

DRAFT

HARBOR ORDINANCE
of the
TOWN OF BREMEN

July 22, 2017

TABLE OF CONTENTS

ARTICLE 1:	GENERAL PROVISIONS	Page	4
Section 1:	Authority	Page	4
A.	Authority	Page	4
B.	Application	Page	4
C.	Risk	Page	4
D.	Liability	Page	4
E.	Conflict with other Ordinances and Regulations	Page	4
F.	Effective Date	Page	4
Section 2:	Purpose and Objectives	Page	4
A.	Preserve Marine Activity	Page	4
B.	Safety	Page	5
C.	Consistency with Comprehensive Plan	Page	4
D.	Govern and Regulate Marine Activity	Page	5
Section 3:	Harbor Boundaries and Uses	Page	5
A.	Limits	Page	5
ARTICLE II.	SEVERABILITY	Page	5
ARTICLE III.	HARBOR ADMINISTRATION	Page	5
Section 1:	Harbor Committee	Page	5
Section 2:	Appeals	Page	6
Section 3:	Appointment	Page	6
Section 4:	Salary	Page	6
ARTICLE IV.	GENERAL REGULATIONS	Page	6
Section 1:	Fees	Page	7
Section 2:	Application	Page	7
Section 3:	Removal of Vessels	Page	7
Section 4:	Obstruction of Other Vessels	Page	7
Section 5:	Obstruction of Navigation	Page	8
Section 6:	Procedure for Removal	Page	8
Section 7:	Expense of Removing a Vessel	Page	8
Section 8:	Aquaculture	Page	8
ARTICLE V:	REGULATIONS CONCERNING DOCKS, FLOATS, SLIPS, LAUNCHING RAMPS, AND MOORINGS	Page	9
Section 1:	Town Docks, Floats and Berthing Slips	Page	9
Section 2:	Moorings	Page	10
A.	Priority List	Page	10
B.	Waiting Lists	Page	11
C.	Allocation to non-residents	Page	11
D.	Permit	Page	12
E.	Commercial Marine Facility Rental Moorings	Page	12
F.	Transient Moorings	Page	13

G.	Inspection	Page	13
H.	Record	Page	13
I.	Abandoned Moorings	Page	13
J.	Anchorages	Page	14
K.	Change of Use	Page	14
L.	Prohibitions and Violations	Page	14
ARTICLE VI.	REGULATIONS CONCERNING CONSTRUCTION OF PIERS, WHARVES, BREAKWATERS, BULKHEADS AND LANDFILL		
Section 1:	Permit Approval Requirement	Page	14
Section 2:	Procedure for Permit	Page	14
Section 3:	Landfill	Page	17
Section 4:	Floats and Ramps	Page	17
Section 5:	Checklist	Page	17
ARTICLE VII.	DEFINITIONS	Page	18
ARTICLE VIII.	PENALTY	Page	22
Section 1:	Criminal Violation	Page	22
Section 2:	Monetary Penalty	Page	22
Section 3:	Operational Violations	Page	22
Section 4:	Abatement	Page	22
APPENDIX A:	SUGGESTED MOORING SPECIFICATIONS	Page	23
APPENDIX B:	AQUACULTURE PERMIT APPLICATION	Page	25

ARTICLE I
GENERAL PROVISIONS

Section 1: Authority

A. Authority

This Ordinance is enacted pursuant to the Municipal Home Rule Power of Article VIII, Part Second, Section 1 of the Maine Constitution, and 30-A M.R.S.A. §3001 and 38 M.R.S.A. §7. The provisions of this Ordinance shall be liberally interpreted in order to meet the objectives of those Constitutional and Statutory Sections.

B. Application

This Ordinance applies to all tidal waters located within the Town.

C. Risk

Any person using any facilities within the Town shall assume all risk of damage or loss to his or her property, and to the property of others resulting from his or her compliance or failure to comply with this Ordinance.

D. Liability

The Town assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels, floats, or other property within its jurisdiction or to any acts or conduct of the Harbor Master.

E. Conflict with other ordinances and regulations

Whenever a provision of this Ordinance conflicts with another Ordinance or State or Federal statute, rule or regulation, the stricter provision shall apply. Nothing contained herein shall be construed to conflict with the laws or regulations of the United States with respect to enforcement of navigation, shipping or anchorage or any laws or regulations of the State.

F. Effective Date

This Ordinance and any subsequent amendment shall take effect and be in force from the date of its adoption by the Town, and all previous Harbor Ordinances are hereby repealed.

Section 2: Purpose and Objectives

Town waters are a valuable but limited resource, which have been subject to increasing demands for both recreational and commercial maritime uses and activities. The purpose and objectives of this Ordinance are:

A. Preserve Marine Activity.

To preserve marine activities within the tidal waters of the Town and maritime nature of these tidal waters for marine-related businesses including recreational boating;

B. Safety.

To ensure safety of persons and property, to promote availability and use of valuable public resources, to create a fair and efficient framework for the administration of these waters in

accordance with the laws of the State, to minimize user conflicts and to maximize the efficient use of both the water space and the Town-owned waterfront;

C. Consistency with Comprehensive plan

To remain consistent with the Bremen Comprehensive Plan, the Maine State Coastal Policies and the policies of the United States Army Corps of Engineers; and

D. Govern and Regulate Marine Activity

To govern and regulate navigation, the use and placement of moorings, the conduct of maritime activities, and the construction of piers, wharves, and breakwaters in, over and upon the tidal waters consistent with the Shoreland Zoning Ordinance.

