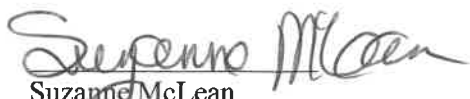


Code of Ordinances, City of Ellsworth

CHAPTER 3
HARBOR MANAGEMENT

A true copy, attest:


Suzanne McLean
City Clerk



The **FRIENDLY CITY**
Ellsworth
Maine

HISTORICAL NOTE: REPEALED AND REPLACED MARCH 18, 2013; AMENDED NOVEMBER 18, 2013; AMENDED APRIL 16, 2018; REPEALED AND REPLACED (ARTICLE 1, SECTION 5) MAY 21, 2018; AMENDED NOVEMBER 8, 2019; AMENDED DECEMBER 16, 2019; AMENDED APRIL 20, 2020; REPEALED AND REPLACED JULY 1, 2026.

CHAPTER 3 HARBOR MANAGEMENT

ARTICLE 1 GENERAL PROVISIONS

101 PURPOSES

In addition to the general purposes of the City Code set forth in Chapter 1, Article 2, the purposes of this Chapter 3 are to:

- 101.1** Establish regulations for marine activities within the coastal waters (including harbors, waterways, and tidal waters) of the City to ensure safety to persons and property, and to promote availability and use of a valuable public resource.
- 101.2** Keep open convenient channels for the passage of vessels in the City's coastal waters.
- 101.3** Assign suitable portions of the City's coastal waters for anchorages.
- 101.4** Regulate and control nonwater-dependent floating structures in the City's coastal waters.

STATE LAW REFERENCE—38 M.R.S.A. § 2 (RULES FOR CHANNEL LINES; ENFORCEMENT); 12 M.R.S.A. CH. 37 (NONWATER-DEPENDENT FLOATING STRUCTURES).

102 APPLICABILITY

This Chapter 3 applies to activities within the City's coastal waters.

STATE LAW REFERENCE—38 M.R.S.A. § 2 (RULES FOR CHANNEL LINES; ENFORCEMENT); 12 M.R.S.A. CH. 37 (NONWATER-DEPENDENT FLOATING STRUCTURES).

103 INNER AND OUTER HARBOR LIMITS; CHANNELS AND ANCHORAGES

The City hereby establishes a channel in the Union River and the boundary for its harbor, which is divided into an inner and an outer harbor as follows:

- 103.1 Inner Harbor.** Beginning on the easterly side of the Union River at Tinker's Wharf so called, high water line; thence proceeding northerly along the shore to the Union River Bridge; thence proceeding westerly along said bridge to the westerly shore of the Union River; thence southerly along the high water mark of the western shore of the Union River to N 44° 31' .703", W 68° 25' .551"; thence proceeding easterly to the point of beginning.
- 103.2 Outer Harbor.** Beginning on the easterly side of Union River, at Tinker's Wharf so called, high water line; thence proceeding southerly along the shore to the Ellsworth City line; thence proceeding westerly to the Ellsworth/Surry line; thence northerly along the high water mark of the western shore of Union River to N 44° 31' .703", W 68° 25' .551"; thence proceeding easterly to the point of beginning.

The Harbormaster must designate and maintain the specific location of the channel within the Union River and any anchorages in the harbor.

STATE LAW REFERENCE—38 M.R.S.A. § 2 (RULES FOR CHANNEL LINES; ENFORCEMENT).

ARTICLE 2. ADMINISTRATION

201 ADMINISTRATION

This Chapter 3 is administered by the Harbormaster and Harbor Commission.

202 HARBORMASTER

202.1 Appointment. The Harbormaster is appointed by the City Manager, subject to confirmation by the City Council. The Harbormaster may, with the approval of the City Manager, appoint deputies who, under the Harbormaster's direction, must enforce and carry out the provisions of this Chapter 3. Any reference to the Harbormaster in this Chapter 3 includes any deputy harbormaster so appointed.

202.2 Term. The term of the Harbormaster is for one year and runs from July 1 through June 30.

202.3 Powers, Duties, and Liabilities.

1. The Harbormaster has all the duties and liabilities of that office as prescribed by state law, including 38 M.R.S.A. § 1 *et seq.*, and 12 M.R.S.A. § 3301 *et seq.*, whether or not such duties and liabilities are set forth in this Chapter 3.
2. The Harbormaster has the duty to administer and enforce the provisions of this Chapter 3.
3. The Harbormaster is the overseer of the City's waterfront facilities, including moorings, floats, docks, ramps, parking areas, picnic areas, and any buildings or structures in the City's harbor and City properties adjoining the harbor. In carrying out this duty, the Harbormaster may make recommendations to the Harbor Commission for maintenance and improvements to all City-owned waterfront facilities.
4. At the direction of the City Council or City Manager, the Harbormaster will provide technical assistance and submit periodic reports to the Harbor Commission.

