4: Great Salt Bay – On the water body beginning at the southerly boundary of the Marine Protected Area northerly to the Newcastle Town line.

e. District 5: Sheepscot River - The body of water within the corporate limits of Newcastle that includes the Sheepscot River and its tidal tributaries including the tidal portion of the Marsh River.

5.3 Navigation Channels

The U.S. Coast Guard (USCG) designates some navigation channels of the Damariscotta River (the River) and Great Salt Bay (the Bay). The Harbor Master and Harbor Committee shall designate additional channels pursuant to 38 MRSA §2 for the safe and convenient passage of vessels. To obtain approval by the Harbor Master or the Select Board with jurisdiction for boating facilities and permanent and seasonal structures in and on waters of the Damariscotta River, Great Salt Bay, and the Sheepscot River an applicant must first

receive approval from the U.S. Army Corps of Engineers (ACOE). These structures are prohibited in navigation channels except as authorized by the Harbor Master or the Select Board having jurisdiction.

5.4 Aquaculture Sites

The Harbor Committee, in consultation with the Harbor Master shall maintain maps and charts displaying each Maine Department of Marine Resources (DMR) approved site and indicate the type of activity conducted within each site.

5.5 Mooring Districts, Anchorage Areas, Public Wharves, and Boat Launch Areas

The Harbor Committee, in consultation with the Harbor Master and other authorities shall designate on the map and charts: mooring districts, anchorage areas, public wharves, and boat launch facilities. The Committee and Harbor Master shall also determine the duration of anchorage allowed and other time limits for use of water facilities.

5.6 Special criteria for Approval of Wharves, and Floats in District 1

Due to greater activity, safety conditions, and other factors, District 1 is considered a special boater and public safety area. Any person wishing to install or erect a wharf, pier, ramp pilings, or float in District 1 shall make application to the Select Board having jurisdiction. The Select Board shall consider special criteria for all proposed wharves, boating facilities, and floats in District 1.

Within 30 days of receiving an application, the Select Board shall give at least 3 days' public notice of the application in a newspaper, published in the town or Lincoln County, and shall designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested.

To approve a use in District 1, the Select Board must make affirmative findings that:

a. The proposed use will not adversely affect public safety due to the strong tidal currents in District 1 with special consideration of the currents caused by the Damariscotta- Newcastle Bridge.

b. The proposed use will not adversely affect public safety due to the eddy currents in District 1.

c. The proposed use and configuration will provide for safe ingress and egress to and from the proposed use location and be designed to prevent accident and public harm.

d. The proposed use will not adversely affect public access to the water and placement of moorings.

e. The proposed use will not adversely affect public safety or convenient use of the channels of the District 1 due to the density and proximity of other uses.

f. The proposed use complies with all other aspects of this ordinance.

If, following such examination, hearing of all parties interested, and in consultation with the Harbor Master, the Select Board decide that such placement, erection, or extension will not be an obstruction to navigation or injury to the rights of others, that all required affirmative findings are met, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing the applicant to make such an erection or extension, and to maintain the same within the limits mentioned in such license. The Select Board shall, within 10 days after the date of hearing, give written notice by mail of their decision to all parties interested.

Appeals to the Select Board's decision can be made in accordance with Section 15 of this Ordinance.

SECTION 6: MOORINGS, WHARVES, FLOATS, & USES

The Harbor Master is responsible for making all decisions on the location, equipment, duration and rules for acquiring, maintaining, adjusting, and removing moorings as set forth below. While mooring gear is owned and maintained by the mooring site assignee; the sites themselves are owned by the State, with permitting and management delegated by the Harbor Committee to the Harbor Master. Mooring registration fees are collected from mooring applicants by the Town office of the administering town.

