

EAST DEVON DISTRICT COUNCIL BYELAWS RELATING TO ALL PARTS OF THE HARBOUR AXMOUTH

MADE BY VIRTUE OF POWERS CONFERED ON THE Council by virtue and in pursuance of the provisions of the Axmouth Harbour revision Order 1998 (“the Order”) and Axmouth Harbour Act 1830 (“the 1830 Act”) and of all other powers enabling them in that behalf with respect to

AXMOUTH HARBOUR

COMMENCEMENT OF BYELAWS AND EXTENT

1 the byelaws shall apply to all parts of the Harbour of Axmouth within the jurisdiction of the Council as defined by the 1830 Act and the Order and as indicated on the plan appended hereto, and shall come into operation on the expiration of fourteen days after the date of their confirmation by the Secretary of State.

INTERPRETATION OF TERMS

2 In these byelaws unless the context otherwise requires the following words or expressions shall have the meanings hereby respectively assigned to them:

- (i) “board sailing” means the navigation or operation of a sailboard and “wind surfing” has a like meaning
- (ii) “sailboard” means a vessel in the form of a raft with a sail or sails and designed to be navigated or operated by a person or persons standing upright thereon
- (iii) “Council” means the East Devon District Council
- (iv) “fire brigade” means the brigade which is for the time being providing the services of a fire brigade under the Fire Services Act 1947 for the fire authority in whose area the harbour is situated.
- (v) “harbour” means the harbour as defined by the 1830 Act and the Order
- (vi) “Harbour Master” means the officer appointed by the Council under the provisions of the 1830 Act for securing the observance of these byelaws and includes any assistant nominated by the Axmouth Harbour Management Company Limited and duly authorised by the Council
- (vii) “Personal Watercraft” means a power driven planing craft ridden by one or more persons and includes a wetbike jet-ski power board aquascooter or any similar craft or vessel
- (viii) “master” when used in connection with a vessel means any person whether the owner or not having or taking the command charge or management of the vessel for the time being
- (ix) “parascending” means any activity wherein a person or persons are towed by or carried on a power drive vessel with the intention that the person or person so towed or carried shall become airborne by virtue of their being harnessed to a kite parachute balloon glider or similar apparatus
- (x) “person” includes a body of person corporate or unincorporated
- (xi) “power driven vessel” means any vessel which is propelled wholly or partly by machinery
- (xii) “the Order” means the Axmouth Harbour Revision Order 1998
- (xiii) “under way” when used in relation to a vessel means when she is not at anchor or moored or made fast to the shore or aground

(xiv) "vessel" means a ship boat lighter keel barge pontoon raft or craft of any description and includes non-displacement craft and any other thing constructed or adapted for floating on or being submerged in water

(whether permanently or temporarily) and includes a hovercraft or any amphibious vehicle

(xv) "vehicle" includes any vehicle or machinery on wheels or caterpillar tracks trailer caravan and includes any amphibious vehicle

(xvi) "Collision Regulations" means the international regulations for preventing collisions at sea made under Section 85 and 86 of the Merchant shipping Act 1995 as applied and given effect by the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996.

MOORING ANCHORING AND KEEPING OF VESSELS

MOORING AND ANCHORING

3 The master of a vessel shall moor or berth his vessel at such part of the harbour and shall time to time remove the same to such situation within the harbour as the Harbour Master may direct

ANCHORING

4 The master of a vessel shall not except in an emergency anchor in the harbour; but if necessary shall do so if possible in such a manner as not to obstruct navigation; and shall take up the anchor if so required by the Harbour Master

CHARGE WHEN MOORED OR ANCHORED

5 The master of a sea going vessel shall if reasonably required by the Harbour Master so to do cause at least one responsible person to be on board at all times while such vessel is in the harbour and for the purposed of this byelaw se going vessel shall include any vessel which is capable of going outside the harbour and keeping at sea during average weather conditions.

