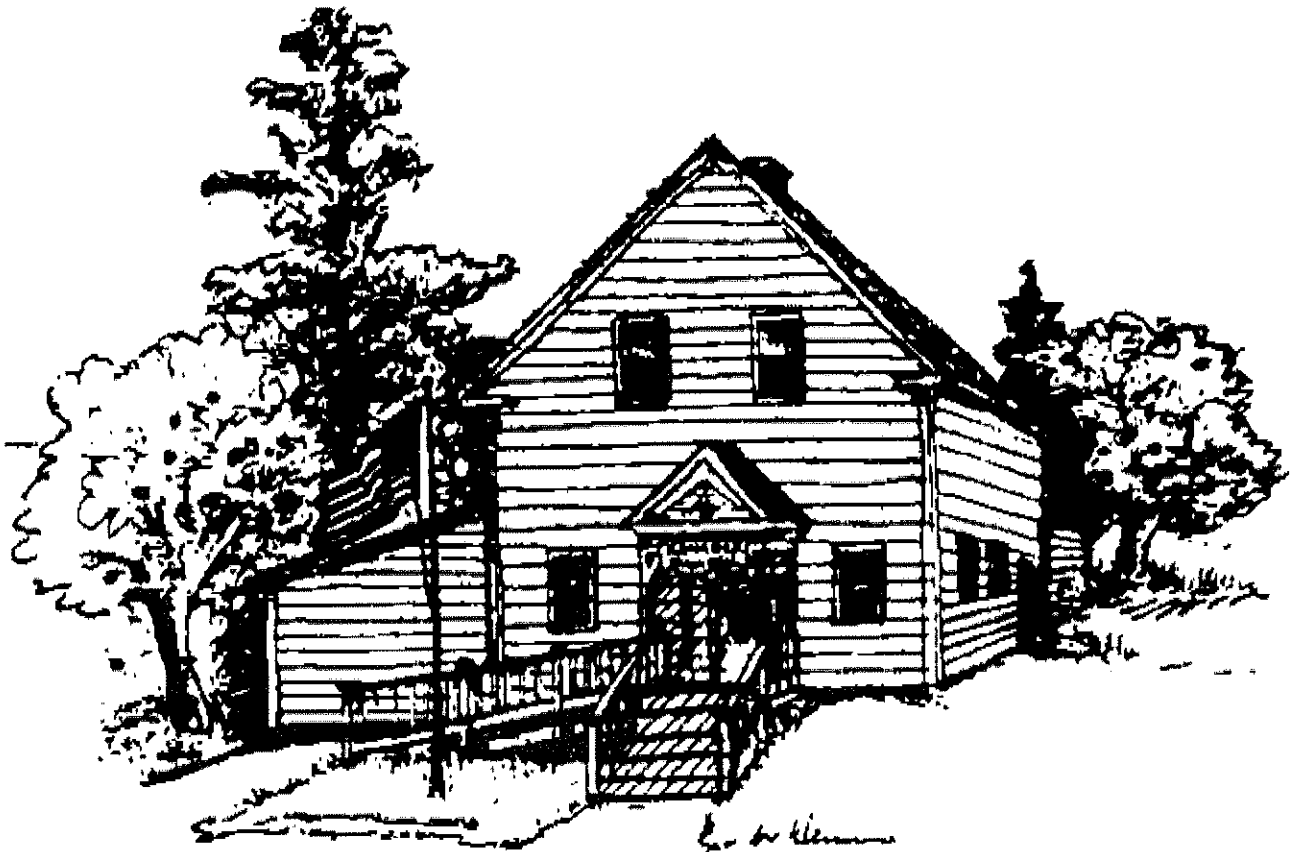


TOWN OF HANCOCK
HARBOR AND WATERS ORDINANCE



Enacted: May 9, 2023

TOWN OF HANCOCK

HARBORS AND WATERS ORDINANCE

ARTICLE 1: INTRODUCTION

1.1 Authority

This Ordinance is adopted under the authority granted in Titles 12, 17, 30, 30-A and 38 of the Maine Revised Statutes Annotated (M.R.S.A.) as may be amended.

