

*Town of Fairhaven, MA
Thursday, October 19, 2017*

Chapter 225. Union Wharf

[HISTORY: Adopted by the Board of Selectmen of the Town of Fairhaven 2-10-1986, effective 3-1-1986.
Amendments noted where applicable.]

GENERAL REFERENCES

Harbor pollution control — See Ch. 132.

§ 225-1. Fees.

- A. For active commercial fishing vessels, the wharfage rate will be \$10 per day. "Day" is defined as a twenty-four-hour period or any part thereof.
- B. Transient vessels docked for short periods of time shall be charged a wharfage fee of \$25 per day.

§ 225-2. Rules and regulations.

- A. All wharf privileges shall be assigned from time to time by the Wharfinger, also all spaces on the wharf.
- B. If any person fails to obey orders of the Wharfinger, he/she shall notify the Board of Selectmen, and then the Wharfinger shall notify the offending person that all wharfage rights are suspended.
- C. If any person shall refuse or neglect to move his/her vessel or material on the wharf property when and as directed by the Wharfinger, he/she or the Board of Selectmen may remove same at the expense of such party. Only one boat at any one time is allowed at the south end of the wharf.
- D. Boat owners repairing boats at the wharf shall clean the immediate area at the end of each day.
- E. Vessels to be docked at the wharf for more than five days due to repairs must tie up at the most northerly end of the wharf.
- F. No heavy or long-term repairing, such as removal of engines, construction of drags or removal of winches, etc. The Wharfinger will make the final determination.
- G. Parking in areas where prohibited is cause for a citation. All parking regulations will be strictly enforced by the Police Department.
- H. All bills for wharfage not paid within 30 days of billing will result in loss of wharfage privileges.
- I. No boats over 40 feet in length are allowed to tie in the basin area. The basin area is for use of Fairhaven residents only.

- J. In the event of any matter arising not covered by these rules and regulations, the Board of Selectmen shall decide the question, and the decision shall be binding until the rules are changed or amended.
- K. If the Wharfinger has to tie up a vessel at the wharf, a fee of \$100 will be charged.
[Added 11-13-1989]

Town of Fairhaven, MA
Thursday, October 19, 2017

Chapter 145. Waterways, Moorings and Boat Usage

[HISTORY: Adopted by the Annual Town Meeting of the Town of Fairhaven 5-3-1997 by Art. 10, amended in its entirety 6-8-2002 by Art. 13. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Harbor pollution control — See Ch. 132.

Union Wharf — See Chs. 177 and 225.

§ 145-1. Applications and regulations.

- A. This chapter applies to all persons, vessels, objects or structures on or using the waters of the Town of Fairhaven.
- B. The Harbormaster is authorized to prescribe regulations to carry out this chapter.
- C. Failure of the Harbormaster to prescribe regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.

§ 145-2. Definition of terms.

The following words, for the purposes of this chapter of these bylaws shall, unless another meaning is clearly apparent for the way in which the words are used, have the following meanings:

VESSEL

Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

§ 145-3. Speed limit; no wake; posted areas.

- A. Speed limit and no wake.
 - (1) Vessels shall not exceed five miles per hour and shall make no wake, in posted areas.
 - (2) Vessels shall make no wake within 150 feet of: bathers, divers, piers, docks, floats, small vessels propelled by means other than machinery, vessels not underway or the shore.
- B. The number and location of five miles per hour and/or no wake posted areas may be changed at the discretion of the Harbormaster.

§ 145-4. Abandonment and removal of vessels.



[Amended 5-2-2009 STM by Art. 16]

- A. No vessel, mooring, or other object shall be abandoned, sunk, or placed where it may constitute a hazard to navigation. All vessels, moorings, or other objects shall be properly secured, properly moored, and properly permitted.
- B. Any vessel, mooring, or other object constituting a hazard to navigation, or not properly moored, or not properly permitted, and any vessel or object improperly secured, swamped, sunk, washed ashore, or found in a restricted area, may be removed or relocated at the direction of the Harbormaster or an Assistant Harbormaster. If the owner can be identified from registration numbers on the vessel, mooring, or other object, the Harbormaster or an Assistant Harbormaster shall provide notice to the named owner by mail posted to the registered address, seven days prior to removing or relocating the vessel, mooring, or other object. No other notice shall be required.
- C. The expense of such removal or relocation and liability incurred therefor shall be the responsibility of the owner, and shall constitute a lien upon said vessel, mooring, or other object removed.
- D. Nothing in the above subsections shall restrict earlier action by the Harbormaster or an Assistant Harbormaster, with or without notice to the owner, if, in their judgment, such action is necessary to protect life or property, which shall include, but not be limited to, removal of a vessel, mooring, or other object located in a navigable channel, illegally located on a mooring designated for someone else, or in the event of an emergency as determined by the Harbormaster or an Assistant Harbormaster.

