

Chapter 122

WATERWAYS

[HISTORY: Adopted by the Harbormaster of the Town of Newbury 6-2-1999. Amendments noted where applicable.] As of 2-26-08

GENERAL REFERENCES

Beaches — See Ch. 45.

Vehicles and traffic — See Ch. 93.

Zoning — See Ch. 97.

Subdivision of land — See Ch. 117.

§ 122-1. Application.

A. These rules shall apply to all persons engaged in boating as well as to boats located within the territorial confines of the Town of Newbury as such may be legally defined from time to time.

B. These rules and regulations are in effect three miles off the Town of Newbury's shores.

§ 122-2. Definitions

In construing the provisions of these rules the following definitions shall apply, unless such construction would be inconsistent with the intent of the Selectmen.

HARBORMASTER refers to the duly appointed Town of Newbury Harbormaster, all Assistant Harbormasters and Newbury Police Officers assigned to harbor patrol duty. "Harbormaster" shall mean that official responsible for administering the provisions of all waterways rules and regulations.

VESSEL or **BOAT** shall mean watercraft of every description without limitation, including documented boats or vessels used or capable of being used as a means of transportation on water and including all types of propulsion.

LOBSTERING shall include the taking of lobsters by any means such as by trap, net or scuba equipment.

MOORING shall mean a relatively permanent arrangement of an anchor, chain and floating buoy to which a boat may be tied for extended periods. For the purposes of this article, it also includes any anchor or ground tackle used to secure a float or docks.

PRIVATE DOCK or WHARF refers to a permit to have a dock or wharf on private property. The dock or wharf would be anchored or moored in such a way that there is a walkway installed for direct access between land owned by the permit holder and the floating docks or wharves. (10A permit)

MOORING NUMBER refers to the assignment of a specific mooring number and location.

COMMERCIAL MOORINGS permit refers to the assignment of a specific mooring and mooring location to a resident business of the town of Newbury.

PRIVATE FLOATING DOCK is a floating section of dock which is affixed to the river bottom with two or more moorings and capable holding two boats.

COMMERCIAL FLOATING DOCK is a floating section of dock which is affixed to the river bottom with two or more moorings and capable holding two boats. The resident business of the town of Newbury may lease or rent space on the floating dock.

WATERWAY PERMIT refers to a variety of permits (122-3-1 through 122-3-9) issued to use the waterways in the Town of Newbury.

WATERWAY PERMIT STICKER/DECAL refers to numbered decal that is to be affixed and displayed as defined in the waterway permit section.(122-3-1 through 122-3-9)

ONE DAY RAMP PERMIT refers to a permit issued by the harbormaster to use of the resident only ramp for one calendar day.

TOWN DOCK SLIPS refers to the dock slips located at the town wharf. These slips are limited to vessels under 10 feet in length, unless a written exception is issued by the harbormaster.

COMERCIAL SLIPS OR DOCKS refers to slips or docks installed and maintained by a resident business of the town of Newbury. Slips or docks are available to be rented or used by another.

COMERCIAL HAULER refers to companies that are paid to haul and launch/retrieve boats. [Added 2-26-08]

VESSEL LENGTH measured from the bow in a straight line aft to the stern.

WATER SKIING shall include not only the towing or manipulation of person(s) on skis but also the towing or manipulation of a surfboard, aquaplane, kneeboard, parasail or other similar device behind any vessel.

WATERWAY means all bodies of water within the territorial confines of the Town of Newbury, including without limitation, the Newbury section of the Plum Island Basin and the Plum Island designated beach.

Powered vessel means any vessel required to be registered as defined in MGL chapter 90B. [Added 2-26-08]

§ 122-3. Waterway permits.

A. No person shall moor or anchor any vessel, or install a mooring or float within the Town of Newbury, or use the Town Ramp without first obtaining from the Harbormaster a Waterways Permit.

B. Each waterway permit application must be completed fully, accurately and truthfully. [Amended 1-8-2002]

C. The waterway permit fee applies to all who are liable under law to pay to the Town of Newbury.

D. The permit fee is not refundable if the waterway permit has been revoked by the Harbormaster or the mooring has been removed by the owner for any reason during the year. The fee includes boats moored at slips, docks and private floats.