MAKING FAST

6 The master of a vessel shall not make fast to any other vessel or her moorings without the previous permission of the owner of such other vessel or the owner of hr moorings unless ordered to do so by the Harbour master

NOT TO LIE ALONGSIDE OTHERS

7 The master of a vessel shall not permit her without the previous consent of the Harbour Master to lie at any mooring in the harbour when a vessel is already at the same mooring or alongside any other vessel

OBSTRUCTION OF OTHERS

8 The master of a vessel shall not place nor permit her to be placed in any position that may interfere with the access by any other vessel to any pier, jetty, wharf, landing steps, landing place, hard or grid without the permission of the Harbour Master

UNLOADING AND LOADING OF PASSENGERS AND CARGOES

(1) Boats unloading or loading passengers shall do so at such places as the harbour Master may from time to time direct

(2) Boats unloading or loading fish and other cargoes shall do so at such places as the Harbour Master may from time to time direct

NOTIFICATION OF COLLISIONS ETC

10 The master of a vessel which

(a) has been involved in a collision with any vessel or property or has been sunk or grounded or become stranded in the harbour or

(b) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessel or property

or

(c) in any manner gives rise to an obstruction to a fairway shall as soon as reasonably practicable report the occurrence to the Harbour Master and thereafter provide the harbour Master with full details in writing

and where the damage to a vessel is such as to affect or be likely to affect its seaworthiness the master shall not move the vessel except to clear the fairway or to moor or anchor in safety otherwise than with the permission and in accordance with the direction of the Harbour Master

LAUNCHING OF VESSELS

11 Unless he has the permission of the Harbour Master no person shall launch a vessel into the harbour except from a slipway, or over the beach to sea from the west end of the harbour to 200 metres eastward thereof

VESSELS TO BE EFFECTUALLY SILENCED

12 No person shall operate within the harbour a power driven vessel unless the engine is fitted with a silencer suitable for reducing as far as may be reasonably the noise caused by the escape of the exhaust gases from the engine

UNSAFE VESSELS

13

(1) The master of a vessel shall not take his vessel into the harbour without the permission of the Harbour Master if his vessel

(a) is or may be in danger of foundering or sinking or is incapable of being safely navigated or

(b) is on fire or has been on fire at any time within the period 14 days ending on the day on which his vessel is ready to enter the harbour

(2) The master of a vessel which in the opinion of the Harbour Master is or is likely unsafe or in danger or sinking shall if the Harbour Master so directs remove it from the harbour or to any part of the harbour specified by the Harbour Master

VESSELS TO HAVE NAMES MARKED ON THEM

14 The owner of a vessel which is not registered as a ship or as a fishing vessel under the Merchant Shipping Act 1995 and marked accordingly shall ensure that the vessel is marked conspicuously with its name or other means of identification unless otherwise exempted by the Harbour Master

REGISTRATION OF VESSELS

15 The owner of a vessel normally kept within the harbour shall register the same with the Harbour Master forthwith and shall thereafter register the vessel at intervals of not more than once a year and shall inform the Harbour Master of the place where the vessel is kept

CHANGE OF OWNERSHIP OF VESSELS

16 On any change in the ownership of a vessel kept within the harbour the new owner shall ensure that immediate written notification is given to the Harbour Master

ACCOMMODATION OF OTHERS

17 The master of any vessel having any rope chain or other connection fastened to the shore or to any post of buoy or mooring in the harbour shall when necessary or directed by the Harbour Master slacken or haul taut the same as the case may require for the accommodation of other vessels moving in the harbour

MAINTENANCE AND PAINTING OF VESSELS

18 The master of a vessel shall not intentionally list his vessel in order to undertake maintenance work nor shall he engage in the scraping, blasting or painting of such vessel on the foreshore or mud banks or the other part of the harbour without the previous consent of the Harbour Master and then only in accordance with such direction as he may give and subject to such conditions as he may impose

PRIVATE MOORINGS

19 No person shall place lay down maintain use and have private personal moorings on the fundus or foreshore of the harbour downstream to seaward of Axmouth bridges

GOOD AND ORDERLY CONDUCT

TAKING VESSELS WITHOUT CONSENT

20. No person other than the Harbour Master shall take, remove or cast adrift any vessel moored, anchored made fast or otherwise left in the harbour without having either the consent of the master or owner of such vessel or other lawful authority provided that if the Court before whom any proceedings are taken under this byelaw are satisfied that the accused acted in the reasonable belief that the master or owner of the vessel would in the circumstances have given his consent if he had been asked therefore the accused shall not be liable to be convicted of the offence

DAMAGE TO LIGHT

21 No person shall wilfully or negligently damage, deface or injure any light or aid to navigation within the harbour

NUISANCES

22 No person shall within the harbour commit a nuisance of any kind on or against any property of the Council or write or display or cause to be written or displayed in the harbour obscene or offensive words or materials on any vessel houseboat notice board building property or goods

USE OF CERTAIN EQUIPMENT

23 No person shall without the consent of the Harbour Master use or permit to be used any apparatus for the transmission reproduction or amplification of sound speech of images by electrical or mechanical means so as to create any noise which causes a nuisance or annoyance to other persons in or near the harbour

