

RESOLUTION 89-3

2004

The Town Board of the Town of Gibraltar, does hereby ordain as follows:

We hereby revoke Ordinance 82-1, passed and approved by the Town Board, Town of Gibraltar, entitled "fish Creek Harbor Ordinance 82-1"; in its entirety.

RESOLUTION 89-3

FISH CREEK HARBOR ORDINANCE 89-

The Town of Gibraltar, Door County, Wisconsin, pursuant to Chapter 30 of the Wisconsin State Statutes, hereby establishes a Local Harbor Ordinance to be known as FISH CREEK HARBOR ORDINANCE. Ordinance 89- is an Ordinance to regulate water traffic, boating, and water sports, mooring area, mooring equipment, and prescribing penalties for violation thereof.

GENERAL PROVISIONS

Section 1. INTENT. The intent of this ordinance is to provide safe and helpful conditions for the enjoyment of aquatic recreation consistent with public rights and interest and the capability of the water resource.

Section 2. APPLICABILITY. The provisions of this Ordinance and any rules and regulations adopted pursuant thereto shall be applicable, and shall govern, the Harbor of Fish Creek and all other shore facilities under the jurisdiction of the Town of Gibraltar, Door County, Wisconsin. This ordinance shall be subordinate to existing Federal and State regulations governing the same matters and is not intended to preempt other valid laws.

Section 3. AUTHORITY. The provisions of this ordinance shall apply to the waters of Green Bay within the jurisdiction of the Town of Gibraltar. The provisions of this ordinance shall be enforced by State Statute 165.85 (2)(c). All persons having authority to enforce the Fish Creek Harbor Ordinance may cite alleged offenders to appear before the appropriate Court of Law.

Section 4. INVALIDITY OF PROVISIONS. If any provisions 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.

20 04

Section 5. STATE BOATING AND WATER SAFETY LAWS ADOPTED. The statutory provisions describing and defining regulations with respect to water traffic, boats, boating and related water activities and safety in the following enumerated sections of the Wisconsin Statutes, inclusive of any provisions therein relating to the penalties to be imposed or the punishment for violations of said statutes, are hereby adopted and by reference made a part of this ordinance.

30.50	Definitions
30.51	Operations of unnumbered motor boats prohibited
30.53	Certificate of registration card to be on board
30.55	Notice of abandonment or destruction of boat or change of address
30.60	Classification of motorboats
30.61	Lighting equipment
30.62	Other equipment
30.63	Sale and use of certain outboard motors restricted
30.64	Patrol boats exempt from certain traffic regulations
30.65	Traffic rules
30.66	Speed restrictions
30.67	Accidents and accident reports
30.675	Distress signal flag
30.68	Prohibited operation
30.69	Water skiing
30.70	Skin Diving
30.71	Boats equipped with toilets
30.74(2)	Additional functions of department
30.745	Limited jurisdiction for administration and enforcement of navigation aids by municipalities.
30.75	Service of process on nonresident
30.77	Local regulations of boating
30.772	Placement and use of moorings; restrictions; permits
30.773	Designated mooring areas. (1)
30.78	Municipal regulations of seaplanes
30.79	Municipal water safety patrols; state aids.
30.80	Penalties

DEFINITIONS

A. "Slow-No-Wake" means the slowest possible speed so as to maintain steerage.

B. "Swimming Zone" means an authorized area marked by regulatory markers to designate a swimming area.

2004

- C. "Designated Anchorage" means an area of water established and marked as an anchorage by lawful authority.
- D. "Harbor Commission" shall mean the Fish Creek Harbor Commission, a five member appointed Commission established by the Gibraltar Town Board pursuant to Chapter 30.37 and 30.38 of the Wisconsin State Statutes.
- E. "Harbormaster" shall mean the Chief Enforcement Officer of the Harbor Commission.
- F. "Moor" shall mean to secure a vessel other than by anchoring
- G. "Mooring" shall mean (1) a place where buoyant vessels are secured other than a pier, (2) the equipment used to secure a vessel.
- H. "Harbor facility" shall mean any facility affecting the use and operations of pleasure or commercial vessels bordering on, concerned with, or related to the Harbor of Fish Creek.

ARTICLE III

General Boating and Traffic control Regulations

Section 6. TRAFFIC CONTROL AUTHORITY. The Harbor Commission shall have authority to control waterborne traffic in any portion of the waters of the Harbor by use of authorized State regulatory markers, signal, orders, or directions at any time when the Harbor Commission 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 Harbor Commission, or with any signal orders or directions of the Harbormaster or his authorized agent acting as the Chief Enforcement Officer of the Harbor Commission. Such local authority shall be subordinate to applicable existing Federal and State regulations governing such matters.