E. All waterway permits shall expire midnight, December 31 of the year in which they are issued.

F. Failure of a vessel owner to renew a mooring permit before April 1 will result in the loss of mooring space. Failure of a vessel owner to renew a Town Dock permit before April 1 will result in the loss of town dock space. [Amended 1-23-08]

G. The sale of any vessel or boat shall not include the sale of the mooring permit or location. Provided, however, the Harbormaster may authorize in writing the temporary use of a mooring by another boat upon application by the holder of the permit.

H. If requested, the issued mooring permit must be made available and shown to any Harbormaster, Assistant Harbormaster or any authorized law enforcement official within 24 hours of request.

I. Waterway Permit Suspension, Revocation. A permit may be suspended or revoked by the Harbormaster whenever in his opinion the boat and/or mooring

unduly threatens the safety or public health of the mooring area or the reasonable use of that area by other boats. Mooring at a place other than that specified on the permit will be grounds for revocation.

J. Regardless of recommendations or inspections it shall be the ultimate responsibility of the owners or waterways permit holder to ensure the safe and serviceable condition of all mooring, lines, docks, pilings and equipment.

K. Late fees – all payments and signed documents for renewals not received by the May 1, unless otherwise specified will be assessed a late fee. See fee table 122-12.

The following Waterways Permits are issued in the Town of Newbury.

Mooring permit – Commercial

Mooring permit - Private

Floating dock permit – Commercial

Floating dock permit - Private

Town Dock slip permit - resident

Town Dock slip permit - non-resident

Season ramp permit, vessel - resident

Season ramp permit, canoe & kayak - resident

Waterway permit - All other vessel

One day ramp permit

Wharf and dock - private (10a)

Season ramp permit, Commercial Hauler

One use ramp permit, Commercial Hauler

122-3-1 Mooring Permit - commercial

A. Permit to install a mooring (excluding floating docks). The Harbormaster will assign specific mooring location and number to a resident business located in the Town of Newbury. The business owner

may lease or rent the mooring. The vessel using the mooring must have a valid waterways permit.

B. New Mooring Application – An applicant requesting a mooring permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require to determine the adequacy of the mooring and gear to be used by the applicant. The harbormaster will maintain a waiting list for new moorings requests. Commercial applicants shall be limited to 1 new application per year. Applications for new mooring permits shall be submitted after January 1 and shall be accompanied by a waiting list fee. See fee schedule 122-12. Upon receipt of the application and fee, the Harbormaster will add the applicant names to the waiting list.

C. In order to hold their spot on the waiting list after January 1, the applicant must re-submit a mooring application with the waiting list fee. The waiting list fee and application must be postmarked no later than January 31.

D. Once a space is available the Harbormaster will contact the next applicant on the waiting list. If the applicant does not want the location that is available, the Harbormaster will continue to work down the list in the order they were reserved.

E. Once the location and applicant have been identified the Harbormaster may require an inspection of said mooring and gear. Upon payment the Harbormaster shall issue to the applicant a mooring number and waterways permit to be affixed to the vessel. The permit holder shall paint or attach the assigned mooring number on the mooring float. The numbers shall be a minimum of 3” block style letter, and shall be legible.

122-3-2 Mooring Permit - private

A. Permit to install and moor a vessel (excluding floating docks) .The harbormaster will assign specific mooring number and mooring location to an individual owner and a specific boat owned by the permit holder. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. New Mooring Application – An applicant requesting a mooring permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require to determine the adequacy of the mooring and gear to be used by the applicant. The harbormaster will maintain a waiting list for new moorings requests. Applications for new mooring permits shall be submitted after January 1 and shall be accompanied by a waiting list fee. See fee schedule

122-12. Upon receipt of the application and fee, the Harbormaster will add the applicant names to the waiting list.

C. In order to hold their spot on the waiting list after January 1, the applicant must re-submit a mooring application with the waiting list fee. The waiting list fee and application must be postmarked no later than January 31.

D. Once a space is available the Harbormaster will contact the next applicant on the waiting list. If the applicant does not want the location that is available, the Harbormaster will continue to work down the list in the order they were reserved.

