

TOWN OF BROOKSVILLE HARBOR ORDINANCE 2002
as of March 2012

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TOWN OF BROOKSVILLE HARBOR ORDINANCE 2002 as of March 2012

Section I: PURPOSE

1.1 This Town of Brooksville Harbor Ordinance is hereby established pursuant to 30-A MRSA sec. 3001 and 38 MRSA sec. 7 to regulate marine activities in Brooksville, including the Bagaduce River and all tidal bays and inlets adjacent to shorelines of the Town, and to manage the Town Landings. It is intended to ensure safety to persons and property, to promote availability and use of public resources, to encourage and protect traditional maritime and commercial activities, and to create a fair and efficient framework for the administration of those resources. *(Amended March 2, 2010)*

1.2 This Ordinance shall be subordinate to existing Federal and State Laws governing the same matters. Where found to be in conflict with higher Federal or State authority that portion of the Ordinance would be null and void; otherwise the Ordinance will stay in full force.

Section 2: WATERS REGULATED

2.1 Buck's Harbor, defined as the area north of a tangent line (295 degrees true) drawn from the Coast Guard mark on Gray's Point to Condon's Point. (See NOAA chart #13309, US East Coast/Maine/Penobscot River.)

2.2 All other tidal waters within the jurisdictional limits of the Town of Brooksville.

Section 3: EFFECTIVE DATES

3.1 This Ordinance shall take effect immediately upon its adoption at the polls. Each owner of an existing mooring shall obtain a permit (in Buck's Harbor) or register it (outside of Buck's Harbor) and pay the applicable permit or registration fee by July 1, 2002 and by July 1st of each succeeding year. Each owner of a new mooring in Buck's Harbor shall obtain a permit, in accordance with section 7, before setting that mooring. Each owner of a new mooring outside of Buck's Harbor shall, within thirty (30) days of setting it, register it in accordance with section 6. Any mooring owner in Buck's Harbor who has not obtained a permit for his/her/its existing mooring(s) by August 1, 2002 and by July 1st of each succeeding year may not use that mooring and may be subject to penalties. *(Amended March 4, 2008)*

Section 4: HARBOR COMMITTEE

4.1 The Town of Brooksville Harbor Committee (henceforth referred to as the Committee) is hereby established. It shall consist of seven (7) voting members appointed by the Selectmen. Five (5) members shall constitute a quorum. One Selectman and the Harbor-master shall serve as non-voting advisors to the Committee.

4.2 The Committee members shall all be residents of the Town of Brooksville. The membership shall represent diverse interests in the harbors, waterways, and tidal waters including, but not limited to, commercial and recreational boat owners, shoreland owners, water-related business owners, and Town board or committee members.

4.3 The term of a member shall be three (3) years, except that in the first year two (2) shall be appointed to a one (1) year term, two (2) shall be appointed to a two (2) year

term, and three (3) shall be appointed to the three-year term. The term shall commence immediately following the Annual Town Meeting.

4.4 The Chairperson of the Committee shall be elected annually by a vote of the Committee at its first meeting following the Annual Town Meeting.

4.5 The Committee shall meet on the call of the Selectmen, the Chairperson or the Harbor-master. Meetings shall be held at least quarterly. Notices shall be mailed to members at least 10 (ten) days prior to meetings. Notice of all meetings shall be posted at the Town Public Service Building at least 10 days in advance, and meetings shall be open to the public.

4.6 The duties of the Committee shall be:

4.6.1 To present to the Selectmen qualified candidate(s) for appointment as Harbor-master by February 1st of each year. The Committee shall use Section 5 of this Ordinance when considering qualifications of candidates. If the Selectmen do not deem any candidate satisfactory, then the Committee will use its best efforts to present additional qualified applicants.

4.6.2 To oversee the duties of the Harbormaster and to provide to the Selectmen an evaluation of the Harbormaster's performance by December 31st of each year.

4.6.3 To conduct harbor and coastal planning, operation and regulation, limited to those waters of Brooksville described in Section 2 of this Ordinance, except for duties of the Harbormaster or deputies which are set forth in the 38 MRSA sec.1 et seq. of this Ordinance.

4.6.4 To develop and begin implementation of a mooring plan for Buck's Harbor within 6 (six) months of the adoption of this Ordinance. On completion, the Harbor Plan will become Appendix II to this Ordinance and be subject to amendment by the Selectmen after recommendation by the Harbor Committee.

4.6.5 To make recommendations to any Town meeting or duly constituted Town body or to any regulatory or advisory body as may be consistent with its duties.

4.6.6 To develop an annual budget for activities covered by this Ordinance and to recommend fees and penalties associated therewith.

4.6.7 To hear appeals of any person aggrieved by any decision, act, or failure to act of the Harbormaster or deputies.

4.6.8 To review this Ordinance at least annually and to recommend changes as needed to the Selectmen.

4.6.9 To oversee the management of the Town Landings. *(Added March 2, 2010)*

Section 5: HARBORMASTER

5.1 The Harbormaster shall be appointed by the Selectmen annually for a one-year term beginning April 1 and ending March 31. In the event that an appointment is not made by March 31, the incumbent shall remain in office until a successor is appointed and sworn.

This Ordinance shall not be construed as giving the serving Harbormaster any expectation of automatic reappointment to successive terms, and no cause need be shown by the Selectmen for their failure to reappoint a Harbormaster at the end of any one-year term.

5.2 The Selectmen shall appoint a Harbormaster from the list of nominees submitted by the Harbor Committee. The Selectmen may reappoint the Harbormaster after reviewing evaluations of the Committee.

5.3 A Harbormaster may be removed from office, or be subject to other disciplinary action, by the Selectmen upon recommendation of the Harbor Committee during his/her term of office for cause under 30A MRSA sec. 2601, and 38 MRSA sec. 1. Any such recommendation shall be preceded by a predetermination hearing before the Committee, after notice to the Harbormaster and in executive session, unless otherwise requested by the Harbormaster. If the Committee then decides to recommend removal or other discipline, it shall provide the Selectmen and the Harbormaster with a written list of specified charges pursuant to 1 MRSA sec. 405(6)(A) and 38 MRSA sec. 1. The Selectmen shall then conduct a hearing on those charges and provide a written decision within 30 days. Any vacancy in the Harbormaster's position shall be filled by the procedures set forth in Section 4.6.1 of this Ordinance. Until a successor is appointed to fill out the term left vacant, the chairperson of the Harbor Committee shall serve as acting Harbormaster.