§ 145-5. Moorings.

- A. The Harbormaster or an Assistant Harbormaster shall assign the location and approve the type and adequacy of every mooring in the waters of the Town of Fairhaven.
- B. The owner of the mooring shall comply with all reasonable requests of the Harbormaster, all mooring and mooring permit regulations, and shall insure that:
 - (1) Each mooring owned by him meets the requirements as established by mooring regulations and any other requirements of the Harbormaster or an Assistant Harbormaster for the service intended.
 - (2) That each mooring owned by him is maintained in good and serviceable condition on the assigned location for the mooring.
 - (3) All mooring buoys, markers, mooring spars, vessels, or similar objects attached to a mooring are clearly visible at all times, and properly and clearly identified as prescribed regulations adopted under this chapter,
 - (4) Mooring spars shall be painted, and at any state of the tide be at an angle of not less than 45° with an exposed length of not less than 18 inches.
- C. The owner of a mooring may sell or transfer the ownership of mooring tackle owned by him, but does not constitute a sale of the mooring location.
- D. The assigned location of the mooring shall not be transferred to anyone else without the written approval of the Harbormaster or an Assistant Harbormaster.

§ 145-6. Mooring permits.

- A. Before placing in the water or using any mooring, the owner of a mooring shall obtain from the Harbormaster or an Assistant Harbormaster a mooring permit.
- B. The permit application shall require information as to the type of the mooring tackle, a description of the vessel or object to be moored, and the location of the mooring.
- C. Proof of ownership of the mooring tackle may be required before a mooring permit is issued.
-  D. The Harbormaster shall adopt regulations regarding the period of time that a mooring permit is valid, procedures for renewal and the issuance of new permits. 
- E. A mooring permit may be revoked by the Harbormaster at any time for failure to comply with the requirements of this chapter, or the regulations prescribed by the Harbormaster regarding moorings or mooring permits.
- F. When a mooring permit is revoked, expires, or when a mooring permit holder/owner sells or transfers ownership of a mooring he shall, within 30 days, surrender the mooring permit and remove or dispose of the mooring.
- G. Discontinuance of use.
 - (1) When a permit holder/owner of a mooring discontinues the use of a mooring for the vessel described in the mooring permit, the permit holder/owner may retain the mooring location for a period not^[1] to exceed two years after the end of the calendar year after its discontinuance, and the mooring may be used by another vessel as prescribed in § 145-10.
[1] Editor's Note: The word "not" was added editorially at the direction of the Town. It was not included in the article as amended.
 - (2) If after two years the permit holder/owner does not own a vessel requiring the mooring, the Harbormaster may reassign the mooring location.
- H. The Board of Selectmen, in consultation with the Harbormaster, shall set the fees for mooring permits.

§ 145-7. Waiting lists for mooring location assignment.

- A. In mooring areas that have reached maximum mooring saturation, the Harbormaster may, in order to equitably assign mooring locations, establish waiting lists and procedures for the administration of such waiting lists.
- B. Failure to comply with the procedures established by the Harbormaster will result in removal from the waiting list.

§ 145-8. Moving, relocating, removal, inspection of moorings.

- A. Moorings shall not be moved from an approved location without the prior written approval of the Harbormaster or an Assistant Harbormaster.
- B. If for any reason the approval location of a mooring is not adequate for the vessel, it shall be the responsibility of the permit holder/owner to move the mooring, within 10 days, to a new location approved by the Harbormaster or an Assistant Harbormaster.
- C.

In the event that a mooring is moved from its approved location by storm, ice or other cause, it shall be the responsibility of the permit holder/owner of the mooring to, at the earliest possible opportunity, but in no case later than 14 days from the date the dislocation of the mooring is or could be discovered, relocate the mooring to the location originally approved, or to another location approved by the Harbormaster or an Assistant Harbormaster.

- D. The Harbormaster or an Assistant Harbormaster may, at any time, inspect any mooring; may remove or cause to be removed any mooring that fails to meet mooring regulations or specifications.
- E. The Harbormaster or an Assistant Harbormaster may relocate, remove or cause to be removed or relocated any mooring whenever, in their judgment, the safety of other vessels or the maximum use of the area requires such action.
- F. Inspection.
 - (1) All moorings shall inspected by a qualified person before being placed in service, and at not less than every two years thereafter.
 - (2) A qualified person is an individual who has received written approval to inspect moorings from the Harbormaster or an Assistant Harbormaster.
- G. Any expenses of such inspection, removal or relocation and any liability incurred therefor, shall be the responsibility of the permit holder/owner of said mooring.

§ 145-9. Lost moorings.

