

CHAPTER 4
THOMASTON HARBOR ORDINANCE
ARTICLE I - Adoption
Section 401 - General

401.1 - Purpose

Pursuant to the provisions of the Maine Revised Statutes Annotated (MRSA), Title 38, Sec. 2, the following Ordinance is hereby enacted. It is intended that these will provide the means by which use of Thomaston Harbor **and its tidal waters** may be maximized, and competing commercial, recreational and other appropriate uses balanced. The intent of this Ordinance is to insure that all legitimate interests will have the opportunity to utilize Thomaston's limited harbor **and tidal water** resources.

401.2 - Characteristics

Thomaston Harbor, which is defined in detail in Chapter 10, Definitions, is situated **upriver from** the bend in the St. George River when approaching the Town of Thomaston from seaward. The harbor is comprised of a narrow channel at low tide which measures 19.3 acres between the fixed beacon and the Wadsworth Street Bridge. At normal high water, the water surface measures 96.9 acres. During northerly winds the harbor is sheltered. During southerly to southwest winds, the harbor is sheltered from the Wadsworth Street Bridge to the vicinity of Brown's point. Southeast winds provide the only direction from which wind and waves create a problem for a majority of the harbor. During incoming tides, the average current is 2-3 knots. During outgoing tides, the current averages 3-4 knots. A current of 6 knots has been measured. Presently the harbor sees maximum activity in the spring from April through June when boats are launched, and in the fall during September and October when boats are hauled. Considerable year-round activity results from productive clam flats on the St. George River. **The Town public landing float can accommodate 7 foot draft vessels at mean low water. Lyman Morse Boatbuilding, located at either end of the harbor, has extensive facilities for their service customers. A small boat marina and outboard engine sales/service business, Jeff's Marine, is located at the western end of the harbor. While there is virtually no safe anchoring space in the harbor, a visitor mooring at the public landing is available.**

401.3 - Standards

401.3.1 - Speed of Vessels: It shall be unlawful for any person to operate any boat upon the St. George River, in the defined harbor in such a manner as to cause a wash, a wake or waves that disturb or damage any wharf, float or anchored or moored boat or vessel or at a speed that endangers any person or property. Vessels shall not exceed a speed of five miles an hour in this area.

401.3.2 Navigation: The channel is for the passage of boats and shall be clear of any and all obstructions, except as permitted below. No obstructions of any kind shall be placed in the clear passage zone. Any person placing or owning an obstruction as follows in the areas as defined in Chapter 10, Channel, and Chapter 10, Clear Passage Zone, will be liable for a fine not exceeding \$500 each day that any person shall be found in violation of any said provisions. Each day shall constitute a separate and distinct offense.

A.) No person shall set fishing equipment in the waters of the Town of Thomaston or permit his equipment to remain in a position in said waters where any portion of said equipment shall be within eight feet of the surface of the waters within the area described in Chapter 10, Channel.

B.) No mooring shall be set, established or maintained within, Thomaston Tidal Waters, as defined in Chapter 10, Definitions, without permission of the Harbor Master or his deputy who shall grant such permission with due regard for passage of vessels. No person shall anchor in said area except when in distress or under direction of the Harbor Master.

C.) No water skiing or swimming is permitted in the harbor.

D.) All personal water craft, (Jet Ski's), operated in the Thomaston Harbor and/or the St. George River in Thomaston, shall be limited to the East or Down River Side boundary of the Harbor Landing area.

401.3.3 - Anchorage

Vessels shall anchor in the harbor in such a way and in such places or areas as the Harbor Master shall direct. The Harbor Master may at any time order any vessel at anchor to change position when, in his opinion, said vessel is so anchored as to impede navigation or to endanger other vessels.

401.3.4 - Moorings

These regulations are promulgated to meet Title 38, MRSA Section 2 as amended.

A.) All mooring space shall be under the exclusive control of the Harbor Master who shall assign moorings, maintain a written record of basic information as each mooring including assigned location, identifying number, vessel description, size, owner, and other data deemed useful. He shall also maintain a chart of the relevant harbor, showing current mooring locations, assignments, and their numbers.

B.) Commercial moorings shall be located in space designated by the Harbor Master for said use. The Harbor Master may assign unused commercial mooring space to other vessels based upon standards set forth in this Ordinance. Such assignment will be subject to review by the Harbor Committee at its discretion and non-commercial users shall have no vested right to said mooring space.