202.4 Compensation. The compensation of the Harbormaster is established by the City Council.

202.5 Prohibition on Making Arrests or Carrying Firearm. The Harbormaster may not make arrests or carry a firearm.

202.6 Training. The Harbormaster must attend all training and continuing education required by 38 M.R.S.A. § 1-A to secure and maintain certification as a Harbormaster, and any other training and continuing education as may be directed by the City Manager upon the recommendation of the Harbor Commission.

202.7 Removal. The Harbormaster may be removed by the City Council, for cause declared in writing, after due notice to the Harbormaster, and hearing, if requested.

STATE LAW REFERENCE—38 M.R.S.A. §§ 1-2 (APPOINTMENT; COMPENSATION; TRAINING; RULES FOR CHANNEL LINES; ENFORCEMENT); 12 M.R.S.A. § 13072 (HARBOR MASTERS ON INLAND WATERS).

203 HARBOR COMMISSION

- 203.1 Establishment.** The Harbor Commission is established for the purpose of advising the City Manager and City Council on matters relating to management of the City's harbors and waterways. The Harbor Commission shall consist of seven members and three alternate members.
- 203.2 Qualifications.** A majority of Commission members shall be residents of the City of Ellsworth. At least one member of the Commission shall be appointed from membership of the Ellsworth City Council.
- 203.3 Appointment.** Harbor Commission members shall be appointed by the City Council upon nomination by the City Manager, and sworn in by the City Clerk or other person authorized to administer oaths. The Harbor Commission may make recommendations to the City Manager with respect to appointments.
- 203.4 Term.** Harbor Commission members hold three-year staggered terms, with two member terms expiring each year on June 30, except that every third year three member terms will expire. Alternate members hold one-year terms, which expire on June 30.
- 203.5 Rules of Procedure.** The Harbor Commission may adopt rules of procedure to govern its meetings.
- 203.6 Meetings.** Meetings of the Harbor Commission are public proceedings. Reasonable notice must be given to the public of any such meetings, and the public may attend such meetings. The Harbor Commission must keep a record of its meetings, which must be filed with the City Clerk upon approval of the Harbor Commission.
- 203.7 Alternate Members.** Alternate members of the Harbor Commission shall attend all meetings of the Commission and participate in its proceedings but may vote only when there are fewer than seven voting members present. Alternate members shall be designated by the presiding officer of the Harbor Commission to participate and vote when a member is unable to do so because of a conflict of interest, physical incapacity, absence, or any other reason satisfactory to the presiding officer. Designated participation by an alternate member shall be based on seniority.

STATE LAW REFERENCE—38 M.R.S.A. § 7 (RELATION TO OTHER LAWS).

204 PERMITS AND APPROVALS REQUIRED

- 204.1 Permit or Reservation Required.** No person may, without first obtaining a permit or reservation from the Harbormaster, engage in any activity requiring a permit or reservation under this Chapter 3, including:
1. Mooring and berthing in the harbor.
 2. Placing a mooring or float in the harbor.
 3. Docking in the City's marina during the regular season.
 4. Docking in the City's marina during the extended season.
 5. Anchoring in the outer harbor.

204.2 Procedures for Administering Permits.

1. *Written Application.* Every applicant for a permit under this Chapter 3 must submit a written application, on a form provided by the City, to the Harbormaster.
2. *Fee.* The application must be accompanied by a fee, as provided in Chapter 1, Article 3 (Fee Schedule and Special Fees). For mooring privilege permit applications, the fee must be paid on or before May 15 of each year. Failure to comply with the fee payment deadline will cause the applicant to incur late fees and may result in the removal of mooring and loss of berthing privileges.
3. *Harbormaster Decision.* Upon receiving a complete application, the Harbormaster must approve, approve with conditions, or deny the application.
4. *Permit Expiration.* A permit granted under the authority of this Chapter 3 is valid only for such period as specified by the Harbormaster. Permits of unqualified duration or validity may not be granted.

204.3 City-Owned Mooring, Dock, or Slip Space Reservations. To reserve a City-owned mooring, dock, or slip space, the vessel owner or operator must call or stop by the Harbormaster's office during office hours. The Harbormaster will grant a reservation on a first-come, first-served basis, subject to the payment of any applicable fees and compliance with applicable provisions of this Chapter 3.

