

# COASTAL WATERS ORDINANCE

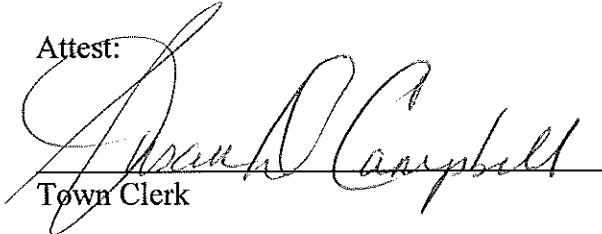
of the Town of Chebeague Island  
MAINE

With Amendments Adopted as of:

March 22, 2008

Adopted by the Town Meeting: July 1, 2007  
Effective: July 1, 2007

Attest:



Town Clerk

Seal:

**SECTION A. COASTAL WATERS ORDINANCE.**

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*Sec. A-1. Purpose*

This ordinance is enacted to provide for the establishment of uniform rules governing the types of activities permitted or prohibited on the coastal waters of The Town of Chebeague Island. It is intended to ensure safety to persons and property, to promote availability and use of public resources, to encourage and protect traditional maritime and commercial activities, to make provision for aquaculture activities and to create a fair and efficient framework for administration of those resources. It supersedes the similar Town of Cumberland Coastal Waters Ordinance, except those sections of the same, which may be incorporated herein.

*Sec. A-2. Authority*

2.1 This ordinance is adopted pursuant to the Home Rule Powers as provided for in Article VII-A of the Maine Constitution and 30-A M.R.S., Chapter 187, Subchapter IV, as the same may be amended from time to time.

2.2 This ordinance is also adopted pursuant to 38 M.R.S., Subchapter I, as the same may be amended from time to time. All provisions of 38 M.R.S., Subchapter I are adopted as part of this Ordinance, except to the extent its provisions are inconsistent with the expressed terms herein.

2.3 The coastal waters of the Town of Chebeague Island are defined by the secession legislation, P.&S Laws 2006, Ch. 47.

*Sec. A-3. Administration*

3.1 The Board of Selectmen shall administer this ordinance.

3.2 Should any section or provision of this ordinance for any reason be held as void or invalid, it shall not affect the validity of any other section or provision.

3.3 Whenever the masculine gender is used herein, it shall be construed to include the feminine.

3.4 Whenever the singular is used herein, it shall be construed to include the plural.

*Sec. A-4. Definitions*

See Appendix A

*Sec. A-5. Moorings*

5.1 *Registration*

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All moorings located below low water, except outhauls, shall be registered with the Town Clerk. Permits will be issued for the fiscal year January 1 through December 31. Any applicant who completes re-registration by July 1 of any year shall be given preference to the location occupied by that registrant’s mooring the prior year, unless the Harbormaster determines that a demonstrated need for that site has been shown by someone higher on the list of priorities in section 5.4.3 below. In such an event, the Harbormaster will provide a mutually agreeable site and re-assign the mooring at the expense of the mooring owner taking over the old site. The Town of Chebeague Island will recognize registration with the Town of Cumberland for year 2007 until January 2008.

5.2 Fees

5.2.1 Registration fees shall be reviewed annually and adjusted, if necessary, by the Board of Selectmen.

5.2.2 Mooring Fee Schedule

	<u>1<sup>st</sup> Mooring</u>	<u>2<sup>nd</sup></u>	<u>3<sup>rd</sup></u>	<u>Each Additional</u>
Riparian	\$25	\$5	\$5	\$5.00
Commercial	\$25	\$5	\$5	\$5
Commercial Non-resident	\$50			\$50
Resident Recreational	\$40	\$20		\$20
Non-resident Taxpayer	\$40	\$20		\$20
Non-resident	\$75	\$20		\$20
Rental Mooring	\$75	\$75		\$75

More than five (5) moorings in any category necessitates written request and approval by the Coastal Waters Commission.

5.3 Unregistered Moorings

If any mooring in the Town of Chebeague Island is unregistered after July 1, the Town Clerk or Harbormaster shall notify the owner. If registration is not completed within ten (10) days of notice, the Harbormaster may remove the mooring at the expense of the mooring owner plus a fee of \$100, to be paid to the Town.

5.4 Assignment

5.4.1 Registered moorings shall be assigned locations by the Harbormaster on a first-come, first-served basis as space permits with due regard to navigation and the safety of persons and property, and, where feasible, the prior year location.

5.4.2 If there is insufficient space to assign allocations for all registered moorings in the location requested, the applications not assigned mooring locations shall be placed on a

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waiting list, which will be maintained by the Town Clerk. The list will be posted and available for inspection in the Town Office.

5.4.3 As space in the waters of the Town of Chebeague Island becomes available, assignments of mooring locations shall be made from the waiting list in accordance with the terms of 38 M.R.S. § 7-A(2) on the basis of the date of the applicant's request and with the following priorities:

- 5.4.3.1 Resident Commercial Fisherman
- 5.4.3.2 Resident Taxpayer
- 5.4.3.3 Non-Resident Taxpayer
- 5.4.3.4 Resident
- 5.4.3.5 Commercial Non-Fisherman
- 5.4.3.6 Non Resident

Notwithstanding the above, Resident and Non-Resident taxpayers who have riparian rights shall have priority for a maximum of two (2) mooring spaces adjacent to their onshore property. Additional moorings requested by Resident and Non-Resident taxpayers shall be assigned as in 5.4.3 above.

Sale of a mooring to a second party, when a waiting list exists, shall not convey the assigned location, unless sold to the person holding the next assignment on the waiting list. The Harbormaster shall be notified of all sales of moorings in the Town of Chebeague Island Coastal Waters.

5.4.4 The Harbormaster shall be responsible for relocating a mooring(s) when danger to other property is inherent due to its position. Such relocation shall be handled in accordance with the priority list in section 5.4.3, and the expense shared equally by the mooring owners involved.

### 5.5 *Markings*

5.5.1 The Town Clerk will issue a registration number which is to be painted on the mooring float in three inch high characters; i.e., C1005, C202, C12, etc.

5.5.2 All mooring balls, except those used for rental purposes, will be white. Rental buoys should be orange. Rental buoys will bear characters three inches high indicating the mooring weight; i.e. 75lbs, 100lbs, 200lbs, 1001lbs, etc.