C.) Mooring locations shall be assigned on the basis of one mooring location per vessel. Mooring space shall not be transferable.

D.) Moorings assigned to commercial entities shall be reassigned at such time as the Harbor Master makes finding that the justification for the original assignment is no longer present.

E.) No individual will be eligible for a second mooring or float until all other claims for a float or mooring have been satisfied.

F.) Any mooring or float assigned beyond the original assignment will be subject to annual review and will not be considered a vested interest of the assignee.

G.) Within space available, future requests for a mooring location shall be treated on a first come basis and with no distinction made to residency in accordance with the following priority guidelines.

- i. Shore-front owners requesting an initial location adjacent to their property, where practicable.
- ii. Commercial vessel owners and marine operators.
- iii. Pleasure vessel owners.
- iv. Commercial vessel owners and marine operators requesting multiple
- v. locations.
- vi. All others.

H.) Applications for a boat mooring shall be submitted annually by March 1, to the Harbor Master, who shall review the application with regard to space available for the type of boat so indicated. Upon approval, it is the responsibility of the applicant to submit the approved application to the Town Office together with all fees due. The applicant shall then present the application and proof of payment to the Harbor Master who shall assign a registration number and location for such mooring and advise the applicant of these rules and regulations. Mooring permits are not transferable. The Harbor Master shall submit to the Town and maintain the list of all paid applications. The Harbor Master shall, when assigning mooring locations, be guided by water depth and the mooring plan which is part of this ordinance.

I.) Any person or legal entity assigned the use of a mooring space ~~by~~ is required to pay an annual mooring fee to the Town of Thomaston. The fees shall be established annually by the Harbor Committee. These fees are due and payable on or before April 1st of each year. Failure to remit these fees to the Town of Thomaston shall result in forfeiting the Harbor space assignment. Owners of moorings shall be liable for any and all fees due the Town of Thomaston resulting from usage of their mooring.

J.) All moorings shall be of sufficient size to hold the vessel for which they are used. Refer to Section 401.4 of this Ordinance. All moorings shall have been approved with the registration number assigned by the Harbor Master permanently affixed therein. Such numbers shall be at least three inches high and shall be clearly visible at all times. The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in case of emergency, he shall notify the owner of this intention to examine the mooring and request the presence of the owner during such examination. Moorings found to be inadequate with regards to the requirements of this section shall be corrected within 48 hours or removed. Any cost of examination or removal resulting therefrom shall be borne by the owner of the mooring. Vessels and/or mooring owners shall be liable for any damage caused by faulty, inadequate, or improperly placed moorings. Mooring and float tackle must be either pulled and inspected biannually or visually inspected biannually by an individual/qualified diver approved by the Harbor Committee.

K.) No person shall move or interfere with any mooring or vessel belonging to another person except by direction of the Harbor Master who will inform the owner.

L.) Courtesy moorings may be provided for the use of visiting vessels. Such vessels may use these moorings for a period of no longer than 48 hours, except under unusual circumstances with the express permission of the Harbor Master.

M.) Moorings that are unused by the vessel assigned to it, for more than five (5) months during the period April 1 to Oct.31, may be deemed vacated and the location reassigned by the Harbor Master. If a mooring location is re-assigned under this section the former assignee shall have no right to special consideration for assignment of another mooring.

N.) Vessels in violation of this ordinance may be moved by the Harbor Master, at the owner's expense.

O.) All decisions made by the Harbor Master under this section may be appealed to the Harbor Committee on forms approved by the Harbor Committee.

P.) Allowable types of moorings are Private, Commercial Service, Commercial Rental, **and combined commercial service/rental** described below:

- 1.) **PRIVATE MOORING:** A fixed and adequate means of securing a mooring licensee's watercraft to a specified location upon Thomaston's tidal waters. A private mooring is to be occupied by a specific watercraft and requires a mooring permit from the Harbor Master/Harbor Committee.

- 2.) **COMMERCIAL SERVICE MOORING:** A fixed and adequate means of temporarily securing watercraft to a specified location upon Thomaston's tidal waters that are service customers of marine facilities such as boatyards, marinas, etc. The marine facility operator must obtain permits from both the Harbor Master/Harbor Committee and from ACOE. Multiple such moorings shall be used to moor a float, or floats in a linearly-linked array, used for servicing watercraft.

