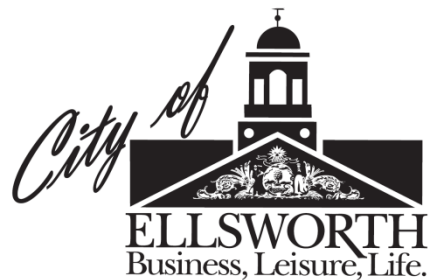


**CHAPTER 3  
HARBOR ORDINANCE  
CITY OF ELLSWORTH, MAINE**

A true copy –

Attest: Heidi-Noël Grindle  
City Clerk



Repealed and replaced March 18, 2013  
Amended November 18, 2013  
Amended April 16, 2018  
Repealed/Replaced Article 1 Section 5 May 21, 2018  
Amended November 8, 2019  
Amended December 16, 2019

**ARTICLE 1  
GENERAL PROVISIONS**

**SECTION 1. HARBOR ORDINANCE ADOPTION**

Pursuant to title 38, M.R.S.A., Subchapter 1 and 30-A M.R.S.A. § 3001, as amended, the City Council of Ellsworth, Maine, hereby adopts the following ordinance, entitled “HARBOR ORDINANCE FOR THE CITY OF ELLSWORTH,” and establishes the boundaries for the harbor.

**SECTION 2. PURPOSE**

This ordinance is to establish regulations for marine activities within the harbors, waterways, and tidal waters of the City of Ellsworth, Maine to insure safety to persons and property, to promote availability and use of a valuable public resource. This ordinance shall be subordinate to existing Federal and State laws governing the same matters and is not intended to preempt other valid laws.

**SECTION 3. INNER AND OUTER HARBOR LIMITS**

“Harbors and waterways” shall include the following:

The Harbor shall be divided into an inner and an outer harbor.

A. Inner Harbor: Beginning on the easterly side of the Union River at Tinker’s Wharf so called, high water line; thence proceeding northerly along the shore to the Union River Bridge; thence proceeding westerly along said bridge to the westerly shore of the Union River; thence southerly along the high water mark of the western shore of the Union River to N 44° 31’ .703”, W 068° 25’ .551””; thence proceeding easterly to the point of beginning.

B. Outer Harbor: “Beginning on the easterly side of Union River, at Tinker’s Wharf so called, high water line; thence proceeding southerly along the shore to the Ellsworth City line; thence proceeding westerly to the Ellsworth/Surry line; thence northerly along the high water mark of the western shore of Union River to N 44° 31’ .703”, W 068° 25’ .551””; thence proceeding easterly to the point of beginning.

Tidal waters shall include all waters which ebb and flow between high tide and mean low water within the harbor and waterway of the City of Ellsworth.

**SECTION 4. HARBORMASTER**

(a) The Harbormaster will be recommended by the Harbor Commission and appointed by the City Manager. The term will be for one year and run from July 1 through June 30. Certain duties and responsibilities of this office are prescribed by Title 38, M.R.S.A. The Harbormaster has the additional duty to administer and enforce the provisions of this ordinance with the authority granted by law and through his appointment as Harbormaster. The Harbormaster will provide technical assistance and submit periodic reports as requested to the Harbor Commission.

(b) A Deputy Harbormaster may be appointed upon recommendation of the Harbormaster. The compensation of the Harbormaster and Deputy shall be established by the City Council.

(c) In addition to the duties prescribed under Title 38, M.R.S.A., the Harbormaster and Deputy shall be the overseers of the City's waterfront facilities such as moorings, floats, docks, ramps, parking areas, picnic areas, and any buildings or structures in the harbor area. They shall make recommendations to the Harbor Commission for maintenance and improvements to all city-owned waterfront facilities. They shall have full authority to enforce all harbor regulations affecting the waterfront to the fullest extent permitted by law.

(d) The Harbormaster, and all law enforcement officers, shall have the authority and power to enforce the provisions of this ordinance and all other laws and ordinances that are applicable to the harbor, waterfront and watercraft.

(e) No person shall assault, intimidate or in any manner willfully obstruct, intimidate or hinder the Harbormaster or his Deputy in the lawful performance of their duties.

(f) The Harbormaster shall not carry a sidearm.

(g) The Harbormaster will attend such training as recommended by the Harbor Commission and as directed by the City Manager.

