

15. - Piers, Docks, Wharves, Floats, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland. [Amended and effective December 12, 2005]

1. - PURPOSE

The purpose of this section of the Shoreland Zoning Ordinance is to protect traditional public access to, and use of the shore; and to minimize adverse impacts on fisheries, on the environment and on public enjoyment of the shoreline, including visual and navigational impacts.

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 other 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.

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 can not 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, navigation aids, basins and channels, retaining walls, and uses that primarily provide general public access to coastal or inland waters.

3. - REVIEW AND APPROVAL AUTHORITY

The Town Council shall issue a Wharfing-Out Permit upon a positive recommendation From the Coastal Waters Commission that the following standards have been met. No Planning Board review is required.

The Coastal Waters Commission is authorized to review and act on applications as defined above. Projects shall be reviewed for conformance with the provisions of this section and Section 206 – Site Plan Review. The Coastal Waters Commission may act

to approve, disapprove, or approve the project with conditions as authorized by these provisions.

SECTION - REVIEW AND APPROVAL PROCESS

A. Prior to submission of any application, a **Wharfing-Out permit must issued by the Town Council under Title 38**, Chapter 9 of M.R.S.A. After the approval of a Wharfing Out permit and prior to submission of any municipal applications, the applicant must obtain all required Federal and State permits, as required, including but not limited to, a permit from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S.A. 480-C as subsequently amended and the Army Corps of Engineers.

B. The Town shall notify all property owners within 1,500' of the proposed project. In addition, the Town shall place public notices to maximize notification to the affected citizenry. Notices shall include internet, local papers, and local public places.

C. A completed site plan review application and information describing conformance with the provisions of this section, shall be submitted Town Manager or his designee. Applications shall include, but shall not be limited to:

- a. structure elevations
- b. high and low water elevations
- c. building materials to be used
- d. soil substrates
- e. habitat types
- f. property boundary surveys
- g. plan for annual or seasonal installation and removal (storage) of float, ramp, and pier accessories

The Coastal Waters Commission shall review the materials for completeness. The CWC shall provide the Town Council a written advisory recommendation regarding all applications related to this Section.

4. -APPROVAL STANDARDS AND CRITERIA

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

The Town Council shall issue a Wharfing-Out Permit upon a positive recommendation from the Coastal Waters Commission that the following standards have been met. Coastal Waters Commission review is required.

- (a) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (b) The location shall not interfere with existing developed or natural beach areas.
- (c) The facility shall be located so as to minimize adverse effects on fisheries.
- (d) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (e) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (f) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Coastal Waters Commission that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (g) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (h) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (i) Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such as steps¹ or pier elevation to allow passage over or beneath a structure.
- (j) Where the applicant has applied for "group dock" and the waterfront structure proposed will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and

¹ See attached letter "Appendix A" from Town Attorney regarding property owner liability of steps.

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.

(k)Storage of floats, ramps, and pier accessories is prohibited within the Intertidal Zone.

(l)Storage of floats, ramps, and pier accessories must comply with all Federal, State, and local Shoreland Zoning rules and regulations.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.