E. Once the location and applicant have been identified the Harbormaster may require an inspection of said mooring and gear. Upon payment the Harbormaster shall issue to the applicant a mooring number and waterways permit to be affixed to the vessel. The permit holder shall paint or attach the assigned mooring number the mooring float. The numbers shall be a minimum of 3" block style letter, and shall be legible.

F. Only the vessel defined in the permit is allowed to be on the mooring. Any exception shall require prior written approval by the Harbormaster. Any violation of this rule will result in the immediate forfeiture of the mooring permit. [Amended 2-26-08]

122-3-3 Floating dock permit – Commercial and Private

B. Permit to install and moor a floating dock .The harbormaster will assign specific Floating dock number and location to resident business located in the Town of Newbury. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

C. New Mooring Application – An applicant requesting a mooring permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require to determine the adequacy of the mooring and gear to be used by the applicant. The harbormaster will maintain a waiting list for new moorings requests. Applications for new mooring permits shall be submitted after January 1 and shall be accompanied by a waiting list fee. See fee schedule 122-12. Upon receipt of the application and fee, the Harbormaster will add the applicant names to the waiting list.

D. In order to hold their spot on the waiting list after January 1, the applicant must re-submit a mooring application with the waiting list fee. The waiting list fee and application must be postmarked no later than January 31.

E. Once a space is available the Harbormaster will contact the next applicant on the waiting list. If the applicant does not want the location that is available, the Harbormaster will continue to work down the list in the order they were reserved.

F. Once the location and applicant have been identified the Harbormaster may require an inspection of said mooring and gear. Upon payment the Harbormaster shall issue to the applicant a floating dock number to be affixed to the floating dock. The permit holder shall paint or attach the assigned floating dock number on the down river end of dock. The numbers shall be a minimum of 5" block style letter, and shall be visible and legible at all times. Additionally the current year waterways decal shall be affixed immediately after the float number.

G. Floating docks for private use may not be rented or sublet and the permit may not be transferred in any way (given, leased, rented, sold, etc.).

122-3-4 Town Dock slip permit – resident and non-resident

A. Permit to rent a town dock slip on the town dock. The Harbormaster will assign specific slip location to an individual owner and a specific boat owned by the permit holder. This permit and town dock slip may not be transferred in any way (given, leased, rented, sold, etc.).

B. New town dock slip Application – An applicant requesting a dingy slip on town dock slip permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require. The harbormaster will maintain a waiting list for new town dock slip permits requests. Applications for new town dock slip permit shall be submitted after January 1 and shall be accompanied by a waiting list fee, see fee schedule 122-12. Upon receipt of the completed application and fee, the Harbormaster will add the applicant names to the waiting list.

C. In order to hold their spot on the waiting list after January 1, the applicant must re-submit a town dock slip permits request application with the waiting list fee. The waiting list fee and application must be postmarked no later than January 31. Any application and fees not received with a postmark of January 31 or earlier will lose their spot on the waiting list.

D. Once a town dock slip space is available the Harbormaster will contact the next applicant on the waiting list. If the applicant does not want the location that is available, the Harbormaster will continue to work down the list in the order they were reserved.

E. Once the location and applicant have been identified the applicant will be required to fill out the town dock slip permits application and pay the associated fee. Upon payment, the Harbormaster shall issue to the applicant a waterways permit to be affixed to the vessel. The waterways permit shall be applied and displayed on the upper Starboard (right) stern corner of a boat, just below the hull identification number.

F. The owner agrees not to hold the town responsible for damages caused by fire, theft, storm, wind, rain, flood, or causes beyond its own control while the boat located at the town dock. The boat owner will be held responsible for damage which he may cause to other boats or structures. Any boat which may sink while at the town dock may be removed by the Town at the expense of the boat owner.

122-3-5 Season ramp permit, vessel - resident

A. Permit issued to residents of Newbury to use the town launch ramp. This permit is issued to an individual and a specific boat owned by the permit holder. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. Season ramp permit, vessel - resident application – An applicant requesting a Season ramp permit, vessel - resident permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require.