- A. In the event that a mooring is lost it shall be the responsibility of the permit holder/owner to, at the earliest possible opportunity, locate, mark and properly identify said lost mooring.
- B. If after six months the permit holder/owner fails to locate, mark and properly identify a lost mooring, he shall have relinquished his right to the approved location, and the mooring may be removed by the Harbormaster or an Assistant Harbormaster.

§ 145-10. Moorings may be used by persons other than permit holder.

At times when a mooring is not being used by the mooring permit holder/owner, or when a mooring permit holder/owner has discontinued the use of a mooring (See § 145-6G.), the mooring may be used by another vessel, provided prior written approval is obtained from both the permit holder/owner of the mooring and the Harbormaster or an Assistant Harbormaster, subject to the following provisions:

- A. When a mooring is used by a vessel owned and operated by an individual who is not the permit holder/owner of the mooring, it shall be the responsibility of the owner/operator of said vessel to maintain the mooring and leave it in the same condition as when first used by him.
- B. If during the period of use by another vessel the mooring is lost, dislocated or damaged, the owner/operator of the vessel using the mooring shall be liable to the permit holder/owner of the mooring for a sum of money sufficient to recover, restore, renew or relocate the mooring to the approved location, and to the condition it was first used by him.
- C.

In crowded mooring areas, where there are established waiting lists for mooring location assignment, such mooring assignment shall not be assigned by the mooring owner but be temporarily assigned to an individual on the waiting list.

§ 145-11. Moorings may be sold at auction.

The Harbormaster shall have the authority to sell at public auction on behalf of the Town any mooring removed under the authority of §§ 145-8 and 145-9 of this chapter if the mooring has not been identified and claimed by its owner within six months of its removal.

§ 145-12. Operation and responsibility.

- A. Vessel operators are responsible for their wake at all times, and shall not operate a vessel in a reckless or negligent manner so as to endanger the life, safety, or property of any person.
- B. No person shall operate any vessel in a manner that violates Massachusetts General Laws, Chapter 90B, or any regulations adopted thereunder or any other state or federal law that may apply.
- C. Nothing in these regulations shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with this chapter or the neglect of any precaution which may be required by the ordinary practice of seamen, or by special circumstances of the case.

§ 145-13. Jurisdiction.

Nothing contained in this chapter shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States Government with respect to the enforcement of the navigation, shipping, anchorage or other associated Federal laws, or regulations, or any laws, or regulation of the Commonwealth of Massachusetts.

§ 145-14. Penalties.

[Amended 5-2-2009 STM by Art. 16]

The owner of any vessel, mooring, or other object not properly secured or not properly permitted and anyone found in violation of these rules and regulations shall be liable to 1) a noncriminal citation not to exceed \$100 per offense; and, if deemed necessary by the Harbormaster; 2) removal of the mooring; and/or 3) removal of the vessel, and the costs associated with such action, including towing of vessel, storage of the mooring tackle or vessel. Unless otherwise specifically provided herein, this chapter shall be enforced by the Harbormaster, his or her assistants, harbor police, or other enforcing officers. Each day of violation shall constitute a separate offense.

§ 145-15. Appeals.

Any person aggrieved by any decision of the Harbormaster may file an appeal with the Fairhaven Board of Selectmen by delivering such appeal, in writing, to the Town Hall within 15 days of the ruling of the Harbormaster. However, said person must comply with the Harbormaster's ruling until a

decision is made by the Board of Selectmen on the appeal. Such appeal shall state specifically the nature of the ruling and the reason the person is aggrieved.

§ 145-16. Waterways users fee.

[Added 10-29-2008 STM by Art. 12]

- A. Boat owners using the waters of Fairhaven, MA will be subject to a waterways user fee. The waterways user fee is a fee used to help offset the cost of operating services provided by the Town of Fairhaven, MA. Services include, but are not limited to, dredging, maintenance projects, fire, emergency, police security, boater education, environmental protection, enforcement and harbor management services. Additional services may be provided as the need arises.
- B. All boats using the waters of Fairhaven, MA for more than 14 days per year (calendar year) are subject to the waterways users fee in Fairhaven, MA. Exceptions to the waterways users fee are boats that are on trailers put in and taken out for each occasion of use, boats less than 16 feet in length, boats belonging to the Town of Fairhaven or used by the Town of Fairhaven, or any other boat used for law enforcement by government agencies and any boat within the waters of Fairhaven for service work provided by a Fairhaven marine service company. The fee schedule is based on a per-foot charge on boats' overall length as determined by the Harbormaster and is set at \$1 per foot for residents and \$4 per foot for nonresidents as defined herein. This waterway users fee is a yearly fee and is due by June 30 of each calendar year, or immediately after the fourteen-day benchmark is met if after June 30 of the current calendar year. The Board of Selectmen, in consultation with the Harbormaster, may amend these fees from time to time.
- C. Facilities providing services such as mooring space, docking, slips or summer in-and-out services shall, as a condition of their permit to operate as a business in Fairhaven, MA, notify all of their customers of this required fee to the Town of Fairhaven, MA, when signing a contract or agreements that allows them to keep their boat in the Town of Fairhaven qualifying them for the waterway users fee under the guidelines as described herein.
- D. Payment is to be made in person or via U.S. Mail to the Town of Fairhaven, Office of the Tax Collector. For those paying in person, a waterways user fee sticker application will be made available by the Office of the Tax Collector. The Office of the Tax Collector will, upon payment, provide a sticker which is to be affixed to the port side stern area of the boat. If payment is made via mail, the boat owner must provide the following information.
 - (1) Name of owner.
 - (2) Address of owner.
 - (3) Telephone number.
 - (4) Registration numbers/documentation numbers.
 - (5) Year manufactured.
 - (6) Length.
 - (7) Color.
 - (8) Place boat kept during the season.