5.4 Upon recommendation of the Harbor Committee, the Selectmen shall establish compensation of the Harbormaster.

5.5 Minimum qualifications of the Harbormaster are as follows:

- 5.5.1 Twenty-one years of age
- 5.5.2 U.S. citizen
- 5.5.3 Maine resident
- 5.5.4 High school education or equivalent
- 5.5.5 Valid driver's license
- 5.5.6 Demonstrated skill in small boat handling and basic navigation

5.6 Duties of the Harbormaster include, but are not limited to, the following:

5.6.1 To administer and enforce the provisions of this Ordinance with the authority granted by law.

5.6.2 Within the waters of Buck's Harbor, the Harbormaster shall have all those certain duties and responsibilities of that office which are prescribed by 38 MRSA sec. 1 et seq., including resolving conflicts between parties relating to moorings and watercraft operations.

5.6.3 To manage the permitting process, waiting lists, if any, permit applications, and location and location and specification of tackle in Buck's Harbor.

5.6.4 To work with the Harbor Committee to establish and maintain a Harbor plan.

5.6.5 To work with the Harbor Committee to establish and maintain anchorage areas and channels in Buck's Harbor and in Smith Cove, to remove obstructing fishing gear and vessels, and to change mooring locations when a crowded condition renders the change desirable. (*Amended March 2, 2010*)

5.6.6 To aid the Harbor Committee in the preparation of its annual report and budget.

5.6.7 To attend Maine Harbormaster seminars and to become certified within 18 months.

5.6.8 Outside Buck's Harbor Waters: To manage the registration of moorings and, upon complaint, to resolve conflicts between parties relating to moorings and operation of watercraft.

5.6.9 The Harbormaster is not authorized to carry a weapon nor to make arrests in the conduct of any duties required by his/her office.

5.6.10 To manage the Town Landings, including the dinghy tie-up registration process, floats and site maintenance, parking and rules enforcement. *(Added March 2, 2010)*

Section 6: MOORING REGISTRATION (for non-Buck's Harbor waters)

6.1 For Brooksville waters outside of Buck's Harbor, the owners of all new and existing moorings shall register the location annually with the Harbormaster. Registration forms may be obtained from the Harbormaster or at the Town Public Service Building.

6.1.1 Exception: For moorings in all Brooksville tidal waters related to aquaculture, see Section 11 of this Ordinance.

6.2 Registration fees shall be set annually by the Selectmen and included in Appendix I of this Ordinance. Shoreland owners pay no registration fee for a primary mooring.

6.3 The registration holder shall mark the mooring surface float or buoy with the registration number in 3" minimum height in a contrasting color *(added March 4, 2003)* and shall mark any winter pole or similar device with the registration number in 3" minimum height in a contrasting color that is visible on the surface. *(added March 8, 2011)*

6.4 Any new mooring for which fees have not been paid within 30 days of its setting and any existing mooring for which fees have not been paid annually by July 1st may be removed by the Harbormaster or his/her agent. *(Amended March 3, 2009)*

Section 7: MOORING PERMITS (for Buck's Harbor)

7.1 No mooring or float shall be placed within the limits of Buck's Harbor unless: (1) an application for permit has been filed with the Harbormaster; (2) the Harbormaster has issued a written permit specifying the mooring's location, size, type and scope, and the maximum size and type of boat to be moored; and (3) the appropriate fee has been paid.

7.2 Categories of Permits for Buck's Harbor

- 7.2.1 Shoreland owners
- 7.2.2 Boat owners (resident, commercial fishermen, non-resident)
- 7.2.3 Commercial rental mooring owners
- 7.2.4 Service moorings
- 7.2.5 Other (storm, float, temporary)
- 7.2.6 Town moorings

7.3 Issuance of Permits for Buck's Harbor

7.3.1 In Year 1 of this ordinance, anyone having a mooring(s) in Buck's Harbor at the time of enactment of this Ordinance who has maintained it in a condition suitable for use of a watercraft within the previous 2 years shall be, upon application, granted a permit for said mooring(s) for the first year.

7.3.2 When the number of applications exceeds the number of spaces available, the Harbormaster shall establish a waiting list by priority as follows:

- (1) Shoreland owner
- (2) Resident commercial fisherman
- (3) Existing mooring owner requesting change of mooring location
- (4) Resident recreational and commercial (service, rental, charter, etc.)
- (5) Non-resident recreational and commercial (fishermen, service, rental, charter, etc.)

Generally, an applicant's name may appear only once on the waiting list. Multiple applications under a single name shall be subject to review by the Harbor Committee. An application for a single commercial rental mooring must be supported by evidence of a bona fide commercial venture.

A record of all applications showing date of receipt shall be promptly forwarded to the Harbor Committee.

7.3.3 After year 1 of this Ordinance:

7.3.3.1 Renewals of permits shall be granted if there is no substantial change in the content of the application (such as size of watercraft), except those moorings that fall under section 7.3.3.2.

7.3.3.2 A mooring owner with a permit valid during the previous year and currently owning no boat is allowed, as a matter of right, an extension of one year on that permit. After the initial one-year extension, the Harbormaster may grant additional extensions from year to year if there is no qualified party on the waiting list for this description of mooring location or if there are extenuating circumstances.

7.3.4 Waiting List Preferences

7.3.4.1 Shoreland owners receive a primary mooring as a matter of right. They shall be given the first vacancy on the waiting list. Mooring placement will be determined by the Harbormaster. Where possible, it will be about the shoreland owner's property.

7.3.4.2 A shoreland owner using his/her primary mooring for his/her own watercraft shall have the right to one guest mooring at the applicable fee. Mooring placement will be determined by the Harbormaster. Where possible, it will be about the shoreland owner's property.