1.2 Purpose

The purpose of this Ordinance is to a) establish regulations for the just and orderly operation and management of marine activities on and within the tidal waters of the Town of Hancock, Maine and b) to ensure safety to persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource. This Ordinance shall be subordinate to existing Federal and State Laws governing the same matters and is not intended to preempt other valid laws.

1.3 Jurisdiction

The territorial waters of the Town of Hancock ("Hancock Town Waters") shall include all navigable waters which ebb and flow starting at the Hancock Town Line in the Taunton River, running through Tidal Falls, along the eastern shore of Hancock, around Hancock Point, up the west shore of Hancock to a point at the Hancock Town Line in the Skillings River. (See Map, Appendix A).

ARTICLE 2: DEFINITIONS

In this Ordinance the following terms shall have the meanings as shown below:

2.1 ANCHORAGE - An area of the harbor set aside for permanent moorings or for the temporary anchoring of boats or vessels.

2.2 AQUACULTURE - Commercial or scientific marine farming of finfish, shellfish, other marine life and/or plants using pens, nets, floats, stakes or other equipment.

2.3 AUXILIARY - A vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or by its motor, or both.

2.4 BERTH - A place where a boat lies when at anchor, at a mooring, or at a wharf.

2.5 BOAT - Boat shall include vessels of all sizes powered by sail, machinery or hand, floats, rafts, scows, canoes, kayaks, dredges, lobster, crab and shellfish cars, houseboats and crafts of any kind.

2.6 BOUY, NO-WAKE - A marker defining an area beyond which no wake is allowed.

2.7 BOUY, NAVIGATION - A marker defining a channel or other navigable waters.

2.8 BOUY, HARBOR BOUNDARY - A marker defining the harbor boundary

2.9 CHANNEL - Areas of the harbor kept open for navigation or other purposes by rule or regulation of the Town of Hancock, the Department of the Army Corps of Engineers, or other regulatory or Legislative body.

2.10 COMMERCIAL FISHING - Any activity involving the landing or processing of shellfish, finfish or other natural products of the sea or other activities directly related to landing or processing shellfish, finfish or natural sea products, including fueling, loading or selling these products. [Title 12 M.R.S.A. §1862]

- 2.11 COMMERCIAL VESSEL - Any vessel used for or engaged in any type of commercial venture, including but not limited to fishing or the carrying of cargo and/or passengers for hire, push-boats, tugs, and barges.
- 2.12 DOCK - The slip or waterway extending between two piers or projecting wharf or cut into the land for the reception of vessels.
- 2.13 FLOAT - A floating structure that is anchored, moored, or secured at or near the shore, used for landing, transfer of passengers, goods, or other purposes.
- 2.14 HARBOR - An area or areas as defined in Article 2.
- 2.15 HARBORMASTER - An official appointed by the Selectmen and employed by the Town of Hancock to enforce the provisions of this Ordinance and certain duties and responsibilities. [Title 38 M.R.S.A. §1-13]
- 2.16 HOUSEBOAT - A raft, hull, barge or vessel designed primarily to be used as living quarters, and providing living, sleeping, cooking and sanitary facilities, whether temporarily or permanently.
- 2.17 LANDING - A place for landing or discharging person(s) or things from a vessel.
- 2.18 LOBSTER/SHELLFISH/FISH CAR - A floating temporary storage container built to store product before marketing. These floating units require a mooring and are moored in a mooring field.
- 2.19 MARINA - A dock or basin providing dockage for small vessels.
- 2.20 MOORING - An appliance used by a vessel for anchoring purposes, providing a permanent, adequate means of securing a vessel to the bottom in an anchorage, and which cannot be carried aboard such vessel, when such vessel is underway, as regular equipment.
- 2.21 PIER - A platform type structure contiguous with the shoreline and built there from over the water, supported by wooden or stone piles and used for the berthing, loading and unloading of vessels.
- 2.22 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 tax payer and/or a registered voter in the Town of Hancock as of January 1 of that year.
- 2.23 RIPARIAN OWNER - Shall mean an owner of a parcel of land located in the Town of Hancock which borders upon the territorial waters of Hancock with at least 100' shore frontage or was a pre-existing parcel prior to the date of this Ordinance as described in Article 3 as follows.
- 2.24 SEAWORTHY VESSEL - A vessel in a fit state for travel or movement without extraordinary effort or assistance provided to affect such travel or movement.
- 2.25 SHALL/MAY - "Shall" is mandatory; "May" is permissive.
- 2.26 VESSEL - Vessel shall include boats of all sizes propelled by said machinery or hand, including scows, dredges, shellfish cars, and crafts of any kind.
- 2.27 WHARF - A structure of timber, masonry, cement, earth or other material, built on the shore of a harbor or the like, especially one extending parallel to the shoreline, so that vessels may lie close alongside to receive and discharge passengers and cargo.
- 2.28 WORKING WATERFRONT - A protected harbor providing public access during any tide for mooring, loading and unloading of boat and catch, and space to work on gear, as well as on-shore access to public roads, parking for trucks and trailers, and maritime services. Working waterfront also includes clam flats.