6.1 Mooring Assignment Permits

a. Mooring assignment permits are required for all moorings.

b. Only one boat may be secured at a mooring at a time without prior approval of the Harbor Master.

c. Unattended rafting of boats is not permitted.

d. Mooring assignment permits are transferable only for commercial fishing purposes as outlined in Title 38 §3A. Mooring equipment may be transferred however, the location of the mooring shall be determined by the Harbor Master.

e. Any rental of the rights to use a mooring must be approved by the Harbor Master. Commercial renting of a mooring requires a separate permit from the Army Corps of Engineers.

6.2 Mooring Assignment Application

a. Applications are available at the town offices or through the two towns' websites.

b. Each non-commercial mooring assignment application shall identify the vessel for which the applicant is requesting a mooring assignment permit. Only vessel owners may apply and receive non-commercial mooring assignment permits. The applicant must provide proof of ownership at the time of application. Completed applications shall be submitted to the Harbor Master for review and approval.

c. Each commercial mooring assignment application other than applications from commercial fishermen shall identify the commercial enterprise requesting the mooring assignment, the purposes for which the mooring assignment shall be used, and the maximum vessel size indicated for the mooring assignment. Except in cases of emergency, securing a vessel to a commercial mooring that exceeds the maximum vessel size indicated on the approved permit shall terminate the applicants mooring assignment permit. The applicant must provide an Army Corps of Engineers permit authorizing commercial use at the time of application. Completed applications shall be submitted to the Harbor Master for review and approval.

d. Permit fees shall be paid in full at the time of submitting a Registration Application, either new or renewal. Permit fees may be changed from time to time as recommended by the Harbor Committee and approved by the Select Board of the administering town. No applications will be processed until all related fees, excise taxes, charges, or penalties have been paid in full.

6.3 Vacant Moorings

Moorings that are vacant for more than three years become subject to removal following 14 days notice sent by certified mail to the applicant's address indicated on the mooring assignment permit application.

6.4 Mooring Assignments

Applicants will be assigned an appropriate mooring site by the Harbor Master on a first come – first serve basis pursuant to the priority guidelines of Section 6.5.

6.5 The Harbor Master shall have authority to approve or disapprove a mooring permit application and/or assigning a mooring location to a Commercial Marine Facility only after a public hearing is held on the application, attended by the Harbor Master and Harbor Committee. No mooring permit will be issued or renewed to a Commercial Marine Facility nor will there be an assignment of a mooring location for a Commercial Marine Facility, unless all necessary Army Corps of Engineers permits have been obtained.

6.6 Waiting lists

When there are more applicants for a mooring assignment than mooring spaces available, the Harbor Master shall create and maintain a waiting list in accordance with Section 6.6)(a). When a mooring space becomes available it shall be offered in accordance with Section 6.6)(a) to the first applicant on the list for which its configuration is appropriate for the dimensions and weight of the applicant's vessel.

a. Priority Guidelines

Moorings shall be assigned in accordance with the sequential priority category list, but subject to the exceptions to priority allocation under 6.6(b).

Sequential Priority Categories are:

1. Shorefront owners with a request for locations immediately adjacent to frontage;
2. Resident commercial vessel owners;
3. Resident pleasure vessel owners;
4. Non-resident commercial vessel owners;
5. Non-resident pleasure vessel owners;
6. Vessel owners with multiple mooring locations.

b. Exceptions to Sequential Priority Allocation

1. If less than 10% of all moorings are currently assigned to non-resident commercial applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list;

2. If less than 10% of all moorings are currently assigned to non-resident pleasure vessel applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list;

3. If neither non-resident commercial or non-resident pleasure vessel applicants currently constitute 10% of moorings assigned, then whichever has the lowest percent shall be offered the first available and suitable space; and

4. Shorefront owners applying for a mooring in front of their property shall not be placed on a waiting list but assigned a mooring space, based only on the suitability of the location, the ownership of a vessel and payment of the fee. If mooring space fronting their property is not suitable, they may apply in the usual manner for mooring space in the designated mooring areas

c. Waiting Lists

Applicants may decline a mooring space when offered without losing their position on the list. Waiting list positions may be retained from one year to the next by submitting a new application before April 1st of the following year. Applications not renewed shall be removed from the waiting list on that date.