Section 7. PERMITS FOR RACES AND SPECIAL EVENTS. It shall be a violation of this Ordinance for any person to engage or participate in a boatrace, exhibition, or other special event unless especially authorized by permit from the Harbor-master who shall have authority to issue such permits and to attach such conditons thereto, as, in his opinion, are necessary and reasonable for the protection of life and property.

General Regulations

Section 8. LIABILITY.

(a) Boat Owners: Any person using the facilities within the limits of the Harbor shall assume all risk of damage or loss to his property. The Town of Gibraltar or its duly authorized representatives assume no risk on account of fire, theft, Act of God, or damages of any kind to vessels within the harbor.

Section 9. OBSTRUCTION OF FACILITIES. It shall be a violation of this Ordinance for any person willfully to prevent any other person from the use and enjoyment of the Harbor and Harbor Facilities.

Section 10. SIGNS, ERECTION AND MAINTENANCE. The Harbormaster may place and maintain, or cause to be placed and maintained, either on land or water, such signs, notices, signals, buoys or control devices as are deemed necessary to carry out the provisions of this Ordinance, or to secure public safety and the orderly and efficient use of the harbor. For Sale signs shall be limited to a size of eight and one-half inches (8½") by eleven inches (11") and must be posted on the vessel.

Section 11. PROTECTED SWIMMING AREA. It shall be a violation of this Ordinance to operate or navigate any vessel within a designated swimming area. The Harbor Commission may identify swimming areas by signs, buoys, or other means.

Section 12. SLOW-NO-WAKE-ZONE. It shall be a violation of this Ordinance to operate or navigate any vessel within the boundaries of jurisdiction of the Harbor of Fish Creek, Town of Gibraltar, at a speed greater than "SLOW-NO-WAKE".

2004

ARTICLE V

Regulations concerning Anchoring, Mooring and Security of Vessels

Section 13. ANNUAL REGISTRATION FOR THE MOORING OF BOATS. Upon the outset of each boating season for which a boat owner desires to moor his craft within the Fish Creek Harbor or upon the seasonal placement of private mooring buoys, boat owners shall notify and register with the Harbormaster providing pertinent requested information including information about the boat, its owner(s), and anticipated dates and duration for mooring the craft in the Harbor. It shall be a violation of this ordinance to moor a vessel within the Harbor without first completing mooring registration with the Harbormaster for the boating season presently underway. The Harbormaster will then determine whether a permit will be issued and designate the location of the mooring within the "Designated Anchorage Area". The Fish Creek Harbor Commission shall set a fee for the permit to cover costs associated with such registrations, to cover costs of establishing and maintaining the anchorage area (including periodic inspection of Mooring equipment). The fee shall also include the right to the use of a dinghy rack, use of toilet facilities, use of garbage disposal containers, and the use of parking facilities. The fee is to be payable in full to the Harbormaster upon receipt of a permit.

"A portion of the Special Anchorage Area shall be reserved for those persons not wishing to utilize the shore facilities available; therefore, persons not utilizing the shore facilities shall not be required to pay a fee in order to obtain a permit from the Harbormaster"

All permits granted shall be valid for the duration of the year in which issued. It shall be a violation of this Ordinance to place any mooring anchor in the harbor without a permit from the Harbormaster as well as all other appropriate clearances from local, state, and federal authorities having jurisdiction over such matters.

The placement of such mooring shall take place in designated harbor mooring areas with site placement overseen by the harbormaster and shall be subject to the availability of adequate water area to safely accommodate additional vessels.

2004

Section 14. EXISTING MOORINGS LOCATED OUTSIDE OF THE DESIGNATED MOORING

AREAS. When in the event that a mooring anchor exists outside the boundaries of the special mooring area at the time of those boundary designations and such anchor is located within a navigational fairway or when in the opinion of the Harbor Commission or other state or federal authority having jurisdiction over such matters, the mooring of a boat at such anchor represents a public nuisance or hazard to the public's health, safety, and general welfare, the private owner of such mooring(s) shall be ordered to remove the mooring(s) within 24 hours from time of notification of the violation, from the harbor or at the owner's preference, move it to a new suitably designated location in the mooring area. At the option of the instructing authority, the owner may cease use of the mooring anchor(s). Cost of such removal or transfer shall be borne by the owner of the mooring.

Section 15. EXISTING NON-CONFORMING MOORINGS LOCATED INSIDE OF THE DESIGNATED

MOORING AREAS. When in the opinion of the Harbor Commission or other state or federal authority having jurisdiction over such matters, the use of existing moorings at their present location within a designated mooring area represents a nuisance or threat to safety of other moored boats, their occupants or other harbor users in general or represents an inefficient configuration for mooring placement so that the number of potential boats safely moored is reduced, the private owner of such mooring(s) shall, within 30 days from date of notification,

2004

be ordered to remove the mooring(s) from the harbor or at the owner's preference, move it to a new suitably designated location in the mooring area. At the option of the instructing authority, the owner may cease use of the mooring anchor(s). Cost of such removal or transfer shall be borne by the owner of the mooring.

