

# **HARBOR ORDINANCE**

**TOWN OF BROOKSVILLE, MAINE MARCH 5, 2018  
AS AMENDED MARCH 3, 2020 and MARCH 8, 2022**

## **TABLE OF CONTENTS**

Section 1: Purpose p. 2 Section 2: Waters Regulated p. 2 Section 3: Effective Date p. 2 Section 4: Validity and Separability p. 2 Section 5: Harbor Committee p. 2 Section 6: Harbormaster p. 4 Section 7: General Regulations p. 5 Section 8: Mooring Permits (for Buck's Harbor) p. 7 Section 9: Mooring Registration (for non-Buck's Harbor waters) p. 10 Section 10: Piers, Docks and Marine-Related Structures p. 11 Section 11: Aquaculture p. 11 Section 12: Town Landings p. 11 Section 13: Violations, Enforcement and Fines p. 11 Section 14: Revenues p. 12 Section 15: Definitions p. 12

Appendix I Buck's Harbor Channel and Anchorage Areas p. 14 Appendix II Smith Cove Channel and Anchorage Areas p. 16 Appendix III Fees p. 17 Appendix IV Fines p. 18 Appendix V Rules for Town Landings p. 19

## **Section I: PURPOSE**

1.1 This Town of Brooksville Harbor Ordinance is hereby established pursuant to 30-A MRSA sec. 3001 and 38 MRSA sec. 7 to regulate marine activities in Brooksville, including the Bagaduce River and all tidal bays and inlets adjacent to shorelines of the Town, and to manage the Town Landings. 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, and to create a fair and efficient framework for the administration of those resources.

1.2 This Ordinance shall be subordinate to existing Federal and State Laws governing the same matters. Where found to be in conflict with higher Federal or State authority that portion of the Ordinance would be null and void; otherwise the Ordinance will stay in full force.

## **Section 2: WATERS REGULATED**

2.1 Buck's Harbor, defined as the area north of a tangent line (295 degrees true) drawn from the white mark on Gray's Point to Condon's Point. (See NOAA chart #13309, US East Coast/Maine/Penobscot River and see Appendix I or this Ordinance.)

2.2 Smith Cove, defined as the area south and northeasterly of a line from the NW corner of Nautilus Island extending 310 degrees true in a northwesterly direction toward Can #1, thence northeasterly along the center line of the Bagaduce River to the center of Middle Ground Shoal, and thence 090 degrees true in an easterly direction to Stubb Point, being the first point north of Henry Point. (See NOAA chart #13309, US East Coast/ Maine/Penobscot River and see Appendix II of this Ordinance.)

2.3 All other tidal waters within the jurisdictional limits of the Town of Brooksville.

## **Section 3: EFFECTIVE DATE**

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

## **Section 4: VALIDITY AND SEVERABILITY**

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## **Section 5: HARBOR COMMITTEE**

5.1 The Town of Brooksville Harbor Committee (henceforth referred to as the Committee) is hereby established. It shall consist of seven (7) voting members appointed by the Selectmen. Five (5) members shall constitute a quorum. One Selectman and the Harbor-master shall serve as non-voting advisors to the Committee.

5.2 The Committee members shall all be residents of the Town of Brooksville. The membership shall represent diverse interests in the harbors, waterways, and tidal waters including, but not limited to, commercial and recreational boat owners, shoreland owners, water-related business owners, and Town board or committee members.

5.3 The term of a member shall be three (3) years, with members appointed on a cycle of two (2) members, two (2) members and three (3) members per year. The term shall commence immediately following the Annual Town Meeting. In the event of a vacancy in an unexpired term, a replacement member shall serve for the remainder of such unexpired term, commencing upon appointment by the Selectmen.

5.4 The Chairperson of the Committee shall be elected annually by a vote of the Committee at its first meeting following the Annual Town Meeting or at such time as a vacancy shall occur during the year.

5.5 The Chairperson of the Committee shall call a meeting of the Committee at the request of the Harbormaster or any two or more Committee members. The Selectmen may call a meeting of the Harbor Committee at their discretion. Meetings shall be held at least quarterly. Notice shall be given to members at least 10 (ten) days prior to meetings. Notice of all meetings shall be posted at the Town Public Service Building at least 10 days in advance, and meetings shall be open to the public.