In addition, the boat owner must provide a self-addressed stamped envelope to receive a sticker via the mail.

Checks will be considered receipt of payment for those made via mail. (Do not send cash as a payment.) The Town of Fairhaven's Office of the Tax Collector is located at 40 Center Street, Fairhaven, MA 02719.

- E. Violators will be subject to a fine in the amount of 120% of the water user fee due the Town of Fairhaven, not to exceed \$300. Once paid, the waterway user fee will be considered paid and a waterways user fee sticker will be provided. Fines shall be recovered by indictment, or on complaint before the District Court, or by noncriminal disposition in accordance with § 21D of Chapter 40 of the General Laws.
- F. Any person aggrieved by any decision of the Harbormaster hereunder may file an appeal with the Fairhaven Board of Selectmen by delivering such appeal, in writing, to the Town Hall within 15 days of the decision of the Harbormaster. Such ruling shall state specifically the nature of the decision and the reason the person is aggrieved.
- G. (Reserved)
- H. Definitions.

DOCKING/SLIPS

Space made available to boat owners to secure their boat.

FACILITY

Any business in Fairhaven providing marine services, slips, mooring or any summer seasonal storage and operates by permit issued by the Town of Fairhaven, MA.

MOORINGS

Any type of device that allows a boat to be tied up to it, providing a position to secure the boat within the coastal waters of Fairhaven, MA.

RESIDENTS

- (1) A registered voter in the Town of Fairhaven, MA.
- (2) A person who is domiciled in the Town of Fairhaven, MA.
- (3) A person who pays real estate taxes to the Town of Fairhaven, MA.
- (4) A spouse or dependent of any of the above.

SUMMER SEASONAL IN-AND-OUT SERVICES

Any business that provides a service that allows a boat owner to remove or put in his/her boat each time of use within the coastal waters of Fairhaven, MA.

*Town of Fairhaven, MA
Thursday, October 19, 2017*

Chapter 177. Union Wharf Fees

[HISTORY: Adopted by the Special Town Meeting of the Town of Fairhaven 2-6-2002 by Art. 6.
Amendments noted where applicable.]

GENERAL REFERENCES

Waterways, moorings and boat usage — See Ch. **145**.
Union Wharf — See Ch. **225**.

§ 177-1. Authority to establish.

The Selectmen shall have the authority:

- A. To impose a fee or schedule of fees for the use of Union Wharf for the purpose of berthing, docking, loading, unloading or otherwise servicing any vessel;
- B. To establish regulations for such uses of Union Wharf; and
- C. To amend such fees and regulations from time to time in their discretion.

**TOWN OF FAIRHAVEN
UNION WHARF SMALL BOAT BASIN
RULES AND REGULATIONS**

*Board of Selectmen adoption Article 4-6, 1/8/07
Board of Selectmen adoption Rules & Regulations, 1/22/07*

Article 1. Definitions

- 1-1 "Commercial Fishing Vessel" a Fairhaven Based Vessel that is used primarily as a commercial fishing vessel and whose Primary Operator's Residence is Fairhaven, Massachusetts. A Commercial Fishing Vessel shall be between twenty-five (25) and forty-seven (47) feet in length.
- 1-2 "Docking License" is a license issued under the provisions of Article 3, herein.
- 1-3 "Fairhaven Based Vessel" a Vessel based primarily in Fairhaven, whose owner's Residence is Fairhaven, Massachusetts. In the event that the Vessel has more than one owner, the Residence of all owners must be Fairhaven, Massachusetts.
- 1-4 "Harbormaster" the duly appointed harbormaster for the Town of Fairhaven. The term Harbormaster shall include the duly appointed deputy and assistant harbormasters.
- 1-5 "Residence" the place identified as the person's residence on the following five items (which must be current or most recent):
- a. Bank statement;
 - b. Driver's license;
 - c. Utility bill;
 - d. Rental receipt or mortgage bill;
 - e. State or Federal fishing permit and catch report.
- 1-6 "Licensee" the Primary Operator to whom the Town issued a valid Docking License.
- 1-7 "Primary Operator" a person who holds a valid state or federally issued commercial fishing license, and who has operated the Fairhaven Based Vessel that he intends to dock at Union Wharf Small Boat Basin more than one-half of the time the Fairhaven Based Vessel was at sea during the 12 months prior to the issuance or renewal of a Docking License. Operation of the Vessel shall be determined by the Harbormaster on the basis of catch reports.
- 1-8 "Town" the Town of Fairhaven, Massachusetts, acting through its Harbormaster, Board of Selectmen, or other authorized agents or officers.
- 1-9 "Union Wharf Small Boat Basin" the basin located on the south side of Union Wharf.
- 1-10 "Vessel": includes ships of all kinds, barges, house vessels, sailing vessels, watercraft and power vessels of any type or kind by whatsoever means propelled, every structure designed, adapted or capable of being navigated, towed or operated on water from place to place for the transportation of merchandise, people or for any other purpose.