STATE LAW REFERENCE—38 M.R.S.A. §§ 7-A, 8 (WAITING LISTS; NONRESIDENT MOORINGS).

ARTICLE 3 GENERAL BOATING AND TRAFFIC CONTROL REQUIREMENTS**301 TRAFFIC CONTROL AUTHORITY**

The Harbormaster has the authority to control waterborne traffic in any portion of the harbor (i) by use of authorized state regulatory markers, signals, orders, or directions; (ii) at any time before, during, and after any race, regatta, parade, or other special event held in any portion of the harbor; or (iii) at any time when the Harbormaster deems it necessary in the interest of safety of persons and vessels or other property.

302 BASIC SPEED LAWS

- 302.1** Except as provided in Section 302.2, no person may operate any vessel within the harbor in excess of posted speed limits or, in the absence of such limits, in a manner to create a wash which endangers persons or property.
- 302.2** Upon written application to the Harbormaster, the Harbormaster may grant permission for a person to conduct or engage in water sports or regattas in specific designated areas of the harbor, which may exceed posted speed limits.

303 LAUNCHING AND RECOVERY OF VESSELS

No one other than the driver may occupy a motor vehicle while it is on a public launching ramp.

304 DAMAGE TO HARBOR OR OTHER PROPERTY

No person may destroy, damage, disturb, or interfere with any public or private property in the harbor.

305 TAMPERING WITH OR BOARDING VESSELS WITHOUT PERMISSION

No person may board, break into, move, or tamper with any vessel, or part thereof, located within the harbor unless authorized by the owner of such vessel.

306 SIGNS AND MAINTENANCE

The Harbor Commission, through the Harbormaster, may place and maintain, cause to be placed and maintained, either on land or water such signs, notices, signal buoys or control devices as the Harbor Commission deems necessary to carry out the provisions of this Chapter 3, or to secure public safety and the orderly and efficient use of the harbor or any City facilities.

307 DERELICT AND ABANDONED WATERCRAFT

- 307.1** No person may bring into or maintain in the harbor any derelict watercraft or watercraft for salvage, or abandon any watercraft in the harbor, without a permit from the Harbormaster. Watercraft that are to be salvaged by firms licensed by the state to do salvage work are excluded from this prohibition.
- 307.2** The Harbor Commission shall be the sole determiner as to what constitutes a watercraft that is derelict or abandoned. For purposes of this determination, the Harbor Commission shall consider whether any of the following circumstances exist: (i) the vessel is fastened to neither a mooring nor an anchor; (ii) the vessel lacks any license or registration, from any authority, the possession of which is a prerequisite to the operation of such a vessel; (iii) the vessel is submerged to a level substantially above its normal water line, and remains so for a period of at least 14 consecutive days without reasonable explanation; and (iv) the vessel is damaged to such an extent that it cannot be moved under its own power.

STATE LAW REFERENCE—38 M.R.S.A. § 9 (ABANDONMENT OF WATERCRAFT).

308 SAFETY RESTRICTIONS

For the safety of the vessels and the general public, the following activities are not allowed in the harbor:

- 308.1** Casting stones, rocks or other material into the waters of the harbor.
- 308.2** Swimming from a float or from any watercraft that is secured to a float.
- 308.3** Fly fishing from a float. For all other types of fishing, fishing lines may not hamper a vessel's approach to a float or the tying up of a vessel to a float.
- 308.4** Using a public launching ramp for more than 20 minutes without the permission of the Harbormaster.
- 308.5** Tying a boat to a float or wharf for more than two hours on the front (western) side and four hours on the back (northeastern) side of the float or wharf without permission of the Harbormaster. The southeastern side is reserved for dinghies and tenders.
- 308.6** Grounding out, tying up or permitting to be grounded out, any watercraft on a public launching ramp.
- 308.7** Placing a skid, trailer, boat, or any other craft on the City's waterfront facilities other than in designated areas or by permission of the Harbormaster.

ARTICLE 4 CITY EQUIPMENT AND FACILITIES

401 HARBORMASTER'S BOAT

- 401.1** The City Manager may provide the Harbormaster with a vessel to carry out the Harbormaster's duties and responsibilities under this Chapter 3, including for the safety

and maintenance of the harbor. Any other use is forbidden without the approval of the City Manager.

- 401.2** The Harbormaster's vessel must be under the direct control of the Harbormaster. No person may use the Harbormaster's vessel without express permission of the Harbormaster.