5.6 The duties of the Committee shall be:

5.6.1 To present to the Selectmen qualified candidate(s) for appointment as Harbormaster by February 1 of each year. The Committee shall use Section 6 of this Ordinance when considering qualifications of candidates. If the Selectmen do not deem any candidate satisfactory, then the Committee will use its best efforts to present additional qualified applicants.

5.6.2 To oversee the duties of the Harbormaster and to provide to the Selectmen an evaluation of the Harbormaster's performance by December 31 of each year.

5.6.3 To conduct harbor and coastal planning, operation and regulation, limited to those waters of Brooksville described in Section 2 of this Ordinance, except for duties of the Harbormaster or assistants which are set forth in 38 MRSA sec.1 et seq. of this Ordinance.

5.6.4 To recommend changes as needed in Appendices to the Selectmen for their approval and subsequent modification.

5.6.5 To make recommendations to any Town meeting or duly constituted Town body or to any regulatory or advisory body as may be consistent with its duties.

5.6.6 To develop an annual budget for activities covered by this Ordinance and to recommend fees (Appendix III) and fines and penalties (Appendix IV) associated therewith to the Selectmen for their approval and subsequent modification.

5.6.7 To hear appeals of any person aggrieved by any decision, act, or failure to act of the Harbormaster or assistants.

5.6.8 To recommend changes to this Ordinance as needed to the Selectmen.

5.6.9 To oversee the management of the Town Landings.

## **Section 6: HARBORMASTER**

6.1 Within the waters of Brooksville, the Harbormaster shall have all those certain duties and responsibilities of that office which are prescribed by 38 MRSA sec.1 et seq., including resolving conflicts between parties relating to moorings and watercraft operations.

6.2 The Harbormaster shall be appointed by the Selectmen annually for a one-year term beginning March 1 and ending February 28. In the event that an appointment is not made by February 28, the incumbent shall remain in office until a successor is appointed and sworn. This Ordinance shall not be construed as giving the serving Harbormaster any expectation of automatic reappointment to successive terms, and no cause need be shown by the Selectmen for their failure to reappoint a Harbormaster at the end of any one-year term.

6.3 The Selectmen shall appoint a Harbormaster from the nominees submitted by the Harbor Committee. The Selectmen may reappoint the Harbormaster after reviewing evaluations of the Committee. The Harbormaster may, if necessary, from time to time appoint and delegate to an Assistant Harbormaster certain duties and responsibilities, subject to the approval of the Harbor Committee.

6.4 A Harbormaster may be removed from office, or be subject to other disciplinary action, by the Selectmen upon recommendation of the Harbor Committee during his/her term of office for cause under 30A MRSA sec. 2601, and 38 MRSA sec.1. Any such recommendation shall be preceded by a predetermination hearing before the Committee after notice to the Harbormaster and in executive session, unless otherwise requested by the Harbormaster. If the Committee then decides to recommend removal or other discipline, it shall provide the Selectmen and the Harbormaster with a written list of specified charges pursuant to 1 MRSA sec. 405(6)(A) and 38 MRSA sec.1. The Selectmen shall then conduct a hearing on those charges and provide a written decision within 30 days. Any vacancy in the Harbormaster's position shall be filled by the procedures set forth in Section 5.6.1 of this Ordinance. Until a successor is appointed to fill out the term left vacant, the chairperson of the Harbor Committee shall serve as Acting Harbormaster.

6.5 Upon recommendation of the Harbor Committee, the Selectmen shall establish compensation of the Harbormaster.

6.6 Minimum qualifications of the Harbormaster are as follows:

6.6.1 Ability to work independently with sound judgment and excellent communication skills.

6.6.2 Strong organizational skills with an attention to details.

6.6.3 Proficiency in computer use, including Microsoft Office software.

6.6.4 Ability to interact with a wide variety of entities and individuals at the local, state and federal levels.

6.6.5 Proficiency in small boat handling and basic navigation.

6.6.6 Available to work variable hours, including weekends, during boating season.

6.6.7 Maine Harbormaster Certification. If not certified, certification must be obtained at the next available course.

6.7 Duties and responsibilities of the Harbormaster include, but are not limited to, the following:

6.7.1 Administer and enforce the provisions of this Ordinance with the authority granted bylaw.

6.7.2 Manage and administer the annual mooring and dinghy tie-up renewal process, maintain the Buck's Harbor mooring waiting list and the approved mooring inspectors list, register new moorings in waters outside Buck's Harbor, and assign and issue permits for new mooring locations in Buck's Harbor.

