

TOWN OF KITTERY

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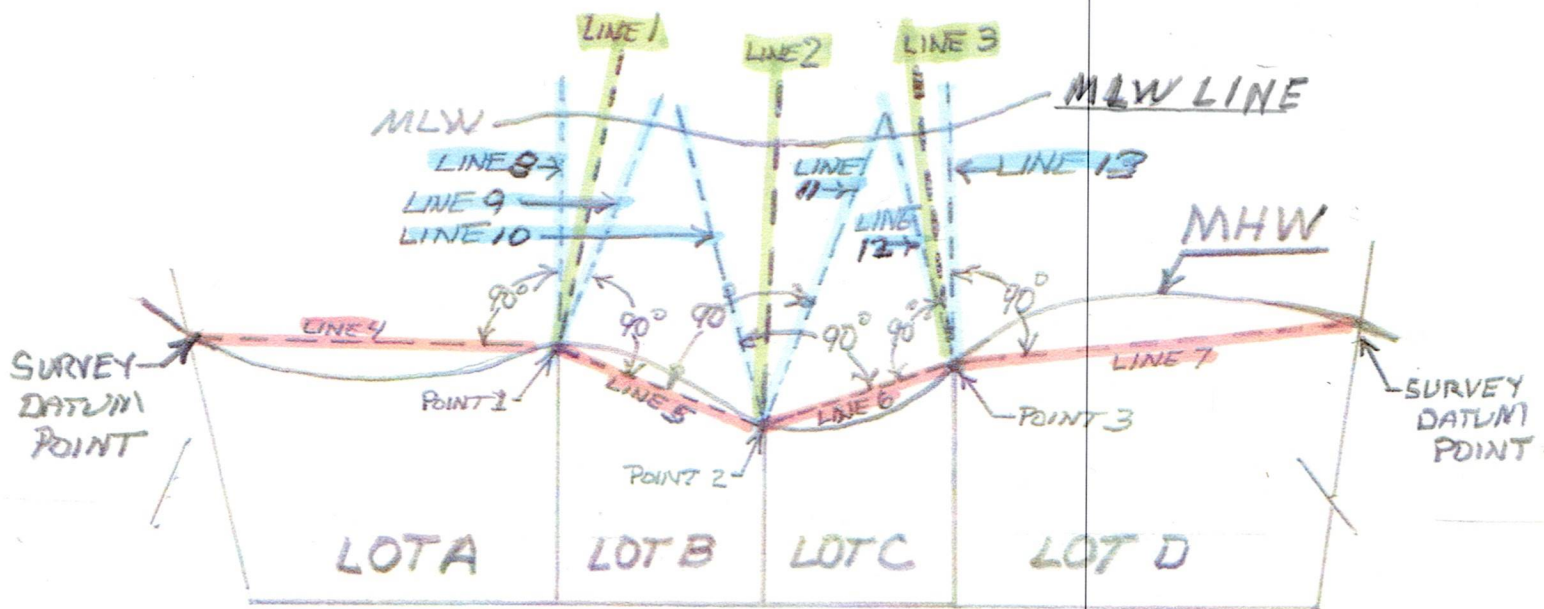


Kittery Port Authority Workshop

February 15, 2024 | 6:00 PM | Council Chambers

The Port Authority will hold a workshop to discuss suggested changes to the Rules and Regulations.

The workshop may be attended in person, or watched on Channel 22, the Town's website, and the Kittery Channel 22 Facebook page.

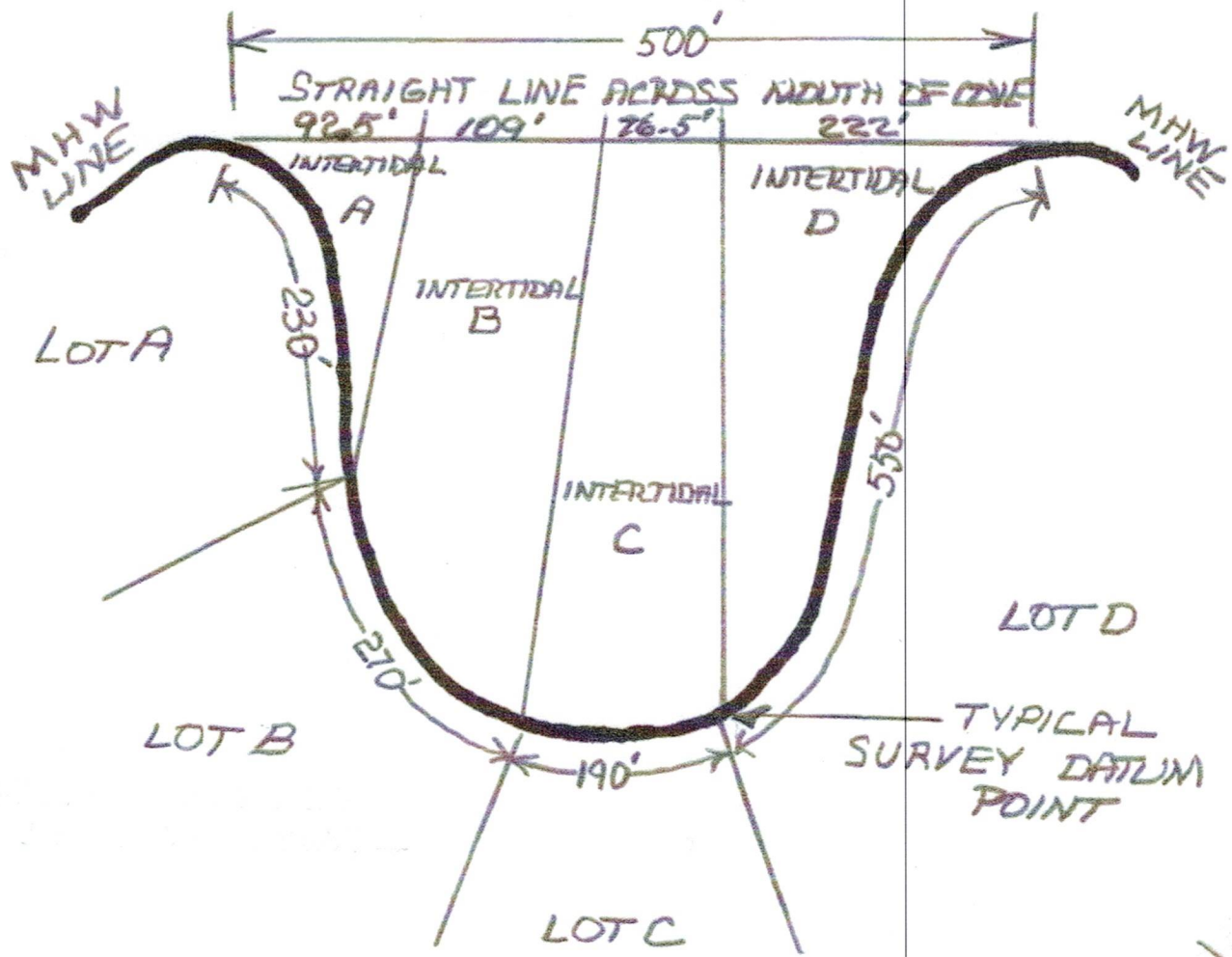


PROCEDURE FOR DETERMINING OWNERSHIP OF INTERTIDAL LAND ALONG AN UNEVEN SHORELINE USING THE COLONIAL METHOD

1. Locate survey datum points 1, 2, and 3.
2. Draw lines 5 and 6.
3. Draw lines 9 and 11 at 90 degree angles to line 5.
4. Draw lines 10 and 12 at 90 degree angles to line 6.
5. Locate survey datum points for lots A and D, and draw lines 4 and 7.
6. Draw line 8 at 90 degrees to line 4, and draw line 13 at 90 degrees to line 7.
7. Draw line 1 equidistant between lines 8 and 9, line 2 equidistant between lines 10 and 11, and line 3 equidistant between lines 12 and 13.
8. Resulting Intertidal land between lines 1 and 2 belong to Lot B, and Intertidal land between lines 2 and 3 belong to Lot C.

DWG #2

1/18/24
ccf



PROCEDURE FOR DETERMINING OWNERSHIP OF INTERTIDAL LAND INSIDE A COVE USING THE PROPORTIONAL METHOD

1. Draw a straight line across the mouth of the cove and measure the length. (500')
2. Locate survey datum points between Lots A, B, C, and D along the MHW Line.
3. Measure and document shore frontage in the cove along the MHW Line for each Lot.
4. To determine the frontage ownership along the straight line across the front of the cove for Lot B, divide the total frontage along the MHW Line for Lot B (270') by the total frontage of all the lots at the MHW Line (1240') and multiply the results (.2177) by the total distance across the straight line of the cove (500') to get 109'.



**PORT AUTHORITY RULES AND REGULATIONS
PERTAINING TO THE HARBOR, PORT, AND CHANNELS, WITHIN
THE TOWN OF KITTEY, MAINE
AMENDED: JANUARY 6, 2022**



TOWN OF KITTERY PORT AUTHORITY RULES AND REGULATIONS PERTAINING TO THE HARBOR, PORT, AND CHANNELS, WITHIN THE TOWN OF KITTERY, MAINE

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65 **TOWN OF KITTERY PORT AUTHORITY RULES AND REGULATIONS PERTAINING TO THE**
 66 **HARBOR, PORT, AND CHANNELS, WITHIN THE TOWN OF KITTERY, MAINE**

67 These Rules and Regulations are promulgated by the Port Authority in accordance with Article IX
 68 Section 9.02 of the Town of Kittery Charter; and are to be construed as having the force and
 69 effect of law as municipal ordinances in accordance with Title 38 Maine Revised Statutes (MRS),
 70 as may be amended from time to time. These Rules and Regulations apply to watercraft, boating,
 71 and the use of waters, within the Town of Kittery (hereinafter the “Town”) and are applicable to
 72 any construction lying within the jurisdiction of the Port Authority.

73 **1. DEFINITIONS**

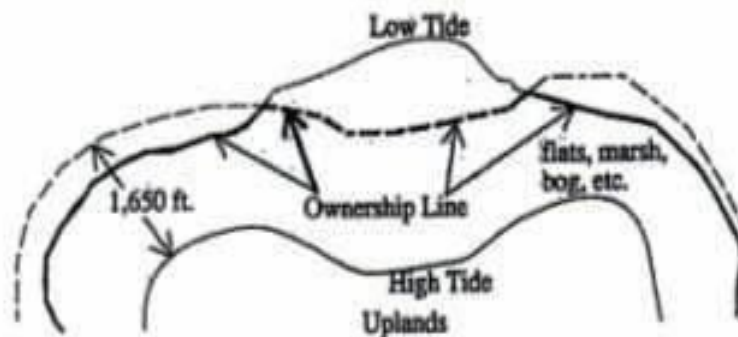
74 Except where specifically defined in these Rules and Regulations, all words used herein carry
 75 their customary dictionary meanings. Words used in the present tense include the future and the
 76 plural includes the singular, and singular includes the plural; the word “lot” includes the word
 77 “plot”; the word “building” includes the word “structure”; the words “shall” or “must” are always
 78 mandatory; “occupied” or “used” are considered as though followed by the words “or intended,
 79 arranged or designed to be used or occupied”; and, gender-specific words (e.g., she, he, his,
 80 hers) include the opposite sex equivalent.

81 **Anchorage Area** – An area of the harbor set aside for the temporary anchoring of vessels.