402 CITY HARBOR PARK AND MARINA

The City-owned and operated waterfront park and marina, located at 413 Water Street in Ellsworth and consisting of a land-based public park with a gazebo and open space and a full-service marina, shall be managed as follows:

- 402.1 Harbor Park and Marina Rules.** The Harbormaster may, from time to time and in consultation with the Harbor Commission and City Manager, establish rules for the public use and enjoyment of the harbor park and marina, including (i) dates and hours of operation of the harbor park and marina during the regular season and the extended season, and (ii) approval procedures for the use of the gazebo or open spaces in the harbor park, including security deposits. The harbor park and marina shall be closed outside of the designated hours of operation except for those vessel owners or operators staying on board overnight, loading or unloading boats, or with written permission of the Harbormaster.
- 402.2 Regular Season Dockage.** The Harbormaster shall, upon receipt of a reservation request, provide dockage in the marina to vessel owners or operators during the regular season. Vessels must be removed from the marina on or before October 22 of each year unless an extended season permit has been obtained from the Harbormaster.
- 402.3 Extended Season Dockage.**
1. The City Council may, but is not required to, authorize dockage in the marina to vessel owners or operators during the extended season in any given year.
 2. If the City Council so authorizes, the Harbormaster shall, upon receipt of a reservation request, provide dockage in the marina to vessel owners or operators during the extended season. Vessels with an extended season permit must be removed from the harbor on or before December 10 of each year.
 3. The use of moorings in the harbor during the extended season period shall not be permitted.
 4. Unless otherwise authorized by the City Manager, the Harbormaster will not have regular duty hours during the extended season but will be on-call as needed.
- 402.4 Insurance.** All vessels tied up to the City's docks or slips in the marina must carry valid insurance. Evidence of insurance must be provided upon request by the Harbormaster.
- 402.5 Duty to Inspect.** The owner or operator of a vessel in the marina must check on the vessel tied up to the City's docks or slips on a weekly basis, and must inform the Harbormaster each week of the condition of the vessel.
- 402.6 Right to Remove.** The Harbormaster at all times retains the right to require an owner or operator to remove a vessel tied up to the City's docks or slips.

ARTICLE 5 MOORING PRIVILEGES

501 PLACEMENT OF PRIVATE MOORINGS OR FLOATS, PERMIT REQUIRED

A person may not place any mooring or float in the harbor without a permit from the Harbormaster.

502 ASSIGNMENT OF MOORING PRIVILEGES

502.1 The Harbormaster will assign mooring privileges to vessel owners by issuing a mooring privilege permit on a first-come, first-served basis, subject to the following requirements:

5. *Riparian Owners.* Whenever practicable, the Harbormaster will assign mooring privileges to riparian owners fronting their land, if so requested, but without encroaching upon any channel established by this Chapter 3. No more than one mooring may be assigned to any shorefront parcel of land under this privilege. The limitation of one mooring assigned under this privilege does not prevent the owner of a shorefront parcel from receiving additional mooring assignments under the allocation system set forth in this Section 502.1.
6. *Limitation on Number of Moorings.* A vessel owner or operator may only occupy either a slip or a mooring during any given season. Members of a household may not occupy or hold both a mooring and a slip. For the purposes of this paragraph, “household” means all persons residing in the same dwelling unit.
7. *Waiting List.* The Harbormaster must create and maintain a waiting list for mooring space within the harbor. To be placed on the waiting list, applicants must submit a mooring waiting list application, on a form provided by the City, to the Harbormaster. The mooring waiting list application must be accompanied by a fee, and applicant must pay an annual waiting list fee, as provided in Chapter 1, Article 3 (Fee Schedule and Special Fees), to remain on the waiting list until such time that a mooring space is available and the waiting list application is approved or denied by the Harbormaster.
8. *Allocations.* When there are more applicants for a mooring assignment than there are mooring spaces available, the Harbormaster must assign spaces as they become available from the waiting list, based on the following allocation provisions:
 - (a) Riparian owners shall be assigned mooring privileges as established in Section 502.1.1.
 - (b) If there are applicants who are nonresidents who wish to moor a vessel the principal use of which is noncommercial and less than 10% of the moorings are currently assigned to persons fitting this description, the next mooring available must be assigned to the first such person on the list.
 - (c) If there are applicants who are nonresidents 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 available must be assigned to the first such person on the list.
 - (d) If both nonresident noncommercial and nonresident 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%.

- (e) The burden of proof in determining residence and the principal use of a vessel is upon the applicant.
- (f) Each year, persons with mooring assignments must report to the Harbormaster their anticipated residency status for the next year and whether they anticipate the principal use of their vessel to be commercial or noncommercial. The Harbormaster shall update the percentage of mooring holders in each category from this data.