7.3.4.3 Resident commercial fishermen shall receive the first space available after shoreland owners.

7.3.4.4 If less than 10% of currently assigned moorings are non-resident, then the next available assignment shall be made to a non-resident.

7.3.4.5 Permits for new guest moorings other than those provided by a yacht club on Buck's Harbor or a shoreland owner will be issued only when there is no suitable permit applicant on the waiting list(s).

7.3.5 Applications

7.3.5.1 Application forms for new and renewal permits may be obtained from the Harbormaster or at the Town Offices.

7.3.5.2 A permit application must be supported by a statement of its use: primary mooring for a specific watercraft owned by the applicant, shoreland owner's mooring, guest mooring, service mooring, or commercial rental mooring.

7.3.5.3 Any permit application shall be acted upon by the Harbormaster within two weeks.

7.3.5.4 Any permit application which is denied shall state the reason(s) on the rejection notice. The applicant shall have 30 days in which to file an appeal with the Harbor Committee. The Harbor Committee shall consider the appeal and render its findings within 30 days.

7.3.5.5 Moorings and anchors used solely to secure floats, walkways, and/or out hauls attached to the shore require a permit but need not be subject to a fee. In the case of shoreland owners, these do not count as primary or guest moorings.

7.3.5.6 Those moorings for which any type of fee is charged, including moorings offered for transient or seasonal rental by a commercial maritime business or for rent by a private individual, and those moorings used in the course of a commercial maritime business (including service moorings) must have a US Army Corps of Engineers permit in addition to a mooring permit from the Town of Brooksville.

7.3.5.7 Any mooring intended for use as a guest mooring by a yacht club, cruising club, or other permit holder or applicant must have that use stated in the permit application.

7.3.5.8 Temporary mooring permits may be issued by the Harbormaster for service craft requiring by operational necessity immediate access to a specific location.

7.3.5.9 Fees for mooring permits shall be set annually by the Selectmen with the advice of the Harbor Committee and included in Appendix 1 of this Ordinance.

7.4 **Transfer of Permits**

7.4.1 Mooring permits and location assignments are not transferable, except:

7.4.1.1 Resident commercial fishermen may transfer a permit to a member of his/her immediate family if the permitted use continues for commercial fishing purposes.

7.4.1.2 The owner of commercial rental moorings and service moorings may transfer all of his/her/its permits to the purchaser of assets of his/her/its business as long as the business continues to operate the moorings in the same manner and under USACE permits.

7.4.2 Among other resident permit holders, a request for transfer of a permit to an immediate family member, also a resident, shall be considered to be an application for permit. Within the discretion of the Harbormaster, preference may be given above other resident recreational permit applications with respect to that specific permit location.

7.4.3 A permit holder no longer qualifying for, or desiring not to renew, his/her permit shall so inform the Harbormaster. The Harbormaster shall then offer that assigned location to the next qualified and suitable applicant on the waiting list. Ground tackle placed at the assigned location may be offered for sale and, if bought by the new permit holder, may be left in place. Otherwise, its owner must remove all ground tackle.

7.5 Placement of Moorings

7.5.1 Moorings shall be placed in the location indicated in the permit and marked by the Harbormaster.

7.5.2 The Harbormaster shall provide the permit holder with latitude/longitude coordinates of his/her mooring and with the permit number.

7.5.3 The permit holder shall provide the Harbormaster with the name of the individual or company responsible for the inspection and maintenance of the mooring.

7.6 Use of Moorings. No one shall use a mooring without the express permission of the permit holder and subject to review by the Harbormaster for the safety and fitness of the mooring for the vessel. No permit holder shall sublet his/her mooring or mooring space to another user or boat owner without written permission of the Harbormaster.

7.7 Mooring Identification

7.7.1. The permit holder shall mark the mooring surface float or buoy with the permit number in 3" minimum height in a contrasting color and with his/her name or the watercraft's name in a manner that is legible at all times.

7.7.2 Any winter pole or similar device shall be marked with the permit number in a manner that is visible on the surface.

7.8 Mooring Inspections

7.8.1 New moorings shall be inspected by the Harbormaster, or an individual approved by the Harbormaster, before the mooring is set.

7.8.2 All moorings shall be inspected* annually by an inspector approved by the Harbormaster in order to obtain a mooring permit. Those individuals or businesses approved by the Harbormaster to perform mooring inspections shall keep records of their inspection work.

7.8.3 Those mooring owners applying for a permit for an existing mooring in Buck's Harbor placed prior to enactment of this Ordinance shall present evidence of inspection of that mooring or may be granted a 30-day temporary permit.

*What constitutes inspection shall be in the judgment of the inspector and subject to review by the Harbormaster.

7.9 Liability Relating to Moorings

7.9.1 The permit holder has the responsibility to install (or cause to be installed) the mooring system in a manner suitable to the size, configuration, and displacement of his/her watercraft according to the instructions of the Harbormaster and commonly accepted marine practice.

7.9.2 The permit holder has the responsibility to maintain his/her mooring in a safe condition. Holding a permit does not absolve the holder from liability or damages resulting from failure of his/her mooring.

7.10 Movement of Moorings

7.10.1 Movement of a permitted mooring from its assigned location is prohibited.

7.10.2 The Harbormaster may, for the safety of watercraft, the efficiency of a mooring area, the maintenance of a designated channel, the implementation of harbor management improvements, and/or the implementation of a Harbor Plan approved by the Harbor Committee, direct that a mooring site be vacated and the permit holder's ground tackle be moved to a new location within Buck's Harbor.

7.10.3 With the exception of a timely movement of a mooring for safety or clear navigation purposes, any movement shall provide for ten (10) days notice to the permit holder (by mail or personally by voice) and be accomplished with the least disruption to the permit holder.

7.10.4 The cost of moving previously permitted moorings to clear channels will be borne by the Town of Brooksville.

7.11 **Removal of Moorings.** The Harbormaster may remove or cause a mooring to be removed for the following reasons:

7.11.1 Non-payment of fees or lack of inspection within the prescribed period.

7.11.2 Abandonment of mooring. Any mooring which is not permitted for a period of more than one (1) year shall be deemed abandoned. The mooring may be removed and the location reassigned to an applicant on the waiting list(s).