6.7.3 Maintain anchorage areas and change mooring locations when a crowded condition renders the change desirable.

6.7.4 Aid the Harbor Committee in the preparation of its annual report and budget.

6.7.5 Resolve conflicts between parties relating to moorings and operation of watercraft.

6.7.6 Ensure that users of the Town Landings and adjacent parking areas comply with the rules for each Landing, including payment of the current dinghy/kayak fee and display of a current registration decal.

6.7.7 Coordinate the Spring installation and Fall removal of Town Landing floats and advise the Harbor Committee of any needed new and/or maintenance required for the floats and sites.

6.7.8 The Harbormaster is not authorized to carry a weapon or to make arrests in the conduct of any duties required by his/her office.

## **SECTION 7: GENERAL REGULATIONS**

7.1 Mooring placement. Setting a mooring in designated channels or anchorage areas is prohibited.

7.2 Removal of Vessels or Obstructions in Channels. No person shall place any watercraft or floating device in designated channels, except in case of emergency and when such anchoring will not create an emergency for other vessels or substantially obstruct the channel. The Harbormaster may, in the interests of safety and clear navigation of said channel, move (or cause to be moved) such an object at the cost of the owner.

7.3 Discharge of Waste and Pollutants. No person shall discharge, or allow the discharge of, sewage, effluent, pollutants, hazardous material, garbage, trash, or refuse of any kind, by any method, means, or manner from any watercraft into or upon the waters of Brooksville.

### 7.4 Commercial Fishing

7.4.1 There shall be no dragging for shellfish or unauthorized setting of nets within 75' of any residential or non-commercial pier or within 300' of any commercial pier or marine railway in Brooksville waters.

7.4.2 There shall be no dragging for shellfish or unauthorized setting of nets within the territory defined as Buck's Harbor.

7.4.3 There shall be no setting of fishing gear in the marked channels of Buck's Harbor.

7.4.4 No watercraft, floating device, mooring, or fixed fishing gear may be placed in the

designated channel or anchorage areas in Smith Cove.

#### 7.5 Speed Restrictions

7.5.1 No person shall use or operate any vessel in such a way as to cause danger, damage to or loss of property, or annoyance to other users of Brooksville waters.

7.5.2 Any person operating a watercraft recklessly, at a speed greater than is reasonable and proper having regard to other traffic, moored vessels, and proximity to shore, or while intoxicated or under the influence of any narcotic drug, shall be guilty of a Class E Crime.

7.5.3 North of the red and green buoys (geodetic coordinate 44.20.050N) in Buck's Harbor all vessels shall be operated in a manner so as to cause minimal wake, while maintaining safe headway, and at a speed not to exceed 5 mph.

#### 7.6 Anchoring

7.6.1 Anchoring a vessel within a designated channel or mooring area is prohibited.

7.6.2 No vessel shall be left unattended at anchor in Buck's Harbor for more than 4 (four) hours.

#### 7.7 Liability Relating to Moorings

7.7.1 The mooring owner has the responsibility to install (or cause to be installed) the mooring system in a manner suitable to the size, configuration, and displacement of his/her watercraft according to commonly accepted marine practice.

7.7.2 The mooring owner has the responsibility to maintain his/her mooring in a safe condition. Holding a mooring permit or registration does not absolve the holder from liability or damages resulting from failure of his/her mooring.

#### 7.8 Abandonment of Watercraft

7.8.1 No person shall cause to be abandoned any watercraft, floating device, cradle, or any other obstruction on the shore or afloat within Brooksville waters. Any such object which has been left unattended at anchor or moored without authorization of the Harbormaster for a period of fourteen (14) days shall be deemed to be abandoned and, in accordance with 38 MRSA sec. 9, such abandonment constitutes a Class E crime.

7.8.2 The Harbormaster shall order the owner of such abandoned watercraft, floating device, cradle or other obstruction, if such owner is known, to remove it within ten (10) days. Upon the owner's refusal to do so, or if the owner cannot be identified, the Harbormaster may cause its removal, with costs paid by the Town but with reimbursement due from the owner when identified.

7.9 Removal of Moorings. The Harbormaster may remove or cause a mooring to be removed for the following reasons:

7.9.1 Non-payment of mooring permit and/or registration fees or lack of mooring inspection in Buck's Harbor within the prescribed period.