- 3.) **COMMERCIAL RENTAL MOORINGS:** A fixed and adequate means of securing watercraft to a specified location upon Thomaston's tidal waters for which any type of fee is charged by the mooring licensee. The rental mooring operator must obtain permits from both the Harbor Master/Harbor Committee and from ACOE. Multiple such moorings shall be used to moor a float, or floats in a linearly-linked array, used for rental moorings

- 4.) **COMMERCIAL COMBINED SERVICE/RENTAL MOORING:** a fixed and adequate means of temporarily securing watercraft to a specified location upon Thomaston's tidal waters that are either service customers of Marine facilities such as boat yards, marinas, etc. or are charged a fee by the mooring licensee for using the secure mooring space. The commercial mooring operator must obtain permits from both the Harbor Master/Harbor Committee and from ACOE. Multiple such moorings shall be used to moor a float, or floats in a linearly-linked-linked array, used for Combined service/rental moorings.

Q.) Applications for a private vessel mooring permit must have a copy of proof of payment of the current year excise tax for the vessel which shall occupy the mooring. Maine residents must pay the excise tax in the municipality of the owner's residence. Vessel owner's non-resident in the state of Maine seeking a private mooring permit shall pay excise tax on their boat either in the state of their residence or in Thomaston. All vessels, whether documented or state registered, are liable for payment of excise tax in the State of Maine if proof of payment elsewhere is not provided.

401.3.5 - Floats

A.) It is recognized that "floats" in the harbor will allow for a greater density of boats in any given area, therefore, **seasonal "floats" (less than 7 months per year)** may be

moored in Thomaston Harbor on a space available basis as assigned by the Harbor master **and permitted by ACOE**. All year-round (more than 7 month) floats installed in Thomaston Harbor, must obtain permits **from the Harbor Master, ACOE and Maine DEP**.

B.) All boat owners who have not renewed their float or mooring assignment with the Harbor Master by March 1st of each year shall be considered as having abandoned their assignment.

C.) Additional mooring floats shall be permitted and allowed by the Harbor Committee as demand increases. The Harbor Committee shall give first refusal for assignment of float space to individuals whose moorings have been displaced by placement of a given float. Within space available, future requests for a moored float location shall be treated on a first come basis and with no distinction made to residency in accordance with the following priority guidelines:

- i. Shore-front owners requesting an initial location adjacent to their property, where practicable.
- ii. Commercial vessel owners and marine operators.
- iii. Pleasure vessel owners.
- iv. Commercial vessel owners and marine operators requesting multiple locations.
- v. All others.

D.) The floats shall be privately owned, built, and maintained. Floats shall be built to the standards listed in 401.4.2. Individuals who construct floats and are granted space shall have the right to use of the floats assigned space consistent with this ordinance. If these individuals change the size of their vessel they will go to a priority status and be re-assigned a space for their vessel when available. Float space other than those attached to a pier or wharf cannot be transferred in the event of ownership change, either of the vessel or the float.

E.) Two-point tackle is required for all mid-channel mooring floats, with the moorings size calculated based upon the length of the float plus 10' when referred to table 401.4.4. For example, a 15' float would require two 4000# granite sinkers.

F.) Uniform rental fees for moored floats shall be established annually January 1, by the Harbor Committee.

G.) Floats that are unused by the vessel assigned to it for more than five (5) months during the period April 1 to October 31, may be deemed vacated and be reassigned by the Harbor Committee. If a moored float is re-assigned under this section the former assignee shall have no right to special consideration for assignment of another mooring or float.

H.) All decisions made by the Harbor Master under this section may be appealed to the Harbor Committee on forms approved by the Harbor Committee.

401.3.6 - Buoys Other Than for Marking Vessel Moorings.

A. No buoy of this type shall be placed in channels leading to wharves, nor shall such buoys be placed less than three vessel lengths from a mooring buoy for that vessel. The Harbor Master is empowered, in the interest of public safety, to require the removal of non-conforming buoys.

401.3.7 - Public Wharves, Landings, and Launching Ramps.

A.) Obstructions: No person shall obstruct by any means whatsoever the free use of piers, docks and other common landing places. The town wharves shall be used only for loading and unloading. Vessels shall not remain moored to the wharf or float for a period longer than is reasonably necessary for this purpose, except by permission of the Harbor Master.

