

SECTION 1: PURPOSE

The purpose of this Ordinance is to insure boater and public safety and to balance the public's interest in the recreational, commercial, natural and cultural resources and other uses in the Town of Damariscotta's waters in the Damariscotta River and Great Salt Bay.

SECTION 2: AUTHORITY

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

SECTION 3: APPLICATION

This Ordinance applies in all tidal waters of the Damariscotta River and Great Salt Bay in the Town of Damariscotta.

SECTION 4: ADMINISTRATION

Pursuant to 38 M.R.S.A. § 2 through 7, the responsibility for administration of this Ordinance shall be as follows:

4.1 Damariscotta - Damariscotta River Harbor Board (Harbor Board) authorization:

The Damariscotta - Damariscotta River Harbor Board may meet jointly with the Newcastle - Damariscotta River Harbor Board for administration jointly of their waters in the Damariscotta River and Great Salt Bay and is authorized to:

- a. oversee and plan the general operation of the activities on and in the Damariscotta River and Great Salt Bay including defining channels and their boundary lines in harbors and waterways,
- b. provide guidance in assigning suitable portions of harbors and other coastal and tidal waters for anchorages, mooring districts, town docking facilities and aquaculture sites.
- c. establish regulations for uses of the waterways, navigation lanes, anchorage areas, town docking facilities and moorings districts,
- d. oversee the duties of the Harbor Master in the implementation of the provisions of this Ordinance.
- e. adopt written policies and procedures to facilitate administration of the Ordinance,
- f. make recommendations for balancing the enhancement of harbor facilities with the conservation of natural, cultural and aesthetic resources for the long-range benefit of users and the town,
- g. assure public participation in deliberations and recommendations to the Boards of Selectmen with four meeting per calendar year, one each quarter, with all meetings open to the public and following due public process.

4.2 Board Make-up:

- a. The Damariscotta Damariscotta River Harbor Board (Harbor Board) shall be comprised of three (3) members.

- b. At the time of adoption of this Ordinance, the Board of Selectmen shall designate one member of the Harbor Board to have a term of office expiring at the end of one year, one member to have a term of office expiring at the end of two years and one member to have a term expiring at the end of three years.
- c. Thereafter, as normal terms of office expire, appointment to the Board shall be for three year terms.
- d. The Board shall annually (calendar year), at the first meeting after the Boards of Selectmen have appointed the members, elect a chairman, a vice-chairman 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 chairman's position becomes vacant, the vice-chairman shall succeed to that position.
- e. If any Board member's position becomes vacant, a replacement shall be appointed by the appropriate Board of Selectmen to serve out the remainder of the member's term.
- f. The Board of Selectmen can, at any time, remove a member, with or without cause and initiate replacement.
- g. If a vacancy occurs within three months of a normal term's expiration, the appropriate Board of Selectmen 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.

4.3 Damariscotta River Harbor Master:

A Damariscotta River Harbor Master (Harbor Master) shall be appointed annually by the Selectmen and receive compensation set by the Selectmen. The Harbor Master shall not make arrests or carry a weapon. The Harbor Master may be removed by the Board of Selectmen for good cause.

The duties of the Harbor Master are to:

- a. determine acceptable locations and uses to insure boater and public safety.
- b. administer regulations of this Ordinance.
- c. assign mooring sites; conduct inspections and/or remove moorings.
- d. exercise jurisdiction over all moorings in the Harbor Districts of the Damariscotta River and Great Salt Bay; create update and maintain waiting lists for moorings.
- e. update annually charts for Harbor Board review (available at the town office) depicting Damariscotta River/Great Salt Bay Harbor Districts, navigation channels, moorings, anchorage areas, public docks, boat launch facilities (areas?), aquaculture sites and marine protected areas (including MAPCO masked areas).
- f. perform other statutory duties and responsibilities as set forth in 38 M.R.S.A. § 1-§13, or mandated by federal statute.
- g. exercise jurisdiction over the entry of any vessel into the harbor districts.
- h. promote safety within the Harbor Districts.
- i. assist State and Federal authorities in the operation of the Harbor Districts.

j. attend all Harbor Board meetings and be a non-voting advisor to the Harbor Board.

4.4 Deputy Harbor Master(s)

The Town may appoint one or two Deputy Harbor Masters, set their compensation and describe their responsibilities. The Town may remove a Deputy Harbor Master in the same manner as the Harbor Master. 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.