Section 3: Harbor Boundaries and Uses

A. Harbor Limits

The harbor limits shall be established in the tidal waters by the Selectmen on the recommendations of the Harbor Committee and the Harbor Master and shall include:

HOCKOMOCK CHANNEL/ MEDOMAK
KEENE NARROWS AREA
BROAD COVE
GREENLAND COVE
MUSCONGUS
EASTSIDE BREMEN LONG ISLAND/COW ISLAND
OUTER BY SOUTH AND EAST OF HOG ISLAND

The exact locations shall be delineated on maps prepared by the Town.

ARTICLE II
SEVERABILITY

If any provision or clause of this Ordinance or application to any person or circumstances is found to be invalid by the Courts, then such invalidity shall not affect any provisions or applications of the Ordinance which can be effectuated without the invalid provisions or application. To this end, provisions of this Ordinance are declared severable.

ARTICLE III
HARBOR ADMINISTRATION

Administering Bodies and Agents

Section 1. Harbor Committee

The Harbor Committee shall consist of three (3) members, who shall be elected to three-year, staggered terms, with one member elected each year at the Annual Town Meeting. Initially, the Town shall elect three (3) members, one (1) for one year, one (1) for two years, and one (1) for three years and shall thereafter maintain those staggered terms. The Harbor Committee shall

exist for the general purpose of aiding the Harbor Master and his/her deputies in the management of the harbors and the administration of this Ordinance.

Section 2. Appeals

The Town Board of Appeals shall hear appeals from those aggrieved by actions of the Harbor Master. Appeals shall be submitted within thirty (30) days of the Harbor Master's action. The appeal shall specifically describe the grounds for such action. The procedures shall be as established in the Board of Appeals ordinance.

Section 3. Appointment

The Harbor Master shall be appointed annually by the Selectmen, on recommendation of the Harbor Committee, for a one year term.

Section 4. Harbor Master's Salary

The Harbor Master's salary shall be set at the Annual Town Meeting.

ARTICLE IV GENERAL REGULATIONS

Section 1: Fees

Annual mooring fees shall be payable in full to the Town at the time of submitting a new Mooring Registration Application. Mooring fees are in addition to either boat registration fees or the excise tax due on documented boats. Mooring fees shall be set annually as recommended by the Harbor Committee and approved by the Board of Selectmen. Fees not paid by August 15th, shall be considered delinquent, and subject to a late fee as set by the Selectmen. Fees shall be used for the administration of this Ordinance and for the upkeep, maintenance and purchasing of the Town's waterfront facilities. The schedule of fees shall include but not be limited to the following classes:

Private moorings:

- A. Shorefront owners;
- B. Resident;
- C. Guest;
- D. Non-Resident.

Commercial moorings:

- A. Service (Rental Moorings);
- B. Transient.

Section 2: Application

- A. Existing mooring locations shall be registered annually by the Harbor Master on the basis of one mooring per vessel (exceptions for existing winter location may be granted by the Harbor Master). An existing mooring site permit holder shall not lose a current assignment in order to meet the objectives of the non-resident allocation requirements set forth in this Ordinance. All other rights may not vest beyond the permit period. By signing the mooring application, the applicant attests to his/her sole usage of that mooring. Any other use shall constitute a rental and shall be assessed at the current annual rental fee.
- B. A new mooring location may not be assigned until an application has been submitted to and approved by the Harbor Master and the mooring fee has been paid. Mooring assignments may be renewed each year by a Town notice of renewal and payment of the mooring fee.
- C. The application forms may request such information pertinent to the mooring as the Harbor Master and Harbor Committee considered necessary and appropriate.
- D. Each mooring shall be of sufficient size to hold the vessel for which it is to be used as determined by the Harbor Master. Wooden mooring stumps are not permitted. Vessel and/or mooring owners shall be liable for any damage caused by faulty or inadequate moorings.
- E. The mooring permit holder shall affix the assigned mooring permit number to the primary mooring buoy in at least two (2) inch letters of contrasting color. However, winter buoys are exempted. Upon failure to display this number, the Harbor Master, after giving notice of deficiency, may attach the mooring permit number to the buoy and charge the cost to the mooring permit holder plus an administrative fee of twenty-five (\$25) dollars. If a mooring does not display a mooring permit number and cannot be otherwise identified, or if the cost and fee are not paid within 60 days, the mooring shall be considered abandoned.
- F. The Harbor Master, when assigning mooring locations, shall be guided by a mooring plan to be adopted by the Harbor Committee.

Section 3: Removal of Vessels

The Harbor Master may remove or cause to be removed any vessel when so requested by the owner of a wharf, or when deemed derelict or abandoned by the Harbor Master, after due notice. If the person given notice does not comply with the notice within 48 hours or other time set in the notice, the Harbor Master may make or cause the removal of the vessel. In addition, the Harbor Master shall have the authority to remove vessels as set forth in 30 M.R.S.A. §4452 and 38 M.R.S.A. §9, 12 & 13 and, with approval of the Selectmen, initiate legal action under those provisions.

Section 4: Obstruction of Other Vessels

The Harbor Master may, upon complaint by the master, owner or agent of the owner of any vessel, cause any other vessel or vessels obstructing the free movement or safe anchorage of such vessel to remove to a position to be designated by the Harbor Master. Without any

complaint being made, the Harbor Master may remove any vessels anchoring within the channel lines to such anchorage as he/she may designate. If such vessel has no crew on board or if the master or person in charge neglects or refuses to move such vessel, as directed by the Harbor Master, then the Harbor Master may take steps to remove said vessel, in accordance with the provisions of 38 M.R.S.A. § 5, 12, & 13.

Section 5: Obstruction of Navigation

A person may not place buoys, including fishing buoys or other floating structures of any type, so as to cause obstruction or danger to navigation, as determined by the Harbor Master. Fishing buoys, including lobster trap buoys, may not be located within a 20-foot radius of a vessel mooring turning radius.