5.5.3 Mooring applicants are responsible for constructing their moorings in a manner suitable for its intended purpose.

5.5.4 Permit numbers must be no less than three (3) inches in height, black paint or quality adhesive characters.

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5.5.5 Catch storage moorings will be considered temporary moorings and be registered at the Town Office with no fee. These moorings will be assigned a number by the Town Clerk and identified with the letter “S”.

*5.6 Removal of Abandoned Moorings*

The Selectmen shall notify the owner of an abandoned mooring of his duty to remove the mooring within thirty (30) days of the date of the notice. If the mooring is not removed or re-registered within the applicable thirty (30) day period, it may be removed by the Harbormaster at the expense of the owner in accordance with the provisions of 38 M.R.S. § 4. Nothing in this section shall impede enforcement (Section 9.1.7) or collection of penalties (Section 9.2).

*5.7 Mooring Specifications*

It is recommended that the Mooring Specifications of The Board of Harbor Commissioners of the State of Maine be used as a guideline.

*Sec.A-6. Coastal Waters Usage*

6.1 A major occupation of the Coastal Waters of Chebeague is the fishing industry. Any activity within the waters of Chebeague that would have potential to threaten this livelihood and the health, safety and welfare of its residents shall first be approved by the Board of Selectmen. Any vessel desiring to conduct activities within the waters that may injure, damage, disrupt normal activities or occupations, or otherwise harm the residents of the Town of Chebeague Island or their property shall first provide notice and receive permission from the Board of Selectmen a minimum of forty-eight (48) hours in advance. Such activities may include, but not be limited to, operations such as oil spill training and spill boom deployment exercises, large scale fish seining, construction within the coastal waters of the Town of Chebeague Island, dredging and salvage.

6.2 Except where the vessel constitutes an immediate hazard to public health, safety and welfare, the Selectmen shall notify the owner of an abandoned vessel of his duty to remove any abandoned vessel within thirty (30) days of the date of the notice. If the vessel is not removed within the applicable thirty (30) day period, it may be removed by the Harbormaster at the expense of the owner in accordance with the procedures of 38 M.R.S. § 5. Where the Selectmen determine that the abandoned vessel constitutes a threat to public health, safety and welfare, they may authorize the Harbormaster to remove the vessel immediately and without notice at the expense of the owner. Nothing in this Section shall prevent the Town from enforcing Section 9.1.5 or from collection of penalties (Section 9.2).

*Sec. A-7. Coastal Waters Commission*

7.1 The Coastal Waters Commission shall be comprised of 5 people each of whom is either a resident tax-payer, a non-resident tax-payer, or a resident. Three (3) of these five (5) people shall be employed currently, or have been employed in the past, in the fishing industry, or some other marine related activity. The purpose of the Coastal Waters Commission is to oversee development and activities on or in the coastal waters of the Town of Chebeague Island.

7.2 The Coastal Waters Commission exists:

- a) for the general purpose of studying and evaluating public usage of, and access to, the Coastal Waters of the Town of Chebeague Island,
- b) for the planning for the future use of those waters,
- c) to advise the Selectmen on policy matters and proposed regulations concerning the Coastal Waters of the Town of Chebeague Island,
- d) in conjunction with State and Federal authorities to plan and implement improvements in the Coastal Waters of the Town of Chebeague Island,
- e) to supervise the enforcement of town rules and regulations by the Harbormaster,
- f) to sit as a board of appeals to hear appeals as provided by this Ordinance from any person aggrieved by a decision, act, or failure to act on the part of the Harbormaster.

7.3 The Commission may recommend to the Selectmen a mooring plan for any area in which moorings are allowed under this ordinance. The Commission shall regularly inform the Selectmen, Planning Board and such other boards, committees, or officials of the Town of Chebeague Island as appropriate of its activities.

*Sec.A-8. The Coastal Waters Harbormaster*

*8.1 General*

The Coastal Waters Harbormaster, hereafter referred to as The Harbormaster, shall be appointed by the Board of Selectmen and shall serve in that capacity until discharged by the Board of Selectmen or until resignation.

*8.2 Appeal*

Any person aggrieved by a decision of the Harbormaster may appeal the decision to the Coastal Waters Commission for review. The Board of Selectmen shall make a final determination.

*8.3 Salary*



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The salary of the Harbormaster shall be recommended by the Board of Selectmen and approved by vote at the Annual Town Meeting.

**8.4 Management**

8.4.1 The Harbormaster shall manage the Floats, Docks, Ramps, Moorings and Landings owned by the town.

8.4.2 The Harbormaster will adhere to the Town of Chebeague Shoreland Zoning Ordinance – Wharves & Docks Section 4 a, 4 B, 4 c, 4 d, 5 (amended to read “Coastal Waters Committee”), 6, 7, 8, 9, 10, 11 (with modifications as follows:) and 12.

“Before any construction or site preparation begins, the applicant must obtain all required Federal, State and local permits, as required, including but not limited to, a Code Enforcement Officer permit, permits from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S.A. 480-C as subsequently amended, the Army Corps of Engineers, and a Wharfing-Out permit issued by the Selectmen under 38 M.R.S. Chapter 9 as subsequently amended.

*The statutory reference is 38 M.R.S.A. paragraphs 1021-1027. Because this is a statutory requirement, the Selectmen have to do this. While the statute requires that the application be filed with and reviewed by the Selectmen, there is nothing that prohibits the Town of Chebeague Island from having the Coastal Waters Commission conduct an initial review under statutory language and make a recommendation to the Selectmen about whether the permit should be granted.*

8.4.3 The Harbormaster shall also adhere to Section A-13

**AN ORDINANCE RELATING TO ROADS AND TOWN OWNED PROPERTY**

8.4.4 The Harbormaster shall seasonally set channel markers for the approach to the Stone Pier in order to provide safe passage for boats entering at low tide.

8.4.5 The Harbormaster is authorized to take whatever action is necessary and appropriate to remove any menace to navigation within the waters of the Town of Chebeague Island. This shall include, but is not limited to, contracting for removal of the menace at the expense of the Town of Chebeague Island, another governmental entity, or the person responsible for the creation of the menace

**8.5 Meetings**

The Harbormaster shall regularly attend meetings of the Coastal Waters Commission, but shall not be a member of the Commission. He shall keep the Commission fully informed of all

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his activities, problems encountered, solutions effected, and activities which have required his special attention. He shall also provide information on matters pertaining to the Commission's duties and responsibilities. The Harbormaster shall also attend Selectmen's meetings when necessary in order to report any problems or changes needed.