6.7 Mooring Reassignment

Moorings may be reassigned only by the Harbor Master.

6.8 Mooring Tackle Standards

a. Minimum mooring weight and type shall be established on a boat by boat basis by the Harbor Master based on the location of the mooring, weight, and type of boat.

GRANITE BLOCK MOORINGS	BOTTOM CHAIN	TOP CHAIN
500 LB GRANITE BLOCK-BOATS TO 1,000 LBS	½" CHAIN	3/8" CHAIN
1,000 LB GRANITE BLOCK-BOATS TO 2,500 LBS	5/8" CHAIN	1/2" CHAIN
2,000 LB GRANITE BLOCK-BOATS TO 7,000 LBS	¾" CHAIN	1/2" CHAIN
3,000 LB GRANITE BLOCK-BOATS TO 12,000 LBS	¾" CHAIN	5/8" CHAIN
4,000 LB GRANITE BLOCK-BOATS TO 24,000 LBS	¾" CHAIN	5/8" CHAIN

MUSHROOM ANCHORS	BOTTOM CHAIN	TOP CHAIN
50 LB MUSHROOM-BOATS TO 250 LBS	½" CHAIN	3/8" CHAIN
75 LB MUSHROOM-BOATS TO 400 LBS	½" CHAIN	3/8" CHAIN
100 LB MUSHROOM-BOATS TO 800 LBS	½" CHAIN	3/8" CHAIN
150 LB MUSHROOM-BOATS TO 1,500 LBS	5/8" CHAIN	1/2" CHAIN
200 LB MUSHROOM-BOATS TO 2,500 LBS	5/8" CHAIN	1/2" CHAIN
250 LB MUSHROOM-BOATS TO 4,000 LBS	5/8" CHAIN	1/2" CHAIN
300 LB MUSHROOM-BOATS TO 8,000 LBS	¾" CHAIN	5/8" CHAIN
400 LB MUSHROOM-BOATS TO 14,000 LBS	¾" CHAIN	5/8" CHAIN
500 LB MUSHROOM-BOATS TO 24,000 LBS	¾" CHAIN	5/8" CHAIN

b. All moorings must have adequate bottom chain to reach the surface at half tide for complete top chain inspection by boat.

c. All moorings in the Inner Harbor (District 1) must have enough scope for double the water depth at high tide due to limited swinging room.

d. Boats outside the Inner Harbor must have a scope of three times the water depth at high tide.

e. All moorings must be equipped with a mooring buoy adequate to support its mooring chain at high tide.

6.9 Mooring Markings

Permittees shall conspicuously affix a buoy identification to their buoy stating the owner's name and mooring space number. All mooring markings must comply with USCG regulations.

6.10 Transient Moorings

The Towns may provide transient moorings within its territorial jurisdiction on the Damariscotta River, Great Salt Bay, and the Sheepscot River.

6.11 Change or Addition of Vessel

A non-commercial mooring assignment is valid only for the vessel or vessels indicated on the current application and approved by the Harbor Master. If different or additional vessels are to be secured at a non-commercial mooring assignment, a revised application must be submitted to the Harbor Master for approval prior to securing the new vessel. A resubmitted application does not trigger the waiting list or priority allocation regulations of this ordinance.

6.12 Floats on Moorings

Floats, not to exceed 12x20 feet in dimension, may be allowed on moorings but require Harbor Master and Army Corps of Engineers approval to determine mooring size requirements and adequate swinging room. Floats must be marked (routed in or with nameplate) with ownership information including phone number.