All moorings shall be so located so that the vessel will not impede navigation within any harbor nor endanger another vessel. If the Harbor Master finds that a vessel is so moored as to impede navigation or to endanger another vessel, he or she may require that the owner of the mooring, or of the vessel secured thereby, take such steps that shall prevent such interference with navigation or endangering of other vessels; or in the alternative the Harbor Master may order that the mooring be removed and relocated as provided by section 3.

Section 6: Procedure for Removal

In requiring the removal or relocation of a vessel or mooring, the offending vessel or mooring shall first be ordered to be removed as provided in Section 3. A person so ordered by the Harbor Master, shall remove the same within 48 hours. However if the Harbor Master finds an emergency requiring immediate action to prevent injury to life or damage to property, he or she may cause said vessel or mooring and any vessel attached thereto to be removed and relocated without prior notice. In that event, notice shall be given as soon as practicable.

Section 7: Expense of Removing a Vessel

In the event that the Harbor Master removes a mooring or vessel, such removal shall be at the cost and risk of the owner of the mooring or vessel. The Harbor Master shall charge a minimum of \$100.00, to be paid by the master or owner of the mooring or vessel, which charge, together with the cost of the crew and other necessary expenses for removing that mooring or vessel, may be collected by a civil action in the District Court, as set forth in Title 38 M.R.S.A. § 5.

Section 8: Aquaculture

An aquaculture site not licensed under 12 M.R.S.A. § 6072, 6072-A or 6072-B, and involving the use of moorings, anchors, rafts and/or pens may not proceed without mooring permits. All such sites shall have all required federal and state DMR permits before making application to the Town. Application shall be made to the Harbor Master and Harbor Committee, who shall first determine that the application is complete. The Application shall provide the following information:

- A. A detailed description of the project including rafts, floats, how many, season, year-round, etc.:
 - 1. Chart or property map defining specific proposed project location, i.e., tidal or over submerged lands.
 - 2. Species to be harvested, amount of organisms, bottom or suspended cultivation, schedule of activity, etc.
 - 3. Proposed mooring/anchoring specifications.
 - 4. Location of existing and proposed moorings.

- B. The Harbor Master and Harbor Committee shall make a decision to approve or deny an aquaculture permit within 30 days. A permit shall be approved if the requested use would not unreasonably interfere with:
 - 1. Public health;
 - 2. Safety;
 - 3. Navigation;
 - 4. Orderly administration of the harbor; or
 - 5. Existing fishing or clamming areas.

- C. If an application is denied, the applicant may appeal the decision to the Board of Appeals.

- D. The Board of Selectmen, on recommendation of the Harbor Committee, shall annually set fees for aquaculture applications and aquaculture mooring permits consistent with other mooring fees.

- E. An aquaculture site licensed under 12 M.R.S.A. § 6072, 6072-A or 6072-B is exempt from this requirement.

- F. Vessel moorings within an aquaculture site, whether State licensed or not, shall be subject to the requirements for vessel moorings.

ARTICLE V
REGULATIONS CONCERNING DOCKS, FLOATS, LAUNCHING RAMPS AND MOORINGS

Section 1: Town Docks, Floats and Berthing Slips

The following regulations shall pertain to the use of the Town floats at the Town Landing:

- A. A person may not leave a vessel tied to a float, unless the person has permission of the Harbor Master.

- B. The Harbor Master shall ensure that the Town pier and floats are maintained and that the outboard side of the Town float is kept open for pick up and drop off of passengers and to allow for emergency access to the water by the Fire Department and/or the First Responders.

- C. Boat tie up for repairs shall be allowed on the southern end of the float only for a period of up to 48 hours. Periods longer than 48 hours shall require notice to and authorization of the Harbor Master.

- D. Town floats will normally be available for use from May to October.
- E. The Harbor Master may assign numbers annually to dinghies, tenders, skiffs and other watercraft regularly tied to any Town float. These numbers shall be visibly attached to the boat. Said boats may not be over 18 feet in length and shall be tied to designate floats only. Such boats shall be properly and reasonably maintained.
- F. The owner of any boat which is not maintained, secured, and registered, if applicable, may lose any privileges to tie to said Town float, and the boat may be removed at the owner's expense.
- G. Lobster traps or other equipment may not be stored on the Town floats or the Town landing for more than two (2) days, except with permission of the Harbor Master.

Section 2: Moorings

A. Priority List:

Moorings shall initially be assigned to those Town residents owning vessels and occupying mooring locations as of September 1, 1990. Not more than three mooring locations may be assigned in this way to a resident. Within space available, future requests for mooring locations are subject to space availability and Harbor Master approval. Mooring requests that exceed the maximum allowed may be considered on an individual basis, as space permits and must be private for use with a boat, fisherman's float or service mooring request, as the Ordinance allows.

These provisions apply with the exception of the Hockomock Channel/Keene Narrows area in which municipal resident commercial fishing watercraft will receive first priority over all others except for moorings described in paragraphs 1 and 2 below.

The following priorities apply:

1. Shorefront residents requesting an initial single location adjacent to their property or as provided by 38 M.R.S.A. §3 up to a maximum of three (3) moorings.
2. Grandfathered moorings of Town residents as described above, up to a maximum of three (3) moorings.
3. Resident commercial fishing watercraft owners, up to a maximum of three (3) moorings.
4. Resident pleasure watercraft owners up to a maximum of three (3) moorings.
5. Resident commercial fishing watercraft owners requesting multiple locations. The specific number allowed shall be determined by the Harbor Master and the Harbor Committee. This may include moorings necessary for a "fisherman's float" used for loading and unloading of fish and supplies.
6. Resident commercial watercraft, other than fishing craft, requesting multiple mooring locations. The specific number allowed shall be determined by the Harbor Master and the Harbor Committee. This category includes rental moorings and non-fishing commercial marinas.