A two hour maximum tie-up on the outer face of the Town Landing float. Boats and trailers shall not remain on the ramp longer than reasonably required to launch or retrieve a boat. The Harbor Master shall remove or cause to be removed any unattended vessel obstructing free use of piers, docks or other common landing places after due effort has been made to notify the master or owner of said vessel of the above violation.

B.) The Harbor Master shall allow overnight dockage on town floats at a fee designated each year by the Harbor Committee. Any person mooring overnight on town docks with or without permission shall be charged dockage payable on demand, and/or levied a fine to not exceed \$500 per day for continuing violations.

C.) No person shall loiter, create a public nuisance or partake of alcoholic beverages on Town wharves, landings or ramps. Town wharves or piers may be closed at the discretion of the Harbor Committee and so posted.

D.) No skiffs, dinghies or tenders are allowed on top of Town owned floats:

- 1.) No boat more than 12 feet in length shall be tied to a town-owned float except for loading or unloading with 2 hours maximum. Tenders, skiffs, and dinghies must be maintained by owner and owner shall be liable for any damage occurring to

floats or other vessels due to negligence. All tenders, skiffs and dinghies shall be registered with the Harbor Master and identified by number.

- 2.) All tenders skiffs and dinghies (12 foot maximum) left overnight must be tied on the inner face of Town floats leaving the channel side of floats open for use. Single-point tie-up of these small vessels is required.

E.) Storage: Personal property such as lobster traps, automobiles, cradles, trailers, boats, vessels, floats, etc. shall not be stored on Town wharves or landings. Exceptions to the rule shall be considered on an individual basis when submitted in writing to the Harbor Committee. Personal property shall not remain for more than 2 hours on the designated loading zone.

F.) Construction: No additions, alterations, new construction or changes to existing structures at any wharf, pier or landing shall be made without prior permission of the Harbor Committee and Code Enforcement Officer and any required State and Federal permits. Permission for construction of any new wharves or piers within the Harbor limits must be obtained from the Harbor Committee and Code Enforcement Officer and any required State and Federal permits.

G.) Loading, Offloading: All loading and/or offloading of bait shall be in water tight containers. Open tops are allowable providing discretion is used in said handling. Violations shall be subject to Section 401.3.11 Penalty.

401.3.8 - Waste and Refuse

No person or vessel shall deposit, throw, sweep or cause to be deposited or swept into the waters of Thomaston, or into waters adjacent there-to, any gas or oil or bilge water containing same, ashes, dirt, stones, gravel mud, logs, planks or any other substance tending to obstruct the navigation of said harbor or waters there-of. No trash or refuse shall be placed on any town float or pier except in designated containers.

401.3.9 - Harbor Master

A.) The Harbor master shall enforce this ordinance and the rules and regulations pertaining to harbors and tidal waters under the jurisdiction of the Thomaston Harbor Committee as promulgated by the committee, and shall cooperate with other government agencies in enforcing their regulations.

B.) He shall, under the supervision of the committee, oversee the jurisdictional area of the Harbor, preserve and regulate navigation with said waters, assign mooring locations and require same to be kept in safe condition, direct the removal of vessels, if necessity or emergency requires, inquire into and prosecute all offenses occurring within his jurisdiction, and he shall keep such records as the committee may require and shall perform such other duties as the committee may prescribe.

C.) The Harbor Master shall be appointed for one year, his qualifications, salary and expenses to be recommended by the committee.

D.) The Harbor Master shall be empowered to make arrests for offenses under the provisions of the regulation as other officers are authorized to do so (MRSA Title 38, Subchapter 1).

401.3.10- Harbor Committee

A.) Terms: The committee shall consist of seven (7) members and an alternate serving staggered terms of three (3) years, appointed by the Board of Selectmen. The alternate shall participate in all discussions and vote when one or more members are absent. The committee shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of all minutes of the proceedings. All minutes shall be a public record.

B. The duties of the Harbor Committee shall be:

- i. To serve as the Appeals Board for decisions of the Harbor Master.
- ii. To promulgate harbor rules & regulations
- iii. To establish fees.
- iiii. To cooperate with other government agencies in enforcement of this ordinance in the absence of the Harbor Master

401.3.11 - Penalty

Whoever violates any of these rules or regulations or refuses or neglects to obey the lawful and reasonable orders of the Harbor Master, or resists him in the execution of his duties, shall be punished by a fine of not more than \$500.00 for each day of occurrence.