SECTION 5: PLAN

A districting plan of designated Damariscotta River and Great Salt Bay tidal waters within the two towns 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. Establishment of Harbor Districts

There shall be four districts.

- a. District 1: **Inner Harbor** - The western-most point of Lewis Point downstream to the southern-most edge of Walker's Point (Jack's Point) defined by a line across the River to the southern-most edge of Belknap's Point and the shorelines on each sides of the River/Bay connecting the northern and southern boundaries.
- b. District 2: **Lower Harbor** - From the southern boundary of District 1 (Inner Harbor) downstream to a line connecting the southernmost points of Newcastle's and Damariscotta's boundaries and the shorelines on both sides of the River connecting the northern and southern boundaries.
- c. District 3: **Upper Harbor** - The western-most point of Lewis Point upstream into Great Salt Bay to the southerly boundary of the Marine Protected Area and the shorelines on both sides of the River/Bay connecting the northern and southern boundaries.
- d. District 4: **Great Salt Bay** – Beginning at the boundary of the Marine Protected Area northerly to the line from the Newcastle Town line to the Damariscotta Town line and the shorelines on both sides of the Bay connecting the northern and southern boundaries.

5.2 Navigation Channels

The U.S. Coast Guard designates the navigation channels of the Damariscotta River (the River) and Great Salt Bay (the Bay). The U.S. Army Corps of Engineers (ACE) approves docks and permanent structures in and on the waters of the River and Bay. Moorings, docks and other permanent structures are prohibited in and shall not obstruct navigation channels except as authorized by the Harbor Master.

5.3 Aquaculture Sites

The Harbor Board shall depict on charts each Maine Department of Marine Resources (DMR) approved site and indicate type of activity conducted.

5.4 Moorings Districts, Anchorage Areas and Public Docking and Boat Launch Areas

The Harbor Board, in consultation with the Harbor Master, the DMR, the USCG and other authorities, shall designate on the charts: mooring districts, anchorage areas, public docks and

boat launch facilities. The Harbor Board and Harbor Master shall also determine the duration of anchorage allowed and other time limits for use of water facilities.

SECTION 6: MOORINGS

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 Board to the Harbor Master. Mooring registration fees are collected by the Town from mooring applicants.

6.1 Mooring Permits

Mooring permits are required for all moorings; one mooring for one boat at a time. Unattended rafting is not permitted.

6.2 Mooring Application

Applications are available at the Town Office. Completed applications shall be submitted to the Harbor Master for review and approval.

6.3 Vacant Moorings

Moorings that are vacant for more than one year become subject to removal following notification of owners.

6.4 Mooring Assignments

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

6.5 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(5)(a). When a mooring space becomes available it shall be offered in accordance with Section 6(5)(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 and Waiting Lists

The privilege of maintaining a mooring in the two Towns' jurisdiction of the Damariscotta River and Great Salt Bay shall be in accordance with priority guidelines. 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.

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. Method of 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

6.6 Mooring Reassignment

Moorings may be reassigned only with the approval of the Harbor Master.

6.7 Mooring Tackle Standards

Mooring weight and type shall be established on a boat by boat basis by the Harbor Master based on the weight and type of boat

a. Granite Block Moorings

1. 500 lb. granite block - boats up to 1,000 lbs.
2. 1000 lb. granite block - boats up to 2,500 lbs.
3. 2000 lb. granite block - boats up to 7,000 lbs.
4. 3000 lb. granite block - boats up to 12,000 lbs.
5. 4000 lb. granite block - boats up to 24,000 lbs.

b. Mushroom Anchors

1. 50 lb. mushroom - 250 lb boat.
2. 75 lb. mushroom - 400 lb boat.
3. 100 lb. mushroom - 800 lb boat.
4. 150 lb. mushroom - 1,500 lb boat.
5. 200 lb. mushroom - 2,500 lb boat.
6. 250 lb. mushroom - 4,000 lb boat.
7. 300 lb. mushroom - 8,000 lb boat.
8. 400 lb. mushroom - 14,000 lb boat.
9. 500 lb. mushroom - 24,000 lb boat.