6.13 Boats on Moorings, Wharves, or Floats

a. Boats (not more than 12 feet in length), shall be identified with the owner's name and telephone number affixed thereon, used to access vessels moored or anchored in one of the designated Harbor Districts or for other purposes approved by the Harbor Master may tie up on a continuing basis at certain floats designated by the Harbor Master provided they display on the inner side of the transom the current year's dinghy sticker. Such boats are to be tied by the bow only in designated areas.

b. A person shall not place moorings, wharves, or floats in navigation channels or hazard zones. The Harbor Master shall treat moorings, wharves, or floats in navigation channels or hazard zones as abandoned watercraft and may order the owner to remove said object.

6.14 Inspection of Moorings

All moorings must be inspected. Inspection shall be the responsibility of the mooring assignee with documentation to the Harbor Master. The mooring gear that can be accessed above the water surface must be inspected annually by a Harbor Master approved mooring inspector. Mooring bottom gear inaccessible from a boat must be inspected every three years by a Harbor Master approved diver. An ongoing record of inspections is maintained by the Harbor Master and the Harbor Committee. When deficiencies are noted, the Harbor Master will issue a written statement to the mooring assignee with appropriate remedies and a time frame for completing them.

6.15 Mooring fees

Mooring fees will be assessed on an annual basis by the Select Board of the administering town with input from the Harbor Committee. Fees will be collected at the town office designated as the administering town.

6.16 Non-compliance

In response to non-compliance with any provision of this section, the Harbor Master or Deputy Harbor Master may deny a permit application, revoke a permit, or direct mooring tackle to be removed from Damariscotta and Newcastle waters at the owner's expense and be subject to all other penalties under this ordinance.

6.17 Temporary Use of Moorings or Floats

Temporary use of a mooring by a vessel other than the permitted one is allowed for up to 14 days provided the temporary vessel is of the same or smaller size and weight as the permitted vessel. The Harbor Master must approve such use.

6.18 Use of Floating Commercial Wharves

Commercial floats and wharves may be permitted by application to the Harbor Master, if governed by Section 5.5, with design plans that meet generally accepted float and wharf construction standards that are approved by the Army Corps of Engineers, and in consideration of the following criteria and in conformance with all other provisions of this ordinance:

a. Overall physical location of the proposed project.

b. The number and size of floats.

c. The method of attachment, anchoring, mooring, or securing the float

d. Impact on other uses near or adjacent to the proposed project.

e. Geographic location and overall configuration of the proposed project.

Floats and wharves shall be inspected and registered annually by the Harbor Master with a fee paid by the owner to the administering town. Annual inspections, submitted to the Harbor Master, consist of examination of the general condition of the float and its mooring system or its attachment to shore, and if multiple floats, attachment to each other. If there is access for the public and/or patrons and the floats are attached to the shore or to constructed facilities, the annual inspection is to include gangway, handrails, accessible life rings, and all other equipment required to meet boater and public safety standards.

6.19 Non-conforming Uses of Moorings or Floats or Wharves

a. Operation of Moorings or Floats

The on-going use of a mooring, float, or wharf in existence before the effective date of this Ordinance that becomes a non-conforming use as a result of the adoption of this Ordinance may continue so long as it meets equipment standards of this Ordinance and its use is not substantially changed. Substantial changes, as determined by the Harbor Master include, but are not limited to, substituting a heavier or longer boat, changing the dimensions, weight, chains, or other gear of the mooring, float, or wharf, or changing the location of the mooring, float, or wharf. When a substantial change is proposed, the change shall conform to the regulations of this Ordinance. Nothing in this Subsection precludes the annual inspections of non-conforming moorings, floats, or other boating facilities for above-water gear and tri-annual inspections for underwater gear. Nothing in this Subsection precludes the Harbor Master from imposing or enforcing requirements of use to protect the public safety upon non-conforming uses.

b. A vacated non-conforming mooring or float shall be removed by the assignee within 14 days after notification by the Harbor Master.

6.20 Floating Pump-out Station

The Towns may install and maintain a float for the purpose of collecting and storing sewage from commercial and recreational boaters on a mooring in the harbor. The regulations regarding the dimensions and use of this float shall be determined by the Committee subject to requirements of the Army Corps of Engineers and other federal and state regulatory agencies.