401.3.12 - Federal and State Regulations

Nothing herein shall be considered as conflicting with federal laws applicable to the coastal waters and tidal waters and tidal rivers and harbors of the state. In all cases the more stringent law shall prevail. Commercial service moorings, ~~and~~ rental moorings, **and combined service/rental moorings** shall require permitting from the Army Corps of Engineers (ACOE) after having received approval of the Thomaston Harbor Committee. The ACOE also regulates all temporary and permanent piers, docks, piles, floats, lobster cars, aquaculture operations, dolphins, pipelines and cables, as well as other similar work. The permitting process for these items should begin with the Thomaston Harbor Committee for approval and then the DEP/ACOE for any required permits leading to the issuance of a building permit from the Town of Thomaston Code Enforcement Officer. Assistance regarding which forms are required for the permitting agencies may be obtained at the CEO's office.

401.3.13 - Effective Date

These rules and regulations shall take effect when adopted and shall remain in effect until altered or repealed by a regular or special town meeting.

401.3.14 - Severability

In the event that any section, subsection or portion of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not affect the validity of any other section, subsection or portion of this ordinance.

401.4 - Standards

401.4.1 - Setbacks

All floats, moorings, slips, and piers and docks shall be situated in a fashion which will not allow any boat to be in the "Clear Passage Zone" or within ten (10) feet of any property line, below mean high water. An exception to the ten (10) foot setback requirement may be made where abutting property owners forge an alternative written agreement, said agreement ratified by the Harbor Committee and Planning Board.

401.4.2 - Floats

All new floats on Thomaston's tidal waters, including new floats intended to be used as riparian property-owner landings **and** new floats comprising a marina array, shall have the project dimensions approved by the Harbor Committee on a case-by case basis, together with the required Federal and State agency approvals. All floats shall be constructed in accordance with State of Maine Standards, Bureau of Parks and Recreation.

401.4.3 - Property Lines

Property lines extending below mean high water shall be determined by the average of perpendicular lines to a line connecting the end in-points of the shore lines at mean high water unless otherwise determined by registered property survey.

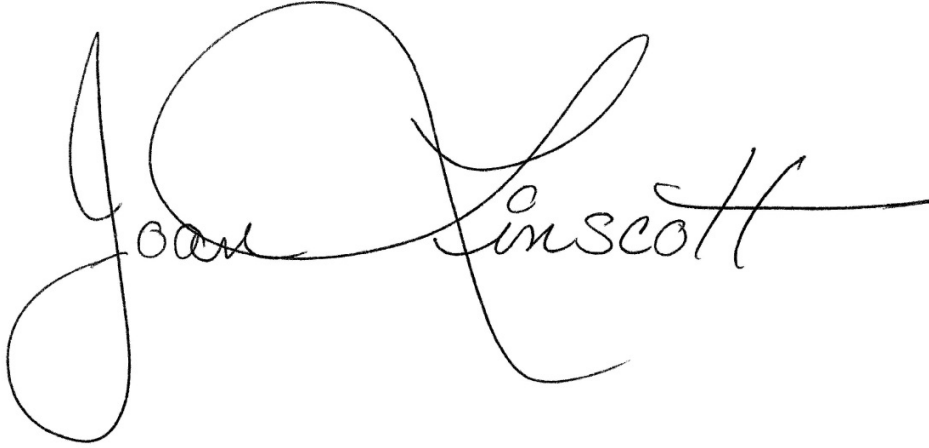
401.4.4 - Boat moorings shall comply with the following

Length Boat Max.	Chain Size	Mushroom Wt.	Granite Wt.	Pennant Length	Pennant Strength
15'	5/16	100#	2,000#	4'	400#
20'	3/8	150#	2,000#	8'	600#
25'	3/8	200#	4,000#	10'	800#
30'	1/2	300#	6,000#	10'	1,200#
35'	1/2	350#	6,000#	10'	1,400#
40'	5/8	400#	6,000#	10'	1,600#
45'	5/8	450#	6,000#	10'	1,800#
50'	5/8	500#	6,000#	10'	2,000#

Chain length required is a 3 to 1 scope of water depth at mean high water. Mushroom or granite anchors may be used.

I hereby certify:

This Ordinance as amended was adopted by the Town Meeting voters on June 10, 2015.

A handwritten signature in black ink that reads "Joan LinScott". The signature is written in a cursive style with a large, prominent loop for the letter 'J' and a long horizontal stroke extending from the end of the name.

Town Clerk
June 10, 2015