C Upon submission of completed application form and payment, and Proof of the payment of Boat Excise Taxes to the Town of Newbury for the previous year the Harbormaster shall issue to the applicant a waterways permit to be affixed to the vessel. The waterways permit shall be applied and displayed on the upper Starboard (right) stern corner of a boat, just below the hull identification number.

122-3-6 Season ramp permit, canoe & kayak - resident

A. Permit issued to residents of Newbury to use the town launch ramp. This permit is issued to an individual owner and a specific canoe & kayak owned by the permit holder. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. Season ramp permit, canoe & kayak - resident application – An applicant requesting a Season ramp permit, canoe & kayak - resident permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require.

C Upon submission of completed application form, fee payment, and Proof of the payment of Boat Excise Taxes to the Town of Newbury for the previous year, the Harbormaster shall issue to the applicant a waterways permit to be affixed to the vessel. The waterways permit shall be applied and displayed on kayaks or canoes on the starboard (right) side near the stern. It must be visible when the vessel is in the water.

122-3-7 Waterway permit - All other vessel

A. Permit issued to all other vessel not addressed in the previous definitions and moored in the any bodies of water within the territorial confines of the Town of Newbury, including without limitation, the Newbury section of the Plum Island Basin and the Plum Island designated beach. Examples are, vessels on private or commercial docks, floating docks, commercial moorings, rack storage etc. This permit is issued to an individual owner and a specific vessel owned by the permit holder. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. Waterway permit – all other vessel application – An applicant requesting a Waterway permit – all other vessel permit shall file an application with the Harbormaster, and said application shall contain such information as the Harbormaster may reasonably require.

C Upon submission of completed application form and fee payment, and Proof of the payment of Boat Excise Taxes to the Town of Newbury for the previous year, the Harbormaster shall issue to the applicant a waterways permit to be affixed to the vessel. The waterways permit shall be applied and displayed on the upper Starboard (right) stern corner of a boat, just below the hull identification number.

122-3-8 One day ramp permit

A. One day ramp permit issued to residents of Newbury to use the town launch ramp. This permit is issued to a Newbury resident and allows them to launch a specific boat identified on the permit. The boat may be owned by them or their guest. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. One day ramp permit, An applicant requesting a One day ramp permit, shall request permission from the Harbormaster on duty. An application will be completed and given to the harbormaster. Should a harbormaster not be on duty when the vessel departs the fee is still owed to the Town of Newbury. The application shall contain such information as the Harbormaster may reasonably require.

C. Upon submission of completed application form and payment to the Town of Newbury the Harbormaster shall issue to the applicant a One day ramp permit. The permit shall be kept in the boat and must be produced if requested by the Harbormaster.

122-3-9 Dock or wharf permit - private (10 a permit)

A. Permit to have a dock or wharf on private property. The dock or wharf would be anchored or moored in such a way that there is a walkway installed for direct access between land owned by the permit holder and the floating docks or wharves. (10A permit) .The harbormaster will assign specific dock number and location to property owner located in the Town of Newbury. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. New dock or wharf permit Application – An applicant requesting a dock or wharf permit shall file an application with the Harbormaster certifying ownership to the land from which the dock or wharf will be attached., and such other information as the Harbormaster may reasonably require to determine the adequacy of the mooring and dock to be used by the applicant.

C. Once the location and applicant have been identified the Harbormaster may require an inspection of said mooring and docks. Upon payment the Harbormaster shall issue to the applicant a private dock number to be affixed to the outermost floating dock. The permit holder shall paint or attach the assigned private dock number on the down river end of outermost dock. The numbers shall be a minimum of 5” block style letter, and shall be visible and legible at all times. Additionally the current year waterways decal shall be affixed immediately after the float number.

D. Private docks may not be rented or sublet and the permit may not be transferred e.g. (given, leased, rented, sold, etc.).

E. Should it be discovered that the permit holder does not own the land that the dock or wharf rests on the waterway permit shall be immediately revoked. The wharf and docks and any moorings or pilings used to secure the docks or wharfs shall be removed by the permit holder of record. If the docks and wharfs are not removed within 15 days, the harbormaster may arrange for removal at the permit holder of records expense.