## SECTION 5: THE ELLSWORTH HARBOR COMMISSION

### 1. Duties and Powers of the Harbor Commission:

The Duties of the Harbor Commission shall consist of harbor planning, operation, and regulation. The Commission shall make recommendations to the City Manager and City Council in matters that directly concern the waterfront area, marina, and Harbor Park including the duties and responsibilities of the Harbor Master and Deputy Harbormaster.

### 2. Appointment:

- a. Commission Members shall be appointed by the City Council upon recommendation from the Harbor Commission and sworn in by the City Clerk or other person authorized to administer oaths.
- b. The Board shall consist of seven (7) Fulltime Members and three (3) Alternate Members.
- c. The terms of the Fulltime Members shall be three (3) year staggered terms with two member terms expiring each year on June 30 except that every third year three member terms shall expire. Alternate Members shall serve a one (1) year term which ends on June 30.

### 3. Qualifications:

Members shall be either a resident or real estate property owner of the City of Ellsworth.

4. Organization and Rules:

- a. **Officers:** The board shall elect a chairperson, vice chairperson, and secretary from among its members in January of each year. The term of each of these officers shall be for a maximum of one (1) year with eligibility for re-election.
- b. **Meetings:** Meetings shall be held once a month. If a meeting is to be cancelled or the date is to be changed proper notice must be given to the public by posting notice at City Hall. Special meetings may be called by a majority of the full time members or Chairman with proper notice to the membership and the general public.
- c. **Quorum:** The board shall not act without a quorum of at least four (4) members.
- d. **Alternates:** Alternate members shall attend all meetings of the Commission and participate in its proceedings but may vote only when there are fewer than seven (7) voting Fulltime Members present. Alternate Members shall be designated by the Chairperson to participate and vote when a member is unable to act because of conflict of interest, physical incapacity, absence, or any other reason satisfactory to the Chairperson. Designated participation shall be based on seniority.
- e. **Public Record:** The Secretary, or designee, shall keep a record of its resolutions, transactions, correspondence, findings, and determinations shall be filed with the City Clerk upon approval by the Commission.

**SECTION 6. INVALIDITY PROVISION**

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

**SECTION 7. ORDINANCE DISTRIBUTION**

Copies of all harbor ordinances and amendments will be available to the public at the Harbormaster's office.

**ARTICLE II  
DEFINITIONS**

1. **Anchorage:** Shall mean an area of the harbor set aside for permanent moorings or for the temporary anchoring of boats and vessels.
2. **Auxiliary:** Shall mean any vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or by its motor or both.
3. **Basin:** Shall mean a naturally or artificially enclosed or nearly enclosed body of water where small craft may lie.
4. **Commercial Vessel:** Shall mean any vessel used or engaged for any type of commercial venture, including but not limited to fishing or carrying cargo and/or passengers for hire.

5. **Distress:** Shall mean a state of disability of a present or obviously imminent danger which, if duly prolonged could endanger life or property.
6. **Emergency:** Shall mean a state of imminent or proximate danger to life or property in which time is of the essence.
7. **Float:** Shall mean any floating structure normally used as a point of transfer for passengers and goods and/or for mooring purposes.
8. **Illegally Berthed:** Shall mean docking a vessel without permission or permit from the Harbormaster.
9. **Mooring:** Shall mean any appliance used by a craft for anchoring purposes and which appliance is not carried aboard such craft when underway as regular equipment.
10. **Mooring, Abandoned:** Shall mean a mooring that remains unused for a year.
11. **Nonresident:** Shall mean all persons without a residence in the City of Ellsworth.
12. **Resident:** Shall mean any person owning or renting real property in the City of Ellsworth who uses that property as a residence.
13. **Riparian Owner:** Shall mean an owner of a parcel of land located in the City of Ellsworth which borders upon the harbor as described in Article 1, Section 3.
14. **Shore:** Shall mean that part of the land in immediate contact with a body of water, including the area between the high and low water lines.
15. **Shall and May:** “Shall” is mandatory. “May” is permissive.
16. **State:** Shall mean the State of Maine.
17. **Stray Vessel:** Shall mean (1) an abandoned vessel; (2) a vessel the owner of which is unknown; (3) a vessel underway without a competent person in command.
18. **To Anchor:** Shall mean to secure a vessel to the bottom within a body of water by dropping an anchor or anchors or some other ground tackle.
19. **Underway:** Shall mean the condition of a vessel not at anchor; without moorings; and not made fast to the shore nor aground.
20. **Vessel:** Shall mean a watercraft of any kind including boats, scows, dredges, and barges but excluding floats and shellfish cars, other structures permanently attached to moorings.
21. **Vessel, Derelict:** A vessel shall be considered “derelict” if any of the following circumstances exist: a. the vessel is fastened to neither a mooring nor an anchor; b. the vessel lacks any license or registration, from any authority, the possession of which is a prerequisite to the operation of such a vessel; 3. the vessel is submerged to a level substantially above its normal water line, and remains so for a period of at least fourteen (14) consecutive days without reasonable explanation; 4. the vessel is damaged to such an extent that it cannot be moved under its own power.
22. **Visiting Vessel/Transient:** A vessel will be considered visiting or transient if the vessel is not normally moored or does not have a permanent mooring in the harbor.
23. **Waterway:** Shall mean any water area providing access from one place to another, principally a water area providing a regular route for water.
24. **Regular Season:** May 15<sup>th</sup> through October 15<sup>th</sup>.
25. **Extended Season:** April 2 through May 14<sup>th</sup> and October 16<sup>th</sup> through December 5<sup>th</sup>.

