1. **PURPOSE:**

This ordinance is adopted in compliance with applicable state laws and the home rule powers of the Town of Phippsburg. The purpose is to avoid conflicts in the mooring of watercraft and the use of harbors in the Town’s coastal waters, to give priority for available mooring spaces to townspeople and those engaged in commercial fishing, to allot scarce mooring space equitably and within the priorities of the community and the guidelines of state law, to assure that unobstructed passage is maintained to all Town Landings and to other public or private piers and boat landing sites, to establish a procedure for resolving conflicts over the use of harbors and to carry out the responsibilities vested in the Town by Maine Revised Statutes Annotated (MSRA) Title 38, Chapter 1, Sections 1 through 13. This ordinance establishes regulations for marine activities within the harbors, waterways and tidal waters of the Town in order to ensure safety to persons and property, to promote the availability of use of a public resource and to create a fair and efficient framework for the administration of that resource. Where conflicts exist between this ordinance and state and federal laws that preempt local regulations of harbors, those laws shall take precedence.

2. **HARBOR COMMISSION:**

The Board of Selectmen shall appoint a Harbor Commission, consisting of residents knowledgeable about watercraft and water access issues; said commission shall consist of not fewer than five members nor more than seven members. Harbor Commission members shall serve terms of two years, except that the first year some members shall be appointed for one year so that in future years about half of the terms shall expire annually, thus assuring continuity of membership. The Harbor Master and any Assistant Harbor Masters that may be appointed shall be ex-officio, non-voting members.

3. **HARBOR COMMISSION ORGANIZATION AND MEETINGS:**

The Harbor Commission shall annually select a chair from among its membership. The Harbor Commission shall meet in the Phippsburg Town Hall on the second Mondays of January, May, and October, and with a seven day notice at such other reasonable times and places as deemed appropriate by the chair of the Harbor Commission or the Board of Selectmen, or upon petition signed by five or more watercraft owners using the coastal waters of the town. Failure of a member to attend more than two consecutive meetings of the Harbor Commission may be deemed a resignation from the Harbor Commission and the Board of Selectmen may appoint a replacement member to fill the remaining portion of the term of the person so resigning.

4. **HARBOR COMMISSION DUTIES:**
A. The Harbor Commission or Harbor Master or Assistant Harbor Master shall review at least annually each of the harbors where three or more watercraft are moored or where private or public piers are located to determine the likelihood or existence of overcrowding or conflicts. All waters of the Town of Phippsburg are designated by the Harbor Commission for regulation, under the terms of this ordinance. In addition, if any watercraft owner who regularly uses a harbor petitions for regulation, the Harbor Commission shall control mooring spaces in accordance with this ordinance and appropriate state laws.

B. The Harbor Commission shall determine the boundaries of each harbor subject to regulation, said boundaries to include all areas of conflict, overcrowding or which have a potential for the same. Boundaries of regulated areas shall be based on natural features of the landscape or manmade objects such as points of land, rock outcroppings, buoys, prominent buildings or other easily identified marks.

C. If the Harbor Commission finds overcrowding, conflicts, or the potential for same in any harbor, the Harbor Master shall then assign mooring spaces consistent with state and federal law, the provision of this ordinance, and in accordance with the priorities mandated by this ordinance.

D. The Harbor Commission shall sit as a Board of Appeals to hear appeals of any person aggrieved by any decision, act, or failure to act of the Harbor Master or Assistant Harbor Masters. Only those appeals shall be heard that are brought to the attention of the Harbor Commission within thirty (30) days of the incident that prompted the appeal.

E. The Harbor Commission, Harbor Master, or Assistant Harbor Master shall forbid the placement of new moorings, and shall require the removal of existing moorings, that unreasonably interfere with the safe approach to any wharf or pier.

F. The Harbor Commission shall study and evaluate the harbor needs of the Town of Phippsburg and make whatever recommendations it deems appropriate to the Board of Selectmen or Town Meeting.

5. **HARBORMASTER:**

The Harbor Master shall be appointed for a two year term by the Board of Selectmen and his/her appointment shall be subject to confirmation by a majority vote of the Harbor Commission. In addition, the Board of Selectmen may appoint Assistant
Harbor Masters, subject to confirmation by the Harbor Commission, for two year terms upon the recommendation of the Harbor Commission and the Harbor Master. Assistant Harbor Masters shall have the same power and authority as the Harbor Master. Persons so appointed shall perform the duties prescribed by Title 38 MRSA and enforce the provisions of this ordinance and the regulations adopted by the Harbor Commission.

Unless the person or persons named as Harbor Master or Assistant Harbor Masters are also police officers or reserve law enforcement officers, they shall not carry weapons and shall not have the power of arrest. However, the Harbor Master and any Assistant Harbor Master shall notify the Board of Selectmen of any violations of this ordinance, of violations of state laws dealing with harbor management, or violations of any regulations that may from time to time be adopted by the Harbor Commission. The Board of Selectmen shall take any and all legal steps needed to ensure compliance with and to enact penalties against violators of these provisions.

