

**DRAFT of PROPOSED
HARBOR ORDINANCE
Of the**

**Adopted: TOWN OF BREMEN
November 6, 2007**

CERTIFIED:

**A TRUE COPY
ATTEST:**


Judith F. Mohr, Town Clerk

6570
Wendy Pich, Chairman
Bremen Board of Selectmen

11/6/07
Date


Judith Mohr, Bremen Town Clerk

11/6/07
Date

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ARTICLE I

GENERAL PROVISIONS

Section 1. Authority

A. This ordinance shall be enacted pursuant to the municipal home rule powers of Title 30-A, M.R.S.A., Section 3001 and pursuant to Title 38, M.R.S.A., Section 7; and the provisions of this ordinance shall be liberally interpreted in order to meet the objectives of those statutory sections.

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

C. The Town of Bremen 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 except where such damage or injury is a direct result of the gross negligence, gross recklessness, or bad faith misconduct of the Harbor Master, his deputy (if Applicable) or other Town agent.

C. Conflict with Other Ordinances and Regulations

Whenever a provision of this Ordinance conflicts with another ordinance of the Town of Bremen or State or Federal regulation, the stricter provision shall be applied. Nothing contained herein shall be construed to conflict with the lawful jurisdiction of the United States Government with respect to enforcement of navigation, shipping or anchorage and associated laws of the United States or any valid laws or regulations of the State of Maine.

C. 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take effect and be in force from the date of its adoption by the Town and all previous Harbor Ordinances are hereby repealed.

C. Amendments

Amendments to this Ordinance shall be consistent with all amendment processes of the Town, which must be approved by the Townspeople at an authorized Town Meeting and following at least one public hearing of the Harbor Committee.

Section 2. Purpose and Objectives

Bremen Waters are a valuable but limited resource, which has been subject to increasing demands for both recreational and commercial maritime uses and activities. The purpose and objectives of this ordinance are:

A. To preserve marine activities within the tidal waters of the Town of Bremen, Maine, to preserve the maritime nature of Bremen waters for marine related businesses including recreational boating.

B. To ensure safety to 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 of Maine and to minimize user conflicts and to maximize the efficient use of both the water space and the Town-owned waterfront. The Town shall apply each year to join the Maine Harbormasters association.

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

D. 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 waters of Bremen Maine in conjunction with the Bremen Shoreland Zoning Ordinance as amended.

Section 3. Harbor Boundaries

A. Harbor Limits:

The harbor limits shall be established from the marine waters of Bremen by the Selectmen on the recommendations of the Harbor Committee and the Harbor Master and shall include:

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

II. DEFINITIONS:

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

AquaCulture : The culture or husbandry of marine organisms as defined in title 12 M.R.S.A. s6072.

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

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 under article VII section 2 D 2 page 16.

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, storage, construction 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 equipment and hardware, or the provision of meals or lodging, human waste pump-out facilities.

Commercial Marine Fishing Facility : Any commercial enterprise providing at least sixty percent (60%) of its services to commercial fishing in the shoreland zone, such as one which handles fin-fish, 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 Bremen Waters that are determined by the Harbor Master and confirmed and designated by the Harbor Committee to be approaching or to have reached saturation of available mooring space.

Cribbing: A usually rectangular open ballasted framework of wood, metal, or concrete permanently affixed to the bottom.

Deputy Harbormaster: Person(s) appointed by the Harbormaster to assist the Harbormaster with the accomplishment of the administrative duties of the position as directed .

DMR: State of Maine Department of Marine Resources

Float: 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 mooring that may be permitted yearly in a non-congested Area of a Bremen waterfront property owner, solely for use by that permit holder's guests on a non-rental basis.

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

Harbor-master: That person appointed by the Selectmen of Bremen pursuant to 38 M.R.S.A., Section 1, as amended from time to time, and Harbor Ordinance of the Town of Bremen. In all places where the "Harbor-master" is empowered to act in this Ordinance, so too is any Deputy Harbor-master appointed by the Selectmen and the Harbor-master, pursuant to 38 M.R.S.A., Section 2, to the full extent permitted by law and this ordinance. Deputy Harbor-masters shall serve at the direction of the Harbor-master.

Launching Ramp: Surface used to access boats to and from water.

Marina: See Commercial Marine Facility

Marine Landing: See Commercial Marine Facility

Mean High Water: Average height of high-water over a 19 year period.

Mean Low Water: 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 set aside 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-master, Deputy Harbor-masters (if applicable), and Harbor Committee, with public input, and approved by the Selectmen.