### ARTICLE III

## **GENERAL BOATING AND TRAFFIC CONTROL**

### **SECTION 1. TRAFFIC CONTROL AUTHORITY**

The Harbormaster or his Deputy shall have the authority to control waterborne traffic in any portion of the harbor under his jurisdiction by use of authorized State regulatory markers, signal, orders or directions and/or at any time preceding, during and after any race, regatta, parade or other special event held in any portion of the waters of the harbor or at any time when the Harbormaster deems it necessary in the interest of safety of persons and vessels or other property and it shall be unlawful for any person to willfully fail or refuse to comply with any authorized State regulatory marker utilized by the Harbormaster, or with any signs, orders or direction of the Harbormaster.

### **SECTION 2. BASIC SPEED LAWS**

The operation of any vessel within the harbor area in excess of posted speed limits or, in the absence of such limits, in a manner to create a wash which endangers persons or property, shall constitute a violation of this Ordinance; provided that special written permission may be granted to conduct or engage in water sports and regattas in specific designated areas.

## **ARTICLE IV GENERAL REGULATIONS**

### **SECTION 1. LIABILITY**

Boat Owner: Any person using the facilities within the limits of the harbor area shall assume all risk of danger or loss of his property, and the City of Ellsworth assumes no risk on account of fire, theft, act of God, or damages of any kind to vessels within the harbor or on land facilities.

### **SECTION 2. LAUNCHING AND RECOVERY OF VESSELS**

None other than the driver may occupy a motor vehicle while it is present upon the area known as a launching ramp located within the City of Ellsworth.

### **SECTION 3. PERMITS AND REGISTRATON PROCEDURE**

A. All permits granted under the authority of this Ordinance shall be valid only for such period as may be determined by the Harbor Commission and permits of unqualified duration or validity shall not be granted. Separate permits and payment of fees are required for the Regular Season and the Extended Season.

B. Each mooring owner will annually submit a mooring permit application and pay a fee set by the Ellsworth City Council. This fee shall be paid to the City Treasurer on or before May 15th of each year. Failure to comply will incur late fees and may result in removal of mooring and loss of berth. Mooring applications are located at Ellsworth City Hall.

C. Each year, a waiting list for mooring space shall be created. New applicants must fill out and return a mooring waiting list application with payment to the Harbormaster. The applicant shall pay an annual waiting list fee set by the City Council to remain on a waiting list until a mooring space is approved or denied by the Harbormaster. Mooring spaces shall be approved or denied on a first come, first serve basis.

#### SECTION 4. DAMAGE TO HARBOR OR OTHER PROPERTY

It shall be unlawful to willfully or carelessly destroy, damage, disturb or interfere with any public or private property in the harbor area.

#### SECTION 5. TAMPERING WITH OR BOARDING VESSELS WITHOUT PERMISSION

It shall be a violation of this Ordinance for any person to willfully board, break into, move or tamper with any vessel or part thereof, located within the harbor unless authorized by the rightful owner of such vessel. Violation of this provision shall constitute a misdemeanor, punishable by the penalties herein above provided for violations of this Ordinance and to additional penalties not to exceed the aggregate of \$1,000 and six months imprisonment for each offense. Any person violating this provision shall, in addition, be responsible to the rightful owner of any such vessel for any damage caused by such violation and to the reasonable cost of any attorney's fees incurred as a result thereof.