7.11.3 Neglect to remove or replace moorings. In the case of the neglect or the refusal of the permit holder to remove a mooring, to modify a mooring, or to replace a mooring with one of different character, when so directed by the Harbormaster, the Harbormaster may cause the mooring to be removed from service or from the Harbor. Such removal shall be at the expense of the permit holder. Removal of moorings shall be in accordance with MSRA 38 sec. 4.

Section 8: GENERAL REGULATIONS FOR BUCK'S HARBOR

8.1 Speed restrictions

8.1.1 No person shall use or operate any vessel in such a way as to cause danger, damage to or loss of property, or annoyance to other users of the waters of Buck's Harbor.

8.1.2 Any person operating a watercraft recklessly, at a speed greater than is reasonable and proper having regard to other traffic, moored vessels, and proximity to shore, or while intoxicated or under the influence of any narcotic drug shall be guilty of a Class E Crime.

8.1.3 North of the red and green market buoys (geodetic coordinate 44.20.050N) all vessels shall be operated in a manner so as to cause minimal wake, while maintaining safe headway, and at a speed not to exceed 5 mph. *(Amended November 3, 2005)*

8.2 Anchoring

8.2.1 Vessels entering Buck's Harbor shall anchor only in designated anchoring areas, or at the direction of the Harbormaster.

8.2.2 Anchoring a vessel within the channels or a designated mooring area is prohibited.

8.2.3 No vessel shall be left unattended at anchor in Buck's Harbor for more than 4 (four) hours.

8.3 Discharge of Waste and Pollutants. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash, or refuse of any kind, by any method, means, or manner from any watercraft into or upon the waters of Buck's Harbor.

8.4 Abandonment of Watercraft

8.4.1 No person shall cause to be abandoned any watercraft, floating device, cradle, or any other obstruction on the shore or afloat within Buck's Harbor waters. Any such object which has been left unattended at anchor or moored without authorization of the Harbormaster for a period of fourteen (14) days shall be deemed to be abandoned and, in accordance with 38 MRSA sec. 9, such abandonment constitutes a Class E crime.

8.4.2 The Harbormaster shall order the owner of such abandoned watercraft, floating device, cradle or other obstruction, if such owner is known, to remove it within ten (10) days. Upon the owner's refusal to do so, or if the owner cannot be identified, the Harbormaster may cause its removal, with costs paid by the Town but with reimbursement due from the owner when identified.

8.5 Removal of Vessels or Obstructions in a Channel or Anchorage. No person shall place any watercraft, floating device, mooring, or fishing gear in the designated channels in Buck's Harbor. The Harbormaster may, in the interests of safety and clear navigation of said channels, move (or cause to be moved) such an object at the cost of the owner.

8.6 Commercial Fishing in Buck's Harbor

8.6.1 There shall be no dragging for shellfish or unauthorized setting of nets within the territory defined as Buck's Harbor from May 1st through September 30th. During the period October 1st through April 30th, there shall be no dragging for shellfish or unauthorized setting of nets north of geodetic coordinate 44.20.050N or within 75' of any residential pier within the territory defined as Buck's Harbor. *(Amended November 3, 2005)*

8.6.2 There shall be no setting of fishing gear in the marked channels of Buck's Harbor.

Section 8A: GENERAL REGULATIONS FOR SMITH COVE

8A.1 Smith Cove is defined as the area south and east of a line from the NW corner of Nautilus Island extending 310 degrees true in a westerly direction toward Can #1, thence northeasterly along the center line of the Bagaduce River to the center of Middle Ground Shoal, and thence 090 degrees true in a southeasterly direction to Stubb Point, being the first point north of Henry Point. (See NOAA chart #13309, US East Coast/Maine/Penobscot River.)

8A.2 Mooring placement. Setting a mooring in the designated channels in Smith Cove and off Dodge's Point Town Landing or in the designated anchorage areas is prohibited. *(Amended November 3, 2005)*

8A.3 Removal of Vessels or Obstructions in the Channel. No person shall place any watercraft or floating device in the designated channel in Smith Cove, except in case of emergency and when such anchoring will not create an emergency for other vessels or substantially obstruct the channel. The Harbormaster may, in the interests of safety and clear navigation of said channel, move (or cause to be moved) such an object at the cost of the owner.

8A.4 Discharge of Waste and Pollutants. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash, or refuse of any kind, by any method, means, or manner from any watercraft into or upon the waters of Smith Cove.

8A.5 Commercial Fishing. There shall be no dragging for shellfish or unauthorized setting of nets within 75' of any residential or non-commercial pier or within 300' of any commercial pier or marine railway in Smith Cove. *(Added November 3, 2005)*

Section 8B: GENERAL REGULATIONS FOR NON-BUCK'S HARBOR/NON-SMITH COVE WATERS *(Added November 3, 2005)*

8B.1 Discharge of Waste and Pollutants. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash or refuse of any kind, by any method, means, or manner from any watercraft into or upon non-Buck's Harbor/non-Smith Cove waters.

8B.2 Commercial Fishing. There shall be no dragging for shellfish or unauthorized setting of nets within 75' of any residential or non-commercial pier or within 300' of any commercial pier or marine railway in non-Buck's Harbor/non-Smith Cove waters.

Section 9: VIOLATIONS, ENFORCEMENT AND FINES

9.1 No person shall maintain or use a mooring of any type within the tidal waters of Brooksville without first having obtained a permit or registration from the Harbormaster.

9.2 The Harbormaster, upon finding that any provision of this Ordinance or the condition(s) of a permit issued under this Ordinance is being violated, is authorized to issue notices of violations, orders to correct, or schedules to correct and to initiate legal proceedings as authorized by the Selectmen to enjoin violations and to recover fines and costs.