This Section 502.1.4 must be construed broadly in order to accomplish the distribution of moorings to nonresidents as specified herein; *provided, however*, that it is not a requirement of this Section 502.1.4 that a person lose a current mooring assignment to meet these objectives.

9. *Failure to Pay Fees, Penalties.* The Harbormaster may refuse to assign mooring privileges to any vessel owner or operator who has not paid any fee, charge for services, forfeiture, or penalty levied by the City pursuant to this Chapter 3 or 38 M.R.S.A. § 1 *et seq.*, including from a previous season.

- 502.2** Assignment of mooring privileges by the Harbormaster does not confer any right, title, or interest in submerged or intertidal lands owned by the state.
- 502.3** The assignee of a mooring that has been set in the harbor may not sublet the mooring or mooring space to any other person, unless the provision for subletting or rental was part of the agreement when the mooring was assigned.
- 502.4** A mooring assignment may not be transferred, except as follows: the Harbormaster may transfer a mooring assignment used for commercial fishing purposes at the request or death of the assignee to a member of the assignee's family but only if the mooring assignment will continue to be used for commercial fishing purposes. For the purposes of this Section 502.4, "member of the assignee's family" means an assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood, or an assignee's spouse.

STATE LAW REFERENCE—38 M.R.S.A. § 3, 4, 7-A, 8 (MOORING SITES; MOORING TRANSFER PERMITTED BY ORDINANCE; WAITING LISTS; NONRESIDENT MOORINGS).

503 MINIMUM MOORING REQUIREMENTS

- 503.1** All mooring buoys must comply with the following dimensional requirements:

Size of Boat	Below 16'	17' to 25'	26' to 35'	Over 36'
Weight of Block	500#	1000#	1500#	2000#
Size of Chain 16	1/2"	1/2"	1/2"	1/2"
Size of Nylon	1/2"	1/2"	1/2"	3/4"

- 503.2** All mooring buoys must conform to Coast Guard regulations and must show at all tides. All mooring gear must be inspected by the Harbormaster before setting.
- 503.3** Vessels being moored or berthed in the harbor may not exceed a length overall (LOA) of 39.5 feet or a width (beam) of 12 feet.
- 503.4** The Harbormaster must maintain a plot plan of all mooring locations showing depth of water at mean low tide for each mooring and vessel owner assigned to each mooring.

- 503.5** The Harbormaster must record the number of days in each calendar year that each permitted vessel occupies a designated mooring or slip. Except by approval of the Harbormaster for good cause shown, the minimum number of days that a vessel must occupy the designated mooring or slip in any calendar year is 45 days. Any exceptions to the time requirement must be approved by the Harbormaster after consultation with the Harbor Commission. A vessel owner's failure to satisfy this requirement may result in the loss of the mooring or slip space and a determination that the mooring or vessel has been abandoned.

STATE LAW REFERENCE—38 M.R.S.A. §§ 3, 3-A (MOORING SITES; MOORING TRANSFER PERMITTED BY ORDINANCE).

504 USE OF A CITY MOORING OR FLOATS

- 504.1** Permission may be granted by the Harbormaster for a private vessel to use a City-owned mooring in the harbor temporarily without charge for up to 24 hours. Private vessels docked at City facilities for a period in excess of 4 hours must pay the applicable docking fees.
- 504.2** Docking at any City facility is limited to 14 consecutive days followed by an absence of 14 consecutive days.
- 504.3** No person may store traps, bait, fishing gear, boats, or waste material on the floats at any time. Said gear may be loaded and unloaded only in a speedy fashion.

505 VESSELS MAKING FAST

- 505.1** No person may make fast or secure a vessel to any mooring already occupied by another vessel, or to a vessel already moored except a rowboat, dinghy, or yacht tender regularly used by such a larger vessel. If tied within a slip, such rowboat, dinghy, or tender shall not extend into the fairway beyond the larger vessel if such larger vessel is also occupying the slip or otherwise beyond the larger vessel if such larger vessel is also occupying the slip or otherwise beyond the slip itself.
- 505.2** The owner or operator of any vessel moored or anchored within the harbor must cause the vessel to be tied and secured with proper care and equipment and in such manner to prevent breakaway or dragging of the mooring or resulting in damage to other watercraft and property.