PETROL AND OIL NOT TO BE PUMPED INTO THE HARBOUR

24 Notwithstanding any statutory provision no person on board a vessel or houseboat shall cause petrol of oil or water mixed with these liquids to be pumped or permitted to run into the waters of the harbour

DUMPING IN WATERS OF HARBOUR PROHBITED

25 Notwithstanding any statutory provision no person shall deposit, throw, unload, put or suffer to fall any spoil, gravel, ballast or substance which has been used as ballast or any stones, earth, mud ashes or refuse or raw sewage into the waters of the harbour or onto the shores thereof below the level of high water save for any sewage discharge duly licensed before commencement of these byelaws

BRIGHT LIGHTS

26 No person shall exhibit in the harbour searchlights or other bright lights or pyrotechnics other than those for indicating emergency or distress in such a manner as to endanger navigation unless the consent of the Harbour Master has first been obtained

NO SMOKING

27 No person shall smoke or carry lighted pipe, cigar or cigarette within the harbour:

- (a) where smoking is expressly prohibited by the Council by a notice exhibited in a conspicuous position in such part of the harbour or
- (b) if requested by the Harbour Master or any constable or authorised person not to do so in or upon any part of the harbour where smoking or carrying a lighted pipe, cigar or cigarette may in their opinion be dangerous or
- (c) near to or amongst any inflammable goods in the harbour

FIRE EXTINGUISHING EQUIPMENT TO BE AVAILABLE FOR USE AT ALL TIMES

28 The master of every vessel within the harbour with the exception of rowing boats and other similar light non-powered vessels shall have adequate fire extinguishing equipment available for immediate use in any part of the vessel at all times and the nature and amount of such equipment shall take into account any abnormal risk associated with any such vessel

NON-INTERFERENCE WITH FIRE EQUIPMENT

29 No person shall without lawful authority displace or interfere with any safety or fire equipment with the harbour except in the event of an emergency

SIGNALLING AND REPORTING OF FIRES

30 In the event of a fire occurring on a vessel the master shall ensure that the fire brigade is immediately summoned

31

(1) The master of a vessel shall take all reasonable precautions for the prevention of fire.

(2) Without prejudice (1) above the master of every sea going vessel shall at all times have on board a hose and pipe of sufficient length and section, in good working order and capable of being immediately attached to a force pump, for the purpose of extinguishing fire

VESSELS NOT BE MADE FAST TO NAVIGATION BOUYS OR MARKERS

32

(1) No person shall make a vessel fast to any navigational buoy, light beacon or mark within the harbour

(2) The master of any vessel running into fouling or damaging any of the navigational aids referred to in (1) above shall as soon as reasonably practicable report the same to the harbour Master

NAVIGATION AND SPEED

VESSELS TO NAVIGATE WITH CARE

33 The master of every vessel (including a vessel under way on the occasion of any boat or other race regatta procession or launch) shall navigate his vessel in compliance with the Collisions Regulations with such care and caution and at such speeds and in such manner as not to endanger the lives of or cause

injury or discomfort to persons or damage any other vessel or any other property and as not to interfere with the navigation, manoeuvring loading or discharging of vessels, moorings or other property buoys and any land, building works plan, landing steps, landing stage, pier, jetty, railings or to the banks of the harbour or unreasonably interfere with the wildlife habitat and shall cause his vessel to proceed slowly when passing a vessel engaged in dredging or other underwater work or activity or in work at a buoy or mooring or in rescue work

SPEED

34 Subject to byelaw 33 hereof and the Collision Regulations the master of any power driven vessel shall not suffer or cause her to be navigated or driven in the harbour at a speed exceeding five knots through the water unless the consent of the Harbour Master has previously been obtained provided that this byelaw shall not have effect with respect of vessels of the Royal Navy the Royal National Lifeboat Institution or vessels operated on behalf of the Commissioners of Customs and Excise

LANDINGS

35 No person shall tie any vessel to any landing steps, landing stage, pier, jetty, railings or other property at which a notice prohibiting such action is displayed

PERSONS UNDER 16 YEARS OF AGE

36 No person under the age of 16 years shall navigate or operate anywhere within the harbour a power driven vessel which is capable of attaining speeds through the water in excess of eight knots unless accompanied by a competent and responsible person of 16 years or over and no person shall cause or permit or encourage any person under the age of 16 years to navigate or operate such a vessel unless accompanied

WATER SPORTS ETC

PERSONAL WATERCRAFT, WATERSKIING ETC

37

(1) No person or person shall within the harbour launch operate or cause to be operated a personal watercraft