#### SECTION 6. SIGNS AND MAINTENANCE

The Harbor Commission, through the Harbormaster, may place and maintain, cause to be placed and maintained, either on land or water such signs, notices, signal buoys or control devices as they deem necessary to carry out the provisions of this Ordinance, or to secure public safety and the orderly and efficient use of the harbor or facilities.

#### SECTION 7. GENERAL RESTRICTIONS

For the safety of the vessels and the general public the following activities are not allowed:

- a) casting stones, rocks or other material into the waters of the harbor
- b) swimming from the floats or from any watercraft that are secured to the floats.
- c) All types of fishing, with the exception of fly fishing, are permitted from the floats however, the fishing lines shall in no way hamper the tying up of vessels and of those approaching the floats.
- d) the use the launching ramp for more than twenty (20) minutes without the permission of the Harbormaster.
- e) tying a boat to the floats or wharf for more than two (2) hours on the front (western) side and four (4) hours on the back (northeastern) side without permission of the Harbor Master. The southeastern side is reserved for dinghies and tenders.

- f) grounding out, tying up or permitting to be grounded out, any watercraft on the launching ramp.
- g) The placing of any skid, trailer, boat or any other craft on the waterfront grounds are allowed in designated areas only, or by permission of the Harbormaster.

## SECTION 8. HARBORMASTER'S BOAT

Any vessel provided by the city shall be for the safety and maintenance of Ellsworth Harbor. Any other use is forbidden without the approval of the City Manager.

The vessel shall be under the direct control of the Harbormaster. No person shall use the Harbormaster's vessel without express permission of the Harbormaster.

## SECTION 9. DATES AND HOURS OF OPERATION

A. The Ellsworth Harbor will be open from May 15<sup>th</sup> through October 15<sup>th</sup> of each year (the "Regular Season"). Normally, the Harbormaster or designee will be on duty between 9 a.m. and 6 p.m. Boats must be removed from the Ellsworth Harbor on or before October 22<sup>nd</sup> of each year unless an Extended Season permit has been obtained.

B. The Harbor park shall be closed between the hours of 11:00 p.m. and 6:00 a.m. except for those boat owners staying on board overnight, loading or unloading boats and/or with written permission of the Harbormaster.

C. The City of Ellsworth may provide dockage in Ellsworth Harbor to vessel owners from October 16<sup>th</sup> through December 5<sup>th</sup> and April 2<sup>nd</sup> through May 14<sup>th</sup> (the "Extended Season"). The Harbormaster will not have regular duty hours during the extended season but will be on-call as needed. Boats with an Extended Season permit must be removed from the Ellsworth Harbor on or before December 10<sup>th</sup> of each year.

## SECTION 10. EXTENDED SEASON DOCKAGE

A. The City of Ellsworth may, but is not required to, provide dockage in Ellsworth Harbor to vessel owners during the Extended Season.

B. The use of moorings during this period shall not be permitted.

C. The Harbormaster will not have regular duty hours during the Extended Season but will be on-call as needed.

D. All boats tied up to the City's docks/slips shall have valid insurance. Evidence of insurance will be required in the application process.

E. The owner or designee shall check on the vessel on a weekly basis and shall inform the Harbormaster each week.



F. No permit for Extended Season dockage will be issued unless the owner agrees to indemnify and hold harmless the City of Ellsworth and its employees for any damage, harm, or injury due to equipment failure, inclement weather, or dock system failure.

G. The Harbormaster at all times retains the right to require an owner to remove a vessel.

**ARTICLE V  
ANCHORING, MOORING AND SECURITY OF VESSELS**

**SECTION 1. PLACEMENT OF PRIVATE MOORINGS OR FLOATS**

It shall be a violation of this Ordinance to place any mooring or float in the harbor without a permit from the Harbormaster.

**SECTION 2. MINIMUM MOORING REQUIREMENTS**

Size of Boat	Below 16'	17'to25'	26'to35'	Over36'
Weight of Block	500#	1000#	1500#	2000#
Size of Chain <sup>16</sup>	1/2"	1/2"	1/2"	1/2"
Size of Nylon	1/2"	1/2"	1/2"	3/4"

All mooring buoys shall conform to Coast Guard regulations and are to show at all tides.