506 MANDATORY MOORING INSPECTIONS

- 506.1** The Harbormaster must inspect the placement and adjustment of each vessel's mooring in the harbor by August 1. In addition, every two years, the Harbormaster must visually inspect each vessel's mooring and the mooring's related equipment including floats, chains, and staples. If the mooring is assigned an odd number, that mooring will require inspection on an odd year. If the mooring is assigned an even number, that mooring will require inspection on an even year. It is the Harbormaster's responsibility to retain and maintain inspection documentation.
- 506.2** If an inspection has not been performed by August 1 as a result of any action or inaction by the vessel owner or operator, the vessel will be deemed illegally berthed and the Harbormaster may remove and take custody of the mooring in accordance with Article 9.

507 MOORING VESSELS TO BUOYS PROHIBITED

A person may not moor any watercraft to any buoy, beacon, or other marker placed in the harbor to mark and define the harbor channels, or in any manner to make the watercraft fast thereto or to willfully destroy any such buoy, beacon, or other marker.

508 SKIFFS AND DINGHIES

Skiffs and dinghies may be secured to designated areas provided they comply with the following requirements:

- 508.1** Each skiff or dinghy must be clearly and visibly marked with at least the corresponding mooring number.
- 508.2** Skiffs or dinghies may not be secured to the face of the harbor's main float.
- 508.3** All skiffs and dinghies must be properly secured, maintained, and bailed and must be secured at the bow only.
- 508.4** Skiffs and dinghies secured in the designated areas may not exceed a length overall (LOA) of 10 feet (LOA) or a width (beam) of 5 feet.
- 508.5** Dinghies must not be left on any City launching ramp, float, or pier.

509 MOORING REPLACEMENT

- 509.1** If the Harbormaster determines that a mooring needs to be removed or replaced with one of a different character, the Harbormaster may direct the owner of the vessel assigned to the affected mooring to do so.
- 509.2** If the owner or operator of the vessel neglects or refuses to comply with the Harbormaster's order, the Harbormaster may remove and take custody of the mooring in accordance with Article 9.

STATE LAW REFERENCE—38 M.R.S.A. § 4 (NEGLECTING TO REMOVE OR REPLACE MOORINGS).

ARTICLE 6 PROHIBITED ACTIVITIES**601 TYING UP AT CITY DOCK FOR COMMERCIAL PURPOSES**

A person may not tie up or permit to be tied up to the City dock any watercraft for any commercial purpose except with the written permission of the Harbormaster.

602 NONWATER-DEPENDENT FLOATING STRUCTURES

Except as provided by 12 M.R.S.A. § 3303, a person may not place or use a nonwater-dependent floating structure in, on, or over the City's coastal waters or inland waters.

603 COMPLIANCE WITH REGULATORY MARKER, SIGNAGE, ORDER, DIRECTION OF HARBORMASTER

A person may not willfully fail or refuse to comply with any authorized state regulatory marker or signage utilized by the Harbormaster, or with any lawful order or direction of the Harbormaster.

604 HINDERING THE HARBORMASTER'S WORK

A person may not assault, intimidate or in any manner willfully obstruct, intimidate or hinder the Harbormaster in the lawful performance of the Harbormaster's duties.

ARTICLE 7 SANITATION REGULATIONS

701 DISCHARGE OF REFUSE

A person may not discharge or permit the discharge into the water of the harbor of any refuse, waste matter from toilets, petroleum or petroleum matter, paint, varnish, or any other foreign matter, including dead animals, fish and bait.

702 RESPONSIBILITY FOR SANITATION OF VESSELS

The owner, lessee, agent, captain or person in charge of a vessel within the harbor is responsible for any costs of clean-up of any discharge of refuse from the vessel into the water of the harbor.

703 FISHING GEAR

In the event fishing gear is within the boundary lines of a channel, the Harbormaster may issue a warning of navigational interference and may commence court action to order removal of that gear.

STATE LAW REFERENCE—38 M.R.S.A. § 2 (RULES FOR CHANNEL LINES; ENFORCEMENT).

ARTICLE 8 SAFETY REGULATIONS

801 FLAMMABLE AND COMBUSTIBLE MATERIALS, CONSUMER FIREWORKS

Within the harbor, including any associated parking areas, and within the City's harbor park and marina:

801.1 No person shall sell, offer for sale, or deliver in bulk any class of flammable liquid or combustible material, nor dispense any flammable or combustible liquids in the fuel tanks of a vessel, except in compliance with the NFPA 31 (*Standard for the Installation of Oil Burning Equipment*) and any other applicable laws or regulations, including any requirements of the Office of the State Fire Marshal.

801.2 No person shall use, possess, sell, possess with the intent to sell, or offer for sale any consumer fireworks, as that term is defined in 8 M.R.S.A. § 221-A(1-A).