Article 2. General

- 2-1 Any use of the Union Wharf Small Boat Basin, other than pursuant to a valid Docking License, is strictly prohibited, unless expressly authorized by the Town.

2-2 The use of Union Wharf Small Boat Basin shall be under the direct supervision and control of the Harbormaster.

2-3 All persons using the Union Wharf Small Boat Basin shall be governed by the Rules and Regulations contained herein and all other applicable laws, by-laws, rules and regulations and orders of any court concerning the operation of Vessels and the use of piers, including, without limitation, those promulgated by the United States Coast Guard, the Environmental Protection Agency, the Department of Environmental Protection, the Commonwealth of Massachusetts, and the Town.

2-4 All persons using the Union Wharf Small Boat Basin shall be responsible for the security of their own property. The Town, its officials, agents or employees shall not be responsible for the loss of or damage to life, person or property occurring at Union Wharf and facilities owned, controlled, or operated by the Town from any cause whatsoever.

Article 3. Union Wharf Small Boat Basin Docking License

3-1 Requirement for Docking License

No person shall dock a Vessel at the Union Wharf Small Boat Basin without first obtaining a valid Docking License for that Vessel.

3-2 Eligibility for a Docking License

Only the Primary Operator of a Commercial Fishing Vessel, which is seaworthy, and covered by adequate insurance or bond as outlined in Article 4, shall be eligible for a Docking License. A Primary Operator may only hold one Docking License at a time. A Docking License shall entitle the Licensee to the full use of and access to the Union Wharf in common with other Licensees, subject to the rules and regulations of the Town and any terms and requirements attached to an approved Docking License.

3-3 Docking License Term

- A) (Effective from April 1st through December 31st) Docking Licenses shall be valid for a nine month period, from April 1st through December 31st. Applications and renewal applications shall be submitted no later than March 1st prior to the license period, along with full payment (pro rated for nine months) of all applicable fees. In the event that a Docking License is issued after April 1st, the annual fee shall be paid immediately upon issuance of the Docking License or upon demand by the Harbormaster, whichever comes first.
- B) (Effective after December 31st) Docking Licenses shall be issued on January 1st for an annual period. Applications for new and renewed licenses and payment of the license fee must be submitted to the Harbormaster by November 1 prior to license period. In the event that a Docking License is issued after January 1st, the annual fee shall be paid immediately upon issuance of the Docking License or upon demand by the Harbormaster, whichever comes first.

3-4 Docking License Fee – Daily Fee

- A) The fees for a new or renewed Docking License are listed on Attachment “A”.
- B) Any person who docks a Vessel at the Union Wharf Small Boat Basin without a current Docking License, or is otherwise in violation of these regulations shall pay a daily docking fee as set forth on Attachment “A”.
- C) The Board of Selectmen shall establish all fees under these regulations.

3-5 Docking License Priority – Waiting List

A Docking License shall be issued only after receipt of a completed Application Form. Limited space is available at Union Wharf Small Boat Basin. Renewed Docking Licenses shall receive priority over new applications. New Docking Licenses shall be issued on a first-come, first-served basis. In the event that there are more applications than available berths, the Harbormaster shall maintain a waiting list, which shall be available for public inspection at the office of the Harbormaster. New Licenses shall be issued in accordance with the waiting list. Persons on the waiting list shall be given 48 hours notice of an available berth by certified mail sent to the address on the application.

3-6 Failure to Apply for Renewal – Non-Payment

In the event that a license holder fails to apply for renewal or to pay the renewal fee by the date set forth in these rules and regulations, the Harbormaster shall notify those persons on the waiting list of the availability of that berth pursuant to 3-5 above. After failing to apply or pay by the date prescribed in these rules and regulations, the license holder will be allowed to renew the license only if no person on the waiting list submits an application and payment for a license for that berth.