(2) No person or persons shall engage in waterskiing or aquaplaning or parascending or any similar activity with the harbour

SUB-AQUA ACTIVITIES

38 No person shall engage in sub-aqua diving or sub-aqua swimming or the like within the harbour except:

(i) with the express permission of the Harbour Master and

(ii) in accordance with written direction (if any) given by the harbour Master regarding;

(a) the time when such activities can be carried out and

(b) the part of the harbour where such activities can be carried out

BATHING

39 Bathing from the pier head wall quay bridge or in the vicinity of the harbour entrance is prohibited

MISCELLANEOUS AND GENERAL

RESTRICTED VEHICULAR ACCESS

40

(1) Vehicles shall not be brought onto the land in the harbour except:

(a) the Council's or emergency services' vehicles on duty;

(b) Vehicles owned by occupiers of residences adjacent to harbour land or by their visitors;

(c) Commercial vehicles providing services required by the Harbour Master or harbour sub-tenants or by occupiers of adjacent residence;

(d) Vehicles with permits issued by harbour sub-tenants or specifically authorised by the harbour Master

(2) The Harbour Master may require a vehicle to be moved or parked as he may direct

RESTRICTIONS ON PLACARDS ETC

41 Except with the permission of the Harbour Master no person shall publicly exhibit any bill placard or notice or distribute any leaflets, pamphlet or circular nor attach any such document to or write upon any part of the harbour

ABANDONMENT ETC OF VESSELS PROHIBITED

42

(1) No person who owns or has charge of a vessel shall intentionally abandon, break up, set fire to or otherwise destroy that vessel on the banks of shore of the harbour except with the permission of the Harbour Master

(2) For the purposes of paragraph(1) of this byelaw a person who leaves a vessel on the banks or shore of the harbour in such circumstances or for such a period that he may reasonably be assumed to have abandoned it shall be deemed to have abandoned it there intentionally unless the contrary intention is shown

MEETINGS

43 No person shall within the harbour hold a public meeting, political or otherwise or gather together or deliver an address to an audience or gather together any persons without written consent of the harbour Master

UNAUTHORISED TRADING PROHIBITED

44 No person shall within the harbour engage by way of trading in buying or selling any goods or property without the written consent of the Harbour Master

INSPECTION FACILITIES TO BE AVAILABLE TO HARBOUR MASTER

45 The master of any vessel or houseboat in the harbour shall when so required by the Harbour Master afford every reasonable facility to enable the Harbour Master to ascertain whether these byelaws are duly observed

STORE POTS AND RAFTS, CRAB AND LOBSTER POST

46 No person shall keep in the water of the harbour a store pot for shell fish or a raft of any kind in the water of the harbour a crab or lobster pot

PENALTIES AND DEFENCES

PENALTIES

47 Any person who contravenes or otherwise fails to comply with any of the byelaws or the conditions of any permission or reasonable direction given by the Harbour Master under these byelaws shall be guilty of an offence and liable on conviction before a Court of summary jurisdiction to a fine as follows:

(a) for the contravention of byelaws

14 – vessels to have names marked on them,

15 – registration of vessels,

16 – change of ownership of vessels,

44 – unauthorised trade prohibited, to a fine not exceeding level 2 on the standard scale

(b) for the contravention of any other byelaw to a fine not exceeding level 4 on the standard scale

OFFENCES RESULTING FROM THE ACTS OF OTHERS

48 Where the commission by any person of an offence under these byelaws is due to the act or default of some other person that other person shall be guilty of an offence and that other person may be charged with and convicted of the offence by virtue of this byelaw whether or not proceedings are taken against any other person

DEFENCE

49 In any proceedings for an offence under these byelaws it shall be a defence for the person charged to prove

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence or
- (b) that he had a reasonable excuse for his act or failure to act or
- (c) that the commission of the offence was due to the act or default of some other person

THE COMMON SEAL OF EAST DEVON)
DISTRICT COUNCIL)
Was hereunto affixed this 4 day of May 2000)

In the presence of

Chief Executive

The Minister of Agriculture, Fisheries and Food hereby confirms the foregoing byelaws.
Signed on behalf of the Minister of Agriculture, Fisheries and Food this 17th day of October 2000 by
An Assistant Secretary in the Ministry of Agriculture, Fisheries and Food

NOTES

1 PREVENTION OF COLLISIONS (BYELAWS 33 AND 34 REFER)

Regulations made under the Merchant Shipping Act 1995 impose obligation to be complied with for the prevention of collisions. In this restricted harbour courtesy dictates that the boat stemming the tide should be the "give way vessel". Similarly a boat constrained by draft to keep in the centre channel had precedence, and a shallower draft boat keeps clear (e.g. when along the Rapids by standing over to westward). Also maintaining a good lookout is essential as visibility around the entrance and mooring area is restricted.