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

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

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

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

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

Platform ramp: 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.

Rental Mooring: Same as a service mooring.

Resident: For purposes of this Ordinance any person who occupies a dwelling within the municipality for more than 180 days in a calendar year or any person owning real estate in Bremen.

Review Permit: Permit issued by the Harbor Committee that outlines conditions for the construction of piers, wharves, bulkheads, breakwaters and landfill. The review permit is issued after a preliminary review by the planning board.

Service Moorings: Moorings owned and utilized by commercial marine enterprises or marine dependent enterprises for the purpose of temporary storage of customer's boats and other uses relating to the operation of a commercial marine enterprise or marine dependent enterprise.

Shall and May: "Shall" is mandatory, "May" is permissive.

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

Shoreland Zoning Ordinance: The Shoreland Zoning Ordinance of the Town of Bremen as amended.

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 to the mean high-water mark, out to the 3-mile territorial State marine boundary.

Tideland: Land alternately covered and uncovered by the tide

Transient Mooring: Moorings set aside for use by mariners cruising along the coast.

Vessel: Boat of any size propelled by hand, sail or motor, including scows, dredges, shellfish cars and craft of any kind.

Waterway: Any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

Wharf: A platform structure contiguous to the shoreline and built parallel therefrom over the water, supported by piling or cribbing, used for the berthing, loading and unloading of vessel

III PENALTY

Failure to obey the order of a harbormaster is a Class E crime under Title 12 Section 7803-3

The master, owner or owners of any vessel, boat or raft, or any other person who shall violate any of the provisions of this ordinance, for which a specific penalty is not set forth herein, or for which a specific penalty is not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties set forth in Title 30-A, M.R.S.A., Section 4452, amount of \$100.00 and a maximum penalty for a specific violation in the amount of \$2,500.00. Such penalties shall be recoverable in the District Courts or Superior Court of the State of Maine in accordance with Title 30-A, M.R.S.A. Section 4452 as amended from time to time.

Violations of this ordinance which also constitute violations of the laws of the State of Maine 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, which such restrictions are set forth in Title 38, M.R.S.A., Section 285, shall be subject to the penalties set forth in state law.

In addition to the monetary penalties set forth herein, a violator of this ordinance shall also be subject to an order of abatement of the violation as set forth in Title 30-A, M.R.S.A., Section 4452, as amended from time to time; and that violator shall further be subject to an action by the Town of Bremen, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this ordinance.

III. SEPARABILITY

If any provisions or clause of this Ordinance or application thereof to any person, persons, 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 provision or application. To this end, provisions of this Ordinance are declared severable.

III. HARBOR ADMINISTRATION

A. Administering Bodies and Agents

- 1. HARBOR COMMITTEE:** The Harbor Committee shall be elected to three year staggered terms, with one member elected each year at the Annual Town Meeting, and will consist of three (3) voting members. In the first year, the Town shall elect three (3) members, one (1) for one year, one (1) for two years, and one (1) for three years. The Harbor Committee will exist for the general purpose of aiding the Harbor-master and his/her deputies in the management of Bremen harbors and the administration of this Ordinance
- 2. APPEALS:** The Appeals Board will hear appeals from those aggrieved by actions of the Harbor Master as it relates to the implementation and enforcement of the Ordinance. Appeals shall be submitted within thirty (30) days of the Harbor Master action. The appeal shall specifically describe the grounds for such action. Appeals from decisions of the Harbor Committee shall be to the Board of Appeals. Refer to the Board of Appeals Ordinance for the powers and duties of the Board of Appeals. The Board of Appeals shall utilize procedures in accordance with Sec. 2691 of 30-A M.R.S.A. at duly announced public meetings.
- 3. HARBOR MASTER:** The Harbor Master shall be appointed annually by the Selectmen for a one year term. The Harbor Committee shall be consulted on all appointments and shall have the authority to refuse an appointment. The Harbormaster's powers are prescribed by Titles 12,17, and 38 of the Maine revised Statutes Annotated (M.R.S.A.).
- 4. HARBOR MASTER'S SALARY:** The Harbor Master's salary shall be set at the Town Meeting in the year the Harbor Master is appointed and shall apply for the one year of the Harbor Master's appointed term.