82 **Anchoring** – To secure a vessel to the bottom within a body of water by dropping an anchor(s)
 83 or other ground tackle which is carried aboard a vessel when underway as regular equipment.

84 **Berth** means the place where a vessel lies when at a wharf or pier.

85 **Boundaries (Along Tidal Water)** means any body of water that is naturally influenced by the ebb
 86 and flow of the tide. Tidal waters include rivers from their mouths to the point upstream where the
 87 ebb and flow of the tides is negligible. Title to land abutting and below the normal high- water mark of
 88 tidal water is determined by the title deed and application of state law and common law
 89 presumptions. The common law presumption is that a conveyance of land bounded by tidal water will
 90 convey title to the low tide mark or to 1650 feet (100 rods), whichever is closer to the normal high-
 91 water mark (see figure, below). This presumption of tidal water boundary applies equally to all lands
 92 along the ocean, bays, and rivers affected by the tides, even though the tidal river water may contain
 93 fresh rather than brackish or salt water. The line of low tide may fluctuate because of accretion and
 94 reliction. An owner’s lands will increase or decrease accordingly. Beyond the low tide or beyond
 95 1650 feet, whichever is closer to high tide, the State has title.



97 **Channels** means areas of the harbor kept open for navigation or other purpose by rule or
98 regulation of the Port Authority, the Department of Army or other regulatory or legislative body.

99 **Commercial fishing vessel** means a vessel outfitted and utilized for the taking of any marine
100 species for purposes of sale.

101 **Commercial Use** means a vessel used for the principal purpose in the pursuit of one's business
102 or trade for the purpose of earning a livelihood. The Harbormaster will determine whether a use
103 is commercial for the purpose of application to Kittery Port Authority Rules and Regulations.

104 **Dinghy, Tender or Skiff** means a vessel 12'6" or less in length and 5'0" or less in beam
105 associated with a specific larger vessel and principally used for transportation from the larger
106 vessel to a landing or other vessel.

107 **Dock** means the slip or waterway extending between two (2) piers or projecting wharves or cut
108 into the land for the reception of vessels.

109 Facility Use Permit means an annual pier use permit or a single-use (daily) pier permit.

110 **Float** means a platform that floats and is anchored, moored or secured at or near the shore, used
111 for landing or other purposes.

112 **Float-In** means when the town-owned floats are put back in the water in the spring.

113 **Float-Out** means when the town-owned floats are removed and stored for the winter.

114 **Finger Float** means a float extending from the main float of a pier, ramp and float system that
115 creates slips and/or increases the float or pier edge available for docking vessels.

116 **In Kind Repair** means the general repair of pilings, decking, railings, footings, and other
117 components of the structures.

118 **In Kind Replacement** means the replacement of pier structure, float or ramps in the exact same
119 size, location, and footprint of the existing structure.

120 **Harbor** means the navigable tidal waters within the geographical limits of the Town of Kittery,
121 Maine.

122 Harbormaster means the person(s) appointed and duly authorized by the Town to carry out the
123 duties as prescribed by the Town Administrative Code and state law. [consistent with Town Code
124 wording]

125 Headway speed means the minimum speed necessary to maintain steerage and control of the
126 vessel while the vessel is moving.

127 **Industrial Commercial** means any person or entity carrying on any business for gain or profit.

128 **Kittery Port Authority** means an organization as established by Kittery Town Charter.

- 129 **Knot** means one nautical mile per hour, or approximately 1.15 statute mile per hour.
- 130 **Landing** means a place for landing or discharging persons or things, as from a vessel.
- 131 **Marina** means a business establishment that has compliant frontage on navigable water and
132 that provides, as its principal use, for hire moorings or docking facilities for vessels and yachts
133 or any pier and float system capable of supplying four (4) or more 15' or greater slip spaces in
134 addition to the main float as of July 5, 2007, but not including float systems in existence before
135 this date. A marina may also provide accessory services such as vessel and related sales,
136 vessel repairs to small craft 19.8 meters (65 feet) or less in length, indoor storage of vessels
137 and marine equipment, vessel and tackle shops, or marine fuel service facilities.
- 138 [Mean High Water \(MHW\) is a tidal datum determined from the arithmetic mean of the high](#)
139 [water heights observed each tidal day.](#)
- 140 **Mean Low Water Mark** means approximation of mean-low water made by observation of low tide
141 during a 0.0-foot tide (as determined by the National Oceanic and Atmospheric Administration).
- 142 **Mooring** means a permanent, adequate means of securing a vessel to the bottom in an
143 anchorage, which is not carried aboard a watercraft when underway as regular equipment.
- 144 **Mooring, Commercial** means a mooring utilized by a person [or entity](#) in the pursuit of business
145 or trade.
- 146 **Mooring, Commercial Service** means a mooring utilized by individuals or marinas to service
147 boats for repair on a temporary basis.
- 148 **Mooring, Private** means a mooring utilized by a vessel for private use only.
- 149 **Mooring, Rental** means any mooring offered by individuals or marinas for transient or seasonal
150 rental including moorings controlled by private entities.
- 151 **Mooring Site** means a specific point on the ocean bottom in a mooring area assigned by the
152 Harbormaster to a primary owner for a specific vessel and use. Approval of the physical mooring
153 tackle (hardware) is covered separately and is approved by the Harbormaster for the location
154 permitted.
- 155 **Mooring Site Waiting List** means a list or lists of persons, arranged by application number,
156 requesting a mooring site in the tidal waters of the Town.
- 157 **Mooring Site Permit** means the assignment by the Harbormaster of a mooring site. All such
158 mooring site permits are issued by the Harbormaster upon application by the vessel owner
159 according to these Rules and Regulations.
- 160 **Mooring, Town Transient** means moorings available for overnight rental through the
161 Harbormaster.

162 **MRS** means Maine Revised Statutes.

163 **Navigable Tidal Waters** means all harbors and bays as well as major rivers as far as they can be
164 navigated "continuously" from the sea without obstructions.

165 **Not-for-profit entity** means any person, whether corporation, partnership, limited liability
166 company, proprietorship, association, business trust, real estate trust or other form of
167 organization carrying on any activity within the state consistent with the stated purposes of such
168 organization and operating on a nonprofit basis.

~~169 **Normal High-Water Mark** means that line which is apparent from visible markings, changes in
170 the character of soils due to prolonged action of the water or changes in vegetation, and which
171 distinguishes between predominately aquatic and predominantly terrestrial land.~~

172 **Outhaul** means an assembly consisting of a submerged pulley and continuous line between a
173 moored vessel and a fixed point on shore for the purpose of boarding a vessel from the shore
174 without the need of a dinghy.

175 **Person** means an individual, corporation, governmental agency, municipality, trust, estate,
176 partnership, association, two or more individuals having a joint or common interest, firm or, in
177 the case of a corporation or association, any official thereof, or other legal entity.

178 **Pier** means a structure extending into the water from a shore or bank or along a shore or bank
179 which provides for the transfer of cargo or passengers or the berthing for vessels, and includes
180 but is not limited to, wharves, quays and docks.

~~181 **Pier use permit** means an annual pier use permit or a single use (daily) pier permit~~

182 **Pier, Commercial** means any pier that exceeds six (6) feet in width and is used for commercial
183 purposes.

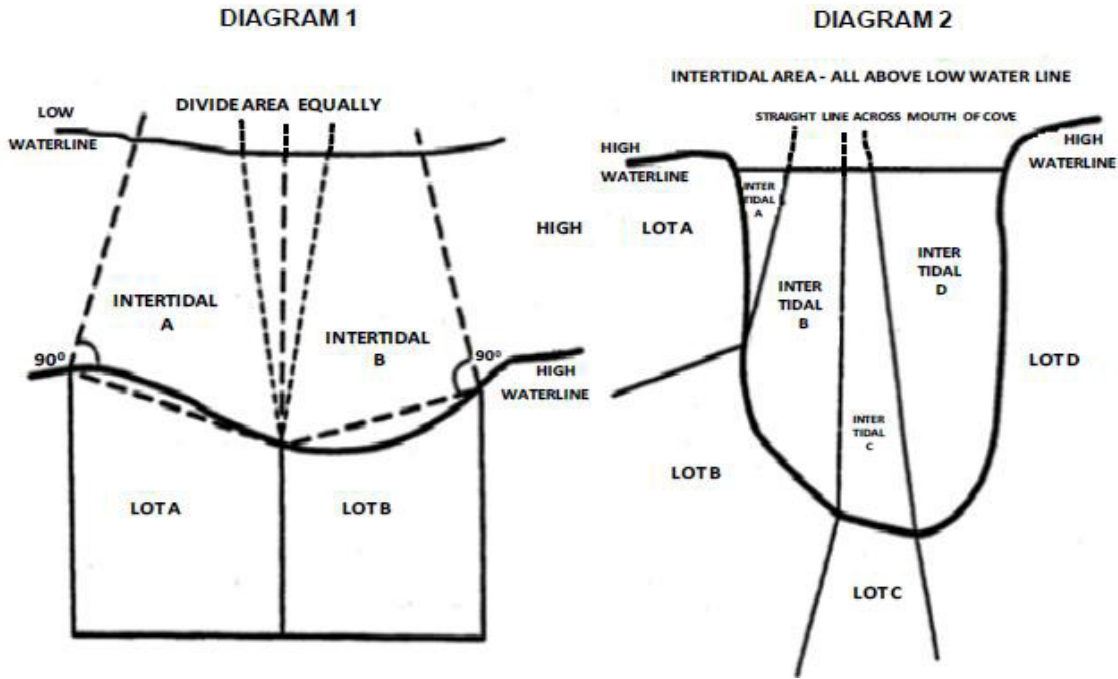
184 **Pier, Residential Development Use, Ramp & Float System** means a pier and/or ramp and float
185 system which is used in common by lot owners or residents of a subdivision or residential planned
186 development. The purpose is to provide waterfront access to the owners of lots in a residential
187 development that has the potential for more than one waterfront lot. The object is to minimize the
188 number of piers, ramps and floats resulting from new development and possible elimination of
189 Riparian Moorings.

190 **Primary Owner** means the person that owns the majority of a vessel and is the first person
191 listed on the vessel registration card.

192 **Riparian Mooring** means a mooring where practicable is issued to individuals that own
193 shorefront rights to a parcel of land that meet the requirement of 38 MRS, §3, Mooring sites.

194 **Riparian water rights** (or simply riparian rights) is a system for allocating water among those who
195 possess land along its path pursuant to Title 38 MRS, §3, Mooring sites:

196 **DIAGRAM for DETERMINING OWNERSHIP of INTERTIDAL LAND**



197

198 **Swim Float** means a structure that is moored on a temporary basis no earlier than May 15 and no
 199 later than October 15 for swimming purposes only.

200 **Temporary Mooring Site Permit** means a mooring site permit issued or assigned by the
 201 Harbormaster on a temporary basis not to exceed one (1) season (May 1st through April 30th) per
 202 assignment.

203 **Tidal Waters** means areas where there are two Low Waters and two High Waters generally
 204 every 24 hours and 50 minutes. The average High Water rises 8.7 ft. from Low Water in the
 205 Kittery area.

206 **Title 16** means Kittery Town Code Title 16, Land Use and Development Code.

207 **Town Resident**, also referred to as "Municipal resident", means any natural person who owns
 208 real property in Kittery or resides in the Town for more than one hundred eighty (180) days in a
 209 calendar year.