SECTION 7: NATURAL AND HISTORIC RESOURCES

7.1 Aquaculture, Clamming, Worming, and Commercial Fishing

Applicants for aquaculture licenses in the Damariscotta River, the Great Salt Bay, and the Sheepscot River in the Towns of Damariscotta and Newcastle shall be subject to the regulations and procedures of MRSA Title 12, Chapter 605 §6072 and the Maine Department of Marine Resources. Commercial and recreational clammers, wormers, and fishermen shall be subject to the regulations of MRSA Title 12, Chapter 605 §6072 and all pertinent local ordinances and regulations of Newcastle and Damariscotta.

7.2 Wildlife Conservation

a. In administering this ordinance, the Harbor Master shall consider impacts to wildlife by referring to existing wildlife documentation including, but not be limited to, inventory and information sources available through Maine Inland Fisheries & Wildlife and the Maine Natural Areas Program. The Harbor Master shall also consult with local experts such as the Coastal Rivers Conservation Trust (CRCT) and the Darling Marine Center regarding impacts on wildlife.

b. The Harbor Master shall specifically consider impacts or potential impacts to critical wildlife habitat such as areas important to the migration of fish and other aquatic species, wildlife corridors, horseshoe crab spawning grounds, alewife migratory movements, eel grass beds, bird colonies and eagle nesting sites, and any site or area associated with endangered, threatened, or rare species.

c. In siting moorings, floats, wharves, and other marine facilities and uses, the Harbor Master shall consider the impact on existing protected lands which serve the public through water access, boat access, beach access, shore fishing, recreational mussel picking, and other recreational fishing areas, kayaking, and other recreational boating areas.

7.3 Historic and Archeological Resources

The Maine Historic Preservation Commission (MHPC) has identified prehistoric and historic archeological sites below the high-water line in the five districts. The Harbor Committee and Harbor Master shall cooperate with the MHPC in reviewing any conservation measures consistent with MHPC regulations within the designated harbor districts of Section 5. The Harbor Committee and Harbor Master shall cooperate with the MHPC in reviewing development proposals with structures located below the high-water line when a MHPC permit is required.

SECTION 8: MARINAS

8.1 Marina Requirements

Consistent with the requirements administered by each of the Towns' Planning Boards, including but not limited to the Shoreland Zoning Ordinance, the application, review, and consideration for approval of moorings, slips, floats, and boating facilities of marinas shall be based on the requirements of Sections 5, 6, and 7 of this Ordinance.

8.2 Moorings and Shoreside Vehicle Parking

Marina owners shall provide parking spaces for moorings or slip rental spaces in accordance with each Town's land use and site plan review ordinances.

SECTION 9: ABANDONED WATERCRAFT, FLOATS, BUOYS, MATERIALS, AND FISH SHANTIES

9.1 Prohibition

No person shall abandon or cause to be abandoned any watercraft, fish shanty or related equipment, or appurtenances within the waters of the Damariscotta River, Great Salt Bay, or Sheepscot River in the Towns of Damariscotta and Newcastle.

9.2 Presumption

Watercraft, floats, moorings, rafts, and any other gear in the waters of the Damariscotta River, Great Salt Bay, and the Sheepscot River within the Towns of Damariscotta and Newcastle without registration or an approved permit by the Harbor Master or another State or Federal agency shall be declared abandoned.

9.3 Procedures

Upon determining that watercraft, floats, moorings, rafts, or other gear has been abandoned pursuant to 9.2, the Harbor Master shall take possession of such item and shall make reasonable efforts to identify and notify the owner. If the Harbor Master deems an abandoned item to be a nuisance, a threat to navigation, or a safety hazard, it may be impounded until compliance with all procedures pursuant to MRSA Title 25 §3501-3507 have been met. All expenses and fines pursuant to MRSA Title 38 §12, and the net proceeds of any auction, shall accrue to the administering Town.