ARTICLE 3: HARBORMASTER

3.1 The selectmen shall appoint a Harbormaster annually pursuant to 38 M.R.S.A., Sec. 1. The Harbormaster shall take office on April 1 each year. The Harbormaster shall be appointed Constable of the Town of Hancock. He/she shall have the duties and powers prescribed by law and this Ordinance.

3.2 The Harbormaster shall be at least 18 years old, a U.S. citizen, and a Maine resident.

3.3 The selectmen may appoint a Deputy Harbormaster.

3.4 In the event that the Harbormaster owns moorings, he/she shall not rent, lease, or make available such moorings to any person for a fee or other consideration, and if he/she does so, he/she shall forfeit the office immediately.

3.5 Within Hancock Town Waters up to the high water mark, the Harbormaster shall have all those certain duties and responsibilities of that office which are prescribed by 38 M.R.S.A., Sec. 1, including resolving conflicts between parties relating to moorings and vessel operations.

ARTICLE 4: DESIGNATED MOORING AREAS

The Town of Hancock currently has the following designated mooring areas within its territorial waters:

- 4.1 Moorings set by riparian owners (see definitions)
- 4.2 Moorings set at the Anchorage at Hancock Point
- 4.3 Moorings set at the Anchorage at McNeil Point (Phil Johnson's Marina)
- 4.4 Moorings set at the lobster pounds in the Skillings River

ARTICLE 5: MOORINGS

5.1 All residents with moorings located in Hancock Town Waters as of the date this Ordinance is enacted shall have the right to maintain their respective mooring positions provided they file an application for a mooring permit with the Harbormaster and pay the appropriate fee.

5.2 Subsequent to the date this Ordinance is enacted, no person shall place a mooring within the Hancock Town waters unless:

1. He or she has filed an application for a permit with the Harbormaster, setting forth such information as may be requested by the Harbormaster.
2. The Harbormaster has issued a written permit to the applicant, stating the location of the mooring; the permitted size, type, and scope of the mooring; and the size and type of the boat to be moored.
3. He or she has paid the appropriate fee as detailed in current schedule of mooring fees.

5.3 Mooring permits are valid for one year.

5.4 No mooring ropes of a type that float, including but not limited to polypropylene rope, shall be used within Hancock Town Waters.

5.5 The Harbormaster is empowered to require that any mooring be moved at any time at the owner's expense in the interest of safety or avoidance of damage to persons or property. Failure to move or remove a mooring at the request of the Harbormaster shall be a violation of this Ordinance.

5.6 The Harbormaster will issue no permit for a mooring unless he is satisfied that the information set forth in the application is adequate to ensure that the mooring and vessel attached to it will not become a danger to persons or property.

5.7 The Harbormaster shall maintain a public record of the ownership of moorings, their placement, and to whom they are assigned. This information shall also be kept current at the Town Office.

5.8 It is prohibited to moor houseboats in Hancock Town Waters, including but not limited to the designated mooring areas described in Article 4.

5.9 All mooring assignments shall be used exclusively for the personal use of the applicant and exclusively for the vessel listed on the mooring application. Exceptions must be approved by the Harbormaster.

5.10 All moorings shall be marked with a poly ball, sized and marked as directed by the Harbormaster. No wooden mooring poles are allowed. Maximum scope is to be 2.5 to 1 at high tide as measured from the stone to the bow chock.