7.9.2 Neglect to remove, modify or replace a mooring when so directed by the Harbormaster.

7.9.3 The mooring's placement is a hazard to navigation.

7.9.4 The mooring is not in compliance with all applicable requirements of Section 8 of the Harbor Ordinance.

7.9.5 Any removal shall be at the expense of the mooring owner and in accordance with MRSA 38,1,1,sec.4.

7.9.6 Prior to removal of a non-conforming mooring the Harbormaster shall:

7.9.6.1 Notify the last owner, if known, by certified mail to remove the mooring within 21 days of the receipt of the notice. If the identified owner refuses to remove or pay the permit/registration fee, the Harbormaster may remove the mooring.

7.9.6.2 If no owner is identified, the Harbormaster may remove the mooring from service.

7.9.7 Disposal of abandoned or seized moorings:

7.9.7.1 If the mooring has no value, it may be disposed of in an appropriate manner. After 21 days the Town may sell the mooring in a commercially reasonable manner.

7.9.7.2 The Town will provide notice to the public of the sale of any mooring. Sale will be conducted by closed bid.

## **Section 8: MOORING PERMITS** (for Buck's Harbor)

8.1 No mooring shall be placed unless: (1) an application for permit has been filed with the Harbormaster; (2) the Harbormaster has issued a written permit specifying the mooring's location, size, type and scope, and the maximum size and type of boat to be moored; and (3) the appropriate fee has been paid.

### 8.2 Categories of Permits

8.2.1 Shoreland owners (primary, guest, float, outhaul)

8.2.2 Boat owners (resident, commercial fishermen, non-resident)

8.2.3 Commercial rental mooring owners

8.2.4 Service moorings

8.2.5 Other (storm, float, temporary)

8.2.6 Town moorings

### 8.3 Applications

8.3.1 Application forms for new permits may be obtained from the Harbormaster or at the Town Office.

8.3.2 A permit application must be supported by a statement of its use: primary mooring for a specific watercraft owned by the applicant, shoreland owner's mooring, guest mooring, service mooring, commercial rental mooring.

8.3.3 Any permit application shall be acted upon by the Harbormaster within two weeks.

8.3.4 Any permit application which is denied shall state the reason(s) on the rejection notice. The applicant shall have 30 days in which to file an appeal with the Harbor Committee. The Harbor Committee shall consider the appeal and render its findings within 30days.

8.3.5 Moorings and anchors used solely to secure floats, walkways, and/or outhauls attached to the shore require a permit but need not be subject to a fee. In the case of shoreland owners, these do not count as primary or guest moorings.

8.3.6 Those moorings for which any type of fee is charged, including moorings offered for transient or seasonal rental by a commercial maritime business, and those moorings used in the course of a commercial maritime business (including service moorings), must have a US Army Corps of Engineers permit in addition to a mooring permit or registration from the Town of Brooksville.

8.3.7 Any mooring intended for use as a guest mooring by a yacht club, cruising club, or other permit holder or applicant must have that use stated in the permit application.

8.3.8 Temporary mooring permits may be issued by the Harbormaster for service craft requiring by operational necessity immediate access to a specific location.

8.3.9 Fees for mooring permits shall be set annually by the Selectmen with the advice of the Harbor Committee and included in Appendix III of this Ordinance.

#### 8.4 Renewals

8.4.1 Renewals of permits shall be granted if there is no substantial change in the content of the application (such as size of watercraft).

8.4.2 A mooring owner with a permit valid during the previous year and currently owning no boat is allowed, as a matter of right, an extension of one year on that permit. After the initial one-year extension, the Harbormaster may grant additional extensions from year to year if there is no qualified party on the waiting list for this description of mooring location or if there are extenuating circumstances.

#### 8.5 Issuance of Permits

8.5.1 When the number of applications exceeds the number of spaces available, the Harbormaster shall establish a waiting list by priority as follows:

- (1) Shoreland owner
- (2) Resident commercial fisherman
- (3) Existing mooring owner requesting change of mooring location
- (4) Resident recreational and commercial (service, rental, charter, etc.)
- (5) Non-resident recreational and commercial (fishermen, service, rental, charter, etc.)