- c. Block moorings of 500 lbs. or less must have “bottom chain and a minimum of 3/8” top chain.
- d. Block moorings of 500 lbs. to 1500 lbs. must have a minimum of 5/8” bottom chain and a minimum of 1/2” top chain.
- e. Block moorings of 1500 lbs. or greater must have a minimum of 3/4” bottom chain and a minimum of 1/2” top chain.
- ? Mushroom moorings: bottom chain minimum sizes? ← Paul Bryant input
- f. All moorings must have adequate bottom chain to reach the surface at half tide for complete top chain inspection by boat.
- g. All moorings in the Inner Harbor (District 1) must have scope equal to double the water depth at high tide due to limited swinging room.
- h. Boats outside the Inner Harbor must have a scope of three times the water depth at high tide.

6.8 Mooring markings

All moorings must be equipped with a mooring buoy adequate to support its mooring chain at high tide. Buoys must be identified with owner name and mooring space number.

6.9 Transient Moorings

The Town of Damariscotta may provide transient moorings within its jurisdictions of the Damariscotta River and Great Salt Bay.

6.10 Change of Boats

A mooring assignment is valid only for the vessel indicated on the current application or a different vessel if approved by the Harbor Master. When a larger vessel is to be moored at the mooring assignment, a revised application must be resubmitted to the Harbor Master for approval prior to mooring the larger vessel. The privilege to moor the vessel indicated on the current application remains in effect until the larger vessel is accepted. A mooring subject to a resubmitted application does not trigger the mooring allocation system.

6.11 Floats on Moorings

Floats, not to exceed 6 x 18 feet in dimension, may be allowed on moorings but require Harbor Master approval to determine mooring size requirements and adequate swinging room

6.12 Boats on Moorings, Wharves or Floats

Boats 12 feet or less in length, with the owner's name and telephone number affixed thereon, used as tenders to or from vessels moored or anchored in one of the designated Harbor Districts may be tied to their assigned mooring while the assigned vessel is away.

6.13 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 moorings inspector. Mooring bottom gear inaccessible from a boat must be inspected every three years by an approved diver. An

ongoing record of inspections is maintained by the Harbor Master. 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.

6.14 Mooring fees

Mooring fees will be assessed on an annual basis by the Board of Selectmen with input from the Harbor Board. Fees will be collected at the Town office.

6.15 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 Newcastle and Damariscotta waters at the owner's expense.

6.16 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 be notified of such use.

6.17 Use of Floating Commercial Docks

- a. Floats or docks may be permitted by application to the Harbor Master with design plans that meet boater and public safety standards and that are approved by the Army Corps of Engineers. Floats and docks shall be inspected and registered annually by the Harbor Master with a fee paid by the owner to the Town.

Annual inspections, submitted to the Harbor Master, consist of examination of the general condition of the float and its mooring or 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 ring, etc. to meet generally accepted safety standards.

6.18 Non-conforming Uses of Moorings or Floating Docks

- a. Operation of Moorings or Floats or Docks

The ongoing use of a mooring or float 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 or float or changing the location of the mooring or float. When a substantial change is proposed, the changes shall conform to the regulations of this Ordinance. Nothing in this Subsection precludes the annual inspections of non-conforming moorings or floats annually for above-water gear and tri-annual inspections for underwater gear and any public safety remedies resulting from Harbor Master review and approval of the inspection.

- b. A vacated non-conforming mooring or float shall be removed by the assignee and no longer used by anyone else.

SECTION 7: NATURAL AND HISTORIC RESOURCES

7.1 Aquaculture, Clamming, Worming and Commercial Fishing

Applicants for aquaculture licenses in the Damariscotta River or the Great Salt Bay in the Town of Damariscotta 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 Damariscotta.

7.2 Wildlife Conservation

- a. Any activity covered under this Ordinance shall take into consideration impacts to wildlife by referring to existing wildlife documentation to include but not be limited to inventory and information sources available through the Maine Inland Fisheries & Wildlife Department (MIF&W) and the Maine Natural Areas Program. Additionally, local experts such as the Damariscotta River Association (DRA) and the Darling Marine Center may be consulted as deemed appropriate by the Harbor Master.
- b. Specifically, concern shall be given to impacts or potential impacts to critical wildlife habitat such as areas important to the migration of fish or other aquatic species, wildlife corridors, horseshoe crab spawning grounds, alewife migratory movements, eelgrass beds, bird colonies and eagle nesting sites and any site or area associated with endangered, threatened or rare species.
- c. In siting moorings, floats, docks or 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 of the Damariscotta River and Great Salt Bay. The Harbor Board and Harbor Master shall cooperate with the MHPC in reviewing any conservation measures consistent with MHPC regulations within the designated moorings areas of Section 5. The Harbor Board 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.