5.11 Standards for Single Point Mooring System. The following shall be the minimum specifications for all new mooring and replacement mooring gear in Hancock Town waters:

BOAT LENGTH	ROCK SIZE	BOTTOM CHAIN	TOP CHAIN	NYLON CHAIN SIZE
Less than 18 ft.	500	1/2"	1/2"	1/2"
18 but < 26 ft.	1500	5/8"	1/2"	5/8"
26 but < 36 ft.	3000	3/4"	1/2"	3/4"
36 but < 46 ft.	4,000 lbs.	7/8"	5/8"	1"

5.12 Mushroom anchors shall not be used for a mooring without the express written consent of the Harbormaster.

5.13 The Harbormaster shall maintain a current and accurate list at all times of each mooring in Hancock Town Waters, including owner name and contact information, mooring location, vessel details and company servicing the mooring. The limits of the Anchorage at Hancock Point are defined in the attached mooring plan grid (see Grid, Appendix B). There are 23 sailboat and 59 power boat mooring sites currently on the grid, separated by a right of way for service and emergency vessels.

ARTICLE 6: ISSUANCE OF MOORING PERMITS

6.1 The Harbormaster shall assign mooring sites in Hancock Town Waters to applicants in accordance with the following priorities:

1. Riparian owners
2. Resident commercial fishermen
3. Existing mooring owners requesting change of mooring location.
4. Resident pleasure vessel owners and persons renting residences in the Town of Hancock.
5. Non-resident vessel owners.

6.2 The Harbormaster shall maintain a waitlist of all applicants who have not been assigned a mooring space for a given year but who want to remain eligible for future mooring space. To remain on the wait list, applicants must update their request in writing annually prior to April 1st and pay an annual application fee (to be determined annually by the Board of Selectmen). If an applicant refuses a mooring site when offered one, he or she may either choose to be dropped from the list or go to the bottom of the list.

ARTICLE 7: MOORING FEES

7.1 Mooring fees are established by the Hancock Board of Selectmen, and may be increased or decreased as necessary at any time. Fees accrue to the Town of Hancock for the management of Hancock Town Waters.

7.2 Mooring fees established by the Board of Selectmen will be posted in a schedule of fees available at the Town Office.

7.3 Mooring fees are due each year by July 1st and run through June 30th of the following year.

ARTICLE 8: GENERAL RULES FOR HANCOCK TOWN WATERS

8.1 Vessels shall be operated in a safe and prudent manner, and at minimal speed when in close proximity to other traffic, moored vessels, the shoreline and in posted "no wake" zones.

8.2 No person shall operate any vessel in such a way as to cause danger or damage to any person or property.

8.3 All vessels moored in Hancock Town Waters must have a valid state or federal registration and be kept in "bailed out" condition.

8.4 It is prohibited to dump garbage, fuel, lubricants or other pollutants into Hancock Town Waters.

8.5 Areas between high and low water lines within Hancock Town Waters shall be kept clear of refuse, debris and abandoned property at all times. The Harbormaster may, upon reasonable notice to the landowner if readily available, and always consistent with the laws and constitution of the State of Maine and the United States, come onto any land and remove refuse, debris and abandoned property, and abate any nuisance. The Town of Hancock may recover the costs of removal in any proceeding to seek penalties, equitable relief, and/or all other remedies described in Article 11.

8.6 Motors, generators, bilge pumps, television sets, and radios shall not be used when such operations create a nuisance or interfere with the ability of a reasonable person to use and enjoy his or her property. Nothing in this section shall be used to restrict lawful commercial fishing or lawful marine construction activity in Hancock Town Waters.

8.7 No vessel operating in Hancock Town Waters shall make excessive noise that interferes with the ability of a reasonable person to use and enjoy his or her property. Nothing in this section shall be used to restrict lawful commercial fishing or lawful marine construction activity in Hancock Town Waters.

ARTICLE 9: AQUACULTURE

9.1 Aquaculture projects within Hancock Town Waters requiring a permit from any state or federal authority also require a permit from the Town of Hancock.