SECTION 10: HARBOR USE REGULATIONS

10.1 Operators of all watercraft will adhere to established and posted 'No-Wake' zones and speed limits.

10.2 No water skiing or "tubing" will be allowed in the Inner harbor/District 1.

10.3 Boat size and tie-up time limits and location at Town Landings shall be observed. This information shall be posted at Town Landings.

10.4 Operators shall observe all regulations of the Marine Protection Act in District 4 The Great Salt Bay.

10.5 Illegal Operations

a. No overnight anchoring is allowed in District 1. No unattended daytime anchoring is allowed in District 1.

b. Whoever operates any watercraft, however propelled, on or in waters of Newcastle or Damariscotta, (1) recklessly, (2) in a manner which endangers any person or property, or (3) while intoxicated, under the influence of marijuana, or under the influence of any narcotic drug or barbiturate shall be guilty of a Class E crime as provided in MRSA Title 38 Chapter 1 §13.

10.6 Excessive noise is regulated by the Towns' ordinances.

SECTION 11: POLLUTION CONTROL

11.1 Except in case of emergency imperiling life or property or unavoidable accident, collision, or stranding, no person shall discharge or suffer or permit the discharge of sewage, petroleum products, garbage, trash, or other refuse of any kind, by any method, means, or manner into or upon the Towns of Damariscotta and Newcastle, wharves, floats, or the waters of the Damariscotta River, Great Salt Bay, or Sheepscot River.

11.2 No person shall establish a live-aboard use unless 1) the vessel has established an identifiable access to a Harbor Master approved wastewater pump-out facility; 2) sewage holding tanks attached to each marine toilet; and 3) the vessel's sewage system shall not be equipped with "Y" valves to permit overboard discharge.

11.3 No person shall establish a live-aboard use for more than fourteen (14) consecutive days on any type of watercraft, float, or wharf within the Harbor Districts without prior approval of the Harbor Master. Any live-aboard use longer than 14 consecutive days constitutes a continuing live aboard use. Any live aboard use 14 consecutive days or less shall constitute a temporary live aboard use.

11.4 Upon request from the Harbor Master, a person maintaining a live-aboard use shall provide proof of each of the elements listed in Section 11to the Harbor Master's satisfaction.

SECTION 12: SHORELINE PUBLIC ACCESS

12.1 To ensure that the town landing facilities of the Towns of Newcastle and Damariscotta are available for use by the general public, the Town's wharves and floats shall be used only for loading and unloading as posted.

12.2 Boats 12 feet or less in length and used exclusively to access vessels moored or anchored in one of the Harbor Districts may tie-up on a continuing basis at specific sides of certain floats designated by the Harbor Master for that purpose provided they display a current year's dinghy sticker.

12.3 Swimming and recreational fishing from town landings are permitted provided they do not cause litter, disturb the peace, or interfere with the docking, loading, or unloading of vessels. The public shall use town landings at their own risk.

12.4 EQUIPMENT: No person shall place or maintain on town landing facilities any boats, barrels, boxes, gear, traps, pots, nets, sails, equipment, or any other materials longer than necessary for the prompt loading or unloading of the same, subject to the exception stated in 12.2.

12.5 TYING TO PUBLIC FLOATS: No person shall leave any vessel tied to the ends or fronts of any public float of the Towns of Damariscotta or Newcastle for any purpose, including fueling, loading or unloading of supplies, for longer than the posted period except for emergencies or with the approval of the Harbor Master.

12.6 BLOCKAGE OF PUBLIC RAMPS/FACILITIES: No person shall place or cause to be placed any vessel, boat cradle, trailer, vehicle or other object on a town ramp, wharf, parking lot or other town harbor facility in such a way that it blocks or impedes access by other users.

12.7 BAIT: No person shall place or maintain on public facilities any fish or other bait, except for immediate delivery to a vessel ready to receive same, without written permission from the Harbor Master.

