

# **ACTON MOORING ORDINANCE**

## **ARTICLE 1 - TITLE**

- 1.1 The title of this ordinance shall be the “Acton Mooring Ordinance” (hereinafter referred to as the “Ordinance”).

## **ARTICLE 2 - PURPOSE**

- 2.1 This Ordinance is enacted to ensure that mooring installation, use and maintenance does not impair the public’s health, safety and welfare; does not result in degraded water quality, loss of aquatic habitat, or interference with navigation; or does not infringe on the rights of Shoreland property owners.

## **ARTICLE 3 - AUTHORITY**

- 3.1 This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution and the provisions of 12 M.R.S.A. § 13072, 30-A M.R.S.A. § 3001, and 38 M.R.S.A. §§ 1 to 13.

## **ARTICLE 4 - APPLICABILITY**

- 4.1 This Ordinance allows the installation of moorings for the purpose of securing a watercraft, float, float plane, or swim area floats in a great pond or stream within the Town of Acton. The same regulations also apply to anchoring.

## **ARTICLE 5 – CONFLICT AND SEVERABILITY**

- 5.1 Whenever a provision of this Ordinance conflicts with or is inconsistent with any other ordinances, regulations or statute, the more restrictive provision shall apply. The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

## **ARTICLE 6 - DEFINITIONS**

- 6.1 In this Ordinance, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed.
  - 6.1.1 Great pond: Any inland body of water which in a natural state has a surface area in excess of 10 acres.
  - 6.1.2 Mooring: Any device designed to float and is attached to the anchoring device that secures a watercraft, float, float plane or swim area floats to the bottom of a water body.
  - 6.1.3 Mooring location: A rectilinear area on a body of water in which the master or owner of a boat, float or vessel has been permitted to place a mooring.
  - 6.1.4 Anchoring: To hold fast by means of an anchor.
  - 6.1.5 Watercraft: Any craft meeting the Federal or State definition of a watercraft.

- 6.1.6 Shorefront mooring zone: The area of water within two hundred (200) feet of the normal high-water line, or one third (1/3) the distance to the opposite shore's normal high-water line, whichever is less, bounded by lines perpendicular to the shore extending from the boundaries of privately owned property.
- 6.1.7 Float: A floating platform moored or anchored for use by swimmers or boats, that is not integrated and connected with a dock.

## **ARTICLE 7 – SHOREFRONT MOORING ZONE**

- 7.1 No person may moor, anchor, or otherwise affix or secure any boat or any other floating object within a shorefront mooring zone without explicit consent of the owner of the adjacent shorefront property. Mooring placement shall be the responsibility of the property owner subject to the following conditions:
  - 7.1.1 A mooring may be placed by a shorefront property owner or another individual with the shorefront property owner's written permission.
  - 7.1.2 A mooring shall be placed in the shorefront mooring zone directly adjacent to the owner's property.
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  - 7.1.4 There shall be no more than one mooring for every 50 feet of shoreline of each property.
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## **ARTICLE 8 - HARBORMASTER**

- 8.1 The Select Board shall appoint a harbormaster to carry out and enforce provisions of this chapter. The harbormaster shall be appointed for a term of no less than one year in accordance with the requirements of 12 M.R.S.A. § 13072 and this chapter. The Town's Code Enforcement Officer may also serve as its harbormaster.

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- 9.1 The harbormaster shall determine whether provisions of this chapter have been violated. The Select Board together with the harbormaster, shall assess the nature and severity of the violation and shall take the necessary course of corrective action, which may include assessment of a penalty. If an illegally placed mooring is not removed within 14 days after a notice of violation has been sent by certified mail and regular United States mail to the property owner's last know address, (or a notice left on the boat/mooring), the Harbor Master may remove the mooring. The mooring's owner shall be responsible for all expenses incurred in the removal, including legal fees.
- 9.2 Any person who violates any provision of this chapter shall be subject to a civil penalty of not less than \$100 and not more than \$250 for a first violation. The violator may be ordered to correct or abate the violation. Each day that such a violation continues to exist shall be considered a separate violation. This chapter shall be enforced pursuant to 30-A M.R.S.A. § 4452. The failure to obey the lawful order of a harbormaster shall be punished as a Class E crime pursuant to 38 M.R.S.A. § 13.

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## **ARTICLE 3 - AUTHORITY**

- 3.1 This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution and the provisions of 12 M.R.S.A. § 13072, 30-A M.R.S.A. § 3001, and 38 M.R.S.A. §§ 1 to 13.

## **ARTICLE 4 - APPLICABILITY**

- 4.1 This Ordinance allows the installation of moorings for the purpose of securing a watercraft, float, float plane, or swim area floats in a great pond or stream within the Town of Acton. The same regulations also apply to anchoring.