*8.6 Records*

The Harbormaster shall also maintain a permanent bound record in which he shall record all complaints received (both written and oral), the date and time received, the response made to the complaint, and the date and time of such response. This record shall be maintained in ink.

*8.7 Enforcement*

The Harbormaster shall have the authority and responsibility to enforce the Rules and Regulations contained in this Ordinance and the provisions of 38 M.R.S., Chapter 1, Subchapter 1.

**Sec. A-9 Rules and Regulations**

*9.1 Operation of Vessels*

9.1.1 It shall be unlawful to operate a vessel in the waters of the Town of Chebeague Island so as to endanger persons or property.

9.1.2 It shall be unlawful to operate a vessel in a manner which creates excessive wake/wake-wash.

9.1.3 It shall be unlawful to establish or maintain an unregistered mooring or to maintain a temporary anchorage within the waters of the Town of Chebeague Island without authorization.

~~9.1.4 It shall be unlawful to park a motor vehicle so as to block or restrict access to a Town landing or ramp.~~

9.1.5 It shall be unlawful to abandon a vessel within the waters or upon the shoreline of the Town of Chebeague Island.

9.1.6 It shall be unlawful to abandon lobster, crab and shellfish traps, cars or crates within the water of the Town of Chebeague Island.

9.1.7 It shall be unlawful to abandon a mooring within the waters of the Town of Chebeague Island.

9.1.8 It shall be unlawful to refuse to obey any lawful order of the Harbormaster.

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9.1.9 It shall be unlawful for any vessels at anchor in or passing through the waters of the Town of Chebeague Island to violate any laws, rules or regulations of any local, state or federal agency with regard their operation or any overboard discharges, cargo transfers, lading of dangerous cargo, emissions to the atmosphere or any other activity deemed unsafe to the residents of the Town of Chebeague.

9.1.10 It shall be unlawful to transfer any oil in bulk in quantities in excess of 4,200 gallons, including bunker fuel, between vessels within the waters of the Town of Chebeague Island without first deploying oil spill containment boom around the area of the transfer to contain any potential spill. Should the oil spill containment boom not be able to be secured sufficiently to the vessels to prevent any potential spill from escaping the boom, then sufficient boom must be deployed to encircle both vessels in their entirety, and held in such a manner that will prevent any contained oil from escaping until cleanup is completed.

9.1.11 It shall be unlawful for barges on long tow to be moved within or through the waters of the Town of Chebeague Island such that the towed vessel cannot be directly and promptly slowed, turned or stopped should it become necessary in an emergency. Such non-powered vessels shall either be directly secured to the towing vessel and be close hauled or be held fore and aft using a second towing vessel to provide adequate restraint and control in the event of an emergency.

9.1.12 It shall be unlawful to conduct activities as outlined in Section A-6 above without first receiving permission from the Town of Chebeague Island.

### *9.2 Violation of Ordinance*

The violation of any rule or regulation established by the Ordinance shall be a civil violation punishable by a fine not to exceed \$250. For purposes of this Section, each day that a violation continues shall be considered a separate offense.

### *9.3 Enforcement of Ordinance*

All law enforcement officers of the Town of Chebeague Island and the State of Maine, including Harbormasters and their deputies, shall have the authority to enforce this Ordinance and, in the exercise thereof, shall have the authority to stop and board any vessel found in violation of this Ordinance. It shall be unlawful for any operator of such vessel to fail to stop upon request of such officer and violation shall be punishable as provided in 30-A M.R.S. § 4452.

### *9.4 Notifications*

Notice of vessel movements, cargo transfers and other activities specified herein where notices to the Town of Chebeague are required shall be directed as follows:

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Primary contact – Harbormaster, Town of Chebeague Island  
Secondary contact – Town of Chebeague Island Town Administrator  
Tertiary contact – any member of the Board of Selectmen

Making contact with any of the above shall satisfy the notification requirements.

*Sec. A-10 Shellfish Conservation Ordinance*

*10.1 Authority*

The ordinance is enacted in accordance with 12 M.R.S. § 6671

*10.2 Purpose*

The purpose of the ordinance is to establish a shellfish conservation program for the Town of Chebeague Island Coastal Waters which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means that may include:

- a) Licensing.
- b) Limiting the number of shellfish harvesters.
- c) Restricting the time and area where digging is permitted.
- d) Limiting the minimum size of clams taken.
- e) Limiting the amount of clams taken daily by a harvester.
- f) Establishing the Town of Chebeague Island as an interested part in aquaculture activities in accordance with State of Maine law.

*10.3 Shellfish Conservation Committee*

The Shellfish Conservation Program for the Town of Chebeague Island will be administered by the Shellfish Conservation Committee consisting of five (5) members. The Selectmen will appoint the members. In addition the Shellfish Conservation Warden shall serve as an ex-officio member. The Committee's responsibilities include:

- a) Establishing annually, in conjunction with the Department of Maine Resources, the number of shellfish digging licenses to be issued.
- b) Surveying the clam flats to maintain current information on shellfish resources.
- c) Submitting to the Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
- d) Keeping this Ordinance under review and making recommendations for its amendments.

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- e) Securing and maintaining records of shellfish harvest from the Town of Chebeague Island's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
- f) Recommending conservation closures and openings to the Selectmen in conjunction with the Department of Marine Resources.
- g) Submitting an annual report to the Selectmen and the Department of Marine Resources covering the above topics and all other Committee activities.

The clam-flats of the Town of Chebeague Island are a very valuable shellfish resource, which is important to the local economy. These flats are not an inexhaustible resource, and, therefore, must be prudently managed in order to remain viable.

As part of the management process, it may be necessary to (a) restrict the taking of shellfish by limiting the number of shellfish licenses, (b) restrict the size and quantity of shellfish which may be harvested, and (c) take other measures as outline in the Ordinance.