210 **Town Transient Slip Rental** means the float system of docks on Pepperrell Pier available for
 211 overnight rental through the Harbormaster.

212 **Vessel** means boats of all sizes propelled by sails, machinery or hand; scows, dredges, shellfish
 213 cars and watercraft of any kind.

214 **Wharf** means a structure of timber, masonry, concrete, earth or other material, built on the shore
 215 of a harbor, river, canal, or the like, especially one extending parallel to the shore line, so that
 216 vessels may lie close alongside to receive and discharge passengers and cargo.

217 **2. HARBOR USE REGULATIONS**

218 **2.1. Speed of Vessels, Reckless Operation, and Wake of Vessels**

219 Vessels must be operated in the harbor at a reasonable and prudent speed with due regard to all
220 prevailing circumstances and in such a manner as to not endanger watercraft, persons or property.

221 Vessels must be operated so they do not create a wake that does or potentially could endanger
222 or damage any person, vessels or property.

223 Vessels must not exceed headway speed ~~the speed of five (5) m.p.h. in the following areas:~~ in
224 the areas identified in Sections 2.1 and 2.2.

225 **2.1.1. Pepperrell Cove including Chauncey Creek**

226 A. From the entrance to Pepperrell Cove channel (Red Nun Buoy #4) to the Town Pier at
227 Frisbee Wharf including the complete mooring area of Pepperrell Cove.

228 B. From the entrance ~~of Chauncey Creek~~ Pepperrell Cove channel (Red Nun Buoy #4) to
229 the upper end of Chauncey Creek.

230 **2.1.2. Spruce Creek**

231 The area from Hicks Rocks Inner Channel below Kittery Point Bridge to ¼ mile north of the Kittery
232 Point Bridge in Spruce Creek (old trussell).

233 **2.1.3. Back Channel**

234 From Red Nun Buoy #4 at the Southeasterly end of the back channel, up the river to both the
235 North and Southeast sides of Badger's Island terminating at Western end of Badger's Island.

236 **2.1.4. Exception**

237 Nothing in these speed or wake regulations makes unlawful any action necessary for (a)
238 navigational safety; (b) observance of the rules of the road, and emergency missions by
239 emergency or public safety watercraft. The burden is upon any person asserting the exception
240 provided by this Section as a defense to a prosecution for violation of any speed or wake
241 regulation.

242 **2.2. Channels**

243 Channels for the passage of vessels must be maintained in the area under the
244 jurisdictional limits of the Port Authority and kept clear of any and all obstructions.

245 **2.2.1. Channel A**

246 A channel is established from Red Nun Buoy #4 (Fishing Island), one hundred fifty (150)
247 feet wide, to the town wharf at Pepperrell Cove; also, a fifty (50) foot wide deep-water
248 channel at the entrance of Chauncey Creek from Red Nun Buoy # 4 to a line from the
249 southern end of Phillip's Island (which is sometimes known as Moore's Island) to the
250 northern end of Gooseberry Island. Chauncey Creek above this line must be maintained
251 as a mooring area with the Harbormaster laying out mooring sites in such a manner as to
252 ensure that the channel is not obstructed. The Harbormaster may require bow and stern
253 moorings, if necessary, to insure clear passage in this area.

2.2.2. Channel B

A fifty (50) foot channel is established from Red Nun Buoy #6, at Hick's rocks, Northwest and Westward up the back channel between Green Can #3 and Red Nun Buoy #4; up the river to both the North and Southeast sides of Badger's Island, terminating at the Western end of Badger's Island. The center of the channel being determined by the deepest water in the unmarked portions.

2.3. Anchorage

2.3.1. The Harbormaster may at any time order any vessel at anchor to change position when it is determined that such vessel is so anchored as to impede navigation or to endanger other vessels.

2.3.2. Anchoring any vessel or watercraft in all Kittery waters is limited to 14 days maximum, or at the discretion of the Harbormaster.

2.3.3. Vessels and watercraft anchoring in Kittery waters must not be left unattended for more than ~~seventy-two (72)~~forty-eight (48) consecutive hours.

2.3.4 Rafting of more than two (2) vessels on an anchor is prohibited, unless approved by the Harbormaster. All vessels must be occupied while rafting.

~~**2.3.3.**~~**2.4. Buoy other than for Mooring Vessels**

No buoy of this type may be placed in channels leading to wharves, nor may such buoys be placed less than three (3) vessel lengths from a mooring for that vessel. The Harbormaster is empowered, in the interest of public safety, to require the removal of buoys.

2.5. Public Wharves and Landings**2.5.1. Obstruction**

No person may obstruct by any means whatsoever, the free use of public piers, docks, floats and other common landing places. Vessels may not remain tied to the wharf or float for a period longer than thirty (30) minutes except by permission of the Harbormaster. Vessels in violation will be removed or caused to be removed by the Harbormaster and charged storage fees.

2.5.2. Tying to Public Facilities

A. Any vessel tied to public piers, docks, floats, and other common landing areas causing damage to adjacent watercraft or property will be removed or caused to be removed by order of the Harbormaster.

B. Hourly dockage is permitted on Pepperrell Pier on designated transient slips only. Hourly dockage will be allowed if slips have not been reserved for transient vessels for overnight stays, and will be allowed on a first come first serve basis. Hourly dockage is limited to a maximum of 2 hours per vessel per slip. Charges for hourly dockage are calculated in 60-minute blocks as set forth in Appendix A.

2.5.3. Emergency Repair

Vessels requiring emergency repair may be tied to public piers, docks, floats, or other common landing areas for a maximum of twenty-four- (24-) hours with approval of the Harbormaster. Extension of time is at the discretion of the Harbormaster.

293 **2.5.4. Public Nuisance**

294 No person may loiter, create a public nuisance or partake of alcoholic beverages on public
295 piers, docks, floats, or other common landing areas.

296 **2.5.5. Closure of Facilities**

297 Public piers, docks, floats, and other common landing areas may be closed for reasons of
298 public safety or threats to natural resources.

299 **2.5.6. Town Hoist Use**

300 A. Town hoists may not be used for launching or landing of vessels.

301 B. Loads must not exceed the posted hoist limit.

302 C. The Harbormaster may prohibit a user from using the hoist if found to be operating it unsafely
303 or in violation of the Rules and Regulations.

304 **2.5.7. Swimming**

305 A. No person may dive from, swim or skin-dive without permission of the
306 Harbormaster, within thirty (30) feet of Town-owned floats.

307 B. Persons swimming in mooring fields, anchorages, and channels must have a safety
308 buoy attached to them.

309 **2.5.8. Tying of Dinghies to Town Floats**

310 A. All dinghies, skiffs, or tenders tied to public floats must allow at least ten (10) feet of line
311 between the float and vessel.

312 B. Dinghies more than twelve feet six inches (12' 6") in length may be tied to a public float with
313 written permission of the Harbormaster.

314 C. All dinghies tied to public piers, docks, floats and other common landing areas are to be
315 maintained and bailed free of water. Unmaintained dinghies may be removed and charged
316 storage fees. Dinghies must be bailed within 24 hours after a rainfall event.

317 D. Dinghies must prominently display the mooring number on the inboard side of the transom
318 using ~~numbers no less than two (2) inches in height and in contrasting color~~ the sticker provided
319 by the Harbormaster.

320 E. Except where permitted by the Harbormaster, all dinghies must be removed from public floats
321 before float-out in October of each year. Any unauthorized dinghies remaining after this date will
322 be removed and charged storage fees as set forth in Appendix A.

323 **2.5.9. Storage of Personal Property on Town Piers, Floats, and Landings**

324 A. Personal property, such as cradles, motor vehicles, vessels, and floats may not be stored on
325 town wharves, piers, floats or landings.
326

327 B. A Loading Zone, as designated by the Harbormaster, may be used by mooring holders and
328 Facility Use Permit holders for loading and unloading of gear including but not limited to lobster

329 traps, fishing gear and other items in transit. Items in transit mean items are being actively loaded
330 or unloaded to and from vessels.

331 C. Gear may be stored or placed by mooring holders and Facility Use Permit holders in
332 designated areas for no more than twenty-four (24) hours at any given time, unless otherwise
333 permitted by the Harbormaster. Gear must be placed or stored in a manner that allows safe
334 access to vessels and public piers, docks, floats and common landing areas. Gear must be
335 stacked or stored in an orderly manner. The gear stacked or stored from an individual vessel may
336 not exceed one half of any designated storage area on town wharves, piers, floats, or landings at
337 any time. The gear must be conspicuously marked with owner information.

338
339 **2.5.10. Children on Ramps and Floats**

340 Children 10 years of age and younger must wear a personal floatation device and be
341 accompanied by an adult on all wharves and floats, at all times.

342 **2.6. Abandoned Boats, Vessels, Wrecks, Etc.**

343 **2.6.1. Abandonment Prohibited**

344 No person may cause to be abandoned any watercraft or related equipment or appurtenances on
345 the shores within the waters of Kittery, whether on a mooring or at anchor. Nor may any person
346 abandon or cause to be abandoned any watercraft, vessel, hull, or any raft at any wharves, docks
347 or permanent floats within the waters of Kittery. No person may abandon any watercraft, vessel, or
348 hull upon any shoreline, dock, pier, wharf, float, mooring, or at anchor except with the express
349 consent and approval of the owner of the dock, pier, wharf, float, mooring, shoreline, or in the case
350 of moored or anchored watercraft, the consent and approval of the Harbormaster.

351 **2.6.2. Presumption of Abandonment**

352 Any watercraft, vessel, hull or raft left within Kittery waters which has been unattended for a
353 period of seven (7) days without the express consent and approval of the owner of the dock,
354 float, mooring, shoreline, or in the case of moored or anchored watercraft, the consent and
355 approval of the Harbormaster, may be declared abandoned.

356 **2.6.3. Abandoned Vessels**

357 When, in the opinion of the Harbormaster, a watercraft, vessel, hull, or raft has been abandoned
358 in Kittery waters, he may take custody and control of such vessel and remove it or cause it to be
359 removed and stored.

360
361 The owner will be responsible to pay all removal and storage fees prior to reclaiming the vessel.
362 If the owner fails to claim the vessel the Harbormaster will dispose of it in accordance with MRS
363 25.

364 **2.7. Water Skiing, Skin & SCUBA Diving, Aircraft, Sailboards, Jet Skis/Personal**
365 **Watercraft, and Windsurfing**

366 **2.7.1.** Water skiing or windsurfing in congested mooring areas, anchorage areas or in speed
367 limited areas in Kittery waters is prohibited. Waterski jumps may be allowed by permit. (with prior
368 permission of the ~~harbormaster~~[Harbormaster](#))

369 **2.7.2.** Operators of jet skis/personal watercraft must observe the same Rules and Regulations
370 applicable to other vessels.

371 **2.7.3.** Aircraft pilots must observe the same mooring and anchorage rules that apply to vessels
372 and are regulated by applicable state and federal rules, regulations and statutes.

373 **2.8. Environmental Protection of the Harbor and Waters of the Town**

374 **2.8.1. Waste and Refuse.**

375 No person may deposit, throw, sweep, pump or otherwise cause to be deposited into the waters
376 of the Town, or into adjacent waters, any sewage waste, gas or oil or bilge water containing
377 same, dirt, stones, gravel, mud, logs, planks, or any other substance tending to obstruct the
378 navigation or pollute the waters of said harbor or waters adjacent thereto.