## **ARTICLE 5 – CONFLICT AND SEVERABILITY**

- 5.1 Whenever a provision of this Ordinance conflicts with or is inconsistent with any other ordinances, regulations or statute, the more restrictive provision shall apply. The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

## **ARTICLE 6 - DEFINITIONS**

- 6.1 In this Ordinance, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed.
  - 6.1.1 Great pond: Any inland body of water which in a natural state has a surface area in excess of 10 acres.
  - 6.1.2 Mooring: Any device designed to float and is attached to the anchoring device that secures a watercraft, float, float plane or swim area floats to the bottom of a water body.
  - 6.1.3 Mooring location: A rectilinear area on a body of water in which the master or owner of a boat, float or vessel has been permitted to place a mooring.
  - 6.1.4 Anchoring: To hold fast by means of an anchor.
  - 6.1.5 Watercraft: Any craft meeting the Federal or State definition of a watercraft.



- 6.1.6 Shorefront mooring zone: The area of water within two hundred (200) feet of the normal high-water line, or one third (1/3) the distance to the opposite shore's normal high-water line, whichever is less, bounded by lines perpendicular to the shore extending from the boundaries of privately owned property.
- 6.1.7 Float: A floating platform moored or anchored for use by swimmers or boats, that is not integrated and connected with a dock.

## **ARTICLE 7 – SHOREFRONT MOORING ZONE**

- 7.1 No person may moor, anchor, or otherwise affix or secure any boat or any other floating object within a shorefront mooring zone without explicit consent of the owner of the adjacent shorefront property. Mooring placement shall be the responsibility of the property owner subject to the following conditions:
  - 7.1.1 A mooring may be placed by a shorefront property owner or another individual with the shorefront property owner's written permission.
  - 7.1.2 A mooring shall be placed in the shorefront mooring zone directly adjacent to the owner's property.
  - 7.1.3 The mooring shall be restricted to water within 200 feet of the normal high-water line, or one third (1/3) the distance to the opposite shore's normal highwater line, whichever is less. If a mooring is deemed to create a navigation hazard, it shall be removed or moved to a safe mooring location specified by the harbormaster.
  - 7.1.4 There shall be no more than one mooring for every 50 feet of shoreline of each property.
  - 7.1.5 A mooring shall not be allowed if watercraft attached to it will interfere with the watercraft attached to other lawful moorings and/or swim area floats, or if safe navigation is impeded. Anchoring must also not impede safe navigation.

## **ARTICLE 8 - HARBORMASTER**

- 8.1 The Select Board shall appoint a harbormaster to carry out and enforce provisions of this chapter. The harbormaster shall be appointed for a term of no less than one year in accordance with the requirements of 12 M.R.S.A. § 13072 and this chapter. The Town's Code Enforcement Officer may also serve as its harbormaster.

## **ARTICLE 9 – ENFORCEMENT, VIOLATIONS, PENALTIES**

- 9.1 The harbormaster shall determine whether provisions of this chapter have been violated. The Select Board together with the harbormaster, shall assess the nature and severity of the violation and shall take the necessary course of corrective action, which may include assessment of a penalty. If an illegally placed mooring is not removed within 14 days after a notice of violation has been sent by certified mail and regular United States mail to the property owner's last know address, (or a notice left on the boat/mooring), the Harbor Master may remove the mooring. The mooring's owner shall be responsible for all expenses incurred in the removal, including legal fees.
- 9.2 Any person who violates any provision of this chapter shall be subject to a civil penalty of not less than \$100 and not more than \$250 for a first violation. The violator may be ordered to correct or abate the violation. Each day that such a violation continues to exist shall be considered a separate violation. This chapter shall be enforced pursuant to 30-A M.R.S.A. § 4452. The failure to obey the lawful order of a harbormaster shall be punished as a Class E crime pursuant to 38 M.R.S.A. § 13.

## **ARTICLE 10 –APPEALS**

- 10.1 Appeals by any person aggrieved by a decision, act, or failure to act by the harbormaster as it relates to the implementation and enforcement of this chapter shall be made to the Appeals Board through the Town Administrator. In all cases, a person aggrieved by an order or decision made or failure to act by the harbormaster shall file his appeal within 14 days of receipt of notice of the decision or order appealed. The appeal shall specifically describe the grounds for such action. The Town Administrator shall notify the Select Board, the Harbormaster and the Appeals Board of the Appeal. The Appeals Board will apply an appellate standard of review in a search for errors or inconsistencies supported by the evidence.