8.5.1.1 No more than 50 total mooring permits issued in Buck's Harbor may be issued for rental, transient, and service use. These moorings shall be allocated to water-dependent businesses, or non-profit clubs. Any person or entity being granted a permit for rental, transient, or service moorings shall provide and adhere to the following requirements:

1. A process to direct incoming vessels to appropriate available moorings by radio, telephone, internet, or vessel during normal business hours 7 days a week during the months of July and August.
2. Marking of all moorings with the maximum vessel size approved by the Harbormaster and listed on the mooring permit, in addition to marking the mooring with its number and the permit holder's name.
3. Monitoring of moorings by the mooring permit holder to assure that a vessel using a mooring does not exceed the maximum vessel size permitted for that mooring.
4. Mooring tackle that satisfies the requirements of the Hamilton Marine Mooring System Recommendations, found in the Hamilton Marine Catalogue, for mooring weight and chain size and the Jamestown Distributors recommendations for deadweight anchors. These standards can be found in Appendix VI of this Ordinance. If Hamilton Marine or Jamestown Distributors change their recommendations for mooring tackle, the standards set out in Appendix VI control until amended.
5. Evidence of an Army Corps of Engineers permit for each rental, transient, and service mooring.

8.5.2 Generally, an applicant's name may appear only once on the waiting list. Multiple applications under a single name shall be subject to review by the Harbor Committee. An application for a single commercial rental mooring must be supported by evidence of a bona fide commercial venture.

8.5.3 A record of all applications showing date of receipt shall be promptly forwarded to the Harbor Committee.

## 8.6 Waiting List Preferences

8.6.1 Shoreland owners receive a primary mooring as a matter of right. They shall be given the first vacancy on the waiting list. Mooring placement will be determined by the Harbormaster. Where possible, it will abut the shoreland owner's property.

8.6.2 A shoreland owner using his/her primary mooring for his/her own watercraft shall have the right to one guest mooring at the applicable fee. Mooring placement will be determined by the Harbormaster. Where possible, it will abut the shoreland owner's property.

8.6.3 Resident commercial fishermen shall receive the first space available after shoreland owners.

8.6.4 If less than 10% of currently assigned moorings are non-resident, then the next available assignment shall be made to a non-resident.

8.6.5 Permits for new guest moorings other than those provided by a yacht club in Buck's Harbor or a shoreland owner will be issued only when there is no suitable permit applicant on the waiting list(s).

8.7 Transfer of Permits. Mooring permits and location assignments are not transferable, except:

8.7.1 Resident commercial fishermen may transfer a permit to a member of his/her immediate family if the permitted use continues for commercial fishing purposes.

8.7.2 The owner of commercial rental moorings and service moorings may transfer all of his/her/its permits to the purchaser of assets of his/her/its business as long as the business continues to operate the moorings in the same manner and under USACE permits.

8.7.3 Among other resident permit holders, a request for transfer of a permit to an immediate family member, also a resident, shall be considered to be an application for permit. Within the discretion of the Harbormaster, preference may be given above other resident recreational permit applications with respect to that specific permit location.

8.7.4 A permit holder no longer qualifying for, or desiring not to renew, his/her permit shall so inform the Harbormaster. The Harbormaster shall then offer that assigned location to the next qualified and suitable applicant on the waiting list. Ground tackle placed at the assigned location may be offered for sale and, if bought by the new permit holder, may be left in place. Otherwise, its owner must remove all ground tackle.

8.8 Placement of Moorings

8.8.1 Moorings shall be placed in the location indicated in the permit.

8.8.2 The Harbormaster shall provide the permit holder with latitude/ longitude coordinates of his/her mooring and with the permit number.

8.8.3 The permit holder shall provide the Harbormaster with the name of the individual or company responsible for the inspection and maintenance of the mooring.

8.9 Use of Moorings. No one shall use a mooring without the express permission of the permit holder and subject to review by the Harbormaster for the safety and fitness of the mooring for the vessel. No permit holder shall sublet his/her mooring or mooring space to another user or boat owner without written permission of the Harbormaster.

8.10 Mooring Identification

8.10.1. The permit holder shall mark the mooring surface float or buoy with the permit number in 3" minimum height in a contrasting color and with his/her name or the watercraft's name in a manner that is legible at all times.

8.10.2 Any winter pole or similar device shall be marked with the permit number in a manner that is visible on the surface.

### 8.11 Mooring Inspections

8.11.1 New moorings shall be inspected by the Harbormaster, or an individual approved by the Harbormaster, before the mooring is set.