#### *10.4 Definitions*

See Appendix B

#### *10.5 Licensing*

A Town of Chebeague Island Shellfish License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current, valid license issued by this municipality as provided by this ordinance. A commercial digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

No person shall be issued a Shellfish License who, upon the time of the request, has failed to appear in court for a shellfish violation, or has failed to pay any outstanding shellfish violation fines.

#### *10.6 Commercial Licenses*

10.6.1 Resident Commercial Shellfish License: This license is available to residents of the Town of Chebeague Island and entitles the holder to dig and take two (2) bushels of shellfish per tide from the shores and flats of this municipality and reciprocating municipalities. At license issue, the licensee will choose any 90 days out of the 365 days available to harvest commercially. The license will revert to a recreational license the remaining nine (9) months of the year.

10.6.2 Non-Resident Commercial Shellfish License: This license is available to non-residents of this municipality and entitles the holder to dig and take two (2) bushels of shellfish per tide from the shores and flats of this municipality. At license issue, the licensee will

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choose any 90 days out of the 365 days available to harvest commercially. The license will revert to a recreational license the remaining nine (9) months of the year.

10.6.3 Any commercial shellfish license holder may petition the Town Clerk for restoration of days lost to Department of Marine Resources closures.

10.6.4 The shellfish Conservation Committee may specifically designate the period of validity as well as the areas open to commercial harvesting each year.

10.6.5 Commercial Shellfish License Holders are supplied with, and required to keep, a Shellfish Harvesting Log, which must be submitted to the Town Clerk no later than December 31<sup>st</sup> of each year. The Log will include the license holder's name and address, and will show the date, location and number of bushels harvested during each tide. Commercial license holders who do not submit Harvesting Logs, as required, will not be eligible for a commercial License during the next period of issuance of Commercial licenses.

*10.7 Recreational Licenses*

A person holding a recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license. Recreational shellfish licenses are not available and not valid for a person who holds a shellfish license issued by the Commissioner of Marine Resources, or a recreational license issued by any other municipality.

Maine certified shellfish wardens of the Town of Chebeague Island shall be issued a recreational shellfish license.

10.7.1 Resident Recreational Shellfish License: This is available to residents and/or taxpayers of the Town of Chebeague Island and entitles the holder to dig and take no more than one peck of shellfish per tide for the use of himself and his immediate family.

10.7.2 Non-Resident Shellfish License: This license is available to non-residents of the Town of Chebeague Island, and entitles the holder to dig and take no more than one peck of shellfish per tide for his use, and his immediate family.

10.7.3 Monthly Recreational Shellfish License: During the months of June, July, August, and September a specific number of licenses will be available for issuance during each of the four months and will be void only for the month in which it is issued. (For example – If ten licenses are available for the month of June, they will not be sold before June 1<sup>st</sup> and, regardless of the day of the month they are sold, they will expire at midnight on June 30<sup>th</sup>.) The license entitles the holder to dig and take no more than one peck of shellfish per tide for the use of himself and his immediate family.

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10.7.4 Daily Recreational Shellfish Licenses: This license is available only during the months of June, July, August, and September, and is valid only for the day for which it is issued. [Adopted, effective March 22, 2008]

10.7.5 At no time shall any recreational license holder and guest be allowed to harvest a combined total that exceeds one peck of shellfish per license per tide, however both license holder and guest may dig at the same time.

10.7.6 A Shellfish license must be on your person when harvesting shellfish.

10.8 *Signature*

The licensee must sign the shellfish license to make it valid.

10.9 *License Application*

Applicants must apply in person (no agents or power of attorney accepted), except as may otherwise be required by State or Federal Statue, to the Town Clerk for licenses required by this Ordinance on forms provided by the municipality.

10.10 *Misrepresentation*

Any person who gives false information on a shellfish license application will cause said shellfish license to become invalid and void.

10.11 *Expiration Date*

Each shellfish license issued under the authority of this Ordinance expires at midnight on the December 31<sup>st</sup> next following date of issue, unless otherwise specified in this Ordinance.

10.12 *Reciprocal Harvesting Privileges*

Licenses from other municipalities cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their shellfish licenses.

10.13 *Numbers of Licenses and Notice of Period of Issuance*

Numbers of licenses and period of issuance will be reviewed annually by the Town of Chebeague Island Shellfish Conservation Committee in conjunction with the Department of Marine Resources and approved by the Board of Selectmen.

10.14 *Opening/Closing of Flats*

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The Selectmen with the approval of the Commissioner of Marine Resources may open and close clam-flats. When information in the possession of the Shellfish Conservation Committee indicates a clam-flat should be opened or closed, it shall immediately advise the Selectmen. The Selectmen shall call a public hearing on 10-days notice published in a newspaper having general circulation in the Town of Chebeague Island, stating the time, place and subject matter of the hearing and shall send a copy of the notice to the Department of Marine Resources. At the hearing the Committee shall present evidence obtained from its survey and other sources, and members of the public may present evidence in support or refutation of the evidence presented by the Committee.

After the hearing is closed the Selectmen shall make findings of fact on the relevant evidence presented. If the request is to open the flats, the Selectmen shall then make a conclusion based on those findings of fact as to whether opening the flat is warranted by the recovery of the resource; or the freedom from predation, competition or other resource problem. If so, the Selectmen with the concurrence of the Department of Marine Resources shall order the flat opening and shall set such time limitation and other harvesting conditions as are consistent with good conservation practices. If the request is to close the flat, the Selectmen shall make a conclusion based on their findings of fact as to whether closing the flat is warranted by depletion of the shellfish, destruction of existing seed, or predation, competition or other resource problem. If so, the Selectmen shall order the flat closed until further request for opening by the Committee. The Commissioner of Marine Resources prior to enactment shall approve any proposal for opening or closing of flats.

*10.15 Minimum Legal Size*

Pursuant to 12 M.R.S. §§ 6671 and 6681, as amended from time to time, it is unlawful to possess soft-shelled clam shell stock whose shells are less than 2 inches in the largest diameter. For purposes of this Ordinance the term, “possess”, means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shelled clam shell stock.

*10.16 Method of Determining Tolerance*

Pursuant to 12 M.R.S. §§ 6671 and 6681, as amended from time to time, any person may possess soft-shelled clams that are less than 2 inches if they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

*10.17 Enforcement, Penalty, Separability, Repeal & Duration*

**10.17.1 Enforcement:** Law enforcement officers of the Town of Chebeague Island and the State of Maine and special officers as provided in 30-A M.R.S. § 2672, and the Shellfish Conservation Warden (Clam Warden), shall enforce this ordinance.