2 MOORINGS AND MANAGEMENT (BYELAWS 3 AND 19)

Within the Council's jurisdiction of the harbour of Axmouth Harbour Management Company Limited holds a lease of most of the area downstream of Axmouth bridge and is responsible to the Council for routine management of that part of the harbour and public access thereto. The Company's corporate members are the Seaton and Axmouth Branch of the East Devon Fishermen's Association and the Axe Yacht Club, these being sub-tenants of the eastern and western sides of the harbour and responsible for the administration of moorings berthing and vehicle access on their respective sides.

3 PERSONAL WATERCRAFT AND PUBLIC PARKING

(BYELAWS 37 AND 40)

Personal watercraft are prohibited from the harbour because they cannot be safely used in its restricted conditions. For personal watercraft there is a site for launching and recovery over the beach off the Esplanade some 300 m beyond the western harbour border. Personal watercraft are subject to the Collision Regulations and to the Seaton Bay byelaws mentioned below.

There is limited public car parking along the Esplanade; the nearest large car park, together with toilets and Visitor Information Centre, is the Underfleet off the north side of Harbour Road.

4 SEATON BAY BYELAWS

There are byelaws, operative May-October inclusive, providing for the safety and enjoyment of bathers and beach users. These byelaws specify speed restriction to the eastward and westward of the harbour, inshore to about 400m out, of 8 knots and off Beer of 5 knots. They also provide for bathing areas and the access channel for personal watercraft. Limits of these areas are marked by buoys.

5 LITTER AND POLLUTION AND DOG FOULING

It is an offence under the Environmental Protection Act 1990 to drop litter on the harbour estate or the harbour surrounding and it is an offence under the Control of Pollution Act 1974 to cause pollution of a river or coastal water by poisonous noxious or offensive matter or liquid. The Dog (Fouling of Land) Act 1996 applies to the harbour area.

6 DAMAGE TO PROPERTY

In addition to any liability under these byelaws it is an offence under the Criminal Damage Act 1971 for any person without lawful excuse to destroy or damage any property belonging to another, intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged.

7 OIL IN NAVIGABLE WATERS

Under the Prevention of Oil Pollution Act 1971 and the Merchant Shipping (Prevention of Oil Pollution) Regulations 1983 it is an offence to discharge any oil of mixture containing oil or to allow it to escape into certain areas including the whole of the limits of jurisdiction of the Commissioners and areas seaward of these limits.

8 COAST PROTECTION

Under Sections 18 and 34 of the Coast Protection Act 1949 it is an offence subject to certain exceptions to remove sand, shingle, gravel, earth and other material from the seashore, or without the written consent of the Secretary of State for Transport to deposit objects or materials on the seashore below the level of mean low water springs if the operation causes or is likely to cause obstruction of danger to navigation as far as the tide shall take flow.

9 DAMAGE TO OR INTERFERENCE WITH AIDS TO NAVIGATION

(a) Under Section 47 of the Malicious Damage Act 1861 it is an offence to unlawfully mask, alter or remove any light or signal or unlawfully and maliciously do anything tending to the

immediate loss or destruction of any ship, vessel or boat and under Section 48 of that Act it is an offence to unlawfully and maliciously cutaway, cast adrift, remove, alter, deface, destroy or to unlawfully act with that intent or in any other manner unlawfully and maliciously injure or conceal any boat, buoy, rope, perch or mark used or intended for the guidance for seamen or for the purposes of navigation

(b) Under Section 219 of the Merchant Shipping Act 1995 it is an offence to wilfully or negligently injure any navigation lights exhibited or any buoy or beacon, remove alter or destroy any light, buoy or beacon or ride by and make fast to or run foul of any light or buoy.

(c) Parts (ii) and (iii) of the Aviation and maritime Security Act 1990 make provision in respect of the other offences against the safety of ships and fixed platforms and for the protection of ships and harbour areas against acts of violence and create offences for breach of the provision of that Act.

10 STANDARD SCALE OF FINES

The Criminal Justice Act 1982 (as amended) provided for a standard scale of fines for summary offences. At the time these byelaws were confirmed the relevant levels as amended by the Criminal Penalties (Increase) Order 1984 were:

Level 2 - £500

Level 4 - £2,500

These sums may be altered by further Statutory Orders from time to time in the light of changes in the value of money.