7. Non-resident pleasure watercraft up to a maximum of one (1) mooring.
8. Non-resident commercial fishing watercraft multiple locations, up to a maximum of two (2) moorings.
9. All others up to a maximum of one (1) mooring.
10. Additional moorings, with the exception of categories 7, 8, and 9 may be granted after the maximum has been met subject to space availability, with Harbor Master and Harbor Committee approval.

B. Waiting Lists:

If the Harbor Master receives more applications for mooring privileges than there are mooring spaces in areas deemed congested by the Harbor Master and Harbor Committee, the Harbor Master may assign spaces as they become available from a waiting list in accordance with the priority schedule in this Ordinance. Waiting lists in effect at the time that this section is enacted may continue in effect, but persons shall be selected from those lists in accordance with the priority schedule in this Ordinance. If at the time a person applies for a mooring and there is no waiting list, that person shall be assigned a mooring without regard to the priority as space permits.

C. Allocations to Non-residents

1. If there are applicants who are non-residents who wish to moor a vessel, the principal use of which is non-commercial, and if less than 10% of the moorings are currently assigned to persons fitting this description, the next mooring available shall be assigned to the first person on this list.
2. If there are applicants who are non-residents who wish to moor a vessel, the principal use of which is commercial and less than 10% of the assigned moorings are currently assigned to persons fitting this description, the next mooring space available shall be assigned the first person on this list. At the time a person applies for a mooring and there is no waiting list, that person shall be assigned a mooring without regard to the priority list as space allows.
3. If both non-resident non-commercial and non-resident commercial assignments are below 10%, and there are both types of applicants on the waiting list, the available space shall be assigned to an applicant in the category that is the farthest below 10%. A non-resident who resides in a Maine municipality with mooring space and privileges may not encroach upon the mooring privileges as hereby ordained, other than in case of dire need, until the non-resident has used the available mooring space in his town. The burden of proof of his town's full capacity is upon the non-resident applicant. It is our Town's intent to provide the inland towns of Maine priority over other coastal Maine towns, 38 M.R.S.A. §6.1.
4. The burden of proof in determining residence and the principal use of a vessel shall be upon the applicant.

D. Permits

1. A mooring may not be placed or moved by anyone except with written approval of the Harbor Master and/or his or her authorized agent.
2. A mooring assignment may not be transferred without written permission of the Harbor Master and the Harbor Committee. Transfer is authorized for private commercial fishing moorings at the request or the death of the permittee and is limited to family members, 38 M.R.S.A. Chapter 1, §3(k) and only if the mooring permit will continue to be used for private commercial fishing. For purposes of this section, "family member" means only the permittee's parent, child or sibling, by birth or adoption, including a relation of half-blood or a permittee's spouse. Moorings may also be transferred as a commercial fishing lifetime mooring to be assigned, by lottery, to a Bremen resident commercial fisherman.
3. A mooring assignment may not be rented unless the provision for rental was part of the agreement when the mooring was assigned or renewed.
4. Rental Moorings are subject to authorization and approval by the Harbor Master and the Harbor Committee.
5. Priority list categories 7 through 11 are not allowed rental moorings, which are reserved for resident and for property owners.
6. All moorings shall be of sufficient size to hold the vessel or float for which it is to be used.
7. There shall be no rafting of two (2) or more unattended vessels.
8. Suggested tackle standards are available in the Harbor Master's office or Town Office.

E. Commercial Marine Facility Rental Moorings

1. Commercial Marine Fishing Facility.
The Harbor Master may approve or disapprove a mooring permit application and/or assign a mooring location to a Commercial Marine Fishing Facility only after a public hearing is held on the application, attended by the Harbor Master and the Harbor Committee.
2. Commercial Private Marine Facilities:
 - i. Mooring or Berth Permits for Commercial Private Marine Facility may be granted preliminary approval by the Planning Board.
 - ii. Final approval may be decided only after all Federal, State and local guidelines, laws and regulations have been met, a Harbor Plan has been filed with the Harbor Master, Harbor Committee and Town Office which designates the full scope of the proposed Marina including, but not limited to, placement, parking, mooring areas, dock areas, services offered and other pertinent information that may be deemed necessary to make a determination.
 - iii. Prior to a decision, the Harbor Master and the Harbor Committee shall hold a public hearing after which a determination shall be made within 45 days.
3. Moorings of a Commercial Marine Facility in operation as of the date of passage of this Ordinance shall be grandfathered concerning location and number of moorings. The sale or transfer of 50% or more of the assets and/or ownership of such

Commercial Marine Facility shall require reapplication for both the number and location of moorings desired. The Harbor Master and the Harbor Committee shall review factors such as use history, future development and other prevailing conditions of the Commercial Marine Facility.

4. Applications for moorings by any Commercial Marine Facility subsequent to the enactment of this Ordinance may be restricted as to the number and location of moorings granted and/or the length of time the moorings are granted; such restrictions being within the discretion of the Harbor and the Harbor Committee, taking into such consideration all factors they deem relevant.
5. Rental moorings shall be identified and maintained by the Commercial Marine Facility in accordance with such conditions as may be placed on the permit by the Harbor Master, and all such moorings shall be clearly marked at all times by such size and color markings, as may be required to indicate the maximum boat size allowed on the mooring.
6. Commercial Marine Facilities renting moorings or berths shall prominently exhibit a sign providing the locations of all existing facilities for pumping out of human waste currently available in the Town.
7. A Commercial Marine Facility may not be allowed on an open and/or conditional clamming area.

F. Transient Moorings

Transient moorings shall meet the requirements of Article VII, Section 2E of paragraph 5.