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10.17.2 Penalty: A person who violates this ordinance shall be punished as provided in 12 M.R.S. § 6671, as amended from time to time.

10.17.3 Separability: If any provision of this Ordinance is declared to be invalid, that declaration does not affect the remainder of the Ordinance.

10.17.4 Duration: This Ordinance shall remain in effect until June 30, 2010.

10.17.5 Repeal: Any Ordinance regulating the harvesting or conservation of shellfish in the Town of Chebeague Island is hereby repealed. This includes any provision of other Town Ordinances, which are inconsistent with this Ordinance.

10.18 *Misrepresentation*

It shall be unlawful and a violation of this Ordinance, for any person to falsify or give false information in connection with a shellfish license application. In addition to any criminal penalties which may result from a violation of this Ordinance, the shellfish license granted to any person who gives false information on a shellfish license application will automatically be void.

10.19 *Suspension*

10.19.1 Violation of Shellfish Ordinance: The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance, if the license holder is convicted in court of violating any section of this Ordinance.

10.19.2 Suspension based on conviction in a Town closed Conservation area: The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance if the license holder has been convicted in court of possessing shellfish from a Town Closed Conservation Area.

10.19.3 Length of Suspension for Numbers 10.19.1 and 10.19.2 above: The suspension of a license may not exceed the following:

- 1) 30 days from the date of first conviction
- 2) 365 days (one year) from the date of the second conviction.

10.19.4 Applicable Standards: Any conviction more than three (3) years before last conviction shall not be counted in determining lengths of suspension.

10.20 *Suspension Based on Refusing Inspection*

The Town Clerk shall suspend any and all shellfish licenses if the license holder refuses to allow inspection in the enforcement of the Ordinance. This suspension may not exceed 90 days.

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*10.21 Hearing*

Any licensee whose shellfish license has been suspended shall be entitled to a hearing before the Selectmen, upon the filing of a written request for hearing with the Selectmen within thirty (30) days following the effective date of suspension. The applicant shall be given at least seven (7) days prior written notice of the date, time and place of hearing before the Selectmen. Any person aggrieved by the Selectmen's decision may appeal to the Superior Court within thirty (30) days from receipt of the Selectmen's written decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

*10.22 Appointment/Compensation/Removal of a Shellfish Conservation Warden*

The Selectmen shall appoint a Shellfish Conservation (Clam) Warden yearly and shall recommend the Warden's compensation. The Selectmen, for cause by them declared in writing, after due notice to the officer and hearing, if requested, shall remove the Shellfish Conservation Warden and appoint another one.

**This Ordinance (Sec.A-10) shall remain in effect until repealed by the Town of Chebeague Island, or rescinded by the Department of Marine Resources.**

**Sec. A-11 Floating Businesses and House Boats**

*11.1 Definitions*

See Appendix C

*11.2 Prohibitions and Requirements for Floating Businesses and Houseboats*

Except as specifically excepted hereafter and notwithstanding any provision of this chapter or other provisions of the Town of Chebeague Island Code of Ordinances to the contrary, floating businesses or houseboats are prohibited from mooring or anchoring in the waters under the jurisdiction and control of the Town of Chebeague Island unless the floating business or houseboat conforms with all of the following requirements:

11.2.1. The floating business or houseboat must be permitted and in compliance with all applicable sanitation, navigational building and land use standards under the Town of Chebeague Code of Ordinances and under State and Federal law.

11.2.2. For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Chebeague Island it must be serviced by a permitted and permanent float, dock or slip from which the floating business or houseboat may be directly boarded from land.

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11.2.3 The floating business or houseboat must have a minimum of 875 square feet of floor space of habitable area.

11.2.4 For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Chebeague Island the floating business or houseboat must be serviced by a permanent, year round and all-weather electric service that is in compliance with State and Local electrical codes.

11.2.5 For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Chebeague Island the floating business or houseboat must have legal rights to, and at all times must maintain, parking sufficient to satisfy the standards and requirements of the Town of Chebeague Island Code of Ordinances.

*11.3 Exception*

The requirements set forth in Section 11.2 do not apply to floating pleasure vessels that might otherwise be defined as a houseboat hereunder if the vessel occupies the waters under the jurisdiction and control of the Town of Chebeague Island only temporarily and for three or fewer consecutive days.

**Sec. A-12 Town of Chebeague Island Shoreland Zoning Ordinance**  
**Wharves and Docks**

This ordinance pertains to piers, docks, wharves, floats, bridges and other structures and uses extending over or beyond the normal high water line of a body of water or within a wetland.

*12.1 Purpose*

The purpose of this ordinance is to protect traditional public access to, and use of the shore. Also to minimize adverse impacts on fisheries, the environment and public enjoyment of the shoreline, including visual and navigational impacts.

*12.2 Applicability*

This section pertains to construction of, or alteration and repairs to, piers, wharves, docks, bridges, floats and other structures and uses extending over or beyond the mean high water line of a water body, submerged lands, or wetlands. These are referred to simply as “piers, wharves, docks, bridges, floats and other structures” in the sections below.

Piers are platforms built with pilings for support; wharves are solid structures built of granite blocks and/or contiguously placed materials; the term docks refers to (1) the docking space alongside or between piers and wharves as well as (2) the piers and wharves themselves (the more common usage). Other structures include, but are not limited to items such as ramps, marine rails and cribbing.

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Functionally water dependent uses – those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigational aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

*12.3 Applications*

All applications shall be reviewed by the Coastal Waters Commission. The Coastal Waters Commission shall provide the Planning Board a written advisory recommendation regarding all applications related to Section 423.4 of the Town of Chebeague Island Zoning Ordinance Wharves and Docks Section. Applications shall include sufficient information for the Commission to determine if the Ordinance conditions are met. Applications shall include, but shall not be limited to structure elevations, high and low water elevations, building materials to be used, soil substrates, habitat types, and property boundary surveys.