802 OBSTRUCTING DOCKS AND WALKWAYS

A person may not cause docks and walkways within the harbor area to be obstructed by mooring lines, water hoses, electrical cables, boarding ladders, permanently fixed stairs, or any other materials.

803 MOTOR VEHICLES

Motor vehicles may not be left unattended on or near the launching ramp. All motor vehicles must be parked in designated areas, unless otherwise permitted by the Harbormaster. Motor vehicle operators must comply with all City parking regulations.

804 OBSTRUCTING CHANNELS AND ANCHORAGES

804.1 A person may not obstruct the free use of any channel or waterway or anchorage within the harbor. The owner or operator of a vessel must report to the Harbormaster any collision between vessels or other accident or incident causing damage to persons or property in the harbor.

804.2 Upon receiving a complaint from the master, owner, or agent of a vessel, the Harbormaster must cause any other vessel or vessels obstructing the free movement or safe anchorage of that vessel to remove to a position to be designated by the Harbormaster.

804.3 The Harbormaster must cause any vessels anchoring within the channel to remove such anchorage as the Harbormaster may designate.

804.4 If a vessel has no crew on board or if the master or other person in charge neglects or refuses to move a vessel as directed by the Harbormaster, the Harbormaster may put a suitable crew on board and move the vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners of the vessel, and must charge \$100, to be paid by the master or owner of the vessel. The Harbormaster may collect the charge, together with the cost of the crew for removing that vessel, by civil action.

STATE LAW REFERENCE—38 M.R.S.A. §§ 2, 5 (RULES FOR CHANNEL LINES; ENFORCEMENT; REMOVAL OF VESSELS OBSTRUCTING AN ANCHORAGE).

805 UNSAFE BERTHING

If any vessel is, in the judgment of the Harbormaster, anchored or moored within the harbor in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property, the Harbormaster must order and direct measures to eliminate such unsafe or dangerous condition. Primary responsibility for compliance with such order and direction rests with the owner or operator of the improperly anchored or moored vessel. In an emergency situation in the absence of the vessel owner or operator, the Harbormaster must forthwith board such vessel and cause the emergency situation to be corrected, and the owner of the vessel will be liable for any costs incurred by the City in effecting such correction.

ARTICLE 9 REMOVAL AND TAKING CUSTODY OF MOORINGS AND VESSELS

901 REMOVAL AND TAKING CUSTODY OF ILLEGALLY BERTHED, DERELICT OR ABANDONED VESSELS

901.1 Removal of Vessel. The Harbormaster may assume custody of a vessel and cause it to be removed if any of the following circumstances arise:

1. An unattended vessel is secured, moored illegally, or moored without permission, reservation, or a permit within the harbor.
2. The mooring has not been inspected as a result of any action or inaction by the vessel owner or operator as set forth in Section 506.2.
3. The Harbormaster determines that a vessel is illegally berthed, derelict, or has been abandoned within the harbor. The Harbor Commission is the sole determiner as to what constitutes a watercraft that is abandoned.
4. The Harbormaster determines that a vessel poses an immediate threat to the health, safety, or welfare of persons using the harbor or lands adjoining the harbor, the Harbormaster has directed the master or owner of such vessel to immediately move the vessel, and the master or owner of such vessel has refused, cannot be timely reached, or ownership cannot be determined.
5. The Harbormaster has received a complaint from the owner of a vessel that another vessel is obstructing the free movement or safe anchorage of the owner's vessel, the Harbormaster has directed the master or owner of such vessel to move the vessel to a position to be designated by the Harbormaster, and the master or owner of such has refused, cannot be timely reached, or ownership cannot be determined.

6. The Harbormaster finds any vessel anchoring within the channel, the Harbormaster has directed the master or owner of such vessel to remove such anchorage, and the master or owner of such vessel has refused, cannot be timely reached, or ownership cannot be determined.

901.2 Procedures for Impounding Vessels.

1. If a vessel has no crew on board or if the master or other person in charge neglects or refuses to move a vessel as directed by the Harbormaster, the Harbormaster may put a suitable crew on board and move that vessel to a suitable berth at a wharf or anchorage, at the cost and risk of the owners of the vessel and shall charge \$100 to be paid by the master or owner of that vessel, which charge, together with the cost of the crew for removing that vessel the Harbormaster may collect by civil action.
2. Within 24 hours of such action, the Harbormaster must notify the master or owner of the vessel, the City Manager, and the Harbor Commission of such action.