ARTICLE VI. GENERAL REGULATIONS

Section 1. Fees

Mooring fees shall be payable in full to the Town of Bremen at the time of submitting a new Registration Application. Mooring fees are payable each year to the Town of Bremen and are in addition to either boat registration fees or the excise tax due on documented boats. Mooring fees may be changed from time to time as recommended by the Harbor Committee and approved by the Board of Selectmen. Fees not paid by August 15th, will be considered delinquent. Fees shall be used for the administration of this Ordinance and for the upkeep, maintenance and purchasing of Bremen's waterfront facilities. The schedule of fees shall include but not be limited to, the Mooring Priority List:

- A. Resident**
- B. Commercial Service Moorings (Rental Moorings)**
- C. Non-Resident**

Section 2. Application

A. Existing mooring locations shall be registered yearly by the Harbor Master on the basis one mooring per vessel (exceptions for existing winter location may be granted by the Harbor Master). No existing mooring site permit holder shall lose a current assignment in order to meet the objectives of the non-resident allocation requirements set forth in this Ordinance and no other rights shall vest beyond the permit period. By signing the mooring application, you attest to your sole usage of that mooring. Any other use shall constitute a rental and shall be assessed at the current yearly rental fee.

B. No mooring location shall be assigned until an application has been submitted to and approved by the Harbor Master and the mooring fee has been paid. Mooring assignments shall be renewed each year by filing a renewal application with the Harbor-master and by paying the mooring fee.

C. The application forms may request such information pertinent to the mooring as the Harbormaster and the Harbor Committee consider necessary and appropriate.

D. Each mooring shall be of sufficient size to hold the vessel for which it is to be used. Wooden mooring stumps are not acceptable. Vessel and / or mooring owners shall be liable for any damage caused by faulty or inadequate moorings.

E. Mooring Permit Number: The mooring permit holder must affix his 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, it shall be considered abandoned as defined in Article VII(H) pg. 17 concerning the process for abandoned moorings.

F. The Harbor-master shall, when assigning mooring locations, be guided by a mooring plan to be adopted by the Harbor-master, Harbor Committee, and Selectmen.

Section 3. Removal of Vessels

The Harbor-master is hereby authorized, and it shall be his/her duty to remove or cause to be removed any vessel or boat from any wharf in Bremen Waters, when so requested by the owner of said wharf, and if the person given notice does not comply with the notice, without delay, the Harbor-master shall make or cause the removal of the vessel, boat or raft. In addition, the Harbor-master shall have the authority to remove vessels as set forth in Title 38, M.R.S.A., Section 5.

Section 4. Obstruction of Other Vessels

The Harbor Master shall, upon complaint to him/her 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 him/her, and to cause without any complaint being made to him/her, any vessels anchoring within the channel lines, as established by the Town of Bremen or as otherwise provided by laws, to remove 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 shall take steps to remove said vessel, in accordance with the provisions of Title 38; MRSA, Section 5.

Section 5. Obstruction of Navigation

No person shall place buoys, including fishing buoys or other floating structures of any type, within the boundaries of Bremen waters so as to cause obstruction or danger to navigation. Fishing buoys including lobster trap buoys shall not be located within a 20 foot radius of a boat mooring turning radius.

All moorings shall be so located or relocated so that the vessels will not impede navigation within the harbor nor endanger other vessels. If the Harbor Master shall find that any vessel is so moored as to impede navigation or to endanger other vessels, he may require that the owner of the mooring, or of the vessel secured thereby, take such steps that will prevent such impeding of navigation or endangering of other vessels; or in the alternative he may order that the mooring be removed and relocated. In requiring the removal of a mooring because of its danger to other moorings, the offending mooring shall be the first ordered to be removed. Any persons so ordered by the Harbor Master acting under this paragraph, shall remove the same within 48 hours after ordered; provided, however that the case that the Harbor Master shall find an emergency requiring immediate action to prevent injury to life or damage to property, he may cause said mooring and any vessel attached thereto to be removed and relocated. Any expense involved shall be borne by the owner of the mooring or vessel being removed.