8.11.2 All moorings shall be inspected\* annually by an inspector approved by the Harbormaster in order to retain a mooring permit. Those individuals or businesses approved by the Harbormaster to perform mooring inspections shall keep records of their inspection work.

### 8.12 Movement of Moorings

8.12.1 Movement of a permitted mooring from its assigned location is prohibited without the approval of the Harbormaster.

8.12.2 The Harbormaster may, for the safety of watercraft, the efficiency of a mooring area, the maintenance of a designated channel, the implementation of harbor management improvements, and/or the implementation of a Harbor Plan approved by the Harbor Committee, direct that a mooring site be vacated and the permit holder's ground tackle be moved to a new location within Buck's Harbor. With the exception of a timely movement of a mooring for safety or clear navigation purposes, any movement shall provide for ten (10) days' notice to the permit holder (by mail or personally by voice) and be accomplished with the least disruption to the permit holder. The cost of any such moves will be borne by the Town of Brooksville.

## **Section 9: MOORING REGISTRATION** (for non-Buck's Harbor waters)

9.1 The owners of all new and existing moorings shall register the location annually with the Harbormaster. Registration forms may be obtained from the Harbormaster or at the Town Public Service Building.

9.1.1 Exception: For moorings in all Brooksville tidal waters related to aquaculture, see Section 11 of this Ordinance.

9.2 Registration fees shall be set annually by the Selectmen and included in Appendix III of this Ordinance. Shoreland owners pay no registration fee for an outhaul or for a shoreland float.

9.3 The registration holder shall mark the mooring surface float or buoy with the registration number in 3" minimum height in a contrasting color and shall mark any winter pole or similar device with the registration number in 3" minimum height in a contrasting color that is visible on the surface.

9.4 Any new mooring for which fees have not been paid within 30 days of its setting and any existing mooring for which fees have not been paid annually by May 1 may be removed by the Harbormaster or his/her agent.

\*What constitutes inspection shall be in the judgment of the inspector and be subject to review by the Harbormaster.

## **Section 10: PIERS, DOCKS AND OTHER MARINE-RELATED STRUCTURES**

Piers, docks and other marine-related structures are governed by Brooksville's Shoreland Environmental Protection Ordinance dated December 6, 2016.

## **Section 11: AQUACULTURE**

11.1 Moorings within Brooksville tidal waters related to aquaculture projects requiring a permit from any state or federal authority also require a permit from the Town of Brooksville.

11.2 Moorings connected to any aquaculture project requiring a permit from State or Federal authority may be subject to review with special consideration to the economic, scenic, ecological, recreational, and commercial fishing effects of the project.

## **Section 12: TOWN LANDINGS**

12.1 The Town currently has four (4) Town Landings managed by the Harbor Committee and available for use by residents and non-residents:

1. Bagaduce Falls on Bridge Rd/Route 176 in North Brooksville
2. Betsy's Cove in the NW corner of Buck's Harbor on Coastal Rd in South Brooksville
3. Dodge's Point in Smith Cove on Town Landing Rd in West Brooksville
4. South Wharf Road at the end of said road in West Brooksville

and may manage other landings the Town may have or acquire in the future.

12.2 The Fees, Fines and Rules for each Landing are in Appendices III, IV and V.

## **Section 13: VIOLATIONS, ENFORCEMENT AND FINES**

13.1 No person shall maintain or use a mooring of any type within the tidal waters of Brooksville or keep a dinghy or kayak at a Town Landing without first having obtained a permit or registration from the Harbormaster.

13.2 The Harbormaster, upon finding that any provision of this Ordinance or the condition(s) of a permit issued under this Ordinance is being violated, is authorized to issue notices of violations, orders to correct, or schedules to correct and to initiate legal proceedings as authorized by the Selectmen to enjoin violations and to recover fines and costs.

13.3 A person who violates the provisions of this Ordinance or the condition(s) of a permit or registration shall be guilty of a civil violation. The Harbormaster shall serve the violator with a citation stating (1) the date and place of the offense; (2) the nature of the offense and the Ordinance provision violated; and (3) the civil penalty assessed. Civil penalties will begin to take effect after the Harbormaster has declared that the schedule to correct a violation(s) has not been met. In the event that the violator fails to pay the fine assessed by the Harbormaster, pursuant to the Selectmen's schedule, the Town shall commence an enforcement action in the Maine District Court, pursuant to 30-A MRSA sec. 4452 and MRCivP.80K. The Town shall also collect from the violator attorney's fees, expert witness fees, and costs. Upon recommendation of the Harbor Committee, the Selectmen may enter into administrative consent agreements.