G. Inspection

All moorings, including chains and pennants, shall be inspected annually by the owner or his representative.

H. Record

The Harbor master shall maintain a written record of the basic information on each mooring, including the assigned location, identification number, vessel description, size, date of last mooring inspection, registered owner and other data useful to the Harbor Master, including a chart of the relevant harbor, showing current mooring locations, assignments and their numbers.

I. Abandoned Moorings

1. Any mooring location not occupied or used for a period of one year without prior notice to and approval of the Harbor Master may be deemed abandoned and the location may be reassigned by the Harbor Master in accordance with the above priority guidelines.
2. The cost of removing moorings shall be assessed to the owner if not removed by him within thirty (30) days of receipt of notice from the Harbor Master.
3. The Harbor Committee may waive the provision of this section for good cause shown by the mooring owner or his representative.
4. Payment not received for moorings by September 1st shall be determined to be abandoned unless a payment plan has been agreed upon with the Town Clerk.

J. Anchorages

A transient vessel may not be permitted to anchor unless approved by the Harbor Master, except in an emergency situation. The Harbor Master shall be so advised within 24 hours.

K. Change of Use

1. The Harbor Master shall be promptly notified of a proposed change in use or vessel of a mooring site.
2. A private mooring/boat-slip facility converting to a commercial mooring/boat-slip facility shall meet all Commercial Private Marine Facility standards.
3. Conversion shall require submission of a new permit application meeting current standards of the Shoreland Zoning Ordinance, this Ordinance and other ordinances deemed pertinent.

L. Prohibitions and Violations

1. Houseboats are not allowed mooring assignments and may only dock temporarily at Commercial Private Marine Facilities with a human waste pump-out station.
2. Guest moorings are temporary and not to be used by the same vessel in excess of 14 days. The mooring capacity must be greater than or equal to the requirements of the vessel using the mooring.
3. A person may not moor a vessel, boat, raft, or scow to any buoy or beacon placed by the Town or in any manner make the vessel fast thereto.
4. A mooring may not be relocated by its owner or representative without prior approval by the Harbor Master and the filing of a new application. In the event of emergency, the move shall be temporary.
5. A person operating a kayak shall display a minimum of an 8-inch by 11-inch safety orange flag on a mast extending a minimum of four (4) feet vertically from kayak for improved kayak visibility by other boaters.

ARTICLE VI

REGULATIONS CONCERNING CONSTRUCTION OF PIERS, WHARVES, BREAKWATERS, BULKHEADS, LANDFILL, DOCKS AND FLOATS.

Section 1. Permit Approval Requirement

A mobile boat hoist, pier, wharf, bulkhead, breakwater, marine railway or other structure in tidal waters may not be constructed, enlarged or improved except upon approval and issuance of a permit in accordance with Article VIII Section 2 of this Harbor Ordinance.

Section 2. Procedure for Permit

- A. Construction, renovation, or improvement of a mobile boat hoist, pier, wharf, bulkhead, breakwater, marine railway or other structure in tidal waters shall require an application to the Planning Board. Written application shall include the following information:

1. Evidence of submission of application for applicable State licenses, permits and approvals.
 2. Evidence of submission of application for applicable Army Corp of Engineers licenses, permits and approvals.
 3. A site plan, stamped and sealed by an engineer, registered in the State of Maine, at a scale of not greater than 1 inch to 20 feet. The plan shall show:
 - i. The length and width of the proposed project;
 - ii. The harbor line and wharf line, mean high water and mean low water lines;
 - iii. Side property lines as extended from the upland across the shores and flats.
 4. An elevation showing the height of the structure in relation to mean high water and mean low water.
 5. A pier or wharf section.
 6. A plan showing the location and type of lighting.
- B. A permit under this section may not be issued by the Planning Board until all applicable State licenses, permits and approvals, Federal licenses, permits and approvals and local approvals under this section have been received.
- C. The Planning Board shall review the application for compliance with paragraph (A) above and the applicable requirements of the Shoreland Zoning Ordinance. In the event the Planning Board determines the application is complete, then the application, together with related documents shall be dated and forwarded within 10 business days to the Harbor Committee. The Harbor Committee shall, within 10 business days of the date of receipt, convene a meeting to review the application. A formal review finding shall be issued by the Harbor Committee and shall specifically address the standards listed in this section, shall state the reasons for recommending approval or denial, and shall be forwarded to the Planning Board for their review and action.
1. The Committee may recommend approval only if it finds that the proposed project will not:
 - i. Encroach into, interfere with, or pose a hazard to navigational channels.
 - ii. Interfere with access to and from existing mooring and berthing areas for both commercial and recreational use.
 - iii. Displace or eliminate the existing mooring and berth areas, public and private, commercial and recreational.
 - iv. Interfere with public access to and use of the Harbor waters.
 - v. Reduce or interfere with existing shell fishing and clamming areas, and access thereto.
 - vi. Block or interfere with public rights of passage and uses of the shores and flats.
 - vii. Adversely affect small recreational boating activities.
- D. Upon receipt of the review finding by the Harbor Committee, the Planning Board shall hold a public hearing in conjunction with the Harbor Committee and shall either approve, approve with conditions or disapprove the proposed project, in accordance with the standards of this Harbor Ordinance.