Section 6. Expense of Removing a Vessel

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

Section 7. Aquaculture

No aquaculture site involving the use of moorings, anchors, rafts and/or pens shall proceed without a permit. All such sites within the waters of Bremen Harbor shall have all required federal and state DMR permits before making application to the town. The project may impact other Town of Bremen Ordinances and require a public hearing. Application shall be made to the Harbor Master and Harbor Committee, who shall first

determine that the application is complete. The permit application can be found in appendix B or a copy may be obtained from the Town Clerk. The Application shall provide the following information:

A. Scope of the project: be specific – rafts, floats, how many, seasonal, year-round etc.

- 1. Chart or property map defining proposed project location i.e. tidal or over submerged lands.**
- 2. Type of operation: Species to be harvested, such as but not limited to shellfish, or fin fish farming.**
- 3. Proposed mooring / anchoring specifications.**
- 4. Location of existing moorings**

B. The Harbor Master and Harbor Committee shall make a decision to approve or deny an aqua-culture permit within 30 days. A permit shall be approved as long as the requested use will not unreasonably interfere with:

- 1. Public health,**
- 2. Safety,**
- 3. Navigation**
- 4. Orderly administration of the Harbor.**
- 5. Existing fishing or clamming areas.**

C. If an application is denied, the applicant may appeal the decision to the Appeals Board in accordance with Article V section A paragraph 2.

D. The Board of Selectmen shall annually set fees for aqua-culture applications and aqua-culture mooring permits. Violations of this section shall be subject to the penalty provisions of Article III.

ARTICLE VII

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. No person shall leave a vessel moored, unless the person has permission of the Harbor Master. The Harbor Master or his deputy (if applicable) 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. Boat tieup 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 Harbormaster. Town floats will normally be available for use from May to October.

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 shall not be over 18 feet in length and shall be tied to designated floats only. Such watercraft must be properly and reasonably maintained. The owner of any watercraft which is not maintained, secured, and town registered, if applicable, may lose any privileges to tie to said town float, and the watercraft shall be removed at the owner's expense. No lobster traps or other equipment shall 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:

Mooring locations shall initially be assigned to those Bremen residents owning vessels and occupying mooring locations as of September 1, 1990. Not more than three mooring locations shall be assigned in this way to any such residents. Within space available, future requests for mooring locations are subject to space availability and Harbor Master Approval. Mooring requests that exceed the maximum allowed will 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 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 1. and 2. below and are limited as follows and will be treated in accordance with the following priorities:

1. Shorefront residents requesting an initial single location adjacent to their property or as provided by State law T.38 M.R.S.A., Section 3. Maximum 3 moorings.
2. Grand-fathered moorings of town residents as described above. Maximum 3 mooring
3. Resident commercial fishing watercraft owners. Maximum 3 moorings.
4. Resident pleasure watercraft owners. Maximum 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 shall include moorings necessary to hold a "fisherman's float" used for loading and unloading of fish and supplies.
6. Resident commercial watercraft other than fishing 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 . Maximum one(1) mooring.
8. Non-resident commercial fishing watercraft multiple locations. . Maximum two (2) moorings.

9. All others. Maximum one (1) mooring.

10. Additional moorings may be granted after the maximum has been met subject to space availability with Harbor Master and Harbor Committee approval with the exception of categories 7, 8, and 9.

B. WAITING LISTS:

If the Harbormaster receives more applications for mooring privileges in areas deemed congested by the Harbor Master & Harbor Committee on State owned lands that are controlled by its rules or ordinances than there are mooring spaces, the municipality shall 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 becomes law 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 (allows)

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 the 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%. The burden of proof in determining residence and the principal use of the vessel shall be upon the applicant.

4. Any non-resident who resides in a Maine municipality with mooring space and privileges shall not encroach upon the mooring privileges as hereby ordained, other than in case of dire need, until those non-residents have used the available mooring space in their town. The burden of proof of their town's full capacity is upon the non-resident applicants. It is our Town's intent to provide the inland towns of Maine priority over other coastal Maine towns within the 10% law, of the State of Maine, Sec.6. 38 M.R.S.A. 1.

D. PERMIT

1. No mooring shall be placed or moved by anyone except with written approval of the Harbor Master and/or his authorized agent.

2. Mooring assignments shall 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 death of the permittee and is limited to family members only per Title 38 Chapter 1 Section 3A. 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.

a. Moorings may also be transferred as a commercial fishing lifetime mooring to be assigned, by lottery, to a Bremen Resident commercial fisherman

3. Assignments shall not be rented unless the provision for rental was part of the agreement when the mooring was assigned or renewed. Rental Moorings are subject to authorization and approval by the Harbor Master and the Harbor Committee.

4. Priority list categories 7 through 11 are not allowed rental moorings, which are reserved for resident and /or property owners.

5. All moorings shall be of sufficient size to hold the Vessel or Float for which it is to be used.

6. There shall be no rafting of two (2) or more unattended vessels. Mooring permit holders shall be liable for any damage caused by faulty or inadequate moorings.