379 **2.8.2. Use of Dumpsters**

380 No trash or refuse may be placed on any town float or pier except in designated containers.
381 Seasonal dumpsters are for waste generated on vessels No household trash or refuse of any kind
382 not generated on a vessel may be placed in the dumpster. **Recyclable items must be properly**
383 **deposited in the containers provided as specified in Town recycling regulations.** Littering is
384 prohibited.

385 **2.8.3. Oils and Hazardous Wastes**

386 No oil or other hazardous wastes may be deposited in town waste receptacles or left on Town
387 piers, floats, or landings. Such material must be disposed of properly at the Town's designated
388 disposal site as specified in the appropriate waste disposal regulations.

389 **2.9. Facility Use Permit**

390 **2.9.1. Kittery-Resident Commercial Vessels**

391 Commercial vessel owners that are not Kittery mooring holders but have a primary residence in
392 Kittery must obtain a permit to use of the floats, piers, hoists, docks, common landing areas and
393 facilities for commercial use for loading, unloading, and temporary storage and placement of
394 gear.

395 **2.9.2. Non-Kittery-Resident Commercial Vessels**

396 Commercial vessel owners that are not Kittery mooring holders and do not have a primary
397 residence in Kittery must obtain a permit to use of the floats, piers, hoists, docks, common
398 landing areas, and facilities for commercial use including loading and unloading, and temporary
399 storage and placement of gear.

400 **2.9.3. Exemptions**

401 The following are not required to obtain a Facility Use Permit to use the floats, piers, hoists,
402 docks, common landing areas, and facilities for loading, unloading, and temporary storing and
403 placement of gear:

404
405 A. Kittery mooring holders;

406
407 B. Not-for-profit organizations. This exemption does not apply to for-profit organizations working
408 on behalf of a not-for-profit organization.

409 **2.9.4 Prohibited Use**

410 A. The movement of construction equipment, freight, marine construction equipment, and
411 dredging/ oil-boom related equipment across the piers, floats and launch ramps for transport to
412 or from other sites is prohibited at all Town-owned facilities unless approved by the
413 Harbormaster. Mooring blocks and mooring materials for use in Kittery waters are exempt.

414 **2.10. Fishing from Town Owned Piers, Floats and Wharves**

415 A valid Saltwater Fishing license is required to fish from Town facilities.

416 **2.10.1 Town Pier at Frisbee Wharf**

417 Fishing is permitted on the Frisbee Pier, along parking lot walls when at least 15 feet from any
418 parked vehicle, and the primary float at the end of the Frisbee pier.~~float systems~~. Fishermen are
419 cautioned to stay clear of all vessels and dinghies that are made fast to the float systems.
420 Fishermen are required to keep the facility clean, and a carry-in/carry-out policy is in effect.

421 **2.10.2 Pepperrell Pier**

422 Fishing from the Pepperrell Pier, the ADA gangway, and transient float system, is prohibited.
423 Violation of this rule is subject to a fine as set forth in Appendix A.

424 **2.10.3 Traip Launch**

425 Fishing is permitted at the Traip Launch. Fishermen are cautioned to stay clear of all vessels and
426 dinghies that are made fast to the float systems. Fishermen are required to keep the facility clean,
427 and a carry-in/carry-out policy is in effect.

428 **2.10.4 Government Street Wharf**

429 Fishing is permitted on the Government Street Wharf. Fishermen are cautioned to stay clear of all
430 vessels. Fishermen are required to keep the facility clean, and a carry-in/carry- out policy is in
431 effect.

432 **3. MOORINGS**

433 These Rules and Regulations are promulgated to meet the requirements of Title 38, Maine
434 Revised Statutes (MRS), Waters and Navigation, Chapter 1, Operation of Vessels, as may be
435 amended from time to time.

436 **3.1. Assignment of Mooring Sites**

437 **3.1.1. Mooring Sites Areas**

438 All mooring sites except as otherwise provided by Title 38 MRS, ~~et. seq.~~ are under the exclusive
439 control of the Harbormaster. When the number of requests for mooring sites exceed the number
440 of sites available, mooring sites must be assigned according to the allocation provisions of this

441 section from established mooring site area waiting lists maintained by the Harbormaster. The
 442 mooring site areas are designated by the following letter codes:

- 443 IS = Isles of Shoals (Landowner or Lessee only)
- 444 CC = Chauncey Creek including Gerrish Island
- 445 PC = Pepperrell Cove
- 446 BC = Back Channel
- 447 ~~FM = Fort McClary to Kittery Point Bridge~~
- 448 SC = Spruce Creek ~~above the Kittery Point Bridge~~
- 449 ~~BC = Kittery Point Bridge to Memorial Bridge~~
- 450 BI = Badgers Island
- 451 PR = Piscataqua River from Memorial Bridge to Rt. 95 Bridge
- 452 ~~EL = Rt. 95 Bridge to Eliot Line~~
- 453 OH = Outhauls

454 **3.1.2. Assignment of Mooring Site with No Waiting List**

455 If at the time an individual applies for a mooring site there is no waiting list for that area (except at
 456 the Isles of Shoals where the applicant must be a landowner or lessee to be assigned a mooring
 457 site) this individual may be assigned a mooring site without regard to allocation provisions of
 458 these Rules and Regulations.

459 **3.2. Maintenance of Mooring Site Waiting List**

460 The Harbormaster shall maintain a waiting list for each mooring site area for both commercial and
 461 recreational applicants.

462 **3.2.1. Application to the Mooring Site Waiting List**

463 Person(s) may request their name be added to the mooring site waiting list by filling out a mooring
 464 site wait list application and paying the application fee. Such fee is due no later than April 15th, on
 465 an annual basis in order to remain on the waiting list. Incomplete applications will not be
 466 processed.

467 **3.2.2.** The applicant must indicate the preferred mooring site area using the area designation
 468 codes in Section 3.1.1. ~~An alternative mooring site area may be requested~~ A separate waiting list
 469 application must be submitted and application fee paid for each mooring site area waiting list the
 470 applicant is interested in.
 471

472 **3.2.3.** The applicant must indicate whether the mooring use will be commercial or recreational.

473 **3.2.4.** Commercial applicants must show credible documentation satisfactory to the Harbormaster
 474 that the primary source of income for the vessel to be moored is through the vessel's use and
 475 operation.

476 **3.2.5.** The applicant must be the primary person to whom the vessel will be registered or
 477 documented regardless of whether there are multiple owners of the vessel. The name listed on
 478 the waiting list may not change excepting in cases of a legal name change of the applicant.

479 **3.2.6.** An applicant may only be listed once for recreational mooring use and once for a
 480 commercial mooring use per mooring site area

481 **3.2.7.** Waiting list applicants who change their status from recreational to commercial must be
482 assigned to the bottom of the commercial list for area desired.

483 **3.2.8.** The Harbormaster shall assign a mooring using the Mooring Waiting List as the primary
484 method, however, the Waiting List priority may be waived to place an appropriate vessel on a
485 mooring.

486 **3.2.9.** Once a mooring site is offered to an applicant on the waiting list, the applicant has ten (10)
487 calendar days to accept the mooring site, provide required documents, and pay the mooring fee.
488 This may be extended upon approval of the Harbormaster. Failure to comply with this section by
489 the deadline will result in forfeiture of the mooring site and the removal of the applicant name from
490 the waiting list.

491 **3.2.10.** Persons on the waiting lists may decline an offered mooring site on a one-time basis and
492 retain their relative position on the mooring site waiting list. Subsequent refusals of an offered
493 mooring site will result in the person's name moving to the bottom of the list.

494 **3.3. Mooring Site Permit Application Information**

495 **3.3.1 Application**

496 New mooring permit applicants must fill out a mooring site permit application and pay the
497 applicable fees. Such fees are due on an annual basis in order to remain on the mooring. New and
498 renewal mooring site permit application must contain the most current legal address of the mooring
499 site permit applicant. The mooring permit holder is responsible for ensuring the Harbormaster has
500 current and accurate contact information for the permit holder.

501 **3.3.1. Vessel Information**

502 Mooring site permit applications must include a copy of the vessel registration or documentation
503 and proof of excise tax payment for out-of-state registered vessels or federally-documented
504 vessels.

505 **3.3.2. Mooring Tackle**

506 Mooring site permit applicants must provide mooring tackle specifications including anchor type
507 and weight, chain size and length, mooring buoy type, and proof of mooring tackle inspection prior
508 to placing a vessel on the mooring. The mooring site permit holder is responsible for the mooring
509 tackle located or to be located in the mooring site regardless of ownership of tackle hardware.

510 **3.3.3. Vessel identification**

511 The name of the mooring site permit holder recorded on the application and the primary name
512 listed as the vessel owner on the state registration or federal documentation certificate must be the
513 same.

514 **3.3.4.** All mooring permits begin on May 1 and expire on April 30.

515 **3.4. Annual Renewal of Mooring Site Permits**

516 The mooring site renewal application and permit fees and must be received by April 15.

517 **3.4.1.** Annual mooring fees will be based on the vessel listed on the mooring record held by the
518 Harbormaster. Mooring fees will be charged whether the mooring will be used during the permit
519 year.

520 **3.4.2.** The Permit holder must present a copy of their registration each year before the
521 Harbormaster will ~~approval~~ approve the renewal of the mooring. The permit holder must be the
522 primary owner of the specified vessel in order to renew their permit.

523 **3.4.3.** Failure to submit the renewal application and pay permit fees by April 15 will result in the
524 assessment of late fees and the possible forfeiture of the mooring site.

525 **3.5. Forfeiture**

526 **3.5.1.** If the mooring site renewal application is not received and/or all permit fees and outstanding
527 fines are not paid by May 1, the Harbormaster will initiate revocation of the mooring site.

528 **3.5.2.** Notice of Revocation will be sent by certified mail and first-class mail to the permit holder at
529 the address on record with the Harbormaster. The permit holder may appeal the revocation in
530 accordance with Section 7.

531 **3.5.3.** Mooring sites made available due to revocation will be reassigned after the appeal period
532 has ended.

533 **3.6. Use of Permitted Mooring Sites and Temporary Mooring Site Use Program**

534 **3.6.1. Use of Permitted Mooring Sites**

535 A. Title 38 MRS §3, Mooring sites, expressly forbids those who are granted a private mooring site
536 assignment from transferring that privilege to another person, unless the mooring site was initially
537 granted as a rental mooring site. This section of state law specifically says assignment of these
538 mooring privileges does not confer any right, title, or interest in submerged or inter-tidal lands
539 owned by the state and further says assignments must not be rented unless the provision for rental
540 was part of the agreement when the mooring was originally assigned.

541 B. Rental moorings issued before 1968 are considered grandfathered by the Port Authority and the
542 Army Corps of Engineers. The burden of proving through credible and reliable evidence that the
543 mooring was issued as a rental mooring prior to 1968 rests with persons seeking the rental
544 mooring grandfathered. All holders of rental mooring permits issued since 1968, in order to
545 continue as rental moorings, must show proof that the rental mooring was properly documented
546 with the Army Corps of Engineers and the Port Authority.

547 C. A person who is assigned a private mooring site may not rent, loan, lease, lend, give, bestow,
548 permit, accommodate, allow use of, or give permission to any other person to use the assigned
549 private mooring site (whether or not money or other consideration is exchanged) except as
550 allowed in writing by the Harbormaster on a case by case basis. Mooring sites cannot be
551 transferred between family members except that a mooring site used for commercial fishing
552 purposes may be transferred at the request of, or upon the death of the assignee, only to a
553 member of the assignee's family and only if the mooring site assignment will continue to be used
554 solely for commercial fishing purposes. "Member of the assignee's family" means an assignee's
555 spouse, parent, child or sibling, by birth or by adoption.