1. If disapproved, the disapproval shall be in writing and shall include the reasons for disapproval.
 2. If approved, the approval shall be in writing and shall not be effective until approval by the Planning Board under any other applicable ordinance.
- E. Construction of approved projects shall commence within one year from the date of approval by the Planning Board and shall be completed within two years from the date of issuance of the building permit.
- F. The decision of the Planning Board concerning issuance or denial of the permit may be appealed to the Board of Appeals.
- G. Notwithstanding the above provisions of Article VI, Section 2, regular maintenance and emergency repair of piers, wharves, mobile boat hoists, breakwaters, or bulkheads, as defined below, shall not require a permit under the Harbor Ordinance, except as follows:

In the event that regular maintenance or emergency repairs to piers, wharves, or mobile boat hoists require the removal of existing pilings and replacement of those pilings along the outermost side of the pier or wharf facing the waters of the harbor, then the person causing such normal maintenance or emergency repairs shall submit to the Planning Board a site plan, stamped and sealed by an engineer, registered in the State of Maine, at a scale of not greater than one inch to twenty feet, which shows specifically the location of existing pilings and decking for the pier, wharf, or mobile boat hoists and the proposed locations of new replacement pilings and decking in connection with such normal maintenance or emergency repairs.

A person causing such normal maintenance or emergency repairs shall submit to the Planning Board, together with the building permit application for such work, required by the Shoreland Zoning Ordinance, a description of the work for such normal maintenance or emergency repairs which provides the Planning Board with sufficient information to determine whether the proposed project conforms with the meaning of “regular maintenance” or “emergency repairs” as set forth in this provision.

In the event that the Planning Board determines that insufficient information has been provided by the applicant for the building permit, the Planning Board may request additional information.

If the Planning Board determines that the applicant for the building permit proposes to perform work which does not constitute regular maintenance or emergency repairs, then the Planning Board shall direct that applicant to obtain a permit in accordance with the provisions of Article VIII, Section 1 of this Ordinance.

The person causing regular maintenance or emergency repairs shall take photographs of that maintenance or repair, both before and after the completion of the work. Such photographs shall be submitted to the Planning Board and retained as a permanent record with a copy of the building permit and shall be copied to the Harbor Master.

For purposes of this provision, “regular maintenance” shall mean restorative work, including

replacing decking, and refurbishing of portions of the decking or pilings of wharves, piers, or mobile boat hoists for the purpose of preserving those structures and maintaining the structural integrity of those structures and in order to counteract the effects of usual wear and tear caused by the use of those structures in marine-related activities.

For purposes of this provision, “emergency repairs” shall mean replacement and relocation of pilings, decking, or underpinning replacement which requires rapid action in order to avoid a dangerous condition which threatens life or injury to any person or which threatens property damage. “Emergency repairs” shall include, by way of illustration, repairs arising out of storm damage, fire, or the threat of imminent collapse of a pier, wharf, or mobile boat hoist.

Section 3. Landfill

There shall be no landfill beyond the harbor line in any of the harbor areas, except as may be required for the proposed construction of a municipal pier or municipal boat launching ramp. Construction shall meet all Town Ordinances as well as State and Federal requirements.

Section 4. Floats and Ramps

Floats and ramps attached to piers, wharves, bulkheads, or breakwater shall be reviewed by the Harbor Master and the Harbor Committee following the same procedure for a review finding.

- A. A float with connecting ramp may be extended no more than 50 feet beyond the end or outer edge of the pier, wharf, breakwater or bulkhead as measured to the outside edge of the float.
- B. Municipal piers and municipal launching ramps shall be exempt.

Section 5. Checklist for piers, wharves, breakwaters, bulkheads, landfill, docks, and floats

- Application to Planning Board (PB) with State and/or Federal permit applications and/or approvals (DEP, ALOE)
- Site Plan stamped and sealed by an engineer licensed by the State of Maine. Scale not greater than 1 inch to 20 feet.
- Plan shall show:
 - Length and width of project
 - Harbor line and wharf line
 - Mean high water line and mean low water line
 - Side property lines as extended from the upland across shore and flats
 - Elevation showing height of structure in relation to mean high water and mean low water
 - A pier or wharf section
 - Plan showing location and type of lighting
- Permit shall not be issued by Planning Board until all applicable State, Federal permits, licenses, approvals and local approvals under this section have been received.
- Planning Board shall review application in relation to Bremen Shoreland Zoning Ordinance. If Planning Board determines application is complete:

- Application and all related documents shall be dated and forwarded within ten (10) business days to the Harbor Committee.
- The Harbor Committee shall, within ten (10) business days of the date of receipt, shall review application.
- A formal review permit shall be issued by the Harbor Committee and shall specifically address:
 - The standards listed shall state the reasons for approval or denial and shall forward to Planning Board for their review and action.
- Upon receipt of the review permit, the Planning Board shall hold a public hearing together with the Harbor Committee and shall then either approve, approve with conditions or disapprove the proposed project.
- Construction of approved projects shall commence within one (1) year from date of approval by Planning Board and shall be completed with two (2) years from date of issuance of the building permit. (See Ordinance for regular maintenance and repair procedures)
- There shall be no landfill beyond the harbor line in any of the harbor areas (excluding municipal piers, etc.)
- Floats and ramps attached to piers, wharves, bulkheads or breakwaters shall be approved by the Harbor Master and the Harbor Committee following the same procedure for a review permit.
- A float with connecting ramp may be extended to no more than fifty (50) feet beyond the end or outer edge of the pier, wharf, breakwater or bulkhead as measured to the outside edge of the float. (Municipal piers and ramps are exempt from this restriction)

ARTICLE VII DEFINITIONS

The following words shall have the following meanings:

Abandoned or derelict vessel: A vessel that is inoperable, sunk or sinking, wrecked, in danger of breaking loose from its mooring or grounding, taking on water without effective dewatering devices, left unattended for extended periods, not adequately maintained so as to give rise to a public danger or moored inadequately or illegally.

Anchorage Area: An area of the harbor set aside for the anchoring of vessels.

Aquaculture: The culture or husbandry of marine organisms as defined in 12 M.R.S.A. § 6072.