Article 4. Terms of Use of Union Wharf Small Boat Basin

4-1 USE: Any use of the Union Wharf Small Boat Basin, other than pursuant to these regulations, is strictly prohibited.

4-2 ASSIGNED BERTHS: The Harbormaster may assign a particular berth at the Union Wharf Small Boat Basin for the use of the Licensee's Commercial Fishing Vessel. An approved Docking License shall create a license to use Union Wharf in common with others as provided herein, and shall not be considered a tenancy. In the event that a berth becomes vacant, the other current Licensees occupying berths will have the option to relocate to the vacant berth, on a first-come, first-served basis.

4-3 COMPLIANCE WITH LAW: Each Licensee shall maintain strict compliance with all other applicable laws and the rules and regulations of the Town, including the laws and regulations of the Town regarding personal conduct and behavior, and any rules or terms and conditions attached to an approved Docking License. Abusive language, actions, threats and illegal activities are subject to enforcement by the Harbormaster and the Police Department. Owners and Captains of any Vessel berthed at Union Wharf Small Boat Basin are responsible for the conduct of their crew at all times.

4-4 AMENDMENT OF TERMS AND CONDITIONS: RULES & REGULATIONS: The Town reserves the right to alter or amend the terms and conditions of a Docking License, and to issue and amend these rules and regulations from time to time, by written notice to the Licensee or publication by notice at Union Wharf.

4-5 LICENSEE'S LIABILITY: INDEMNITY OF TOWN: Licensees shall at all times exercise due care in the use and occupation of its assigned berth and to vacate the berth in good condition, wear and tear occasioned by normal use only excepted, at the termination of the Docking License. The Licensee shall be responsible for, and agrees to reimburse the Town for, all damages, injuries, losses, costs and expenses, including attorneys' fees, which may be suffered or incurred by the Town to extent that any such damage results from the acts or omissions of the Licensee, or his employees, guests, invitees, agents or contractors, and the Licensee shall indemnify, defend and hold the Town harmless from and against all claims, actions, proceedings, damages, and liabilities, including attorneys' fees, arising from such acts or omissions, including without limitation any environmental damage caused by spillage or disposal of fuel, oil, sewerage or other hazardous materials.

4-6 INSURANCE: Each Licensee shall at all times maintain protection and indemnity (P&I), and environmental liability insurance with a minimum of three hundred thousand dollars (\$300,000) coverage on the Licensee's Commercial Fishing Vessel that is berthed at the Union Wharf Small Boat Basin. The

policy form and limits of coverage must be reasonably acceptable to the Town, and must not contain any exclusion for wreck removal costs. The policy must be written by an insurer having an A.M. Best rating of A- or better. If any vessel cannot be insured, the Licensee shall post a bond payable to the Town of Fairhaven in the amount of three hundred thousand dollars (\$300,000), in a form and on terms acceptable to the Town.

4-7 LIMITATION OF TOWN'S LIABILITY: Licensee acknowledges that he has inspected the assigned berth and is satisfied that the berth is adequate for safe mooring of the Vessel. This contract is a license for the use and occupancy of the berth and other wharf facilities hereunder. The Town assumes no responsibility for tending mooring lines or moving Vessels from the berths to which they are assigned. The Town shall not be liable or responsible for the care and protection of any Vessel (including gear, equipment and contents) nor for any loss or damage of whatsoever kind or nature to any Vessel, its' contents, gear, or equipment, howsoever occasioned.

4-8 LICENSEE'S RESPONSIBILITY: By acceptance of a Docking License hereunder, the Licensee acknowledges that the Town will have a lien against the Vessel, its tackle and equipment with respect to all charges incurred hereunder and shall have the right and authority to retain possession of the Vessel until all such charges are paid, and in the event such charges are not so paid or if Licensee fails to claim and remove the Vessel from the Berth or other area of Union Wharf after the end of the term of this License or after the Town's reasonable request to do so, the Town is hereby authorized by Licensee to sell the Vessel in a reasonable manner with no liability on the Town's part to Licensee. Further, the parties agree that if notice is given by mailing, as aforesaid, and Licensee fails to tender payment or otherwise comply with the terms of this provision within thirty (30) days, the Town may treat the Vessel and its equipment as abandoned and proceed to sell or otherwise dispose of the Vessel as set forth above.

4-9 STORAGE ON PIERS: Licensees shall at all times keep the berthing space and adjacent pier area clean and litter free and nothing shall be stored thereon without the prior written permission of the Harbormaster.

4-10 DOCKING OF VESSEL: Licensees shall at all times be responsible for causing the Vessel berthed at Union Wharf to be at all times tied and secured or anchored with proper care and equipment in such manner as may be required to prevent breakaway and resulting damage. In the case of storm or hurricane warnings, all owners must be readily available to respond to emergencies.