7. Suggested tackle standards are available in the Harbor Masters office or Town Office.

E. COMMERCIAL MARINE FACILITY RENTAL MOORINGS

1. Mooring Permits For Commercial Fishing Marine Facility: The Harbor Master shall have authority to approve or disapprove a mooring permit application and/or assigning a mooring location to a Commercial Fishing Marine Facility only after a public hearing is held on the application, attended by the Harbor Master, the appropriate Deputy Harbor Master(if applicable) and Harbor Committee. Mooring Priority 5.

2. Private Commercial Marine Facilities

a. Mooring or Berth Permits for Private Commercial Marine Facility may be granted preliminary approval by the Planning Board.

b. Final approval is determined 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.

When all guidelines have been satisfactorily met the Harbor Master and the Harbor Committee shall hold a public hearing after which a determination will be made within 45 days after the public hearing. Mooring Priority 6.

3. Moorings of a Commercial Marine Facility in operation as of the date of passage of this amendment shall be grandfathered concerning location and number of moorings.

However, the sale or transfer of 50% or more of the assets and/or ownership of such Commercial Marine Facility will require the Commercial Marine Facility to review with the Harbor Master and the Harbor Committee, such factors as use history, future development and other prevailing conditions and to reapply for both the number and location of moorings desired.

4. Applications for moorings by any Commercial Marine Facility subsequent to the enactment of this amendment may be restricted as to the number and location of moorings granted and/or the length of time the moorings are granted; such restriction being within the discretion of the Harbor Master with consultation of his Deputies 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. Within two (2) years of the date of enactment of this amendment, and for all years thereafter, all Commercial Marine Facilities renting moorings or berths shall prominently exhibit a sign providing the locations of all existing facilities for the pumping out of human waste then currently available in Bremen Waters .

7. A Commercial Marine Facility shall not be allowed on an open and/or conditional clamming area.

E. TRANSIENT MOORINGS SHALL MEET THE REQUIREMENTS OF ARTICLE VII SECTION 2E PARAGRAPH 5 ABOVE

G. MOORING STANDARDS AND INSPECTION

1. All moorings including chains and pennants, shall be inspected yearly by the owner or his / her representative.

The Harbor-master shall maintain a written record of the basic information on each mooring within these designated areas including the assigned location, identification number, vessel description, size, date mooring last was inspected, registered owner and other data deemed useful, including a chart of the relevant harbor, showing current mooring locations, assignments and their numbers.

H. ABANDONED MOORINGS

1. Any mooring location not occupied or used for a period of one year and without prior notice to and approval of the Harbor Master may be deemed abandoned and the location may be re-assigned by the Harbor Master in accordance with the above priority guidelines. 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. The Harbor Committee may waive the provision of this section for good cause shown by the mooring owner or his representative. Payment not received for moorings by September 1st or before will be determined abandoned unless a payment plan has been agreed upon with the Town Clerk.

J. ANCHORAGES

1. Transient vessels shall 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.

J. 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 marina standards .
3. Conversion shall require submission of new permit applications meeting current standards of the Shoreland Zoning Ordinance and the Harbor Ordinance and other ordinances deemed pertinent

J. PROHIBITIONS AND VIOLATIONS

1. Houseboats are not allowed mooring assignments and may only dock temporarily at approved marinas 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. No person shall moor a vessel, boat, raft, or scow to any buoy or beacon placed by the Town in Bremen waters to define the channel of vessels, mooring areas, or in any manner make the vessel fast thereto.
4. No mooring shall be relocated by its owner or representative without prior approval by the Harbor Committee and the filing of a new application. In the event of emergency the move shall be temporary.
5. All persons operating kayaks within Bremen coastal waters shall display a minimum of a 8 inch by 11 inch safety orange flag on a mast extending a minimum of four (4) feet vertically from the kayak for improved kayak visibility by other boaters.

Article VIII Regulations concerning construction of piers, wharves, breakwaters, bulkheads, landfill, docks and floats

Section 1. Permit Approval Requirement

No mobile boat hoists, piers, wharves, bulkheads, breakwaters, marine railways or other structures shall 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 shall require an application to the Planning Board of the Town of Bremen. 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 Corps 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:**
 - a) The length and width of the proposed project;**
 - b) The harbor line and wharf line, mean high water and mean low water;**
 - c) 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 shall not be issued by the Planning Board until all applicable State licenses, permits and approvals and 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 Town of Bremen 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 for review of the application. A formal REVIEW PERMIT shall be issued by the Harbor Committee and shall specifically address the standards listed in this section, shall state the reasons for the approval or denial and shall be forwarded to the Planning Board for their review and action.