13.4 The Selectmen shall establish a schedule of civil penalties for specific violations of this Ordinance consistent with 30-A MRSA sec. 4452(3) and from recommendations of the Harbor Committee. The Selectmen shall annually review the schedule of civil penalties and may amend them after consulting with the Harbor Committee.

13.5 Written decisions made by the Harbormaster may be appealed to the Harbor Committee within 30 days of his/her decision. Decisions of the Harbor Committee may be appealed directly to the Superior Court pursuant to MRCivP80B.

#### **Section 14: REVENUES**

Revenues generated by fees and civil penalties under this Ordinance which are in excess of actual annual expenditures for the execution and enforcement of this Ordinance shall be placed in a continuing account to be carried forward for future expenditures under this Ordinance or used to acquire, maintain and/or improve shore access to all waters of Brooksville.

#### **Section 15: DEFINITIONS**

Abandoned watercraft: Any watercraft that the Harbor Committee or Harbormaster determines to be a threat to navigation, property, other watercraft, or the environment due to watercraft condition or to neglect on the part of the owner(s) or master of the watercraft in question.

Aquaculture: Commercial or scientific marine farming for finfish, shellfish, other marine life and/or plants, using pens, nets, floats, stakes and/or other equipment.

Commercial Vessel: A vessel defined as a commercial vessel under the State of Maine Watercraft Excise Tax. Any vessel used for or engaged in any type of commercial activity including, but not limited to, commercial fishing or the carrying of cargo and/or passengers for hire.

Dock: A structure extending alongshore or out from the shore into a body of water to which vessels may be attached.

Emergency: A state of imminent or proximate danger to life, property, or the environment.

Float: Any floating structure connected to the shore normally used as a point of transfer for passengers or goods, or for temporary or continuous attachment by a vessel.

Mooring: A device to which a vessel or other watercraft is attached, that is not carried aboard, and whose sinker is left in place.

Mooring removal: Dropping the chain to the bottom or putting a different buoy on the mooring.

Obstruction: A mooring, vessel, float or other object, which impedes navigation.

Outhaul: Any mooring used to attach dinghies or tenders by means of a continuous line secured to the shore.

Permit: The official written authorization for placement of a mooring within Buck's Harbor or the official written authorization for placement of a mooring related to an aquaculture project in all tidal waters of Brooksville.

Pier (Wharf): A structure built on posts extending from land out over the water.

**Registration:** The official written recording of the placement of a mooring outside the bounds of Buck's Harbor, but within the tidal waters of Brooksville.

**Rental Moorings:** Any mooring that is offered for use for a fee.

**Resident:** For the purposes of this Ordinance, a resident shall mean an individual who occupied a dwelling within the Town for 180 or more days in a calendar year, a real estate taxpayer and/or a registered voter in the Town of Brooksville as of January 1 of that year.

**Shall and May:** "Shall" is mandatory; "may" is permissive.

**Service moorings:** Any mooring used for mooring vessels belonging to the permit holder, or when servicing a client's vessel and assigned to a water-dependent business, and which is required to be registered with the Army Corps of Engineers. Service moorings may be used as rental moorings for transient vessels when not being used as service moorings.

**Shoreland Owner:** An owner of a parcel of land greater than 20,000 square feet with at least 100 feet of shore frontage upon any of the tidal waters of the Town of Brooksville. Condominiums, townhouses, or any other similar multiple ownership parcels of land are considered as one parcel for purposes of allocating mooring permits and as such are entitled to one mooring under 38 MRSA sec. 3. Additional moorings may be allowed under other provisions of 38MRSA.

**Transient Mooring:** Any mooring that is offered for short term use by transient mariners.

**Vessel:** Any watercraft used or capable of being used for transportation.

**Watercraft:** Any and all floating apparatus including, but not limited to, vessels, dinghies, skiffs, boats, rafts, floats, airplanes, lobster crates, aquaculture equipment, without distinction as to method of propulsion.

**Water-dependent Business:** Any business that the Harbor Committee determines to require the use of moorings in order to conduct its business.

**Wharf:** Any permanent non-floating structure normally used as a point of transfer for passengers and/or goods or for temporary or continuous attachment by a vessel.