*12.4 Standards*

The following standards shall apply to all piers, docks, floats, wharves, bridges, and other structures and uses extending over and beyond the normal high water line of a body of water, submerged lands or wetland:

12.4.1 Access from shore shall be developed on land and soils appropriate for such use and constructed so as to control erosion.

12.4.2 The location shall not unreasonably interfere with developed or natural beach areas.

12.4.3 The facility shall be located so as not to unduly interfere with fisheries.

12.4.4 The facility shall be no larger in dimension than necessary to carry on the proposed activity.

12.4.5 No new structure shall be built on, over or abutting a pier, wharf, dock, bridge, float or other structure without an application and approval justifying the functionally water dependent use of said addition.

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12.4.6 No new structure shall be built on, over or abutting a pier, wharf, dock, bridge, float or other structure shall be converted to a residential dwelling unit or any use other than a functionally water dependent use in any district.

12.4.7 Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

Public and Commercial facilities shall submit a lighting plan for review by the Planning Board for safety and compatibility with the proposed use.

All lighting shall be in conformance with all Federal, State, and local standards including Coast Guard Regulations for lighting of piers or wharves where applicable.

12.4.8 Except in the general development District and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock, bridge, float or other structure extending beyond the normal high water line of a body of water or within a wetland shall not exceed twenty (20) feet in height above a pier, wharf, dock or other structure.

12.4.9 Structures shall not unduly interfere with passage along or within the inertial zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such as steps or pier elevations that would allow passage over or beneath a structure.

12.4.10 Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town of Chebeague Island a proposed easement demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town of Chebeague Island.

12.4.11 Before any construction or site preparation begins, the applicant must obtain all Federal, State and local permits, as required, including but not limited to a Code Enforcement Officer permit, permits from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S. § 480-C as subsequently amended, the Army Corps of Engineers, and a Wharfing-Out permit issued by the Selectmen under 38 M.R.S., Chapter 9 as subsequently amended.

*The statutory reference is 38 M.R.S.A. paragraphs 1021-1027. Because this is a statutory requirement, the municipal officers have to do this. While the statute requires that the application be filed with and reviewed by the municipal officers, there is nothing that prohibits the Town of Chebeague Island from having the Coastal Waters Committee conduct an initial review under the*

*statutory language and make recommendations to the Selectmen about whether the permits should be granted.*

12.4.12 The Town of Chebeague Island shall notify all property owners within 1500 feet of the proposed project. In addition the Town of Chebeague Island shall place Public Notices in four (4) locations to maximize notification of the affected citizenry and shall place Public Notices in two local papers.

**Sec. A-13 An Ordinance Relating to Roads and Town Owned Property**  
**Stone Wharf at Great Chebeague Island**

The Selectmen shall adopt a fee and use schedule, which shall be updated periodically and attached to this ordinance (Appendix G).

**13.1 Definitions**

See Appendix D

**13.2 Float Use**

**Refer to Attachment A Appendix E.** Boats will be placed in designated areas and shall receive annually a permit and location area. Boats shall be required to dock in their designated float area. Individual spaces will not be assigned, but areas shall be designated for boats less than 12' in length, 12' up to 14' in length, and 14' to 17' in length.

No boat regardless of size shall be berthed, tied up or otherwise secured to any Town float at the Stone Wharf except as noted below:

**13.2.1 Float A**

Only water taxis and CTC boats may be berthed, provided that other boats may use said float for the immediate loading and unloading of passengers and/or cargo when the same may be accomplished without interference with the use of said float by water taxis or CTC boats.

**13.2.2 Float B**

Only may be used by boats 12 feet and under on an annual dock rental space basis.

**13.2.3 Floats C & D**

These are considered commercial floats and may be used for fueling and repair by commercial boats only.

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13.2.4 Float E and the westerly side of Floats F and G

May be used for loading and unloading only for a period of 15 minutes in any 4 hour period.

13.2.5 Floats E, F, and G on the northerly side

May be used on an annual rental basis only. Size restrictions are noted on the attachment in Appendix E.

13.2.6 Float H

May be used by transients.

13.2.7 Float I

Is intended for inflatable tie-up

13.2.8 Float J

May be used by boats 12 and 14 feet

*13.3 Float and Wharf Restrictions*

13.3.1 No person shall place or cause to be placed any boat on the deck or surface of any float. Except for the purposes of loading or unloading, it shall be unlawful for any person to place or cause to be placed any boat, lobster trap, or any gear or object on the deck or surface of any float or the Stone Wharf, for storage, drying, repair, or any other purpose except as provided in Sections 13.3.11 and 13.3.12 below.

13.3.2 No haul-offs or pulley lines shall be permitted at the Stone Wharf, except as shown on Attachment B in Appendix F

~~13.3.3 Motor vehicles shall be parked for no more than twenty-four (24) hours on the Stone Wharf or on the Wharf Road.~~

~~13.3.4 A pedestrian safety zone six feet wide is hereby established on the west face of the wharf, as shown on the Stone Wharf Plan dated June 2004 Attachment B Appendix F.~~

~~13.3.5 Three parking spaces on the west face of the wharf shall be reserved for the use of handicapped persons. Two parking spaces shall be reserved for the captain and crew of the Chebeague Transportation Company. See Appendix F.~~

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~~13.3.6 Bicycles shall be parked only at a rack to be placed in a location on the Stone Wharf as determined by the Harbormaster.~~

~~13.3.7 Public parking shall be permitted only on areas as shown in Appendix F. Parking shall be permitted on the South shoulder of Wharf Road, and no parking shall be permitted on the North shoulder.~~

~~13.3.8 The expression “for loading and unloading only” as used herein shall be interpreted pragmatically and shall mean “for an attended vehicle”.~~

~~13.3.9 Police, fire, rescue and other emergency vehicles and equipment shall be exempt from this ordinance during times of emergency or official duties.~~

13.3.10 The town shall make every effort to have the floats **B, D, E, F, G, H, I, and J** in the water as soon as practicable in the spring and shall remove the floats as late as practicable in the fall.

~~13.3.11 The areas shown on the Stone Wharf Plan designated as “Loading and Unloading Area” shall be reserved for loading and unloading only. No cars may be left parked and unattended in this area.~~

~~13.3.12 During the months of June and November, the Loading and Unloading Areas as shown on the Stone Wharf Plan shall be limited to temporary use to allow fishermen access to load and unload gear. The 8 spaces north of the barge ramp shall be “No Parking—June and November” as depicted on Attachment B, Appendix F.~~

13.3.13 No person shall leave any commercial fishing equipment standing for a period in excess of forty-eight (48) hours anywhere on the Stone Wharf.