Berth: The place where a vessel lies when at a wharf or pier.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Channel: An area of waterway kept clear of moorings or other obstructions to allow the free passage of vessels.

Commercial fishing lifetime mooring: A mooring obtained by lottery when there is no successor family member.

Commercial Private Marine Facility: Any commercial enterprise in the shore land zone, that provides rental or service moorings, or any marine-related service such as, but not limited to, the following: sales of, storage of, construction of or maintenance of boats or other marine-related items, the provisions of slips and/or moorings for permanent or transient berthing, sales of fuel, supplies, or marine fuel, marine supplies, or marine equipment and hardware, providing human waste pump-out services, or providing of meals or lodging to transient users of the facility.

Commercial Marine Fishing Facility: A commercial enterprise providing at least sixty percent (60%) of its services to commercial fishermen, such as handling fin-fish or shellfish, or any other marine related product, such as sales of fuel, supplies, or marine equipment and hardware.

Commercial Vessel: A vessel that generates income and is registered as commercial.

Congested Areas: Those areas of tidal waters that are determined by the Harbor Master and designated by the Harbor Committee to be approaching or to have reached saturation of available mooring space.

Cribbing: An open-ballasted framework of wood, metal, or concrete in the water to support a structure and permanently affixed to the bottom.

Deputy Harbor Master: Person(s) appointed by the Harbor Master to serve at his/her direction and to assist the Harbor Master with the accomplishment of the administrative duties.

DMR: State of Maine Department of Marine Resources.

Fisheries, Significant Fisheries: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

Float: A floating structure, other than a vessel, normally used as a point of transfer for passengers, fishing gear or other goods and not designed for self-propelled navigation.

Guest Mooring: A temporary annual mooring permit in a non-congested area to a waterfront property owner, solely for use by that permit holder's guests on a non-rental basis.

Harbor Line: The mean high water mark on bulkheads and shores. The harbor line defines the limit of area on which filling can occur.

Harbormaster: That person appointed by the Selectmen pursuant to 38 M.R.S.A. § 1, as amended from time to time, and the Harbor Ordinance.

Launching Ramp: Surface used to launch or retrieve boats to and from water.

Marina: See Commercial Private Marine Facility and Commercial Marine Fishing Facility.

Mean High Water: The point or line of the average height of high water over a 19-year period.

Mean Low Water: The point or line of the average height of low water over a 19-year period.

Mobile Boat Hoist: A commercial straddle-type mobile hoist and associated structures and devices used for moving boats and other objects in and out of the water, including attached floats and ramps.

Mooring: Any apparatus placed on ocean bottom for anchoring purposes and which apparatus is not carried aboard a vessel when underway as regular equipment. Synonymous with mooring gear and mooring hardware.

Mooring area: An area of the harbor designated for permanent moorings for the mooring of boats and vessels.

Mooring Plan: A plan for the placement and specification of moorings, usually in a congested area, prepared by the Harbor Committee, with public input, and approved by the Selectmen.

Mooring Site: A specific point on the ocean bottom in a mooring area assigned to a person by the Harbor Master.

Mooring Spar: A cylindrical device used to identify mooring locations in winter.

Guest Mooring: A temporary mooring that may be permitted yearly in a non-congested area of a waterfront property, solely for use by that permit holder's guests on a non-rental basis.

Private Mooring: A mooring other than a transient or service mooring.

Service Mooring: A mooring owned and utilized by a Commercial Private Marine Facility and Commercial Marine Fishing Facility for the purpose of temporary storage of a customer's boat(s) and other uses relating to the operation of that facility.

Transient Mooring: A commercial mooring set aside for use by mariners cruising along the coast.

Municipal Facility: A building or parcel of land owned by a public entity and operated under its supervision for a public purpose.

Pier: A permanent platform-type structure contiguous to the shoreline and usually built approximately perpendicular therefrom over the water, supported by pilings or cribbing. It is used for the berthing, loading, and unloading of vessels.

1. Temporary: Structures that remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

2. Permanent: Structures that remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Piling: A rigid shaft of metal, wood, concrete, or plastic permanently affixed to the bottom.

Platform ramp: A projection from a wharf or pier to which a ramp is attached.

Ramp: A connector between a float or pier, wharf or other bulkhead for access.

Resident: A person who occupies a dwelling within the municipality for more than 180 days in a calendar year or a person owning real estate in Bremen.

RESIDENT: *"Resident" means a person who is currently domiciled in the Town and who has resided or has been registered to vote in the Town for at least 180 days at the time of determination. In the event that a resident is a junior applicant, his or her parent or guardian shall meet the conditions for residency. In the event a person claiming residency has not registered to vote, then residency can be proven by showing the Town Clerk three of the below, for the 180 day qualification period:*

1. *A Maine State driver's license or identification card designating an address in Town as the persons place of domicile;*
2. *Registration of a vehicle with the Town;*
3. *A post office box address at the Bremen Post Office;*
4. *Proof of ownership for a property including a dwelling located in Town;*
5. *A lease or rental agreement for a domicile within Town; or*
6. *An electric bill, in the person's name, made out to an address in Town.*

Review Permit: A permit issued by the Harbor Committee that outlines conditions for the construction of piers, wharves, bulkheads, breakwaters and landfill. The review permit issued after review and approval by the Planning Board.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Shore Frontage: The length of a lot bordering on a water body measured along the shoreline between the intersections of the lot lines with the shore.

Shorefront Owner: The owner of a parcel of land that borders on that area of tidal waters off which a mooring is being requested.

Submerged Land: All land seaward from the mean low-water mark or a maximum of 1,650 feet seaward of the mean high-water mark, whichever is closer out to the 3-mile territorial State marine boundary.