SECTION 13: ENFORCEMENT

13.1 It shall be the duty of the Harbor Master to oversee enforcement of the provisions of this ordinance and the watercraft laws of the State of Maine on the jurisdictional waters of Damariscotta and Newcastle. If they find violations of the provisions of this ordinance, the Harbor Master shall notify appropriate law enforcement agencies and in writing, to the person responsible for such violation indicate the nature of the violation and order the action necessary to correct such violation.

13.2 The Harbor Master and their deputies shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Harbor Master shall also investigate all complaints of alleged violations of this Ordinance.

13.3 When the above action does not result in the correction or abatement of the violation or nuisance condition, the Harbor Master with approval of the Select Board having jurisdiction or the Select Board on their own motion may institute any and all actions and proceedings including holding hearings, imposing fines, or seeking court ordered imposition of injunctions or fines that may be necessary to enforce the provisions of this Ordinance in the name of the municipality.

SECTION 14: VIOLATIONS

14.1 A person is guilty of failure to obey an order of the Harbor Master or a Deputy Harbor Master if the person fails to obey any lawful order of the Harbor Master authorized by this Ordinance pursuant to MRSA Title 38 Chapter 1 §13. Failure to obey an order of a Harbor Master is a Class E crime and subject to imprisonment and/or fines to be recovered on complaint by the Harbor Master before the District Court.

14.2 A person may also be subject to fines and injunctive action under this ordinance pursuant to MRSA Title 30-A Chapter 187 § 4452.

SECTION 15: APPEALS

15.1 The Select Board of the Town having jurisdiction shall hear an appeal by any aggrieved person affected directly or indirectly by a decision, order, rule, act, or failure to act by the Harbor Committee or Harbor Master or their deputies. Appeal must be made within 30 days of such administrative action

15.2 An appeal shall be submitted to the Town Clerk on a form provided by the Select Board of the Town having jurisdiction and shall describe the complaint and the relief sought. The original appeal form shall be kept on file at the Town Office of the Town having jurisdiction. A copy shall be forwarded to the Chair of the Select Board in that Town.

15.3 The Select Board of the Town having jurisdiction shall act on any appeal within forty-five (45) days of its receipt by the Town. An extension of the forty-five (45) day requirement may be mutually agreed in writing between the applicant and the Town. The Select Board shall set a hearing date taking into consideration the schedules of the applicant and Select Board members. Notice of the hearing shall be posted at the Town Office not less than seven (7) days prior to the hearing. In its decision, the Select Board shall grant or deny relief from any order, rule, act, or failure to act by the Harbor Committee, Harbor Master, or the Harbor Master's deputies, except that in no instance shall its decision violate State or Federal regulations, or this Ordinance. Any failure by the Select Board to issue a written decision within the time limits above shall constitute a denial.

15.4 At the hearing, the Select Board shall hear any oral or documentary evidence that is relevant and material. Appellants, defendants, or their agents shall have the right to present oral and documentary evidence, to submit rebuttal evidence, and to conduct reasonable cross-examinations.

15.5 The minutes of the hearing, together with all documentary evidence presented in the proceeding, shall constitute the official record of the appeal. The record shall include a written statement of the Select Board's findings and conclusions and its decision, and shall be filed at the Town Office. Notice of the decision shall be mailed or hand delivered to appellants and defendants or their agents within seven (7) days of a decision, and copied to the Harbor Committee or Harbor Master. Any failure by the Select Board to issue a written notice or decision within the time limits above shall constitute a denial.

15.6 An appeal to Superior Court may be made within thirty (30) days from any act or decision of the Select Board.

SECTION 16: CONFLICT OF REGULATIONS

Whenever a specific provision of this Ordinance conflicts with or is inconsistent with another specific provision of this Ordinance, or of any specific provision of any other ordinance, regulation, or statute administered by the municipality or State, the more restrictive specific provision shall control.