556 D. Mooring balls removed for the winter must be reinstalled by June 1, regardless whether the
557 mooring site will or will not be used for the permit year.

558 E. Only a vessel which is properly registered or documented in the primary name of the mooring
 559 site permit holder may be placed on that person's private mooring. The name of the mooring site
 560 permit holder as recorded by the Harbormaster and the name listed as the primary vessel owner
 561 on the state registration or federal documentation certificate must be the same.

562 F. Approved mooring site permits or assignments for the size and type of vessel described on the
 563 permit are valid from the date of issuance until April 30. Mooring site assignees may change
 564 vessels on their assigned mooring site only with prior written permission from the Harbormaster.
 565 In general, mooring site permits must be limited to the same approximate size and type of vessel
 566 unless, in the judgment of the Harbormaster, a change can be made without adversely affecting
 567 the Harbor mooring site plan or adjoining mooring site assignees.

568 G. The Harbormaster is authorized to seek information from a mooring site permit holder at any
 569 time with respect to the use, location, ownership, or any other information relating to the permit
 570 application that the Harbormaster deems meaningful. Failure to respond to the Harbormasters
 571 inquiry is a basis for the Harbormaster to revoke the mooring site permit.

572 **3.6.2. Temporary Mooring Site Use Program**

573 A. To achieve the most efficient and extensive use of the limited mooring assets in Kittery, the
 574 Harbormaster shall administer a program to assign moorings not being used by the mooring site
 575 permit holders to other individuals on a temporary basis.

576 B. A mooring site permit holder must notify the Harbormaster of their intention to place the
 577 mooring in the Temporary Mooring program no later than April 1st of each year, or later with
 578 approval of the Harbormaster. Mooring sites placed in the Temporary Program must be for a
 579 minimum of one permit year. Moorings placed in the Temporary Mooring program shall be
 580 considered "unused" for the purposes of Section 3.16.3.

581 ~~B.C.~~ The Harbormaster may reject a mooring being placed in the Temporary Mooring program
 582 if the location is deemed undesirable or if it is inaccessible at any tide.

583 ~~C.D.~~ The mooring permit holder will pay an administrative fee as set forth in Appendix A, to
 584 maintain the ownership of their mooring.

585 ~~D.E.~~ Any mooring placed in the Temporary Program must meet Mooring Requirements in
 586 accordance with Section 3.8 by May 1. Any repair/replacement required is the responsibility of
 587 the mooring permit holder, except repair/replacement of the pennant line.

588 F. The Harbormaster shall reassign temporary moorings using the Mooring Waiting List as the
 589 primary method; however, the Waiting List priority may be waived to place only an appropriate
 590 vessel on a mooring in the Temporary Mooring program.

591 G. Once a mooring site is offered to an applicant on the waiting list, the applicant has ten (10)
 592 calendar days to accept the mooring site, and provide proof of boat registration. This may be
 593 extended upon approval of the Harbormaster. Failure to respond within the deadline will result in
 594 forfeiture of the offer.

595 E.H. A person assigned to a mooring in the Temporary Mooring program must ~~pay to~~ have the
596 mooring inspected and pay the administrative fee as set forth in Appendix A. The inspection must
597 be performed only by individuals or organizations authorized by the Harbormaster and written
598 reports of all inspections must be submitted to the Harbormaster ~~in accordance with Section~~
599 ~~3.8.1 and~~ pay an administrative fee as set forth in Appendix A.

600 **3.7. Mooring Site Resolution of Conflict**

601 Where mooring site rights of the individuals are claimed to be invaded or pose a danger to
602 property or navigation and protection is sought, the Harbormaster shall assign and indicate to
603 the mooring site permit holder the location which they may occupy for mooring purposes, and
604 shall change the location of those moorings from time to time when crowding or other
605 conditions render the change desirable.

606 **3.8. Adequacy of Moorings**

607 All mooring tackle set in a mooring site must be of sufficient size to hold the vessel for which it is
608 used.

609 **3.8.1.** All moorings must be inspected at least every other year. Inspection must be performed
610 only by individuals or organizations authorized by the Harbormaster and written reports of all
611 inspections must be submitted to the Harbormaster. The mooring permit holder is responsible for
612 all costs associated with mooring inspections. The Harbormaster may prohibit the use of the
613 mooring if the inspection is not performed in accordance with this Section.

614 **3.8.2.** All mooring balls must be white and have the assigned mooring number permanently
615 affixed thereon. Such number must be at least ~~three-five~~ (35) inches high and be clearly visible at
616 all times.

617 **3.8.3.** The Harbormaster may at any time examine any mooring tackle to determine compliance
618 with this section. Except in cases of emergency, the Harbormaster shall notify the owner of the
619 intention to examine the mooring tackle and request the presence of the owner during such
620 examination.

621 **3.8.4.** Mooring tackle found to be inadequate with regards to the requirements of this section
622 must be corrected within forty-eight hours of being so notified or be removed forthwith. Any cost
623 of examination or removal resulting therefrom is borne by the holder of the mooring site permit. If
624 a vessel is required to be moved for reasons of the safety of other vessels, the owner is
625 responsible for all associated costs.

626 **3.8.5.** Registered owners listed on mooring site permit are responsible and liable for any damage
627 caused by their vessel whether such owner is aboard the vessel or not.

628 **3.9. Vessels Moored so as Not to Impede Navigation or to Endanger Other Vessels**

629 **3.9.1.** All mooring sites, whether now existing or hereinafter set, must be in such a way that the
630 vessels will not impede navigation within the harbor, nor endanger other vessels.

631 **3.9.2.** If the Harbormaster finds that any vessel is moored as to impede navigation or to
 632 endanger other vessels, the Harbormaster may direct that the owner of the vessel takes
 633 corrective action; or in the alternative, may order that the mooring be removed from the site or
 634 relocated. In requiring the removal of a mooring because of its danger to other moorings, the
 635 mooring last set is to be the first removed.

636 **3.9.3.** Any person so ordered by the Harbormaster, shall take corrective action as ordered within
 637 forty-eight (48) hours; provided, however, that if the Harbormaster finds an emergency requiring
 638 immediate action to prevent injury to life or damage to property, the mooring or any vessel
 639 attached thereto may be caused to be immediately removed and relocated. Any expense
 640 involved is to be borne by the owner of the mooring or vessel being removed.

641 **3.9.4.** Rafting of more than two (2) vessels on a mooring~~s~~ is prohibited, unless ~~permission~~
 642 approved is granted by the ~~harbormaster~~Harbormaster. ~~, and a~~One of the rafting vessels must
 643 be the assigned vessel for the mooring. All vessels ~~are~~must be occupied while rafting, and the
 644 mooring permit holder must be present.

645 **3.10. Moving or Interfering with Moorings Belonging to Another**

646 Except by direction of the Harbormaster, and with permission of the owner, no person may move
 647 or interfere with any mooring or vessel. If the Harbormaster deems the situation to be an
 648 emergency, action may be taken immediately, notifying the owner of the vessel involved as soon
 649 as reasonably practicable that such action has been taken.

650 **3.11. Transient Moorings, Commercial Service, and Rental Moorings**

651 **3.11.1. Municipal Transient Moorings**

652 Municipal Transient Moorings are provided and maintained by the Town for the use of visiting
 653 vessels. Such vessels may use these moorings for no more than fourteen (14) consecutive days,
 654 or at the discretion of the Harbormaster. A schedule of fees for such usage is set forth in
 655 Appendix A.

656 **3.11.2. Non-Municipal Transient Moorings**

657 Non-Municipal Transient Mooring Site Assignments are for the use of visiting guest vessels.
 658 Such mooring sites may not be rented and must be clearly recognizable and identifiable with
 659 distinguishing color or markings as determined by the Harbormaster. No vessels may use these
 660 mooring sites for a period longer than twenty-four (24) hours, except under unusual
 661 circumstances and only with the express permission of the Harbormaster.

662 **3.11.3. Commercial Service and Rental Moorings**

663 Commercial Service and Rental Mooring sites will be allowed only upon the approval of the Port
 664 Authority. New and existing Rental and Commercial Service Moorings/Floats shall have a set
 665 maximum boat length determined by the Harbormaster. No boat may be placed on the mooring
 666 that exceeds the established maximum boat length. The mooring fee will be based on the
 667 established maximum boat length.

668 **3.12. Moored Floats**

669 **3.12.1. Moored Floats**

670 A. Moored floats are authorized only with the expressed permission of the Port Authority and only
671 after receiving an Army Corps of Engineers Permit. Permits are issued in accordance with Section
672 4 of these Rules and Regulations.

673 B. Floats are prohibited in Pepperrell Cove.

674 C. Float size may not exceed 10' X 24' dimensions for commercial uses and 8' 24' dimensions for
675 recreational uses, unless otherwise permitted by the Port Authority.

676 D. All floats are required to have a minimum of two (2) moorings.

677 ~~D.E.~~ All moored floats must have reflectors on all four corners so as to be visible by any
678 navigating vessels.

679 ~~E.F.~~ All shackles and fasteners must be hot dipped galvanized steel and structurally sound and
680 proportional in size to the chain use.

681 ~~F.G.~~ All floats must be identified with assigned registration numbers on both ends of the float in
682 contrasting colors and be a minimum of ~~three-five~~ (35) inches in height.

683 ~~G.H.~~ All floats must be buoyant so as not to become submerged at any time and the side
684 surfaces must ~~remain~~ maintain a minimum of twelve (12) inches above water and visible at all
685 times.

686 ~~H.I.~~ All gear, traps, fish and dunnage must be stored or secured so as not to be discharged or fall
687 into the water or to pollute or to create a navigational hazard. All fuel, foul waste, decaying matter
688 and/or hazardous material must be removed promptly from the floats after use and disposed of
689 properly.

690 **3.12.2. Swim Floats**

691 A. Swim floats are permitted from May 15 to October 15.

692 B. One (1) swim is allowed per property with approval from the Harbormaster.

693 C. Applicants must fill out a Swim Float application and pay the applicable fees. Such fees are
694 due on an annual basis in order to retain the swim float permit.

695 D. Swim floats must be placed in the waters adjacent to and within the boundaries of the property
696 owner's shoreline and no further than 100 feet from shore, unless otherwise approved by the
697 Harbormaster.

698 E. Swim floats must have no more than 100 square feet of surface area.

699 F. Vessel tie up to swim floats is prohibited.

700 G. All floats must be buoyant so as not to become submerged at any time and the side surfaces
701 must ~~remain~~ maintain a minimum of twelve (12) inches above water and visible at all times.

702 H. Swim floats must be secured to the bottom by sufficient size anchor or mooring block.

703 I. All floats must be identified with the name and address of the owner, on the landward and
704 seaward sides of the float in contrasting colors and be a minimum of three (3) inches in height.