9.3 A person who violates the provisions of this Ordinance or the condition(s) of a permit or registration shall be guilty of a civil violation. The Harbormaster shall serve the violator with a citation stating (1) the date and place of the offense; (2) the nature of the offense and the Ordinance provision violated; and (3) the civil penalty assessed. Civil penalties will begin to take effect after the Harbormaster has declared that the schedule to correct a violation(s) has not been met. In the event that the violator fails to pay the fine assessed by the Harbormaster, pursuant to the Selectmen's schedule, the Town shall commence an enforcement action in the Maine District Court, pursuant to 30-A MRSA sec. 4452 and MRCivP.80K. The Town shall also collect from the violator attorney's fees, expert witness fees, and costs. Upon recommendation of the Harbor Committee, the Selectmen may enter into administrative consent agreements.

9.4 The Selectmen shall establish a schedule of civil penalties for specific violations of this Ordinance consistent with 30-A MRSA sec. 4452(3) and from recommendations of the Harbor Committee. The Selectmen shall annually review the schedule of civil penalties and may amend them after consulting with the Harbor Committee.

9.5 Written decisions made by the Harbormaster may be appealed to the Harbor Committee within 30 days of his/her decision. Decisions of the Harbor Committee may be appealed directly to the Superior Court pursuant to MRCivP 80B.

Section 10: SEPARABILITY PROVISION

10.1 If any provision of this Ordinance is held to be invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provision had not been made.

Section 11: AQUACULTURE

11.1 Moorings within Brooksville tidal waters related to aquaculture projects requiring a permit from any state or federal authority also require a permit from the Town of Brooksville.

11.2 Moorings connected to any aquaculture project requiring a permit from State or Federal authority may be subject to review with special consideration to the economic, scenic, ecological, recreational, and commercial fishing effects of the project.

Section 12: REVENUES

12.1 Revenues generated by fees and civil penalties under this Ordinance which are in excess of actual annual expenditures for the execution and enforcement of this Ordinance shall be placed in a continuing account to be carried forward for future expenditures under this Ordinance or used to acquire, maintain and/or improve shore access to all waters of Brooksville.

Section 13: DEFINITIONS

1. Abandoned watercraft: Any watercraft that the Harbor Committee or Harbormaster determines to be a threat to navigation, property, other watercraft, or the environment due to watercraft condition or to neglect on the part of the owner(s) or master of the watercraft in question.
2. Aquaculture: Commercial or scientific marine farming for finfish, shellfish, other marine life and/or plants, using pens, nets, floats, stakes and/or other equipment.
3. Commercial Vessel: A vessel defined as a commercial vessel under the State of Maine Watercraft Excise Tax. Any vessel used for or engaged in any type of commercial activity including, but not limited to, commercial fishing or the carrying of cargo and/or passengers for hire.
4. Emergency: A state of imminent or proximate danger to life, property, or the environment.
5. Float: Any floating structure connected to the shore normally used as a point of transfer for passengers or goods, or for temporary or continuous attachment by a vessel.
6. Mooring: A device to which a vessel or other watercraft is attached, that is not carried aboard, and whose sinker is left in place. *(Amended March 2, 2004)*
7. Obstruction: A mooring, vessel, float or other object, which impedes navigation.
8. Outhaul: Any mooring used to attach dinghies or tenders by means of a continuous line secured to the shore.
9. Permit: The official written authorization for placement of a mooring within Buck's Harbor or the official written authorization for placement of a mooring related to an aquaculture project in all tidal waters of Brooksville. *(Amended March 2, 2004)*
10. Registration: The official written recording of the placement of a mooring outside the bounds of Buck's Harbor, but within the tidal waters of Brooksville.
11. Resident: For the purposes of this Ordinance, a resident shall mean an individual who occupied a dwelling within the Town for 180 or more days in a calendar year, a real estate taxpayer and/or a registered voter in the Town of Brooksville as of January first of that year.
12. Shall and May: "Shall" is mandatory; "may" is permissive.
13. Service Mooring: Any mooring used as a service mooring or commercial mooring and assigned to a water-dependent business.
14. Shoreland Owner: An owner of a parcel of land greater than 20,000 square feet with at least 100 feet of shore frontage upon any of the tidal waters of the Town of Brooksville. Condominiums, townhouses, or any other similar multiple ownership parcels of land are considered as one parcel for purposes of allocating mooring permits and as such are entitled to one mooring under 38 MRSA sec. 3. Additional moorings may be allowed under other provisions of 38 MRSA.

15. Vessel: Any watercraft used or capable of being used for transportation.
16. Watercraft: Any and all floating apparatus including, but not limited to, vessels, dinghies, skiffs, boats, rafts, floats, airplanes, lobster crates, aquaculture equipment, without distinction as to method of propulsion.
17. Water-dependent Business: Any business that the Harbor Committee determines to require the use of moorings in order to conduct its business.
18. Wharf (Pier): Any permanent non-floating structure normally used as a point of transfer for passengers and/or goods or for temporary or continuous attachment by a vessel.

AMENDMENTS:

1. On March 4, 2003, at Annual Town Meeting, **Section 6: Mooring Registration** (for non-Buck's Harbor waters) was amended by adding as 6.3: The registration holder shall mark the mooring surface float or buoy with the registration number in 3" minimum height in a contrasting color.
2. On March 2, 2004, at Annual Town Meeting, **Section 6: Mooring Registration** (for non-Buck's Harbor waters) was amended by adding as 6.4: Any mooring for which fees have not been paid within the prescribed period or which is not registered for a period of more than one (1) year may be removed by the Harbormaster or his/her agent.
3. On March 2, 2004, at Annual Town Meeting, **Section 13.6 (Definitions. Mooring)** was amended to: A device to which a vessel or other watercraft (see 13.16) is attached, that is not carried aboard, and whose sinker is left in place.
4. On March 2, 2004, at Annual Town Meeting, **Section 13.9 (Definitions. Permit)** was amended to: The official written authorization for placement of a mooring within Buck's Harbor or the official written authorization for placement of a mooring related to an aquaculture project in all tidal waters of Brooksville.
5. On March 2, 2004, at Annual Town Meeting, a new section was added: **Section 8A: GENERAL REGULATIONS FOR SMITH COVE**

8A.1 Smith Cove is defined as the area south and east of a line from the NW corner of Nautilus Island extending 310 degrees true in a westerly direction toward Can #1, thence northeasterly along the center line of the Bagaduce River to the center of Middle Ground Shoal, and thence 090 degrees true in a southeasterly direction to Stubb Point, being the first point north of Henry Point. (See NOAA chart #13309, US EastCoast/Maine/ Penobscot River.)