*13.4 Enforcement*

~~The Harbormaster and Law enforcement officers of the Town of Chebeague Island and the State of Maine shall have the authority to enforce this ordinance. Any person convicted of a violation of the provisions of this section shall be subject to a fine as listed in the “Schedule of Fines for Violations” (Appendix H).~~

**Town Float at Chandler’s Cove on Great Chebeague Island**

*13.5 Float Use*

Except for boats used by public utilities or emergency craft, which shall be exempt, the use of the Float at Chandler’s Cove shall be regulated as follows:

*13.6 Float and wharf restrictions*



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13.6.1 No boat, regardless of size or description, shall be berthed, tied up, or otherwise secured to the north or west face of the town float by any person for a period of time in excess of fifteen (15) minutes during any continuous four hour period. The east face shall be used as a punt float.

13.6.2 During times when insufficient docking space is available, any boat berthed, tied up, or otherwise secured to the town float during a permissible fifteen (15) minute docking period, shall temporarily make room for any other boat to permit the loading or discharging of passengers and/or cargo.

13.6.3 Except for Loading and Unloading, it shall be unlawful for any person to place, or cause to be placed, any boat, lobster trap, or any other gear or object on the deck of the wharf or surface of all floats or parking areas for storage, drying, repair, or any other purpose.

13.6.4 Loading and Unloading on the wharf shall not exceed a 15 minute period of time during any four hour continuous period of time.

13.6.5 Motor vehicles shall be parked for no more than twenty-four (24) hours in either of the two town-owned parking lots, except for vehicles owned by public utilities.

13.6.6 The wharf shall be reserved for loading and unloading only and no cars may be left parked and unattended.

*13.7 Enforcement*

~~—The Harbormaster and Law enforcement officers of the Town of Chebeague Island and the State of Maine shall have the authority to enforce this ordinance. Any person convicted of a violation of the provisions of this section shall be subject to a fine as listed in the "Schedule of Fines for Violations" (Appendix H).~~

**Sec. A-14 Aquaculture**

There shall be an aquaculture Committee under this ordinance whose primary purpose is to review all aquaculture ventures (mussel rafts, oyster farming, salmon pens, etc.) brought before the Harbormaster. This review could be before or concurrent with the pre-approval meeting prescribed in the Maine State Law specified below. In the interest of protecting all aspects of the fishing community the committee shall develop criteria and make recommendations to the Harbormaster, who will in turn bring them before the Town of Chebeague Island Selectmen. The Selectmen will hold a public hearing on the proposed venture as specified in the State Law. All aquaculture ventures within the waters of the Town of Chebeague Island shall be in compliance with Maine State Law 12 M.R.S.A # 6074 (4).

**APPENDIX A**

**(Sec.A-4 Definitions)**

**4.1 *Abandoned Moorings***

A mooring in waters classified as Harbor and/or Anchorage shall be considered abandoned unless it is used by the owner or his family the 90 day period July 1<sup>st</sup> to October 1<sup>st</sup>, or unless the owner has notified the Town of Chebeague Island in writing of his intent to not use the mooring, registers the mooring in accordance with Section A-5, and grants permission in writing for the use of the mooring to be assigned to others. Any mooring which is unused for 365 days by the owner or his family shall be considered abandoned when the Harbormaster decides it is abandoned.

**4.2 *Abandoned Vessel***

Any vessel that is unattended and determined by the Harbormaster to constitute a menace to navigation, or which is sinking or already sunk, or which is stranded on any property without the permission of the property owner.

**4.3 *Anchorage***

Occupancy of any space within the waters of the Town of Chebeague Island by a vessel while at anchor whether or not the anchoring device is resting on lands under water within the boundaries of the Town of Chebeague Island.

**4.4 *Harbormaster***

The person appointed to serve as such by the Board of Selectmen.

**4.5 *Mooring***

An anchoring device not carried aboard a vessel as regular equipment.

**4.6 *Non-Resident***

Any individual who does not maintain a legal residence within the Town of Chebeague.

**4.7 *Non-Resident Taxpayer***

A non-resident who pays real estate taxes to the Town of Chebeague

**4.8 *Oil***

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Any and all petroleum products and their by-products of any kind and in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes and crude oil.

4.9 *Rental Mooring*

A mooring which is leased or rented to a person other than the holder of the mooring registration.

4.10 *Resident*

An individual who maintains a legal resident status in the Town of Chebeague Island.

4.11 *Riparian*

Anyone owning shore front property.

4.12 *Town Float*

A float owned and maintained by the Town of Chebeague Island.

4.13 *Town Landing*

An area of land contiguous to the waters of the Town of Chebeague Island which is owned by the town of which it is impressed with a public right of access.

4.14 *Vessel*

A vessel shall include boats of all sizes powered by wind, machinery, by hand or by tow. It includes barges, dredges, scows and watercraft of any kind.

4.15 *Waters of the Town of Chebeague Island*

All waters below the ordinary high tide mark within the legal boundaries of the Town of Chebeague Island as incorporated July 1, 2007 and extending seaward three miles from the shoreline.

4.16 *Commercial Fisherman*

A fisherman who is licensed by the State to harvest the species authorized by the license.

**APPENDIX B**

**(SEC. A-10.4 Definitions)**

**10.4.1 Municipality**

Refers to the Town of Chebeague Island.

**10.4.2 Non-Resident**

The term “non-resident” means anyone not qualified as a resident under this ordinance.

**10.4.3 Resident**

The term “resident” refers to a person who has been domiciled in the Town of Chebeague Island, the Town of Cumberland, or the Town of North Yarmouth for at least three months next prior to the time his claim of such residence is made.

**10.4.4 Shellfish, Clams, and Intertidal Shellfish Resources**

When used in the context of this ordinance the words “shellfish”, “clams”, and “intertidal shellfish resources” mean soft-shell clams (*Mya arenaria*), surf clams and quahogs.