705 **3.13. Outhauls**

706 A. Outhauls are allowed by permit only, and must be approved by the Harbormaster.

707 B. The outhaul is to be permitted to the waterfront property owner only.

708 C. Only 1 outhaul may be allowed per waterfront property.

709 D. Outhauls must be located as close as possible to the centerline of the property.

710 E. Maximum boat size allowed shall be 14 feet unless a larger boat is approved by the
711 Harbormaster.

712 F. Overall length of the outhaul seaward of mean high water is at the discretion of the
713 Harbormaster.

714 G. The Harbormaster has the authority to revoke any permit if hazards to navigation or
715 recreation occur.

716 **3.13.1. Outhaul Permit**

717 Outhaul applicants must fill out the application, provide proof of property ownership, and pay the
718 applicable fees.
719

720 **3.14. Spar Mooring Floats**

721 No new spar mooring floats may be installed.

722 **3.15. Riparian Rights Mooring Sites**

723 The Port Authority may permit and assign mooring sites to waterfront property owners
724 demonstrating and claiming such right under the requirements of Title 38 MRS §3, Mooring Sites,
725 under the following conditions:

726 **3.15.1.** The applicant must show legal interest in the property and in the case of joint ownership of
727 property, that the person has legal authority to act for all owners before the application is accepted
728 by the Port Authority.
729

730 **3.15.2.** A Riparian mooring site may be located only in waters immediately in front of the intertidal
731 land associated with the property as defined in Title 16, Chapter 2, Figure 1. Once a Riparian
732 Mooring has been assigned to a property, it stays with the property and is not subject to the three-
733 year rule.

734 **3.15.3.** A Riparian mooring site may be used solely by the owner of the property for personal use.
 735 Such mooring site cannot be used by a third party, either temporarily or permanently, except under
 736 the Temporary Mooring Site Use Program.

737 **3.15.4.** A Riparian mooring site may be assigned only if the proposed location of said mooring site
 738 has been determined by the Port Authority to be practicable and safe and not impede free
 739 navigation or infringe on the rights of others.

740 **3.15.5.** Number of moorings. Only one Riparian mooring site per qualifying waterfront lot may be
 741 granted, regardless of the amount of shorefront in excess of the 100-foot minimum requirement
 742 and 20,000 sq. ft. minimum lot size, except persons owning shore rights prior to January 1, 1987,
 743 are required only to have a 100-foot minimum shore frontage as established by state law.

744 **3.15.6.** Riparian mooring site permits are subject to Section 3.3 through 3.5 inclusive of
 745 application and renewal processes, fees, and forfeiture, excepting riparian moorings may not be
 746 reassigned.

747 **3.15.7. Exceptions**

748 A. An exception to the mooring site location may be granted by the Port Authority if the
 749 waterfront property is adjacent to an established mooring field or area and an additional mooring
 750 site would result in an unsafe condition. In such cases, the Port Authority may either reassign
 751 existing mooring site locations, or, at its discretion, assign the riparian right mooring site to
 752 another location. The simple unsuitability of the property location for mooring a particular type of
 753 vessel does not justify this exception.

754 B. For the purpose of these regulations, in the case where a property owner's existing mooring
 755 fronts their qualifying waterfront lot, it is considered that property owner's riparian mooring site
 756 for as long as the person owns the property.

757 C. In the case where a non-qualifying lot has been legally assigned a riparian mooring prior to
 758 the adoption of these Regulations, that mooring may continue as a riparian mooring associated
 759 with that lot until such time the mooring has either been revoked, [relinquished](#), or abandoned.
 760 Should a transfer of ownership of the non-qualifying lot occur, the new owner may continue the
 761 use of the riparian mooring subject to the provisions of these Regulations, providing the mooring
 762 had not been revoked or abandoned by any previous owner.

763 **3.16. Abandoned Mooring Sites**

764 A mooring site is deemed to be abandoned and the mooring site permit holder's mooring
 765 privileges terminated under the following conditions:

766 **3.16.1.** Mooring permit holder fails to renew their mooring site permit in accordance with
 767 Section 3.4.

768 **3.16.2.** Mooring permit holder does not maintain their mooring in accordance with Section
 769 3.

770 **3.16.3.** Mooring permit holder whose mooring remains unused for three (3) consecutive
 771 years. A mooring is considered unused if the vessel listed on the permit is placed on the

772 mooring for less than thirty days between May 1 and October 15. Placement of the
773 mooring in the Temporary Mooring Site Use Program is considered “unused” for the
774 purpose of this section.

775 **3.17. Revocation of Mooring Site Permit**

776 **3.17.1.** The Harbormaster has the authority to revoke a person's mooring site permit for any
777 violation of these rules and regulations. Upon revocation, the Harbormaster shall promptly notify
778 the person that the mooring site permit has been revoked and the reasons for revocation by
779 certified and first-class mail.

780 **3.17.2.** Mooring site revocation may be appealed to the Port Authority as specified in Section 7.

781 **3.17.3.** Any mooring holder who has had their mooring privilege revoked will forfeit any fees paid
782 up to the time of revocation and be subject to any fines that may apply as set forth in Appendix A.

783 **3.18. Disposal of Mooring Tackle**

784 Upon the abandonment, [relinquishment](#), or revocation of a mooring site permit, the mooring tackle
785 must be disposed of as follows:

786 Note: For the purpose of this section the term mooring site permit holder includes the mooring
787 tackle owner if the tackle (hardware) is owned by another person.

788 **3.18.1. Order to Remove by Harbormaster**

789 The Harbormaster must notify the mooring site permit holder by certified and first-class mail of an
790 Order to Remove a Mooring and include the provision of the Rules and Regulations that serves as
791 the basis for removal and the deadline to remove the mooring. Mooring tackle not removed on or
792 before the date set forth in the notice for removal, shall be removed or caused to be removed by
793 the Harbormaster.

794 **3.18.2.** The Harbormaster, at the expense of the mooring site permit holder, shall take whatever
795 action is deemed appropriate, including the removal and storage of the mooring tackle pending
796 sale or other disposition by the Harbormaster.

797 **3.18.3.** An order to remove mooring tackle issued by the Harbormaster may be appealed in
798 accordance with Section 7. An appeal in process does not stay any provisions of this section
799 except that no sale of mooring tackle may occur until an appeal is finally determined.

800 **3.18.4. Unclaimed Mooring Tackle**

801 The owner will be responsible to pay all removal and storage fees of mooring tackle caused to be
802 removed by the Harbormaster prior to reclaiming the tackle. If the owner fails to claim the tackle
803 the Harbormaster will dispose of it in accordance with Title 25 MRS. Nothing in this section
804 prevents the Harbormaster from retaining and reusing the unclaimed mooring tackle in lieu of
805 selling it.

806 **3.19 Kayaks**

807 **3.19.1. Kayak and Paddle Board Storage**

808 A. All storage sites on Town property are under the exclusive control of the
809 ~~harbormaster~~Harbormaster. The ~~harbormaster~~Harbormaster may establish requirements and
810 procedures for the safe and orderly storage of kayaks and paddle boards on Town property.

811 B. Only permitted kayaks and paddle boards may be stored on Town property.

812 C. Failure to follow the requirements and procedures established by the harbormaster will result in
813 forfeiture of the storage permit.

814 **3.19.2. Assignment of Storage with No Waiting List**

815 Vacant storage sites will be assigned to resident applicants first, then non-resident applicants.

816 **3.19.3. Assignment of Storage with Waiting List**

817 A. The harbormaster shall maintain a waiting list for each storage site area.

818 B. Person(s) may request their name be added to the storage waiting list by filing out a storage
819 wait list application and paying the application fee. Such fee is due no later than April 15th, on an
820 annual basis in order to remain on the waiting list. Incomplete applications will not be processed.

821 C. The waiting list will be organized by resident and non-resident status. Vacant storage sites will
822 be offered to residents on the waiting list first. If no resident accepts the vacant storage site, then it
823 will be offered to non-residents on the waiting list.

824 D. Once a storage site is offered to an applicant on the waiting list, the applicant has ten (10)
825 calendar days to accept the storage, provide required documents, and pay the fee. This may be
826 extended upon approval of the harbormaster. Failure to comply with this section by the deadline
827 will result in forfeiture of the storage and removal of the applicant from the waiting list.

828 **3.19.4. Storage Permits**

829 A. Only kayaks and paddle boards may be stored on Town property.

830 B. All storage permits begin on May 1 and expire on April 30.

831 C. The storage permit renewal application and permit fee must be received by April 15. Failure to
832 submit the renewal application and pay the permit fees by April 15 will result in assessment of late
833 fees and the possible forfeiture of the storage permit.

834 D. All kayaks, paddle boards, and other personal property stored on the Town property must be
835 removed upon notice of the harbormaster. Items not removed will be deemed to be abandoned,
836 and removed in accordance with Section 2.6.

837 **4. PIERS WHARVES, FLOATS, AND OTHER MARINE-RELATED STRUCTURES**

838 **4.1. Authority**

839 The Port Authority is the approving body for all marine-related structures to be built in the Town
840 below the normal high-water mark. The Port Authority is also the approving authority for any
841 integral infrastructure for water-dependent use which falls within one hundred feet above the
842 normal high- water mark. In those cases, the requirements of the Town Code Title 16, apply in

843 addition to the requirements of these Rules and Regulations, the Maine Mandatory Shoreland
844 Zoning Act and applicable Federal regulations.

845 **4.2. Permits**

846 **4.2.1.** No wharf, pier, float, or any other marine-related structure may be erected, moved, or
847 otherwise altered without a Building Permit ~~therefor~~, issued by the Code Enforcement Officer after
848 plan approval is obtained from the Port Authority, as required by these Rules and Regulations and
849 Title 16, and in compliance with all requirements of the applicable local, State and Federal
850 requirements.

851 **4.2.2.** A valid building permit must be obtained within one year of Port Authority approval of a
852 plan, otherwise the plan approval expires. ~~A permit for which no substantial work has commenced~~
853 ~~within one year from date of issue expires. A permit for which work is not substantially complete~~
854 ~~within two years from date of issue expires. Expired permits may be renewed by the Code~~
855 ~~Enforcement Officer upon application and payment of a fee, provided that such renewal is sought~~
856 ~~prior to expiration under these provisions and provided that such renewal meets all relevant rules,~~
857 ~~regulations, ordinances, statutes and codes in effect on the date that the renewal of the expired~~
858 ~~permit is requested.~~

859 **4.3. Application Requirements**

860
861 **4.3.1.** All applications for permits must be filed with the Town of Kittery using the form provided for
862 that purpose. Applications should also include:

863 A. Plans showing the actual dimensions and shape of the lot to be built upon; the exact size and
864 locations and dimensions of the proposed structures or alterations to existing structures.

865 B. Any other such information as the Port Authority may deem necessary to determine
866 conformance with these Rules and Regulations; ~~Title 16, Chapter 16.11;~~ Town Code Title 16.9,
867 the Maine Mandatory Shoreland Zoning Act; and applicable Federal regulations.

868 **4.3.2.** The Port Authority may grant a waiver from ~~the specifications of these performance~~
869 ~~standards, excepting those performance standards enumerated in Town Code §16.9.2.D.1-16,~~
870 ~~regulations,~~ provided that the Port Authority finds that, due to special circumstances of the specific
871 application, the granting of a waiver will not adversely impair the public health, safety and general
872 welfare, the use of public waters, navigation, or harm the environment. All such waivers must be
873 supported by sufficient findings of fact. Waivers must be granted prior to granting a permit on the
874 main application.

875 **4.3.3.** The application must be accompanied by an application fee as set forth in Appendix A. No
876 application may be deemed complete by the Port Authority until payment of the proper fees is
877 received.

878 The applicant may be required to pay direct expenses associated with the hearing of the
879 application in accordance with the Town Code §16.7.6 ~~Title 16.~~

880 **4.3.4.** Applications for in-kind repair or replacement must submit two (2) sets of all submissions.
881 All other applications must submit ten (10) sets of all submissions.