8A.2 Mooring placement. Setting a mooring in the designated channel or anchorage areas is prohibited.

8A.3 Removal of Vessels or Obstructions in the Channel. No person shall place any watercraft or floating device in the designated channel in Smith Cove, except in case of emergency and when such anchoring will not create an emergency for other vessels or

substantially obstruct the channel. The Harbormaster may, in the interests of safety and clear navigation of said channel, move (or cause to be moved) such an object at the cost of the owner.

8A.4 Discharge of Waste and Pollutants. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash, or refuse of any kind, by any method, means, or manner from any watercraft into or upon the waters of Smith Cove.

6. On November 3, 2005, at a Special Town Meeting, **Section 8.1.3 (General Regulations for Buck's Harbor: Speed Restrictions)** was amended to: North of the red and green marker buoys (geodetic coordinate 44.20.050N) all vessels shall be operated in a manner so as to cause minimal wake, while maintaining safe headway, and at a speed not to exceed 5 mph.

7. On November 3, 2005, at a Special Town Meeting, **Section 8.6.1 (General Regulations for Buck's Harbor: Commercial Fishing)** was amended to: There shall be no dragging for shellfish or unauthorized setting of nets within the territory defined as Buck's Harbor from May 1st through September 30th. During the period October 1st through April 30th, there shall be no dragging for shellfish or unauthorized setting of nets north of geodetic coordinate 44.20.050N or within 75' of any residential pier within the territory defined as Buck's Harbor.

8. On November 3, 2005, at a Special Town Meeting, **Section 8A.2 (General Regulations for Smith Cove: Mooring Placement)** was amended to: Setting a mooring in the designated channels in Smith Cove and off Dodge's Point Town Landing or in the designated anchorage areas is prohibited.

9. On November 3, 2005, at a Special Town Meeting, **Section 8A (General Regulations for Smith Cove)** was amended by adding as 8A.5: Commercial Fishing. There shall be no dragging for shellfish or unauthorized setting of nets within 75' of any residential or non-commercial pier or within 300' of any commercial pier or marine railway in Smith Cove.

10. On November 3, 2005, at a Special Town Meeting, a new section was added: **Section 8B: GENERAL REGULATIONS FOR NON-BUCK'S HARBOR/NON-SMITH COVE WATERS**

8B.1 Discharge of Waste and Pollutants. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash, or refuse of any kind, by any method, means, or manner from any watercraft into or upon non-Buck's Harbor/non-Smith Cove waters.

8B.2 Commercial Fishing. There shall be no dragging for shellfish or unauthorized setting of nets within 75' of any residential or non-commercial pier or within 300' of any commercial pier or marine railway in non-Buck's Harbor/non-Smith Cove waters.

11. On March 4, 2008, at Annual Town Meeting, the last sentence in **Section 3: EFFECTIVE DATES** was amended to "Any mooring owner in Buck's Harbor who has not obtained a permit for his/her/its existing moorings by August 1, 2002 and by July 1st of each succeeding year may not use that mooring and may be subject to penalties."

12. On March 3, 2009, at Annual Town Meeting, point 6.4 in **Section 6: Mooring Registration (for non-Buck's Harbor waters)** was amended to "Any new mooring for which fees have not been paid within 30 days of its setting and any existing mooring for which fees have not been paid annually by July 1st may be removed by the Harbormaster or his/her agent.
13. On March 2, 2010, at Annual Town Meeting, the first sentence in **Section 1: Purpose** was amended to: "This Town of Brooksville Harbor Ordinance is hereby established pursuant to 30-A MRSA sec. 3001 and 38 MRSA sec. 7 to regulate marine activities in Brooksville, including the Bagaduce River and all tidal bays and inlets adjacent to shorelines of the Town, and to manage the Town Landings."
14. On March 2, 2010, at Annual Town Meeting, **Section 4.6: Harbor Committee** was amended by adding point 4.6.9: To oversee the management of the Town Landings.
15. On March 2, 2010, at Annual Town Meeting, **Section 5: Harbormaster** was amended by adding point 5.6.10: To manage the Town Landings, including the dinghy tie-up registration process, floats and site maintenance, parking and rules enforcement.
16. On March 2, 2010, at Annual Town Meeting, **Section 5.6.5: Harbormaster** was amended to: "To work with the Harbor Committee to establish and maintain anchorage areas and channels in Buck's Harbor and in Smith Cove, to remove obstructing fishing gear and vessels, and to change mooring locations when a crowded condition renders the change desirable."
17. On March 8, 2011, at Annual Town Meeting, point 6.3 in **Section 6: Mooring Registration (for non-Buck's Harbor waters)** was amended to: "The registration holder shall mark the mooring surface float or buoy with the registration number in 3" minimum height in a contrasting color and shall mark any winter pole or similar device with the registration number in 3" minimum height in a contrasting color that is visible on the surface."

BROOKSVILLE HARBOR COMMITTEE

1 Town House Rd / PO Box 314
Brooksville, ME 04617
Town Office: 207-326-4518 Harbormaster: 207-326-9638
e: lyric@midmaine.com

April 30, 2012

TO ALL BROOKSVILLE MOORING PERMIT AND REGISTRATION HOLDERS:

Enclosed is the 2012 renewal application for your mooring(s) in Brooksville waters. Please carefully review the information, amend as necessary, sign, and return the form(s) with the applicable preprinted fee(s) by July 1st. These fees remain the same as last year*.

NEW on each Buck’s Harbor permit renewal are its mooring tackle specifications: anchor type and size, bottom chain, top chain (if any) and pendant. If any of the data for your tackle is missing, it will be found and noted by your mooring inspector this spring. Given the unpredictability and intensity of weather and the fact that you as the owner are liable for any damage your boat causes to others, we urge you to consider carefully the suitability of your tackle for your boat. If you have any doubts about its adequacy, please call your mooring inspector to discuss upgrading it.