4-11 MAINTENANCE: Only ordinary, light maintenance shall be permitted on a Vessel docked at the Union Wharf Small Boat Basin.

4-12 HAZARDOUS ACTIVITIES: Spray painting and sandblasting of vessels are prohibited at the Union Wharf Small Boat Basin.

4-13 SHIFTING VESSEL IN OWNER'S ABSENCE: The Licensee hereby authorizes the Harbormaster to remove the Vessel from the berth whenever the Harbormaster deems it necessary for safety or for maintenance of Union Wharf. Licensee releases and saves the Town and its servants, agents and employees harmless from any liability or damage arising out of such activity.

4-14 MAINTENANCE OF PIERS: Licensee shall immediately notify the Harbormaster of the necessity of repairs to piers or of any dangerous conditions. Licensee shall not alter piers or berthing fingers in any way without the prior written permission of the Harbormaster.

4-15 WAIVER OF TERMS AND CONDITIONS: No failure of the Town, Harbormaster, or his employees to enforce any of the terms and conditions of these regulations is or shall be considered to be a waiver of such term or condition in the absence of an express written waiver by the Town or Harbormaster.

4-16 NO SUBLET: Licensee shall not assign the License or sublet the berth assigned to him.

4-17 EMERGENCY REMOVAL: In the event of hurricane or other severe weather warning, the

Harbormaster may direct the Licensee to remove the Vessel from its assigned berth. In the event of failure to remove the same, the Harbormaster may remove the Vessel at the owner's expense without liability for any damage which may result.

4-18 GARBAGE DISPOSAL: Garbage, sewerage, and refuse shall be properly disposed of. Persons using Union Wharf shall sweep, clean or wash down the surface after loading bait and at other times as required.

4-19 WASTE DISPOSAL: Waste oil and used engine oil shall be properly disposed of at an authorized facility and shall not be left on Union Wharf.

4-20 TERMINATION FOR VIOLATION: If Licensee violates any of the terms or conditions of the Docking License or these rules and regulations or other applicable laws, the Town may revoke the Docking License upon ten (10) days written notice to Licensee mailed by regular mail to the address listed on the Docking License application, and Licensee shall forthwith remove the Vessel from Union Wharf Small Boat Basin. In the event that Town determines that Licensee's failure to comply results in an emergency condition, the Harbormaster may have the Vessel removed from Union Wharf at Licensee's sole cost.

4-21 AUTHORITY: The Primary Operator of the Vessel must sign the Docking License. If the Primary Operator of the Vessel is not the owner of the Vessel, every other owner of an interest in the Vessel shall authorize the Primary Operator of the Vessel to act on his behalf.

4-22 CHANGE OF OWNERSHIP: With respect to any Vessel berthed at Union Wharf Small Boat Basin, any change in the Vessel's use, ownership, primary operator, or mailing address shall be promptly reported to the Harbormaster. In the event that such change nullifies the eligibility of the Licensee to hold a Docking License, said License shall be immediately void and the Licensee shall immediately cease use of Union Wharf and vacate the Vessel's assigned berth.

4-23 UNAUTHORIZED VESSELS: Unauthorized Vessels docked in assigned berths shall be removed at the request of the Harbormaster. If the Vessel is not removed, it will be subject to removal at the cost of the owner of the Vessel. The Town is not in any way responsible for unauthorized Vessels docked at Union Wharf Small Boat Basin or in assigned berths.

4-24 NO OBSTRUCTION: The decks, floats, structures, and waterways of Union Wharf Small Boat Basin shall not be obstructed for any purpose other than the berthing of, access to, and loading and unloading of Vessels. Storage or repair of traps, nets, gear, bait or other supplies beyond 48 hours is prohibited except with the permission of the Harbormaster or in areas designated for storage or repair.

4-25 NOTICE TO HARBORMASTER: All Vessel owners must notify the Harbormaster when vacating their assigned berth for a period in excess of 14 days. The Town reserves the right, in its sole discretion, to use spaces not in use by annual license holders during the period that the space is vacant.

4-26 SAFE AND SEAWORTHY CONDITION: Every Vessel using Union Wharf shall be maintained in a safe, sound and seaworthy condition, and capable of getting underway under its own power except in cases of temporary incapacity during emergency repairs. The owner or operator of any Vessel incapable of getting underway on its own power for a period greater than twenty-four hours shall notify the Harbormaster. Docking and berthing privileges may be denied to any Vessel, which in the opinion of the Harbormaster, is not in a safe, sound and seaworthy condition or which poses a hazard to the safety of Union Wharf, Vessels, the public, or environment. The Harbormaster may direct that any such Vessel be removed from Union Wharf Small Boat Basin.

4-27 NO ALCOHOLIC BEVERAGES: The consumption of alcoholic beverages at or on Union Wharf, including the Union Wharf Boat Basin, is prohibited.