9.2 Any aquaculture project requiring a permit from any state or federal authority may be subject to review by the Town of Hancock with regard to the economic, scenic, ecological, recreational and commercial fishing effects of the project.

ARTICLE 10: APPEALS OF DECISIONS OF THE HARBORMASTER

Any person may appeal a decision of the Harbormaster to the Board of Selectmen. Any such appeal shall be made within ten days after the date upon which the person is notified of the decision of the Harbormaster whether the notification is verbal or in a written form. If the Harbormaster's decision is mailed, the person shall have 13 days from the mailing date to appeal the decision. Appeals shall be in writing and shall state in detail (1) the cited conduct of the appellant; (2) the decision of the Harbormaster; and (3) a statement setting forth the reasons why the decision of the Harbormaster is not consistent with this Ordinance or with state or federal law. The written appeal shall contain all of the information necessary to enable the selectmen to consider the merits of the appeal. The applicant or the Harbormaster may request a hearing, when he or she will appear in person or with witnesses, and state their case through oral testimony or other evidence. An appeal of the decision of the Selectmen may be taken pursuant to Rule 80B of the Maine Rules of Civil Procedure.

ARTICLE 11: PENALTIES

Any person who violates any part of this Ordinance shall be liable to the Town of Hancock for the following penalties:

- A. The minimum penalty for a specific violation shall be \$25 and the maximum penalty shall be \$2,500. Each day that the penalty exists shall be a separate violation.
- B. In addition, the offender shall pay to the Town of Hancock an amount equal to reasonable attorney fees, expert witness fees, and other expenses incurred by the town in the prosecution of any proceeding to enforce the provisions of this Ordinance, including proceedings in equity to abate any nuisance or other condition in violation of this Ordinance.
- C. Failure to pay harbor fees will result in denial of all future harbor permits until all back fees are paid.

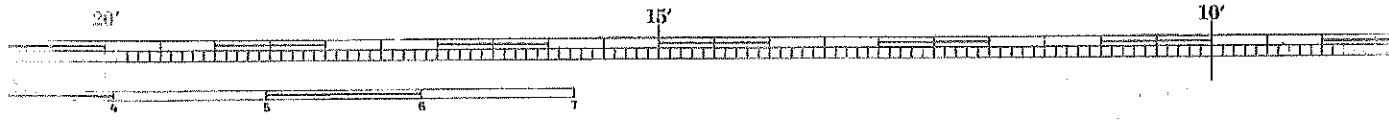
ARTICLE 12: SEVERABILITY

If any part of this Ordinance shall be found to be in violation of law, then the remaining parts of this Ordinance, not found in violation of law, shall remain in effect.

ARTICLE 13: EFFECTIVE DATE

The effective date of this ordinance is 15 days after enactment. This ordinance was passed by a majority of registered voters present at town meeting on May 9, 2023.

APPENDIX A HANCOCK TOWN WATERS



CONVERSION
Soundings to datum of soundings (MLW)

Mean Tide Level	Mean Low Water	Extreme Low Water
1.6	0.0	-4.0
3.2	0.0	-4.0
5.0	0.0	-4.0
5.0	0.0	-4.0
4.6	0.0	-4.0

AIDS TO NAVIGATION
Consult U.S. Coast Guard Light List for supplemental information concerning aids to navigation.

For details see Chart No. 1

NOTES
1. Repairs or defects in aids to navigation indicated on this chart. See Light List.
2. Repairs or when extinguished or removed. For details see Light List.

OTHER BROADCASTS
1. Service station listed.
2. Continuous marine weather broadcast.
3. Reception is variable.
4. Usually 20 to 40 miles.