## **ARTICLE 11 – EFFECTIVE DATE**

- 11.1 This ordinance shall take effect upon adoption by the Acton Town Meeting.

PROPOSED

# **ACTON MOORING ORDINANCE**

## **ARTICLE 1 - TITLE**

- 1.1 The title of this ordinance shall be the “Acton Mooring Ordinance” (hereinafter referred to as the “Ordinance”).

## **ARTICLE 2 - PURPOSE**

- 2.1 This Ordinance is enacted to ensure that mooring installation, use and maintenance does not impair the public’s health, safety and welfare; does not result in degraded water quality, loss of aquatic habitat, or interference with navigation; or does not infringe on the rights of Shoreland property owners.

## **ARTICLE 3 - AUTHORITY**

- 3.1 This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution and the provisions of 12 M.R.S.A. § 13072, 30-A M.R.S.A. § 3001, and 38 M.R.S.A. §§ 1 to 13.

## **ARTICLE 4 - APPLICABILITY**

- 4.1 This Ordinance allows the installation of moorings for the purpose of securing a watercraft, float, float plane, or swim area floats in a great pond or stream within the Town of Acton. The same regulations also apply to anchoring.

## **ARTICLE 5 – CONFLICT AND SEVERABILITY**

- 5.1 Whenever a provision of this Ordinance conflicts with or is inconsistent with any other ordinances, regulations or statute, the more restrictive provision shall apply. The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

## **ARTICLE 6 - DEFINITIONS**

- 6.1 In this Ordinance, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed.
  - 6.1.1 Great pond: Any inland body of water which in a natural state has a surface area in excess of 10 acres.
  - 6.1.2 Mooring: Any device designed to float and is attached to the anchoring device that secures a watercraft, float, float plane or swim area floats to the bottom of a water body.
  - 6.1.3 Mooring location: A rectilinear area on a body of water in which the master or owner of a boat, float or vessel has been permitted to place a mooring.
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- 6.1.6 Shorefront mooring zone: The area of water within two hundred (200) feet of the normal high-water line, or one third (1/3) the distance to the opposite shore's normal high-water line, whichever is less, bounded by lines perpendicular to the shore extending from the boundaries of privately owned property.
- 6.1.7 Float: A floating platform moored or anchored for use by swimmers or boats, that is not integrated and connected with a dock.

## **ARTICLE 7 – SHOREFRONT MOORING ZONE**

- 7.1 No person may moor, anchor, or otherwise affix or secure any boat or any other floating object within a shorefront mooring zone without explicit consent of the owner of the adjacent shorefront property. Mooring placement shall be the responsibility of the property owner subject to the following conditions:
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  - 7.1.4 There shall be no more than one mooring for every 50 feet of shoreline of each property.
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## **ARTICLE 8 - HARBORMASTER**

- 8.1 The Select Board shall appoint a harbormaster to carry out and enforce provisions of this chapter. The harbormaster shall be appointed for a term of no less than one year in accordance with the requirements of 12 M.R.S.A. § 13072 and this chapter. The Town's Code Enforcement Officer may also serve as its harbormaster.

## **ARTICLE 9 – ENFORCEMENT, VIOLATIONS, PENALTIES**

- 9.1 The harbormaster shall determine whether provisions of this chapter have been violated. The Select Board together with the harbormaster, shall assess the nature and severity of the violation and shall take the necessary course of corrective action, which may include assessment of a penalty. If an illegally placed mooring is not removed within 14 days after a notice of violation has been sent by certified mail and regular United States mail to the property owner's last know address, (or a notice left on the boat/mooring), the Harbor Master may remove the mooring. The mooring's owner shall be responsible for all expenses incurred in the removal, including legal fees.
- 9.2 Any person who violates any provision of this chapter shall be subject to a civil penalty of not less than \$100 and not more than \$250 for a first violation. The violator may be ordered to correct or abate the violation. Each day that such a violation continues to exist shall be considered a separate violation. This chapter shall be enforced pursuant to 30-A M.R.S.A. § 4452. The failure to obey the lawful order of a harbormaster shall be punished as a Class E crime pursuant to 38 M.R.S.A. § 13.

## **ARTICLE 10 –APPEALS**

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## **ARTICLE 4 - APPLICABILITY**

- 4.1 This Ordinance allows the installation of moorings for the purpose of securing a watercraft, float, float plane, or swim area floats in a great pond or stream within the Town of Acton. The same regulations also apply to anchoring.

## **ARTICLE 5 – CONFLICT AND SEVERABILITY**

- 5.1 Whenever a provision of this Ordinance conflicts with or is inconsistent with any other ordinances, regulations or statute, the more restrictive provision shall apply. The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

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