8. MARINA REQUIREMENTS *{Note: Harbor Comm seeks input form Planning Board}*

Within the responsibilities and requirements administered by the two Town's Planning Boards, the application, review and consideration for approval of moorings and floating docks shall be based on the requirements of Sections 5, 6 and 7 of this Ordinance.

8.1 Moorings and Shoreside Vehicle Parking

It shall be unlawful to rent moorings or slips in facilities, marinas, etc. that are developed after the adoption of this Ordinance without also providing for one parking space for each mooring or slip rented. Parking spaces shall be provided for expansions of existing facilities. Parking spaces and aisle width dimensions shall be as specified in the appropriate Town's Site Plan Review Ordinance regarding parking layout and design.

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 or Great Salt Bay in Newcastle and Damariscotta.

9.2 Presumption

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

9.3 Procedures

Upon determining an item mentioned in Section 9.2 has been abandoned 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 impounded until compliance with all procedures pursuant to 25 M.R.S.A. §3501-3507 have been met. All expenses and fines pursuant to 38 MRSA§12, and the net proceeds of any auction, shall accrue to the 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 Tender size and tie-up time limits and location at Town Landing shall be observed.
This information shall be posted at Town Landings.

10.4 All regulations of the Marine Protection Act (12 MRSA 6961) shall be observed in the Harbor District 4 in 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 Damariscotta:
 - (1) recklessly, or
 - (2) in a manner which endangers any person or property, or
 - (3) while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana shall be guilty of a Class E crime as provided in M.R.S.A. 38 §13.

10.6 Excessive noise is regulated by the Town's ordinance. *{Town Plan Bds input needed}*

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, garbage, trash or other refuse of any kind, by any method, means or manner into or upon the Town of Newcastle or Damariscotta wharves, docks, floats or the waters of the Damariscotta River or Great Salt Bay.
- 11.2 To establish and maintain a live-aboard use on any type of vessel within the Harbor Districts shall require prior approval of the Harbor Master. The vessel must have established access to property with shoreline of the River or Great Salt Bay which is equipped with wastewater pump-out facilities and the vessel must contain sewage holding tankage attached to each marine toilet and the vessel's sewage system must not equipped with "Y" valves to permit overboard discharge.

SECTION 12: SHORELINE PUBLIC ACCESS

- 12.1 To insure that the town landing facilities of the towns of Newcastle and Damariscotta are available for use by the general public, the two Town's docks, wharves and floats shall be used only for loading and unloading as posted.
- 12.2 Boats 12 feet or less in length with the owner's name and telephone number affixed thereon and used specifically as tenders to 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.
- 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 or loading or unloading of vessels. The public's 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.
- 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 Newcastle or Damariscotta for any purpose, including fueling, loading or unloading on 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, dock, wharf, parking lot or other town harbor facility in such a way that it blocks or impedes access by other users.
- 12.7 TENDERS: Small vessels used as tenders may be allowed at a town dock/wharf provided they are on the inside, tied by the bow only and are properly cared for by the owner.
- 12.8 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 and or the Town of Newcastle or Damariscotta.

SECTION 13. ENFORCEMENT

- 13.1 It shall be the duty of the Harbor Master to enforce the provisions of this Ordinance and the waterfront laws of the State of Maine on the jurisdictional waters of the Town of Damariscotta. If he finds that any party is violating the provisions of this Ordinance, he shall notify in writing the

person responsible for such violation, indicating the nature of the violation and order the action necessary to correct such violation.

13.2 The Harbor Master and his Deputies shall conduct in-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 correction or abatement of the violation or nuisance condition, the Harbor Master, with the approval of the selectmen or the Selectmen 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 Deputy Harbor Master if the person intentionally, knowingly and recklessly fails to obey any lawful order of the Harbor Master authorized by this Ordinance pursuant to 38 M.R.S.A. Chapter 1. As of the date of enactment of this Ordinance failure to obey an order of a Harbor Master is a Class E crime, subject to a penalty of a maximum of six (6) months imprisonment and/or a five hundred dollar (\$500) fine.