All mooring gear is to be inspected by the Harbormaster before setting.

Vessels being moored or berthed at the Ellsworth Harbor cannot exceed 39.5 feet (length overall) or a beam exceeding 12 feet.

The Harbormaster shall maintain a plot plan of all mooring locations showing depth of water at mean low tide for each mooring and owner of each mooring.

The minimum number of days that a vessel must occupy the designated mooring or slip is 45 days. Any exceptions to the time requirement must be recommended by the Harbormaster and approved by the Harbor Commission. Failure to satisfy this requirement shall result in the loss of the mooring or slip space and if not removed from the Harbor by November 1<sup>st</sup> of that year, shall be deemed abandoned. It is the Harbormaster's responsibility to document the noncompliance of this requirement.

A vessel owner may only occupy either a slip or a mooring during the season. A household cannot occupy or hold both a mooring and a slip.

The owner of a mooring that has been set in the harbor shall not sublet the mooring or mooring space to any other, except with permission of the Harbormaster.

An abandoned mooring shall become the property of the City of Ellsworth after an attempt has been made to notify the owner. The abandoned mooring will be removed and disposed of in accordance with the City's policy on the sale of surplus property.

### SECTION 3. USE OF A CITY MOORING OR FLOATS

- a) Permission may be granted by the Harbormaster for a private vessel to use a city mooring temporarily without charge for up to 24 hours. Private vessels docked at City facilities for a period in excess of 4 hours shall pay docking fees as hereinafter provided or as posted.
- b) Docking is limited to fourteen (14) consecutive days followed by an absence of fourteen (14) consecutive days.
- c) No person shall store traps, bait, fishing gear, boats or waste material on the floats at any time. Said gear may be loaded and unloaded only in a speedy fashion.

### SECTION 4. VESSELS MAKING FAST

No person shall make fast or secure a vessel to any mooring already occupied by another vessel, or to a vessel already moored except a rowboat, dinghy or yacht tender regularly used by such a larger vessel. If tied within a slip, such rowboat, dinghy or tender shall not extend into the fairway beyond the larger vessel if such larger vessel is also occupying the slip or otherwise beyond the larger vessel if such larger vessel is also occupying the slip or otherwise beyond the slip itself.

The owner of any vessel moored or anchored within Ellsworth harbor shall be responsible for causing such vessels to be tied and secured with proper care and equipment and in such manner as may be required to prevent breakaway and/or dragging of mooring and resulting in damage to other watercraft and property, and shall thereafter provide for inspection of the placement and adjustment of the vessel's mooring by August 1. In addition, every two years, each owner shall allow visual inspection by the Harbormaster, or his qualified designee, of each vessel's mooring and the mooring's related equipment including, but not limited to, floats, chains and staples. If the mooring is assigned an odd number, that mooring will require inspection on an odd year. If the mooring is assigned an even number, that mooring will require inspection on an even year. It is the Harbormaster's responsibility to retain and maintain inspection documentation. If an inspection has not been performed by August 1, the vessel is considered illegally berthed, the Harbormaster may proceed with an enforcement action as described in Article 10 Section 4. Before removing the mooring, the Harbormaster shall notify the master or owner, if ownership can be determine, by mail at the last known address of the action desired of him, the fact that the mooring will be removed and the fine. The Harbormaster shall also notify the City Manager and the Harbor Commission of such intended action. If the matter is not settled to his satisfaction within two weeks, the Harbormaster may take the action provided for in this section.

### SECTION 5. MOORING VESSELS TO BUOYS

No person shall moor any watercraft to any buoy, beacon or other marker placed in the harbor to mark and define the harbor channels, or in any manner to make said watercraft fast thereto or to willfully destroy any such buoy, beacon or other marker.

## SECTION 6. SKIFFS AND DINGHIES

Skiffs and dinghies may be secured to designated areas provided they comply with the following:

- a. Each skiff or dinghy shall be clearly and visibly marked with at least the corresponding mooring number;
- b. Skiffs or dinghies shall not be secured to the face of the Harbor's main float;
- c. All skiffs and dinghies shall be properly secured, maintained, and bailed and shall be secured at the bow only;
- d. Skiffs and dinghies secured in the designated areas may be no longer than 10 feet (LOA) and no wider than a maximum beam of 5 feet;
- e. Dinghies shall not be left on the launching ramp, floats or piers.