6. GENERAL REGULATIONS:

A. Any persons using the harbors and coastal waters of Phippsburg shall assume all risk of damage or loss to his/her property. The Town of Phippsburg assumes no risk on account of fire, theft, Act of God, or damages of any kind to watercraft.

B. No new moorings shall be installed or maintained in harbors designated for regulation by the Harbor Commission until the mooring location has been approved by the Harbor Commission, the Harbor Master, or Assistant Harbor Masters and the mooring has been duly registered (see Paragraphs C. and D.). Moorings installed or used prior to March 1, 1990, are grandfathered and may remain, subject to other provisions of this ordinance. Moorings installed on or after March 1, 1990, shall be subject to the requirements and priorities of this ordinance.

C. All moorings must be registered from July 1, 2019 to December 31, 2019. Starting on January 1, 2020 all moorings must be registered annually from January 1 through December 31.

D. Fees

1. The annual fee to register a mooring is twenty-five dollars ($25.00) for a person who is a resident of the Town of Phippsburg on the date the mooring is registered or has paid property tax to the Town during the twelve (12) month period prior to the date on which the mooring is registered.

2. The annual fee to register a mooring is one hundred dollars ($100.00) for a person who is neither a resident of the Town of Phippsburg on the date the
mooring is registered nor has paid property tax to the Town during the twelve (12) month period prior to the date on which the mooring is registered.

3. The annual fee shall be waived for one (1) mooring for one (1) commercial watercraft that is owned by a Phippsburg resident or taxpayer who demonstrates to the satisfaction of the Harbor Commission the same requirements to be considered for a Priority #2 mooring (see 6.I. below).

4. Failure to submit a completed mooring permit application and applicable fee on or before July 31 of the registration year will result in a twenty-five dollar ($25.00) late fee. Any mooring for which payment has not been received by December 31 of the registration year may be considered abandoned.

5. Fees described in this section will be assessed starting July 1, 2019.

E. Mooring fees received by the Town shall be placed in a Harbor Commission account to be used for the expense of the Harbor Commission, the Harbor Master and the Assistant Harbor Masters.

F. No commercial fishing activity shall be regulated by this ordinance.

G. Moorings or mooring locations installed or used in regulated harbors prior to March 1, 1990, shall be registered with the Harbor Commission within six months of such designation. It shall be the responsibility of the mooring owner to provide evidence of installation prior to March 1, 1990, if requested to do so by the Harbor Commission.

H. Moorings that are registered and approved by the Harbor Commission may remain providing the owner(s) complies with this ordinance and providing the owner(s) continues to qualify under Paragraphs D. and I. of this Section.

I. The following priorities shall govern all moorings placed after March 1, 1990, in each regulated harbor of Phippsburg:

Priority #1. One mooring to be assigned along the waterfront owned by a riparian owner of more than 25 feet of shorefront, except that when shorefront has more than one owner, only one Priority #1 mooring shall be allowed for such lot of land as shown on the municipal tax maps of the Town of Phippsburg.

Priority #2. One mooring for each commercial watercraft that is owned by a Phippsburg resident or non-resident taxpayer who demonstrates to the satisfaction of the Harbor Commission, Harbor Master, or Assistant Harbor Masters that for at least one of the past three years at least a third of his/her earned income is derived from commercial fishing, the operation of a commercial fishing pier, a watercraft repair facility, the ownership of commercial fishing watercraft, or the use of a boat for a commercial venture,
including but not limited to fishing, aquaculture, or the carrying of cargo or passengers for hire. It shall also be satisfactory for such an individual to display a current license necessary for one of the above activities.

a. Any person assigned a priority #2 mooring shall demonstrate to the satisfaction of the Harbor Commission his/her continued compliance with the income requirements.

b. Provisional commercial mooring spaces shall be assigned to a resident or non-resident taxpayer who demonstrates to the satisfaction of the Harbor Commission that he/she has acquired commercial gear or permits for the purpose of entering a water-based marine or fishing business. The provisional mooring privileges shall be revoked unless the person involved demonstrates compliance with the income requirements of this priority category within three (3) years.

Priority #3. One mooring for each other watercraft owned by a resident.

Priority #4. Other non-resident watercraft owners who pay property taxes to the Town of Phippsburg.

Priority #5. Rental moorings installed by commercial marinas or other water dependent businesses.

J. Notwithstanding the above, at least ten (10) percent of the moorings in any harbor designated for regulations shall be reserved for non-residents in accordance with the provisions of Title 38, MRSA.