§82 4.3.5. The Town will issue a receipt upon receiving an ~~an~~ complete application.

§83 4.4. Application Process

§84 4.4.1. The ~~Chairman shall place the~~ application shall be placed on the Port Authority's agenda for
 §85 a Scheduling Hearing no more than 45 days from the date of receipt. The Port Authority may
 §86 establish reasonable deadlines for applicants to submit applications and/or supplemental materials
 §87 for Port Authority meetings.

§88 4.4.2. For in-kind repair or replacement, the ~~Chairman~~ Chairperson or designated agent may
 §89 waive the application process Sections 4.4.3-4 – 4.4.87, and issue an approval of the application
 §90 upon determining it is complete.

§91 4.4.3. Where a project contains upland development as an integral part of the application, the Port
 §92 Authority decision will be forwarded to the Planning Board or Board of Appeals as required in the
 §93 Town Code Title 16.

§94 4.4.4. Scheduling Hearing

§95 A. At the Scheduling Hearing, the Port Authority shall vote whether to accept or deny the
 §96 application in accordance with the following:

§97 (1) the applicant has legal standing by virtue of vested interest (right, title, or interest) in all
 §98 properties under consideration;

§99 (2) the application is complete in accordance with these regulations and Title 16 (if
 §100 Appropriate), or the Port Authority ~~accepts and~~ approves any applicable requests for waivers of
 §101 submission contents.

§102 B. If the Port Authority accepts the ~~plan~~ application, it shall schedule a Public Hearing for no more
 §103 than sixty-five (65) days from the vote to accept the application. The Port Authority may also
 §104 determine if additional information is required from the applicant prior to the Public Hearing, ~~(in~~
 §105 ~~which case it may require the applicant to provide such information) and schedule the date for~~
 §106 ~~Public Hearing.~~

§107 C. The Port Authority may also schedule a site walk, to take place at a time mutually agreeable to
 §108 its members, if it deems such activity would be beneficial in order to become fully informed about
 §109 the site and proposed plan.

§110 ~~C. The Chairman shall arrange a mutually agreeable time for a site walk by the Authority prior to~~
 §111 ~~Public Hearing.~~

§112 4.4.5. Public Notice

§113 ~~The Chairman shall cause~~ A public notice ~~public notice of such hearing to be placed~~ will be issued
 §114 at least ~~no less than~~ seven and not more than fourteen days prior to the scheduled Public
 §115 Hearing ~~hearing date~~. The notice must set forth the general nature of the requested approval and
 §116 be posted at the Kittery Municipal Offices. If the proposed project is within 500 feet of the Town's
 §117 borders, the public notice must be ~~and~~ forwarded to the respective Town Clerks of the bordering
 §118 community. ~~York and Eliot, in the case of a plan located within five hundred feet of their municipal~~

~~boundaries, at least ten days prior to the hearing.~~ Placing of public notices is at the expense of the applicant.

4.4.6. Abutter Notice

A. ~~The Chairman shall cause~~ A notice of Public Hearing ~~to will~~ be sent to all shorefront landowners ~~whose shorefront property line abuts who abut~~ the same waterbody ~~as the proposed project,~~ and ~~is are~~ located within 150 feet of the applicant's ~~shorefront~~ property lines ~~and marine-related structures associated with the property.~~ Abutter notices will be sent at the ~~Notices sent may be at the~~ expense of the applicant. Proof of mailing to the address shown in the Town Assessor's property cards satisfies the notice requirement.

B. Notice must also be sent to ~~the Code Enforcement Officer, Town Planner, and where applicable, the Board of Appeals,~~ Planning Board, and Conservation Commission, at least seven days prior to the Public Hearing.

C. Failure to receive said ~~an~~ Abutter notices ~~Notice~~ does not invalidate any Port Authority action.

4.4.7. Public Hearing

~~A. An accepted application will normally be scheduled for review and public hearing at the next regularly scheduled meeting of the Port Authority, but no earlier than fifteen days nor later than thirty five days from the date of Port Authority acceptance. With the concurrence of the applicant, this deadline may be modified.~~

~~B.~~ A. The following rules apply to the hearing:

~~(1) The Chairman or acting Chairman shall serve as the presiding officer.~~

~~(2)~~ (1) The Port Authority may receive oral and documentary evidence, but must exclude evidence which it considers irrelevant, immaterial, or unduly repetitious.

~~(3)~~ (2) The Chairman ~~person~~ shall determine the order of presentation by parties represented at the hearing. Each party has the right to proceed without interruption, except that rulings by the Chair prevail.

~~(4)~~ (3) Any party may be represented by agent or attorney.

~~(5)~~ (4) Any Town official having an interest in the application may present into evidence a ~~written summary of~~ findings and recommendations.

~~(6)~~ (5) The Port Authority may continue the hearing to another date, time, and location, including the site of the project, as it deems necessary. Additional notice of hearing is not required if the hearing is continued.

4.4.8. Port Authority Action

A. The Port Authority shall act to approve, approve with conditions, or deny the permit ~~disapprove, or continue plans within thirty five days of plan acceptance~~ within 180 days of voting

954 to accept the application, unless the applicant agrees, in writing, to extend the period ~~(not to~~
955 ~~exceed 120 days)~~up to an additional sixty (60) days. Only one extension period may be granted.

956 B. In the case of an extension, ~~such plan~~the application must automatically be scheduled for the
957 agenda of the next regularly scheduled Port Authority meeting ~~after~~following the expiration of the
958 ~~the extended extension~~ period, and the Port Authority must act on the application ~~and action~~
959 ~~completed~~ whether the applicant ~~has accomplished the purposes for which the continuance was~~
960 ~~granted or not~~is prepared or not.

961 C. An applicant or interested party may request reconsideration of any decision by the Port
962 Authority as outlined in Section 7 ~~of these Rules and Regulations~~.

963 **4.5. Findings of Fact**

964 **4.5.1.** Action by the Port Authority must be based on sufficient findings of fact which support
965 compliance with all required federal and state regulations, and performance standards in Section
966 4.7 of these Rules and Regulations, and Title 16.9 of Town Code. ~~of these Rules and~~
967 ~~Regulations, (or grant waivers for those things requested) and applicable requirements contained~~
968 ~~in the Town Code Title 16~~.

969 **4.5.2.** If it is mutually agreeable to the Port Authority and the Applicant, the ~~official~~, approved
970 minutes of the meeting may ~~be accepted~~serve as the ~~written~~ findings of fact.

971 **4.6. Conditions of Approval**

972 An approval by the Port Authority is a form of an agreement between the Town and the applicant,
973 incorporating as elements the application, the findings of fact, and ~~such any~~ conditions ~~as~~ the Port
974 Authority may impose ~~upon~~with approval of the permit.

975 **4.7. Performance Standards**

976 **4.7.1.** All applications for permits under this section must comply with Town Code Title 16 and
977 any other applicable federal or state requirements. These requirements apply to all development
978 within 250 feet, horizontal distance, of the normal high-water mark of any river or saltwater body.
979 These requirements also apply to any structure built on, over, or abutting a dock wharf or pier, or
980 any other structure extending beyond the normal high- water mark of a water body or within a
981 coastal wetland shown on the Official Shoreland Zoning Map.

982 **4.7.2.** The construction of any piers, docks, wharves, and other structures and uses extending
983 over or beyond the normal high-water mark of a water body or within a wetland must comply with
984 all applicable requirements of Town Code Title 16.

985 **4.7.3.** Non-commercial private piers may have a maximum width of 6 feet ~~as measured parallel to~~
986 ~~the shoreline and be limited to the minimum size necessary to accomplish their purpose~~. Except
987 for temporary ramps and floats, the total length of a ramp, pier and float structure may not extend
988 more than 150 feet beyond the normal high-water mark and piers not extend more than 100 feet
989 beyond the normal high-water mark nor extend below the mean low water mark, whichever is
990 shorter.

991 **4.7.4.** The maximum height of the pier deck may not exceed six ~~(6)~~ 10 feet above the normal
 992 high-water mark, and the handrails not exceed 42" above the pier deck without the specific
 993 approval of the Port Authority.

994 **4.7.5.** Commercial piers are limited to the minimum size necessary to accomplish their purpose.
 995 They may not extend beyond the mean low-water mark except with credible proof by the applicant
 996 that the extension is necessary for the water-dependent use of the pier. The maximum height of
 997 the pier deck may not exceed ~~six (6)~~ ten (10) feet above mean high water mark and the handrails
 998 not exceed 42" above the pier deck; without a showing of necessity and specific approval of the
 999 Port Authority. ~~Documentation required for an application for a commercial pier, in addition to all~~
 1000 ~~other requirements of these Rules and Regulations, must set forth e~~Credible proof of the
 1001 commercial usage of the pier must be provided and include at least the following:

1002 A. ~~Written documentation as to the~~ The nature of the commercial enterprise and why the applicant
 1003 is requesting a pier that does not meet the non-commercial private pier standards noted above;

1004 B. ~~Written proof of a~~ A valid commercial enterprise, such as commercial fishing license, articles or
 1005 organization/incorporation for the business;

1006 C. Documentation of ~~their~~ ownership in the commercial business or enterprise;

1007 D. Any additional documentation required by the Port Authority for determining the commercial
 1008 use and operation of the commercial pier.

1009 **4.7.6.** Piers, wharves, ~~and~~ pilings, and floats must be set back at least 25 feet from property lines
 1010 and 50 feet from other structures that are fixed in place below the normal high- water mark and
 1011 not owned or controlled by the applicant unless a letter of permission is granted by the abutting or
 1012 other controlling property owner. If abutting property owners reach a mutual agreement regarding
 1013 structures which have a lesser setback, ~~which and which~~ does not interfere with navigation, is
 1014 practical, and is consistent with the intent of these regulations, that setback may be authorized by
 1015 the Port Authority. ~~if t~~ The applicant agrees will be required to record ~~any ensuing permit (which~~
 1016 ~~will have that agreement as a condition)~~ the plan approval, and the abutters' letters of ~~no~~
 1017 ~~objection~~ permission or agreement documents, with the Registrar of Deeds, or other appropriate
 1018 official charged with the responsibility for maintaining records of title to or interest in real property in
 1019 the Town.

1020 **4.8. Administration and Enforcement**

1021 **4.8.1.** Once Port Authority approval of a permit is granted, an applicant must apply, within one
 1022 year of the date of approval, to the Code Enforcement Officer for a Building Permit prior to
 1023 commencement of any work on the site or the approval terminates. When circumstances are such
 1024 that a plan ~~that has received~~ permitted by the Port Authority ~~approval~~ is required to be reviewed by
 1025 another agency (e.g. DEP, Planning Board, Board of Appeals), ~~then~~ the ~~one-year time~~
 1026 ~~period~~ deadline for obtaining a building permit ~~from the Code Enforcement Officer~~ is stayed while:

1027 A. The plan is pending before that agency, from time of submission to time of decision inclusive,
 1028 verified by documentation from that agency; ~~and~~

1029 B. The decision of such agency is being reviewed by any appellate board or judicial court, from
1030 the time an appeal is filed to the time when an appellate board or judicial court renders the last, un-
1031 appealed decision necessary ~~to allow the applicant to obtain a building permit from the Code~~
1032 ~~Enforcement Officer~~, verified by documentation from that appellate board or judicial court.