## SECTION 7. MOORING REPLACEMENT

- a. If the Harbormaster determines that a mooring needs to be removed or replaced with one of a different character, the Harbormaster may so direct the master or owner of the vessel whose mooring it is to do so.
- b. If the owner or master of the vessel neglects or refuses to comply with the Harbormaster's order, the Harbormaster may, subject to subsection C, cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom or shall make such change in the character of the mooring as required and collect from the master or owner of that boat or vessel the sum of \$100 for either of those services rendered and the necessary expenses.
- c. Before removing a mooring or a buoy, the Harbormaster shall notify the master or owner, if ownership can be determine, by mail at the last known address of the action desired of him, the fact that the mooring will be removed and the fine. The Harbormaster shall also notify the City Manager and the Harbor Commission of such intended action. If the matter is not settled to his satisfaction within two weeks, the Harbormaster may take the action provided for in this section.

## **ARTICLE VI COMMERCIAL ACTIVITY**

No person shall tie up or permit to be tied up to the City Dock any watercraft for any commercial purpose except with the permission of the Harbormaster.

**ARTICLE VII  
SANITATION REGULATIONS**

**SECTION 1. DISCHARGE OF REFUSE**

It shall be a violation of this Ordinance to discharge or permit the discharge into the water of the harbor of any refuse, waste matter from toilets, petroleum or petroleum matter, paint, varnish or any other foreign matter, including dead animals, fish and bait.

**SECTION 2. RESPONSIBILITY FOR SANITATION OF VESSELS**

The owner, lessee, agent, captain or person in charge of a vessel within the Ellsworth harbor shall be responsible for any costs of clean-up. Should the Harbormaster find that any vessel or watercraft is not complying with this Ordinance he shall, in writing, notify the said owner, lessee, agent or captain or other person in charge of said vessel to immediately halt such action and commence to prosecute to completion of the correction or the unsanitary condition to the satisfaction of the Harbormaster. Failure to do so with reasonable dispatch shall be in violation of this Article, and the Harbormaster may then cause the condition to be corrected and the cost of such correction shall be charged to said owner, lessee, captain or any other person in charge.

**ARTICLE VIII  
SAFETY AND MAINTENANCE**

**SECTION 1. FLAMMABLE AND COMBUSTIBLE LIQUIDS AND/OR MATERIALS**

Within the harbor area boundary, including parking areas, etc., no person shall sell, offer for sale or deliver in bulk any class of flammable liquid or combustible material, nor dispense any flammable or combustible liquids in the fuel tanks of a vessel except when in compliance with all requirements of the N.F.P.A. Code 31, fire code and any other laws or regulations applicable thereto.

**SECTION 2. OBSTRUCTION TO DOCKS AND WALKWAYS**

Obstruction to docks and walkways within the harbor area by mooring lines, water hoses, electrical cables, boarding ladders, permanently fixed stairs or any other materials is strictly prohibited.

**SECTION 3. MOTOR VEHICLES**

Motor vehicles are not to be left unattended on or near the launching ramp. All motor vehicles are to be parked only in designated areas, unless otherwise notified by the Harbormaster. Motor vehicle operators are to comply with all parking regulations as posted by the City of Ellsworth.

**SECTION 4. OBSTRUCTING CHANNELS**

It shall be a violation of the Ordinance to knowingly or willfully obstruct the free use of any channel or waterway within the harbor or to fail to report to the Harbormaster any

collision between vessels or other accident or incident causing damage to persons or property.

## SECTION 5. UNSAFE BERTHING

If any vessel shall be found, in the judgment of the Harbormaster, to be anchored or moored within the harbor facility in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property, the Harbormaster shall order and direct measures to eliminate such unsafe or dangerous condition. Primary responsibility for such compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his authorized agent. In the absence of such owner or agent, said responsibility shall rest with the authorized operator of the facility at which the vessel is anchored or moored. In an emergency situation in the absence of any such responsible person, the Harbormaster shall forthwith board such vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the City of Ellsworth in effecting such correction.

## **ARTICLE IX FEES**

Upon recommendation of the Harbor Commission, the City Council shall approve all fees pertaining to the Ellsworth Harbor.