162.40 MHz

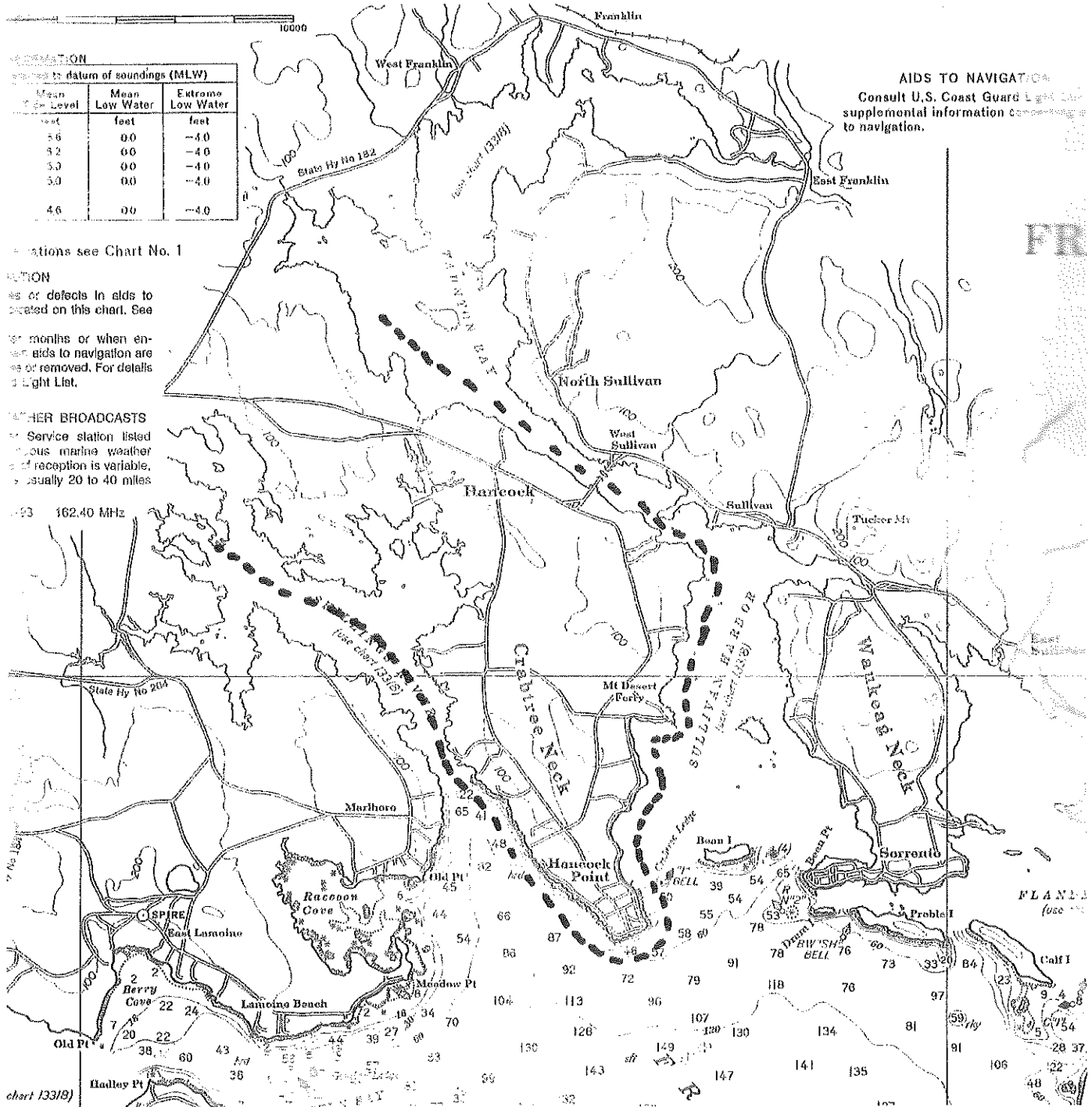
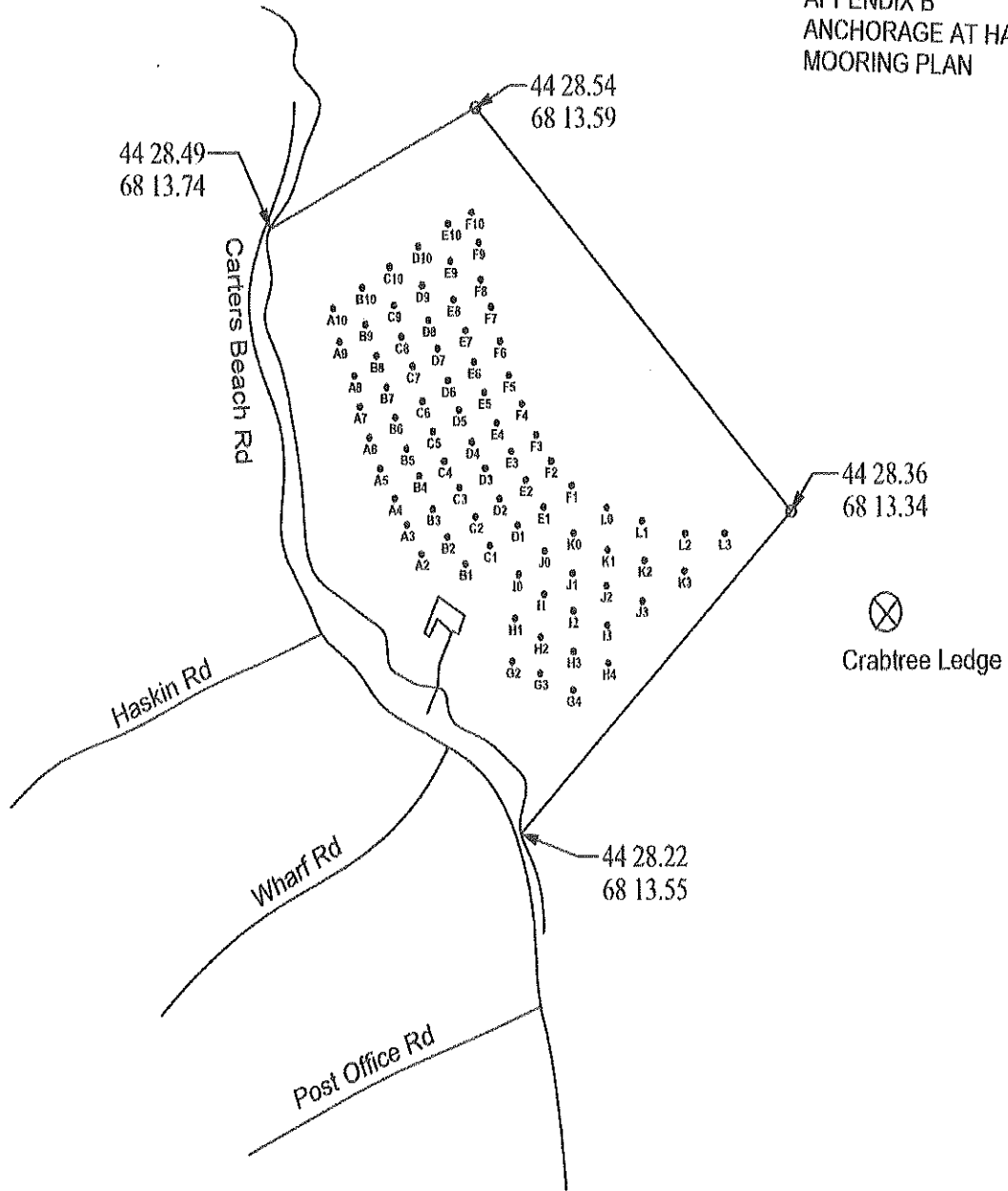


chart 13318)

APPENDIX B
ANCHORAGE AT HANCOCK POINT
MOORING PLAN



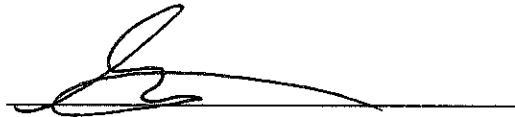

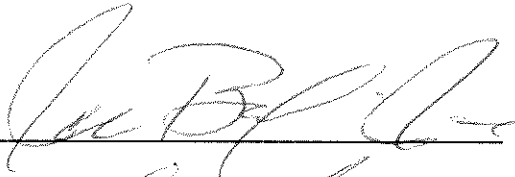
MUNICIPAL OFFICERS' CERTIFICATION OF OFFICIAL TEXT OF A PROPOSED ORDINANCE

To the Town Clerk of the Town of Hancock:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled "Town of Hancock Harbors and Waters Ordinance" which is to be presented to the voters for their consideration of May 9, 2023.

Pursuant to 30-A M.R.S. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling place on the day of the vote.

Dated: April 19, 2023



Town Selectmen