902 REMOVAL AND TAKING CUSTODY OF MOORINGS.

902.1 Removal of Mooring. The Harbormaster may assume custody of a mooring and cause it to be removed if the Harbormaster determines that:

1. The mooring is abandoned; or
2. The mooring needs to be removed or replaced pursuant to Section 509.

902.2 Procedures for Impounding Moorings.

1. Before removing a mooring or a buoy, the Harbormaster must notify the vessel owner or operator, if ownership can be determined, by mail at the last known address of the action desired of the owner or operator, the fact that the mooring will be removed, the reason for the removal, and the amount of any fine assessed. The Harbormaster must also notify the City Manager and the Harbor Commission of such intended action.
2. If the matter is not settled to the Harbormaster's satisfaction within two weeks, the Harbormaster may cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom or make such change in the character of the mooring as required by the provisions of Section 509, and collect by civil action from the master or owner of that boat or vessel the sum of \$100 for either of those services rendered and necessary expenses.

903 RECOVERY OF REMOVED VESSEL OR MOORING

Any vessel or mooring taken into custody pursuant to this Article 9 must be released to the owner by the Harbormaster after the owner provides satisfactory proof of ownership, pays all penalties, and reimburses the City for all costs incident to the recovery, movement, and storage of the vessel or mooring.

904 ABANDONED PROPERTY

An abandoned vessel or mooring becomes the property of the City after an attempt has been made to notify the owner in accordance with this Article 9. The abandoned mooring will be removed and disposed of in accordance with the City's policy on the sale of surplus property.

ARTICLE 10 ENFORCEMENT

The Harbormaster is responsible for enforcing the provisions of this Chapter 3 applicable to coastal waters, by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, and participating in legal prosecution of violations as needed, in accordance with Chapter 1, Section 510 of the City Code.

ARTICLE 11 DEFINITIONS

For purposes of this Chapter 3, the following terms have the following meanings:

Anchorage: An area of the harbor set aside for permanent moorings or for the temporary anchoring of boats and vessels.

Coastal Waters: All waters of the City within the rise and fall of the tide and wholly or partially within the territorial limits of the City, except areas above any fishway or dam when the fishway or dam is the dividing line between tidewater and fresh water.

Commercial Purposes: Shall mean any vessel used or engaged for any type of commercial venture, including but not limited to fishing or carrying cargo and/or passengers for hire.

Emergency: A state of imminent or proximate danger to life or property in which time is of the essence.

Float: A floating structure normally used as a point of transfer for passengers and goods and/or for mooring purposes.

Harbor: The coastal waters of the City designated as a harbor in Section 103, consisting of the inner harbor and outer harbor.

Houseboat: A motorized vessel that is usually nonplaning and designed primarily for multipurpose accommodation spaces with low freeboard and little or no foredeck or cockpit.

Illegally Berthed: A vessel that is docked without a permit or approval from the Harbormaster.

Inland Waters: All waters within the City above the rise and fall of the tide and wholly or partially within the territorial limits of the City, except private ponds as defined in 12 M.R.S.A. § 10001(51).

Mooring: Equipment, such as anchors, chains and lines, for holding fast a vessel, aircraft, floating dock, or buoy.

Mooring, Abandoned: A mooring that remains unused for a year.

Nonwater-Dependent Floating Structure: A waterborne structure that (i) is located within the City's coastal waters or inland waters, (ii) is supported wholly or partially by the structure's own buoyancy, and (iii) supports a nonwater-dependent use, such as a floating home, as those terms are defined in 12 M.R.S.A. § 3301.

Resident: A person who is a registered voter of the City or who owns or rents real property in the City and uses that property for their residence at least six months of the year.

Riparian Owner: An owner of a parcel of land located in the City which borders upon the harbor.

Season, Extended: April 2 through May 14, and October 16 through December 5.

Season, Regular: May 15 through October 15.

Season, Off: December 6 through April 1.

Shore or Shoreland: That part of the land in immediate contact with a body of water, including the area between the high and low water lines.

To Anchor: To secure a vessel to the bottom within a body of water by dropping an anchor or anchors or some other ground tackle.

Vessel: Any watercraft or artificial contrivance used or capable of being used as a means of transportation on water.

Watercraft: Any type of vessel, boat, canoe, or houseboat, excluding a seaplane, capable of being used as a means of transportation on water, that satisfies all applicable laws and rules pertaining to navigation and safety equipment on watercraft. "Watercraft" includes motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, that are customarily used in the operation of the watercraft. "Watercraft" does not include a vessel, boat, canoe, or houseboat located and intended to be permanently docked in one location and not used as a means of transportation on water.

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