All fees shall go into the General Fund of the City of Ellsworth.

## **ARTICLE X ENFORCEMENT**

Except where stricter penalties are provided for elsewhere in this Ordinance, or under state or federal law, any violation of this Ordinance shall be a civil offense punishable pursuant to 30-M.R.S.A. 4452(5)(R), as amended. Each day that such violation continues to exist shall constitute a separate violation. Any fines collected for the benefit of the City of Ellsworth shall be deposited in the General Fund. The Harbormaster and any law enforcement officer vested with the authority to carry a weapon and make arrests shall have the authority to enforce this Ordinance. All civil prosecutions under this Ordinance shall be prosecuted by the City Attorney pursuant to the Charter of the City of Ellsworth (Article V, part 4).

## SECTION 1. NON-PAYMENT OF FEES

If the Harbormaster determines that a fee, charge for service, or forfeiture or penalty imposed by the City of Ellsworth under this ordinance has not been paid, the Harbormaster shall notify the master or owner of a vessel by mailing the notice to the last known address by first class mail, or if no current address is known, by leaving a copy of the notice on the vessel if the vessel is in the Ellsworth Harbor.

If the Harbormaster determines that a fee, charge for service, or forfeiture or penalty imposed by the City of Ellsworth under this ordinance has not been paid from a previous season, the Harbormaster may refuse to assign mooring privileges to any vessel, boat owner, or master until all such arrears are paid in full.

## SECTION 2. SUSPENSION OR REVOCATION OF PERMITS

A violation of the provisions of this Ordinance or of any other applicable Ordinance by any permittee, including the non-payment of all fees and charges for service, shall be grounds for suspension or revocation of such permits.

The Harbormaster will notify the City Manager and Harbor Commission if the Harbormaster recommends suspension or revocation to the City Council.

The City Council shall convene a hearing to suspend or revoke the owner's permits. A notice to the owner shall be provided that includes instructions and rights to have a hearing with the Ellsworth City Council.

## SECTION 3. REMOVAL AND CUSTODY OF ILLEGALLY BERTHED OR ABANDONED VESSELS

The Harbormaster may assume custody of a vessel and cause it to be removed when:

- a. Any unattended vessel shall be found to be secured, moored illegally, or moored without permission or permit within the harbor.
- b. The mooring has not been inspected per Article 5 Section 4, or
- c. If the Harbormaster has reasonable cause to believe that a vessel has been abandoned within the harbor.
- d. If the Harbormaster concludes that a vessel poses an immediate threat to the health, safety, or welfare of persons using either the Harbor or lands adjoining the Harbor, the Harbormaster has directed the master or owner of such vessel to immediately move the vessel and the master or owner of such vessel has refused.
- e. Upon receiving a complaint from the owner of a vessel that another vessel is obstructing the free movement or safe anchorage or owner's vessel, the Harbormaster shall direct the master or owner of such vessel to move the vessel to a position to be designated by the Harbormaster and the master or owner of such has refused.
- f. If the Harbormaster finds any vessel anchoring within the channel lines as established by the City of Ellsworth, the Harbormaster shall direct the master or owner of such vessel to remove such anchorage and the master or owner of such vessel has refused.

The City of Ellsworth and its officials shall not be held liable for any damage to such vessel or liable to its owners before or after assuming custody. Vessels so taken into custody shall be released to the owner by the Harbormaster only after satisfactory proof of ownership has been presented and full reimbursement made to the City for all costs incident to recovery, movement and/or storage.

#### SECTION 4: PROCEDURES FOR IMPOUNDING VESSELS

If a vessel has no crew on board or if the master or other person in charge neglects or refuses to move such vessel as directed by the Harbormaster, the Harbormaster may put a suitable crew on board and move that vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners of the vessel and shall charge \$100 to be paid by the master or owner of that vessel, which charge, together with the cost of the crew for removing that vessel the Harbormaster may collect by civil action.

Within 24 hours of such action, the Harbormaster shall notify the master or owner of the vessel, the City Manager, and the Harbor Commission of such action.

#### **ARTICLE X ENACTMENT**

When duly enacted upon and approved by the Harbor Commission and the Ellsworth City Council, this Ordinance shall supersede any and all ordinances pertaining to the harbor and/or the Union River in the City of Ellsworth previously enacted.