Section 16. ANCHORING. It shall be a violation of this Ordinance to anchor a vessel in the harbor for periods in excess of one hour without first obtaining a permit from the harbormaster or from the facility operator in the case of a defined private marina area. Persons exercising their riparian rights as land owners abutting the harbor are exempt as is temporary emergency anchoring for repair purposes. These requirements shall however, not apply to temporary anchorage within designated mooring areas provided such anchorage does not encroach on the safe use of existing moorings. In instances of disagreement between boaters over such temporary anchorage, the harbormaster shall have the power to decide such matters and direct appropriate action to be taken.

If anchorage is desired within such designated mooring areas for periods greater than 24 hours, the anchorage will be considered comparable to a mooring in which case applicable mooring regulations and the necessity to register with the harbormaster will apply.

Section 17. OBSTRUCTING CHANNELS. It shall be a violation of this Ordinance knowingly or willfully to 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 18. ABANDONED VESSELS. When, in the opinion of the Harbormaster, a vessel has been abandoned in the harbor, he may take custody and control of such vessel and remove it, store it or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of such disposal shall be publically given.

Section 19. VESSELS, MAKING FAST. No person shall make fast or secure a vessel to any mooring already occupied by another vessel to an unoccupied mooring the person does not own, rent, or lease (unless prior written authorization has been obtained), or to a vessel already moored, except that a rowboat, dinghy or yacht tender regularly used by a larger vessel for transportation of persons or property to or from shore may be secured to such larger vessel or to the mooring regularly used by such 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 slip itself.

Section 20. CORRECTING AN UNSAFE BERTHING. If any vessel shall be found in the judgment of the Harbormaster to be anchored or moored within the Harbor 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 or his duly authorized agent shall order and direct necessary measures to eliminate such unsafe or dangerous condition. Primary responsibility for compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his authorized agent. In an emergency situation and 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 Town of Gibraltar in effecting such correction.

2004

Section 21. REMOVAL AND CUSTODY OF ILLEGALLY BERTHED OR ABANDONED VESSELS.

If any unattended vessel shall be found to be anchored or moored illegally within the harbor or if the Harbormaster has reasonable grounds to believe that a vessel has been abandoned within the Harbor, the Harbormaster may assume custody of such vessel and cause it to be removed and held or placed in storage. The Harbormaster or his duly authorized agent shall not be held liable for any damage to such vessel nor 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 Town of Gibraltar for all costs incident to recovery, movement and storage.

Section 22. OBSTRUCTIONS OF FAIRWAYS, CHANNELS OR BERTHING SPACES AND REMOVAL OF SUNKEN VESSELS.

(a) It shall be unlawful to tie up or anchor a vessel in the Harbor in such a manner as to obstruct the fairways or channels or to prevent or obstruct the passage of other vessels; or to voluntarily or carelessly sink or allow to be sunk any vessel in any channel, fairway, berthing space; or to float loose timbers, debris, logs, or piles in any channel, fairway, or berthing space in such a manner as to impede navigation or cause damage to vessels therein. It is understood that wrecked or sunken vessels within the harbor are subject to the published rules and regulations of the United States Coast Guard and any applicable State law, rules, or regulations.

Section 23. MOORING EQUIPMENT REGULATIONS. To insure maximum safety for all boaters and water enthusiasts, the following minimum standards are hereby adopted:

A. Minimum anchor weights

B. Minimum chain size

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|-----------------------|------|-------------------|
| 1. up to 25 foot boat | 300# | 3/8 inch diameter |
| 2. 25 to 40 foot boat | 500# | 1/2 inch diameter |
| 3. 40 foot and over | 750# | 1/2 inch diameter |

The owner of any mooring not meeting the minimum standards of this section shall within 30 days, upon written receipt of notice from the Fish Creek Harbor master, comply with the minimum standards of Section 22, relating to moorings and associated mooring equipment. Each day after 30 days shall be considered a separate violation.

Section 24. VIOLATIONS. Any violation of this ordinance not covered by Section 30.80 of the Wisconsin State Statutes, is a misdemeanor punishable by a fine of not more than two hundred dollars (\$200.00) plus costs. A repetition or continuation of any violation of any provisions of this ordinance or of any order or direction of the Fish Creek Harbormaster or authorized agent on successive days constitutes a separate offense for each day during any portion of which such violation is committed or continued, (except where time limits for correction or removal are expressly indicated).

Section 25. This ordinance shall become effective upon passage and posting of this ordinance.