1. That the proposed project will not:

- a) Encroach into, interfere with, or pose a hazard to navigational channels**
- b) Interfere with access to and from existing mooring and berthing areas for both commercial and recreational uses.**
- c) Displace or eliminate the existing mooring and berthing areas, public and private, commercial and recreational.**
- d) Interfere with public access to and use of the Harbor waters.**
- e) Reduce or interfere with existing shell-fishing and clamming areas, and access thereto.**
- f) Block or interfere with public rights of passage and uses of the shores and flats.**

g) Adversely affect small recreational boating activities.

D. Upon receipt of the review permit by the Harbor Committee, the Planning Board will 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 Article VIII, Section 2, (A) 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 Site plan review**

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 in accordance with Board of Appeals Ordinance, by the aggrieved party within 30 days of the date of decision and in accordance with Rule 80B of the Maine Rules of Civil Procedure.

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 stated expressly in the following paragraphs of this provision.

In the event that regular maintenance or emergency repairs to piers, wharves, or mobile boat hoists require the removal of existing pilings and the 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 or replacement pilings and decking in connection with 'such normal maintenance or emergency repairs.

Any 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 Bremen 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 can 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 work. Such photographs shall be submitted to the Planning Board and retained as a permanent record with a copy of the building permit delivered 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, and 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 approved by the Harbor Master and the Harbor Committee following the same procedure for a REVIEW PERMIT.

1. A float with connecting ramp may be extended to 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.

2. Municipal piers and municipal launching ramps shall be exempt from (1).

BREMEN HARBOR ORDINANCE
****SECT VIII ****

CHECKLIST FOR PIERS, WHARVES, BREAKWATERS, BULKHEADS, LANDFILL , DOCKS ,
FLOATS

1. application to Planning Board (PB) with state and/or federal permit applications and/or approvals (DEP, ACOE)
2. site plan - stamped and sealed by an engineer licensed by the State of Maine. Scale not greater than 1(one) inch to 20 feet.
3. plan shall show:
 - length and width of project
 - harbor line and wharf line
 - mean high water line and mean low water line
 - sideproperty 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
4. permit shall not be issued by PB until all applicable State, Federal permits, licenses, approvals and local approvals under this section have been received.
5. PB shall review application in relation to Bremen Shoreland Zoning Ordinance. If PB determines application is complete:
 - application and all related documents shall be DATED and forwarded within 10 (TEN) business days to the Harbor Committee (HC)
6. the HC shall - within 10 (TEN) business days of the date of RECEIPT shall review application. a formal REVIEW PERMIT shall be issued by the HC and shall specifically address:
 - the standards listed, shall state the reasons for approval or denial and shall forward to PB for their review and action.
 - (those standards are listed in the ordinance -ART..VIII-C 1- a-g)
7. upon receipt of REVIEW PERMIT the PB will hold a PUBLIC HEARING in conjunction with the HC and shall then either approve,
 - approve with conditions or disapprove the proposed project. (see ordinance for disapproval procedure)
8. construction of approved projects shall commence within one year from date of approval by PB and shall be completed within 2(two) years
 - from date of issuance of the building permit.
 - (please see ordinance for regular maintenance and repair procedures)
9. there shall be no landfill beyond the harbor line in any of the harbor areas (excluding municipal piers,etc)
10. FLOATS and RAMPS attached to piers, wharves, bulkheads or breakwaters shall be approved by the Harbor Master and the HC following the same procedure for a REVIEW PERMIT.
11. a float with connecting ramp may be extended to 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.
 - (municipal piers and ramps are exempt from this restriction)

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 of Bremen 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 Harbormaster or it's designee, reserve the right to require a boat owner to increase the minimum mooring standard for any vessel should they 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 of Bremen shall not be held liable for any damage inflicted 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 shall apply.

Suggested Granite Mooring Specifications

Vessel Length	Granite Dry Weight	Bottom & Top Chain		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 +	Harbormaster 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 Harbormasters 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 it's attached to.

Suggested Mushroom Anchor Mooring Specifications

Vessel Length	Anchor	Mushroom		Pennant (Nylon)	
		Bottom	Top Chain	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 +	Harbormaster Approval				To chock

Heavy Chain should be 1.5x 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 "Owners 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

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.

Date 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 DATE REC'D:

APPROVED:

DENIED:

Does this application interfere with or affect: Public health, safety, navigation, orderly administration of the harbor.