1033 C. In all cases, the Port Authority may extend the effective date of its approval of a permit for up to
1034 one additional year provided the renewal is sought before the initial approval terminates and the
1035 ~~permit~~permitted plan meets all Port Authority requirements in effect on the date that the request
1036 for the renewal is sought.

1037 4.8.2. The Code Enforcement Officer shall inspect and determine whether all conditions and
1038 requirements of the Port Authority approval have been met. The Code Enforcement Officer shall
1039 take whatever deemed appropriate relative to the ~~shall revoke any~~ Building Permit ~~issued~~ if, after
1040 ~~due investigation~~inspection, it is determined the Permit holder has violated any of the provisions of
1041 the Port Authority approval, ~~Title 16, or any applicable code, law, or statute.~~

1042 ~~4.8.2.~~

1043 **5. HARBORMASTER DUTIES AND AUTHORITY**

1044 **5.1. Duties**

1045 In addition to, and concurrent with the authority authorized by state statute, the Harbormaster shall
1046 enforce all provisions of these Rules and Regulations pertaining to harbors and tidal waters under
1047 the jurisdiction of the Port Authority and the State of Maine and shall cooperate with other
1048 Governmental agencies in enforcing their regulations. ~~Under the supervision of the Port Authority,~~
1049 ~~the~~ Harbormaster shall:

1050 A. Preserve and regulate navigation within the waters defined in these Rules and Regulations

1051 B. Assign mooring sites, ensuring that the mooring tackle is kept in safe condition, and maintain
1052 an accurate plot of the location of all mooring sites in the Town.

1053 C. Direct the removal of vessels, if necessity or emergency requires.

1054 D. Regulate the use of town owned wharves, piers, docks, landings or floats

1055 E. Inquire into and prosecute all offenses occurring within the Port Authority's jurisdiction.

1056 F. Keep such records as the Port Authority may require.

1057 G. Enforce State and Federal marine safety laws and regulations and promote safe boating
1058 practices.

1059 **6. PENALTY**

1060 **6.1. Violations**

1061 Whoever violates any of these rules or regulations or refuses or neglects to obey lawful and
1062 reasonable orders of a Harbormaster, duly authorized deputy, or other law enforcement officer,
1063 given pursuant to these Rules and Regulations or State statute, or obstructs a Harbormaster in
1064 the execution of duties, may result in the loss of facility use privileges, mooring site privileges in
1065 the Town, and pay a fine as set forth in Appendix A.

6.2. Enforcement by Harbormaster

The Harbormaster, duly authorized ~~Assistant~~Deputy Harbormaster, or any other law enforcement officer authorized to enforce laws within the Town, is authorized to enforce all provisions of these Rules and Regulations as well as all applicable State statutes. The Harbormaster is authorized to take all necessary proceedings to seek the recovery of fines authorized thereunder and all such fines and penalties recovered inure to the Town.

6.3. Additional Enforcement Authority for Violations of State Statute

In addition to the civil penalties imposed hereunder for violations of these Rules and Regulations, Title 38 MRS, as may be amended from time to time, provides additional sanctions for violations of statutes that may be enforced by the Harbormaster as provided by law. Among these statutes and sanctions are the following:

A. 38 MRS §13, Failure to obey orders of Harbormaster: “A person is guilty of failure to obey an order of a Harbormaster if the person intentionally, knowingly or recklessly fails to obey any lawful order of a Harbormaster authorized pursuant to this subchapter. Failure to obey an order of a Harbormaster is a Class E Crime.”

B. 38 MRS §281, Speed restrictions: “Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State at a speed greater than is reasonable and proper, having due regard for traffic, proximity to wharves, docks, moorings or shores, and for any other conditions then existing shall be guilty of a Class E Crime.”

C. 38 MRS §282, Endangering persons or property: “Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State in a manner which endangers any person or property shall be guilty of a Class E Crime.”

D. 38 MRS §283, Operating Recklessly: “Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State recklessly shall be guilty of a Class E Crime.”

E. 38 MRS §284, Operation under influence of drugs and liquor: “Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana shall be guilty of a Class E Crime.”

6.4. Responsibility of Owner

A. The owner(s) of a vessel are held equally responsible together with the operator of said vessel for any administrative violation of these rules and regulations by said operator.

1103 B. The owner(s) of the vessel are not liable for moving violations which are the fault of the
1104 operator of the vessel whether permission to operate the vessel was granted unless they have
1105 contributed to the fault by neglect or knowledge.

1106 C. If the Harbormaster removes a vessel as set forth in these rules and regulations, such
1107 removal is at the cost and risk of the owner of the vessel in addition to any storage fees.

1108 7. APPEALS

1109 7.1. Appeal of Decisions of the Harbormaster

1110 A. Any person aggrieved by a decision of the Harbormaster made under in accordance with
1111 these Rules and Regulations, and excepting decisions ~~(other than a decision~~ to pursue a
1112 violation of these rules and regulations and/or state statute in a court of competent jurisdiction).
1113 may appeal such decision to the Port Authority within thirty (30) calendar days from the date said
1114 decision is rendered in writing by the Harbormaster.

1115 B. Such appeal must be filed in writing with the Town Clerk setting forth the reasons for the
1116 appeal. ~~The filing will be stamped as received by the Clerk. The Clerk shall deliver the appeal to~~
1117 ~~the Chairman of the Port Authority for the purpose of scheduling a hearing of the appeal.~~

1118 C. The Port Authority shall hold a hearing within forty-five (45) days of ~~stamped~~ receipt by the
1119 Town Clerk of such appeal (Normally the next scheduled meeting).

1120 D. The Port Authority shall hear all relevant evidence presented to it during the hearing by the
1121 Harbormaster and appealing party. Either side may present witnesses or evidence in support of
1122 their respective positions. The Chairperson ~~man of the Port Authority~~ shall serve as the presiding
1123 officer and determine the admissibility of testimony in evidence. This hearing is held on an
1124 informal basis with strict rules of evidence not applying.

1125 E. After the hearing the Port Authority shall decide the appeal with a minimum of five like
1126 votes and render a decision which may affirm, reverse or modify the decision under review, or
1127 may remand the matter to the Harbormaster for further proceedings in accordance with the terms
1128 of these rules and regulations. The decision of the Port Authority, which must be recorded in the
1129 minutes of the meeting, must set forth sufficient findings of fact as appropriate. The ~~Chairman~~
1130 ~~shall provide the~~ appellant shall receive written notification of the decision of the Port Authority
1131 outlining the findings of fact within 10 business days of the decision.
1132

1133 **7.2. Request for Reconsideration of Decisions of the Port Authority**

1134 A. An applicant requesting reconsideration of a Port Authority decision or other aggrieved
1135 person(s) who appear and participate in the hearing before the Port Authority may request a
1136 rehearing of such decision provided it is made within fifteen (15) calendar days from the date of
1137 said decision is rendered and providing the request contains new or substantially expanded
1138 information which provides sufficient grounds for reconsideration of the decision.

1139 B. Any such request for reconsideration must be filed in writing with the Town ~~Clerk~~ setting
1140 forth the reasons for the request. ~~The filing will be stamped as received by the Town Clerk. The~~
1141 ~~Clerk shall deliver the request for reconsideration to the Chairman of the Port Authority for the~~
1142 ~~purpose of scheduling a hearing on the request for reconsideration~~

1143 C. The Port Authority shall hold a hearing within forty-five (45) days of receipt ~~by the Town~~
1144 ~~Clerk~~ of such request. (Normally the next scheduled meeting).

1145 D. The parties to the reconsideration may present witnesses or evidence in support of their
1146 respective positions. The Chairperson shall serve as the presiding officer and determine the
1147 admissibility of testimony in evidence. This hearing is held on an informal basis with strict rules of
1148 evidence not applying.

1149 ~~D. During the hearing either the applicant requesting reconsideration, or other aggrieved~~
1150 ~~person(s) who are in opposition to the decision may present witnesses or evidence in support of~~
1151 ~~their respective positions.~~

1152 E. After the hearing the Port Authority shall ~~take the request for reconsideration under~~
1153 ~~advisement and must issue a~~decide on the reconsideration~~-decision agreed to~~ by voting
1154 ~~to minimum of five like votes which may~~ affirm, reverse or modify the decision under review. Failure
1155 to achieve a five-like vote majority will reaffirm the original decision.

1156 F. The decision of the Port Authority must be recorded in the minutes of the meeting and set
1157 forth findings of fact as appropriate. ~~The Chairman shall provide t~~The requester will receive written
1158 notification of the decision of the Port Authority within ten (10) business days of the decision.

1159 **7.3. Appeal of Decisions of the Port Authority**

1160 Applicants or other aggrieved parties may appeal the decision of the Port Authority directly to the
1161 Superior Court, within forty-five (45) calendar days of an appeal decision or decision on a request
1162 for reconsideration~~pursuant to the rules and procedures established for M.R.C.P. 80(B) Appeals.~~

1163 **8. FEDERAL AND STATE REGULATIONS**

1164 Nothing herein may be considered as interfering with Federal and State laws applicable to the
1165 coastal waters, tidal waters, tidal rivers and harbors of the state. Where the requirements of
1166 these Rules and Regulations conflict with other laws or rules, the more restrictive, or that
1167 imposing the higher standard, governs.

1168 **9. CITIZEN COMPLAINTS**

1169 **9.1. Complaint Procedure**

1170 Persons aggrieved by a violation of any regulation contained herein may file a complaint with
1171 the Harbormaster giving the following information:

- 1172 A. Date and time of violation;
- 1173 B. Vessel causing violation, including description and if possible, name and identifying number;
- 1174 C. Owner, if known;
- 1175 D. Operator or master of vessel, if known;
- 1176 E. Nature of violation;
- 1177 F. Damage or injuries cause, if any; and
- 1178 G. Witnesses, including name, address and telephone number

1179 **9.2. Action of the Harbormaster**

1180 If the Harbormaster determines, based on the complaint and any other investigation
1181 undertaken, that probable cause exists to believe that a violation of any regulation has
1182 occurred, the Harbormaster shall either:

- 1183 A. Issue a written warning to the alleged offender; or
- 1184 B. Issue a citation and proceed to enforce any violation of these regulations as provided herein
1185 in a court of competent jurisdiction; or
- 1186 C. Take other such action as authorized by these regulations or other applicable local, state, or
1187 ~~federal laws~~ [federal law and regulations](#).

1188 **10. FEES – GENERAL PROVISIONS**

1189 The schedule of fees for such fines, permits, and applications, established by the Port Authority in
1190 accordance with Title 38 MRS et. seq. is set forth in Appendix A, Fee Schedule. (Note:
1191 Government and military vessels are exempt from all fees outlined in this section.)

1192 **11. SEVERABILITY**

1193 If any section, subsection or any portion of these Regulations is declared by any court of
1194 competent jurisdiction to be invalid for any reason, such decision is not deemed affect the validity
1195 of any other section, subsection or any other portion of these Regulations; to this end, the
1196 provisions of these Regulations are hereby declared to be severable.

1197 **12. EFFECTIVE DATE and RECORD OF CHANGES**

1198 These Rules and Regulations are effective 30 days from the date of approval noted in the
1199 document header as found in Regular meeting minutes and remain in effect until altered or
1200 repealed by the Port Authority. The record compendium of all Port Authority Rules and
1201 Regulation changes is shown in Appendix B.

1202 **Appendix A – Fee Schedule**

1203 **Appendix B - Record of Changes Compendium**