4-28 CONTACTS: The Licensee shall make available to the Harbormaster the names of at least two

qualified persons who can be contacted in the event of the need to move a Vessel. Upon order of the Harbormaster, all Vessels must be moved within two (2) hours.

4-29 **PARKING REGULATIONS:** All parking regulations posted on Union Wharf or further rules to be established shall be adhered to and the Harbormaster shall have the right and responsibility to remove any vehicles that are impeding traffic or authorized use of Union Wharf.

Article 5. Appeal Procedure

5-1 Any person aggrieved by a decision of the Harbormaster with respect to the issuance, non-issuance, or revocation of a Docking License shall, within fourteen (14) calendar days, give written notice of an appeal of the decision to the Board of Selectmen. Said notice shall state, with reasonable particularity, the grounds of such appeal. The Board of Selectmen shall enter a decision upon such appeal within thirty (30) days of its receipt. Failure to act within thirty (30) days shall be deemed a denial of the appeal. The appeal shall not stay the decision of the Harbormaster unless otherwise directed by the Board of Selectmen.

Article 6. Penalties

6-1 Violations of any provisions of these regulations, may be penalized by a non-criminal disposition as provided under Massachusetts General Laws, Chapter 40, Section 21D. Each day on which a violation exists shall be deemed a separate offense.

6-2 Licensees and other users of Union Wharf who fail to pay the required fees or otherwise fail to comply with the requirements for use of Union Wharf Small Boat Basin shall forfeit use privileges at Union Wharf forthwith and shall be considered Trespassers. Violators may be subject to the Town's remedies and penalties therefore in addition to other applicable penalties.

Article 7. Miscellaneous

7-1 If any provision of these regulations is held invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provisions had not been made.

7-2 All signs to be posted on Union Wharf, booths or buildings, facilities or attached to the pier shall be approved in advance by the Harbormaster.

ATTACHMENT "A"

Effective January 1, 2014

License Deposit

Daily User Fee – Licensed Vessel	\$25.00
Daily User Fee – Unlicensed Vessel	\$100.00

New Rules for Union Wharf Lobster Basin Slips

Adopted by a vote of the Board of Selectmen, 5/12/14

1. People having slips may only have a person with another slip at the Union Wharf Lobster Basin use their slip if they are not using their slip with the approval of the Harbormaster. Approval must be obtained before any use.
2. Slip holders cannot sub-lease their slips.
3. Slip holders must register a primary vessel to their slip. If they own a second vessel they may place that vessel in that slip if approved by the Harbormaster. Approval must be obtained before a second vessel is put in place.
4. Vessel to be approved must be registered to the slip owner. Actively fishing and having proof of pollution and liability insurance at the proper levels and show proof thereof to the Harbormaster.
5. If a slip holder wishes to use another vessel for a short period due to maintenance issues and/or workability issues, they may only do so with the approval of the Harbormaster. All approved vessels must have pollution and liability insurance at proper levels. Proof thereof must be shown to the Harbormaster. All approved vessels must be used by the slip owner requesting use of their slip and not another person. This period of approval will be in 14 day increments. Any extension of that period is subject to approval of the Harbormaster. Proof of need must be provided by the requesting party.
6. All requests for approval must be submitted to the Harbormaster at a minimum of 24 hours before the event, not counting weekends.
7. All vessels using the Union Wharf Lobster Basin **South** facing slips must dock stern in. The stern must be able to back in to a distance no greater than 2 feet from the dock at the stern.
8. All vessels must dock in their assigned slips in such a manner as the vessel will not interfere with the operation of other vessels using Union Wharf Lobster Basin slips. This includes Town owned vessels using the finger docks at Union Wharf.
9. All vessels that are to be docked at the Union Wharf Lobster Basin slips must be approved by the Harbormaster without exception. The Harbormaster shall consider the rules and regulations as established for the Union Wharf Lobster Basin. However, in addition to the rules and regulations, the Harbormaster must consider the effect of the vessel on the daily operation of other vessels using Union Wharf Lobster Basin slips including Town owned vessels using the docks. This includes the beam of the vessel and the draft of the vessel, regardless of its length. In addition, the Harbormaster must assess the wear and tear effect on the slip in regards to the size of the vessel and the size of the slip being used. The ability of the vessel to properly utilize the slip in regards to its ability to properly dock in the slip in regard to overhang past the dock is a major factor. If the Harbormaster determines that the vessel is detrimental to the dock site and/or the daily operation in the Union Wharf Lobster Basin, he/she may not allow the vessel to use the slip. This is a subjective evaluation by the Harbormaster and if the vessel is denied use of the slip, the Harbormaster must explain in writing the reason(s) why it was denied.
10. Length limits are determined by the overall length and not at the waterline. If there is a question of length, the Harbormaster and/or his agents must be allowed to go aboard to measure the overall length of the vessel.