TO AVOID A FINE, or a dropped mooring, your mooring buoy or other marker must be properly and legibly identified. In Buck’s Harbor, the permit number and the name of the owner or boat are required. In all other waters, only the four-digit registration number is required. A fine will also be assessed for failure to renew your mooring permit or registration by July 1st and, in Buck’s Harbor, for failure to have your mooring inspected by an approved inspector within the last twelve months. The Schedule of Fines for this year is on the back of this note.

TO REMIND: All individual Buck’s Harbor permit holders are to have their own boat on their own mooring, and the mooring may not be used by anyone else without your permission and the approval of the Harbormaster. If you have no boat this year, please contact Sarah Cox to discuss your permit’s status.

We wish you a safe and happy summer.

Brooksville Harbor Committee

Chris Bates, Ed Black, Marcia Chapman, Don Condon, Sarah Cox, *Chairman and Acting Harbormaster*, Pat Ryan and Bob Vaughan

*	<u>Buck’s Harbor</u>	<u>Smith Cove</u>	<u>Other Waters</u>
SP: Shoreland owner primary mooring	No fee	No fee	No fee
SF or SO: Shoreland owner float or outhaul attached to the shore	No fee	No fee	No fee
SNP: Shoreland owner non-primary/guest mooring	\$ 30.00	\$15.00	\$10.00
RR: Resident recreational	\$ 30.00	\$15.00	\$10.00
RCF or RCO: Resident commercial fisherman or other	\$ 30.00	\$15.00	\$10.00
NRR: Non-resident recreational	\$150.00	\$75.00	\$50.00
NRC: Non-resident commercial	\$150.00	\$75.00	\$50.00

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April 2012

SCHEDULE OF FINES

At the recommendation of the Harbor Committee, the Selectmen have authorized the Acting Harbormaster to assess a fine of \$100 for each of the following infractions regarding moorings in Brooksville waters:

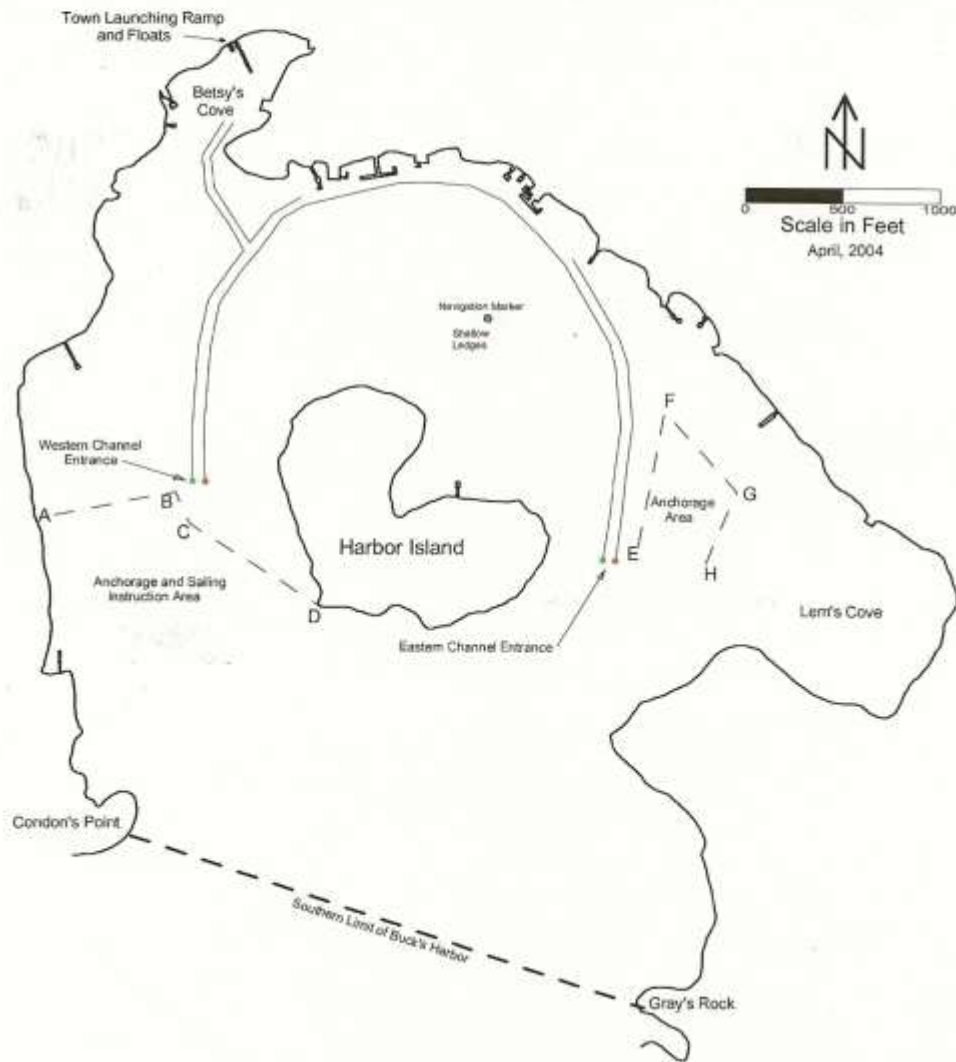
1. In Buck's Harbor, for failure to renew mooring permit for 2012 and pay the applicable fee by July 1st.
2. In Buck's Harbor, for failure to identify mooring with the permit number and with the boat owner name or boat name in 3" minimum height in a contrasting color.
3. In Buck's Harbor, for failure to have had mooring inspected by an approved inspector within the last 12 months.
4. In Smith Cove and all other non-Buck's Harbor waters, for failure to renew registration for 2012 and to pay the applicable fee by July 1st.
5. In Smith Cove and all other non-Buck's Harbor waters, for failure to identify mooring with the registration number in 3" minimum height in a contrasting color.