**APPENDIX C**

**(Sec. A-11.1 Definitions)**

**11.1.1 *Floating Business***

A “floating business” is the use or occupancy of a raft, hull, barge or other vessel floating on the waters adjacent to and within the jurisdiction of the Town of Chebeague Island for any commercial operation such as, but not limited to, the providing of personal services, retail operations, restaurants, drinking establishments, galleries, performing arts, studios and other such service or business operation. Fishing vessels used primarily for the harvesting, processing, transport or storage of fish or seafood products or vessels used for dredging, or other navigational purposes are not floating businesses as defined herein.

**11.1.2 *Houseboat***

Houseboat means the use or occupancy of a raft, hull, barge or other vessel floating on the waters adjacent to and within the jurisdiction of the Town of Chebeague Island for human habitation, living quarters, sleeping areas, or for cooking or sanitary facilities or for any other similar use or residential purposes associated with a “dwelling” or “dwelling unit”.

**APPENDIX D**

**(Sec.A-13.1 Definitions)**

For the purpose of the Wharves and Docks Use Ordinance the following definitions shall apply:

**13.1.1 *Chebeague Transportation Company (CTC)***

“Chebeague Transportation Company (CTC) boats” shall mean any boat owned and operated by the Chebeague Transportation Company.

**13.1.2 *Water Taxi***

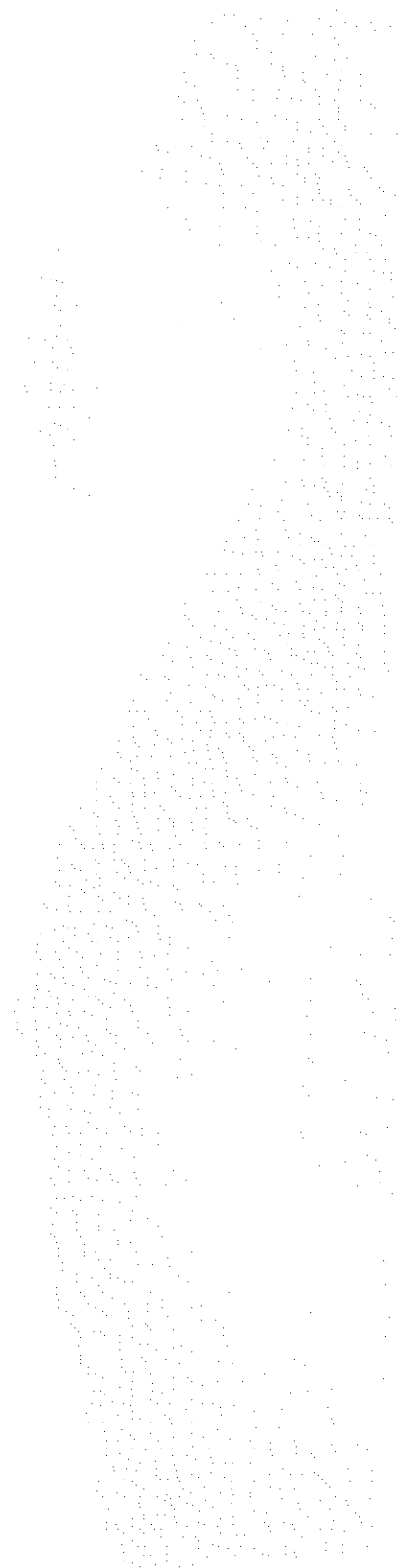
“Water taxi” shall mean any boat (1) approved and licensed by the U.S. Coast Guard to carry passengers to and from Chebeague Island, (2) under the command of a person duly licensed to operate said boat, (3) offering, subject to weather conditions, an on-call water transportation service between Chebeague Island and the mainland or other islands in Casco Bay daily, (4) which is in full compliance with all applicable rules of any governmental agency, and (5) whose owner or operator, if requested by the Town of Chebeague Island Selectmen, provides a bond in form and amount satisfactory to the Town of Chebeague Island Selectmen guaranteeing safe and reliable performance of the service described in (3) above.

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**APPENDIX E**

**(Sec.A-13.2)**

**Chebeague Island Stone Wharf Float Plan  
Summer 2006  
Attachment A**



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**APPENDIX F**

**(Sec.A-13.3)**

**Stone Wharf Plan June 2004  
Attachment B**





**APPENDIX G**

**(Sec. A-13)**

**Schedule of Use Fees for the Public Floats at the Stone Wharf**

**Fee Schedule**

Boat tie-ups along Floats D, E, F, G, H & I – Easterly Side

	Less than 12'	12' to 17' in length
Resident	\$50	\$125
Non-Resident	\$75	\$150

**Transient – Hourly Rates for Floats F, G, H – Westerly Side**

**Monday – Thursday**

\$5 per hour per float or section of float  
\$100 per day per float maximum daily rate

**Weekends**

\$7 per hour per float or section of float  
\$140 per day per float maximum daily rate

**Transient Punt Tie-up Space – Floats as Available**

Transient Punt tie-up Space, when available, shall be designated by the Harbormaster. Rates shall be for half and full day only.

\$10 Half day  
\$20 Full day

**APPENDIX H**

**(Sec. A-13.4 and 13.7)  
Schedule of Fines for Violations**

**Parking**

- ~~————~~ \$20 Parking in a no parking area
- ~~————~~ \$20 Overtime parking (more than 24 hours)
- ~~————~~ \$50 Parking in a handicapped parking space
- ~~————~~ \$20 Parking in a loading zone

**Personal Property**

Leaving personal property in excess of one hour

- \$10 1<sup>st</sup> offense
- \$25 2<sup>nd</sup> offense within 1 year of 1<sup>st</sup> offense
- \$50 3<sup>rd</sup> offense within 1 year of 1<sup>st</sup> offense

**Floats**

Improper use of floats

- \$25 1<sup>st</sup> offense
- \$50 2<sup>nd</sup> offense within 1 year of 1<sup>st</sup> offense

Multiple tickets will be issued if the offense continues beyond the allowed time limit for tying up to a float.

Boats must have the appropriate Stone Wharf sticker as issued annually by the Town of Chebeague Island. Boats without the proper sticker or are tied-up in an unauthorized tie-up area, shall be subject to the fines listed under improper use of floats. Boats in violation of this ordinance shall be subject to impoundment by the Town of Chebeague Island after the second offense in a single calendar year.