Where this ordinance conflicts with the Harbor Ordinance of either Town, the Harbor Ordinance of the Town with jurisdiction or the administering Town shall control.

SECTION 17: SEVERABILITY

If any section, subsection, clause, phrase, or word of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of any other section, subsection, paragraph, sentence, clause, phrase, or word of this Ordinance.

SECTION 18: EFFECTIVE DATE AND POSTING

18.1 The effective date of this ordinance is the date of enactment.

18.2 A copy of this Ordinance certified by the Town Clerks shall be retained in the Town's files.

SECTION 19: AMENDMENT

This Ordinance may be amended by majority vote of the registered voters of the Towns.

SECTION 20: BUDGET & COSTS

The administering town shall fund all costs of the Harbor Committee including enforcement costs. All fees shall be paid as described elsewhere in this ordinance. The administering town shall attribute operational costs to the appropriate Harbor accounts expensed in the administration of the harbor, the Harbor Committee, and the Harbor Master.

SECTION 21: DEFINITIONS

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms are defined below as they are used in this Ordinance.

Administering Town. The town office designated by both Select Boards as the office that shall process the licenses and permits required by this ordinance and as otherwise empowered in this ordinance.

Anchoring. To secure a vessel to the bottom within a body of water by dropping an anchor(s) or other ground tackle, which is carried aboard a vessel when underway as regular equipment.

Army Corps of Engineers (ACE) Permit. Permit issued by the Army Corps of Engineers that is required for floats, rental moorings, and commercial moorings.

Channel. Areas of the Harbor kept open for navigation or other purposes by rule or regulation of the Towns Harbor Master, the Harbor Committee, the Army Corps of Engineers, the U.S. Coast Guard, or other regulatory or legislative body.

Commercial Vessel. Watercraft that generate income by their use and operation.

Dinghy. A watercraft twelve feet or less to access moored or anchored vessels.

Float. A movable floating platform that in the normal course of its use is secured to a wharf, pier, or mooring and not designed for self-propelled navigation. Floats include but are not limited to lobster cars, fisherman work floats, and upwellers.

Live-Aboard Use. The residential use of watercraft, floats, or other boating facilities.

Marina. A shorefront facility providing one or more of the following services: boat berthing, boat launching, boat storage, boat repair and servicing, sale of marine supplies and/or fuel, sale and/or servicing of marine equipment and accessories, and wastewater pump-out facilities.

Mooring. All equipment and methods used to secure a watercraft to a specific location on the water, other than those that are connected to the shore.

Commercial mooring. A mooring assigned to a commercial enterprise involved in sales, service, storage, construction, repair, or operation of vessels for hire or used to moor watercraft which are serviced by the business or used as a maneuvering device for leaving or entering a berth, which may be used by a suitable sized vessel with the permission of such commercial enterprise to which the mooring is assigned.

Non-commercial mooring. Any mooring that is not a commercial mooring.

Transient mooring. Town designated mooring for temporary use by visitors.

Mooring Assignment. A specific location on, in, and under the waters governed by this ordinance, selected by the Harbor Master, for placement of mooring gear and tackle to allow a vessel to be secured to that location through the use of a mooring.

Mooring Assignment Permit. A permit required for use of a specific mooring assignment, granted by the Harbor Master pursuant to this ordinance.

Non-resident. For the purposes of this Ordinance, a non-resident is a person who does not qualify under the definition of resident.

Rafting. The act of securing one vessel to another, or the act of allowing two vessels to remain secured to each other.

Rental mooring. Mooring site assigned to an individual or business, the use of which is rented or leased.

Resident. For purposes of this Ordinance, a resident shall mean any person who resides or owns residential property in the Towns of Damariscotta, Newcastle, or Nobleboro.

Shorefront owner. An owner of a parcel of land that borders upon the waters governed by this Ordinance.

Watercraft. Any mobile floating apparatus.

Wharf. A permanent platform contiguous with the shoreline used to berth, load, and unload vessels including piers.