BROOKSVILLE HARBOR ORDINANCE **BUCK'S HARBOR CHANNEL AND ANCHORAGE AREAS**

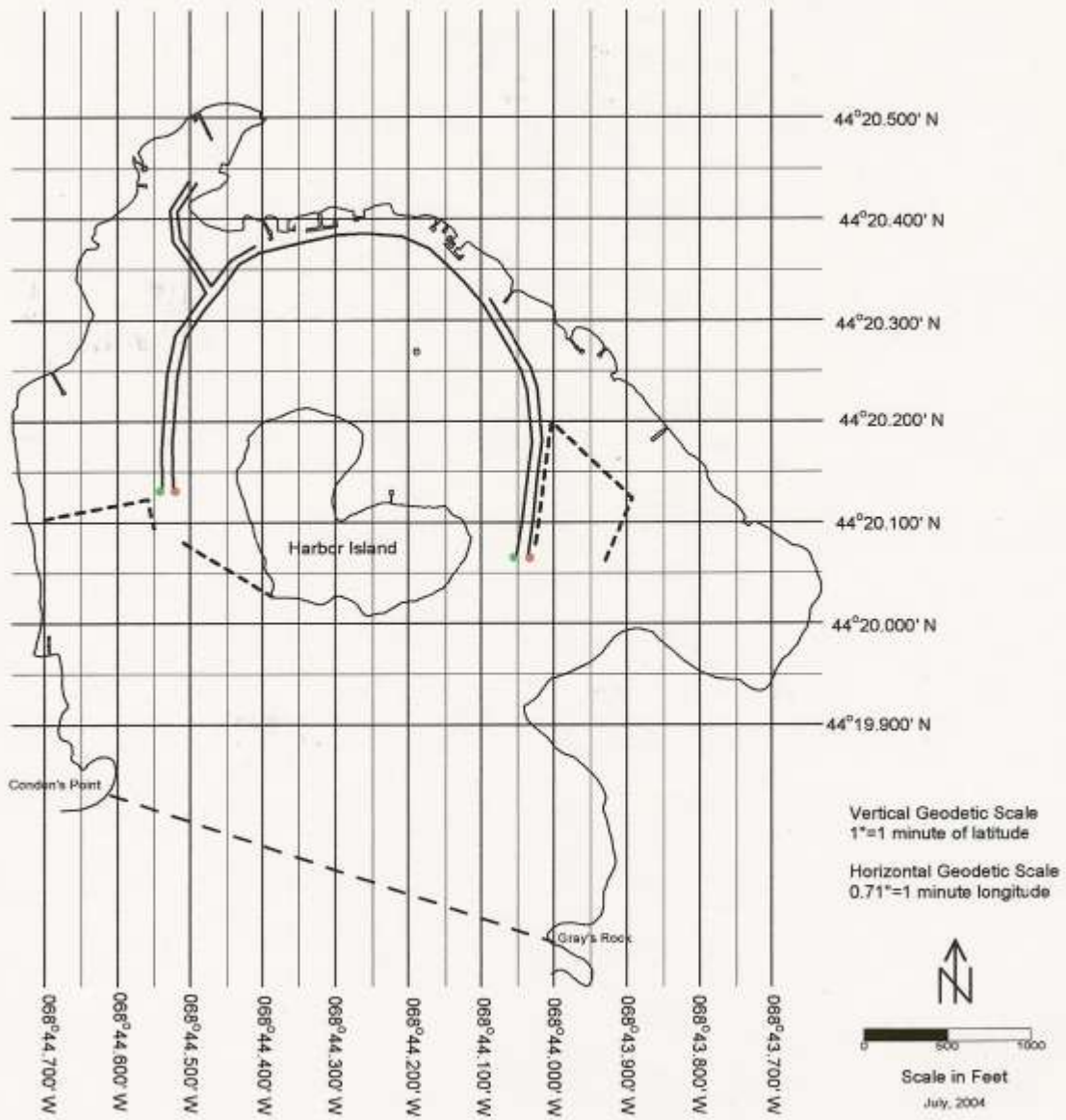
The channel runs through the Harbor, with a spur to the Town Landing in Betsy's Cove. The entrances on the west and east sides of Harbor Island are marked with red and green bouys.

The anchorage and sailing instruction area on the west and south sides of Harbor Island is south of a line marked A, B, C, D on the map and defined by the following geodetic coordinates: (A) $44^{\circ}20.103'N$, $068^{\circ}44.700'W$, (B) $44^{\circ}20.123'N$, $068^{\circ}44.558'W$, (C) $44^{\circ}20.096'N$, $068^{\circ}44.541'W$, and (D) southern tip of Harbor Island.

The anchorage area east of Harbor Island is east of the marked channel and west of Lem's Cove. It lies within the coordinates E,F,G,H as shown on the map and has no southern boundary. Those coordinates are located as follows: (E) $44^{\circ}20.079'N$, $068^{\circ}44.008'W$, (F) $44^{\circ}20.193'N$, $068^{\circ}43.978'W$, (G) $44^{\circ}20.126'N$, $068^{\circ}43.892'W$, and (H) $44^{\circ}20.059'N$, $068^{\circ}43.932'W$.



Geodetic grid superimposed on Buck's Harbor Brooksville, Maine



BROOKSVILLE HARBOR ORDINANCE
SMITH COVE CHANNELS AND ANCHORAGE AREAS

12.05/108

The main channel in Smith Cove is between the lines drawn from:

Point A at 44.22.95N/068.46.75W connected to Point B at 44.22.65N/068.46.41W
and Point C at 44.22.83N/068.46.95W connected to Point D at 44.22.55N/068.46.60W

The center line of the 40' wide channel off Dodge's Point Town Landing is at 44.22.357N/068.45.653W; 44.22.342N/068.45.685W; 44.22.342N/068.45.721W; 44.22.365N/068.45.759W; 44.22.365N/068.45.822W; 44.22.376N/068.45.872W; 44.22.390N/068.45.913W; 44.22.399N/068.45.944W; 44.22.405N/068.45.963W.

The two anchorage areas are: (1) The area within a circle of 1/4 NM radius around point 44.22.3N/068.46.5W, and (2) The area made by connecting the following four points in order from F to I and then back to F: Point F at 44.21.97N/068.46.3W, Point G at 44.21.89N/068.46.00W, Point H at 44.21.70N/068.46.15W, Point I at 44.21.86N/068.46.45W