Vessel: A boat or vessel of any size intended to carry persons, goods or animals over the water or undertake other marine activities and propelled by hand, sail or motor, including scows, dredges, shellfish cars and watercraft of any kind, except a seaplane.

Wharf: See Pier.

ARTICLE VIII
PENALTY

Section 1. Criminal violation.

Failure to obey the order of a Harbor Master is a Class E crime under 12 M.R.S.A. §780(3).

Section 2. Monetary Penalty

The master, owner or owners of a vessel, boat or raft, or any other person who violates any of the provisions of this Ordinance, for which a specific penalty is not set forth, or for which a specific penalty is not otherwise provided by the laws of the State, shall be subject to the monetary penalties in a minimum amount of \$100.00 and a maximum amount of \$2,500.00. Such penalties shall be recoverable in the District Court or Superior Court in accordance with 30-A M.R.S.A. §4452.

Section 3. Operational violations

Violations of this Ordinance which also constitute violations of the laws of the State with regard to speed restrictions, operation of a vessel so as to endanger persons or property, reckless operation of a vessel, and operation of a vessel under the influence of drugs or liquor, as set forth in 38 M.R.S.A. §285, shall be subject to the penalties set forth in State law.

Section 4. Abatement

In addition to these monetary penalties, a violator of this Ordinance shall also be subject to an order of abatement of the violation as set forth in 30-A M.R.S.A. §4452, and that violator shall further be subject to an action by the Town, in the District Court or Superior for injunctive relief in order to prevent or abate the violations

APPENDIX A – SUGGESTED MOORING SPECIFICATIONS

All moorings should meet the minimum standards as set below prior to placement. These standards are set for normal weather conditions. In the event of gale winds or stronger and/or extreme tides, it is the mooring owner’s responsibility to ensure certain precautions are taken. The Town realizes that mooring loads are variable, that it is impossible to say that all boats of equal length require the same size mooring, and such standards cannot be applied to all boats. The Harbor Master reserves the right to require a boat owner to increase the minimum mooring standard for any vessel should he feel the minimum standard would be inadequate for the vessel because of unusual design, such as but not limited to, excessive weight, windage, or draft.

Furthermore, the Town shall not be liable for any damage occurring if a minimum standard mooring fails. The safe serviceable condition and adequate size of all mooring equipment is the ultimate responsibility of the mooring permit holder. The prudent seaman rule applies.

Suggested Granite Mooring Specifications

Vessel Length	Granite Dry Weight	Bottom Chain	Top Chair	Pennant Size
0 – 16	1000#	1/2 “	3/8 ”	1/2 “
17 – 22	2000#	3/4 “	3/8 ”	1/2 “
23 – 30	4000#	1 “	1/2 “	5/8 “
31 – 40	5000#	1 “	1/2 “	3/4 “
41 – 50	6000#	1 “	5/8 “	1 1/4 “
51 +	Harbor Master Approval			

All granite moorings shall have a minimum staple diameter of 1 “.

All Moorings

Any mooring other than a granite block or mushroom anchor shall be at the Harbor Master’s discretion.

The bottom chain length shall be at least the depth of the water at mean low water (MLW) and the combined chain length shall be two (2) times the total depth at mean high water (MHW). All chain and connecting shackles should be of USA manufacture and shackle pins should be secured with multi-strand SS wire. All shackles should be a minimum of one size larger than the chain to which it’s attached.

Suggested Mushroom Anchor Mooring Specifications

Vessel Length	Anchor	Mushroom Bottom & Top Chain		Pennant (Nylon) Size & Length	
Up to 15 ft.	150 lbs.	5/8 "	3/8 "	5/8 "	3 times
Up to 20 ft.	200 lbs.	3/4 "	3/8 "	5/8 "	height
Up to 25 ft.	250 lbs.	3/4 "	1/2 "	3/4 "	of bow
Up to 30 ft.	300 lbs.	3/4"	1/2 "	7/8 "	above
Up to 35 ft.	350 lbs.	1 "	1/2 "	1 "	Water
Up to 40 ft.	400 lbs.	1 "	5/8 "	1 1/8"	+ cleat
Up to 45 ft.	500 lbs.	1 "	5/8 "	1 1/4 "	distance
51 ft. plus	Harbor Master Approval				to choke

Heavy Chain should be 1.5 times the depth at high tide. Light chain should be the length of the high tide depth.

Mooring buoys may be inflated, formed, molded or fabricated from styrofoam, rubber, plastic or fiberglass and should be a minimum of 18 inches in diameter.

All guest, rental, transient and service moorings shall be white and marked with the "Owner's Identification", "Mooring Number" and "Maximum Boat Length".

All private moorings shall be marked with the "Owner's Name" and "Mooring Number". The use of wood mooring spars is prohibited.

Winter mooring markers shall not be installed prior to September 15 and must be removed prior to June 15.

Pennants should be made of nylon or other Harbor Master approved line type and should have proper chafe gear. The pennant length shall be three times the height from the bow chock to the water, plus the distance from the chock to the cleat on deck.

APPENDIX B – AQUACULTURE PERMIT APPLICATION

Harbor Master Permit Application

- Aquaculture when completed by applicant and submitted, approval or denial shall be made within 30 days of receipt by Harbor Master.
- Dated submitted to Town Clerk:
- Name(s):
- Address:
- Location of Proposed Site – be specific, highlight map, lot and map pages: Type: Tidal
- Submerged Lands
- Scope of Project: be specific, rafts, floats, etc.? How many?
- Seasonal or year-round:
- Species to be harvested: Mooring/Anchorage specs:
- Existence of present moorings:
If yes, how many: (Check Town Office files – not just visual inspection)
- Harbor Master Findings and Date Received
- Approved or Denied
- Does this application interfere with or affect: Public health, safety, navigation, orderly administration of the harbor?