SECTION 15: APPEALS

15.1 The Damariscotta Board of Appeals, (Appeals Board) 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 Board, the Harbor Master or his or her deputies. In its decision, the Appeals Board shall grant or deny relief from any order, rule, act or failure to act by the Harbor Master or his or her deputies, except that in no instance shall its decision violate State or Federal regulations or this Ordinance.

15.2 An appeal shall be submitted to the Town Clerk on a form provided by the Appeals Board and shall describe the complaint and the relief sought. The original appeal form shall be kept on file at the Town Office. A copy shall be forwarded to the Chairpersons of the Appeals Board, the Harbor Board and the Harbor Master.

15.3 The Appeals Board 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 Appeals Board shall set a hearing date taking into consideration the schedules of the applicant, the Appeals Board the Harbor Board members and the Harbor Master. Notice of the hearing shall be posted at the Town Office not less than seven (7) days prior to the hearing.

15.4 At the hearing, the Appeals 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 Appeals 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 Chairperson of the Harbor Board and the Harbor Board and Harbor Master.

15.6 An appeal to Superior Court may be made within forty five (45) days from any act or decision of the Appeals 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.

SECTION 17: SEVERABILITY

If any section, subsection, clause, phrase or word of these Regulations 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

17.1 On the date of its approval by the voters of Damariscotta this Ordinance shall become effective and the Town of Damariscotta Harbor Ordinance adopted 19__ shall be deemed to have been repealed.

17.2 A copy of this Ordinance certified by the Town Clerk shall be retained in town files.

SECTION 19: AMENDMENT

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

SECTION 20: 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.

Anchor. Any device used by a watercraft for anchoring purposes and which device is carried aboard such craft when underway.

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.

Aquaculture. The culture and husbandry of sea plants and animals.

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

Boatyard.

Channels. Areas of the harbor kept open for navigation or other purposes by rule or regulation of the Town of Damariscotta, ACE or other regulatory or legislative body.

Clamming - commercial.

Crabbing - commercial.

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

Conservation - Resource protection.

Dock. Pier or wharf. A permanent platform contiguous with the shoreline used to berth, load and unload vessels.

Education - using the River.

Float. Floating platform used for storage, staging and transport of goods, or for berthing of vessels.

Headway. The minimum speed necessary to maintain steerage.

Kayak/canoe - recreational uses.

Lobsters - commercial fishing.

Marine Construction equipment.

Mooring. Term including 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 rather than to specific vessels, which may be used by a suitable sized vessel with permission of such commercial enterprise to which the mooring is assigned.

Service mooring. Mooring site assigned to a business or individual conducting business within the Town of Damariscotta, used to moor watercraft owned by the business, used to moor watercraft which are serviced by the business or used as a maneuvering device for leaving or entering a berth.

Storm mooring. Mooring used when seeking shelter in emergencies or severe weather.

Transient mooring. Harbor Master designated mooring for temporary use by visitors.

Mooring Inspector. A person who satisfies the Harbor Master that they are qualified to inspect mooring tackle, condition and size.

Mooring permit. Permit issued by the Harbor Master to an applicant, authorizing the applicant to use a specific location for a specific purpose in a specific manner.

Non-resident. For purposes of this Ordinance, a non-resident is a person who resides in town less 180 days in a calendar year or does not real property in town.

Obstruction. A mooring, vessel, float or any other object that impedes navigation is defined as a obstruction.

Oyster worming - commercial.

Pleasure boating: power, sail, kayak.

Pleasure fishing: land, water, charter fishing.

Rafting. The tying of one boat to another boat that is attached to a mooring.

Recreational watercraft. Watercraft used primarily for recreational purposes.

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 owns real property within the Town of Damariscotta and/or resides in the Town of Damariscotta more than 180 days in a calendar year.

Scenic tour cruises.

Sea planes.

Shall and May. ‘Shall’ is mandatory; ‘May’ is permissive.

Shorefront owner. An owner of a parcel of land located in the Town of Damariscotta that borders upon the harbor as described in this Ordinance.

Swimming.

Tender. Small watercraft: punt, dinghy, skiff.

Vessel. Boats of all sizes propelled by sail, machinery or hand, plus tenders, scows, dredges, shellfish cars and craft of any kind.

Watercraft. Any mobile floating apparatus, without distinction as to method of propulsion, including vessels, skiffs, boats, rafts, floats, and airplanes.

Water skiing.

Wharf. See Dock.