K. Other mooring spaces that may be available shall be filled on a first-come, first-served basis by the Harbor Master.

L. If the Harbor Master receives more applications for mooring privileges than there are mooring spaces, he/she shall assign spaces as they become available from a waiting list in the order of the priorities of this ordinance and in the order in which names were placed on the waiting list. The Harbor Commission may assess a fee of up to twenty-five dollars ($25) per year to remain on a waiting list.

M. A priority #2 mooring may be transferred from one family member to another provided the mooring is continued in commercial use, and is in compliance with all other provisions of this ordinance. For the purposes of this section and according to state language, “family member” means an assignee’s parent, child or sibling, by birth or adoption, including a relation of the half blood, or an assignee’s spouse.

N. All new moorings shall be placed in the location designated by the Harbor Master, Assistant Harbor Master, or Harbor Commission. Mooring placement shall be the
responsibility of the person requesting a mooring. The size and type of mooring shall be sufficient to hold the watercraft desired to be moored.

O. All moorings shall use a flotation device large enough to float the chain. All flotation buoys shall be marked with a number assigned to the owner by the Harbor Master or Assistant Harbor Masters. The floatation device is recommended to be white with a horizontal blue stripe per U.S. Coast Guard regulations.

P. All watercraft moored or anchored in Phippsburg waters shall comply with all local, state, and federal regulations.

7. **VALIDITY:**

If any provision of this ordinance is found by the courts to be invalid, it shall not affect other provisions of this ordinance.

8. **ABANDONED MOORINGS:**

A mooring may be considered abandoned and the location may be reassigned when:

A. The Harbor Commission or the Harbor Master is notified in writing by the owner of the mooring.

B. The mooring is not registered with the Harbor Commission and the owner does not comply within thirty (30) days to written notice that registration is required.

C. The mooring has not been used for twelve (12) months.

D. The Harbor Commission may dispose of moorings considered abandoned as it deems necessary. A mooring owner may be held responsible for necessary expenses and fees associated with the removal of an abandoned mooring, plus an additional one hundred dollars ($100) service charge. Placing a mooring in Phippsburg harbors is considered agreeing to these removal terms.

9. **RECORDS:**

The Town shall maintain accurate records of all registered moorings in regulated harbors. All regulations, decisions, and orders issued by the Harbor Commission shall be in writing and available for public inspection.

10. **PLANNING BOARD:**

The Planning Board shall not approve the construction or installation of new wharves, piers, or other obstructions that interfere with the safe passage by watercraft, or which obstruct the approach to an existing pier or wharf. The existence of a mooring shall
not be grounds under this ordinance for denying an application from a waterfront owner seeking permission to construct one pier from a parcel of land that existed in one ownership on March 16, 1991, unless the waterfront property already had a pier or wharf in place.

11. **MOORING CONFLICTS:**

    Should moorings permitted or grandfathered under this ordinance conflict with a proposed pier or wharf that has received all the required local, state and federal permits, the Harbor Commission shall require the conflicting moorings to be moved to the extent necessary to allow the pier or wharf to be constructed.

12. **PENALTY:**

    Any person who violates any provision of this ordinance, or any owner of a watercraft who allows that watercraft to be in violation of any provision of this ordinance, shall be subject to a fine of not less than ten dollars ($10) nor more than two hundred and fifty dollars ($250) for each offense. Each day a violation continues shall be considered a separate offense. Penalties levied under this Ordinance shall be paid to the Town of Phippsburg.

13. **APPEAL PROCEDURES:**

    Any person aggrieved by a decision of the Harbor Commission, Harbor Master, or Assistant Harbor Master(s) may make an appeal to the Board of Selectmen within fourteen (14) days of such decision. The Board of Selectmen will hold an appellate hearing on the appeal (the decision of the Harbor Commission, Harbor Master, or Assistant Harbor Master will be reviewed based on the same evidence as submitted to them). If the appellant does not agree with the decision made by the Board of Selectmen they may appeal within 30 days to the Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

14. **DEFINITIONS:**

    Words used in this ordinance shall have their ordinary dictionary meaning with the exception of the following:

    A. **Mooring.** Any appliance used to anchor a watercraft and which is not carried aboard as regular equipment when the watercraft is underway.

    B. **Resident.** A resident is any person:

        i. Who makes his/her year-round home in the Town of Phippsburg;

        ii. Who registers his/her motor vehicles, if any, in the Town of Phippsburg;
iii. And who, if eighteen (18) years or older, would be eligible to register and vote in the Town of Phippsburg.

C. Non-Resident Taxpayer. A person eighteen (18) years or older who owns real estate property in the Town of Phippsburg, but who otherwise does not meet the requirements of B above.


E. Watercraft. The term watercraft shall mean any and all floating apparatus such as; vessels, skiffs, boats, rafts, floats, float planes, houseboats, housefloats, etc. without distinction as to method of propulsion.