122-3-10 Season ramp permit, Commercial Hauler [Added 2-26-08]

A. Permit issued to businesses to launch and retrieve vessels at the town ramp area. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. New Application – An applicant requesting a Commercial hauler permit shall file an application with the Harbormaster. The application form will contain information as the Harbormaster may reasonably require to determine the legitimacy of the permit requested.

C. Upon payment and successful completion of application the Harbormaster shall issue to the applicant a Commercial Hauler permit.

D. If the Commercial hauler requests, additional permits will be issued to the business for other hauling vehicles. A small fee will be assessed for additional permits. (see fee schedule)

E. Commercial haulers that are issued a permit will be responsible for securing adequate insurance for all risks and exposures.

122-3-11 One use ramp permit, Commercial Hauler [Added 2-26-08]

A. Permit issued to businesses to launch or retrieve a specific vessel at the town ramp area. This permit may not be transferred in any way (given, leased, rented, sold, etc.).

B. An applicant requesting a Commercial Hauler One use ramp permit shall request permission from the Harbormaster on duty. An application will be completed and given to the harbormaster. Should a harbormaster not be on duty when the vessel is hauled or launched the fee is still owed to the Town of Newbury. The application shall contain such information as the Harbormaster may reasonably require.

C. Upon submission of completed application form and payment to the Town of Newbury the Harbormaster shall issue to the applicant a One use ramp permit.

D. Commercial haulers that are issued a permit will be responsible for securing adequate insurance for all risks and exposures.

§ 122-4. Regulations for moorings.

A. The Harbormaster Shall Establish and Enforce Regulations For Moorings And Buoys. The Harbormaster shall designate any and all mooring areas. The Harbormaster shall order the movement and placement of all vessels for the orderly and safe management of the Newbury waterways. (State Law Reference - Powers of Harbormaster to regulate harbors, M.G.L.A. Chapter 102, Sections 21, 23, 26.)

B. Relocation of Boats.

(1) All moorings are subject to inspection by the Harbormaster. Any mooring may be inspected for size, type, construction and placement and removed or relocated whenever, in the reasonable judgment of the Harbormaster, the safety of other vessels or use of the area requires such action.

(2) Whenever the Harbormaster considers a mooring in violation of harbor bylaws and/or poses a hazard to navigation, he may, after due notification to the owner, in person or by registered mail to the address of record listed on the mooring permit, order the removal of the mooring, together with any vessel which may be attached to it, to a new location. Such action may be taken without notification to or reply from an owner only if; in the determination of the Harbormaster, the owner cannot be contacted within seventy-two (72) hours or if conditions require immediate action. Any expenses incurred in the removal or relocation of such mooring and/or vessel, or any resulting damage thereto shall be the sole responsibility of the owner. (State Law Reference - Harbormasters authority to remove vessels at anchor, M.G.L.A. Chapter 102, Section 24, 25.)

C. Each mooring spar and buoy shall be visible at any tide level. Wood and/or metal mooring spars and buoys are not permitted.

D. The use of an engine block or any other object which give rise to any oil or grease residue as a mooring anchor is disallowed. [Amended 1-23-07]

E. Upon discontinuance of the use of a mooring, the permit holder shall notify the Harbormaster in writing, and shall remove the mooring and tackle.

F. No movement of moorings shall be allowed unless permission has been obtained from the Harbormaster.

G. Failure to obtain a legal mooring permit prior to establishing a mooring will result in the removal of that boat and mooring. [Amended 1-23-07]

H. Mooring Information. The Harbormaster shall keep a record of all mooring permits issued, their location, and the owner's name, address, telephone number, boat length, type of boat and registration number.

I. Abandonment of vessels, moorings etc. - Except in a maritime emergency currently affecting those aboard or others in the immediate vicinity, no vessel, mooring or other object shall be deliberately abandoned, sunk or otherwise placed in waters within the Town of

Newbury where it may constitute a hazard. Any abandoned, sunk or improperly placed vessel, mooring or object so found and any vessel otherwise improperly secured, swamped, sunk, washed ashore or found in a restricted area may be ordered by the Harbormaster to be removed or relocated. If corrective action is not taken after twenty-four (24) hours notice to the owner or if the owner is not known after notice has been posted for the same period at the Harbormaster's office, the Harbormaster shall have authority to remove or relocate it, and the expense of such removal or relocation shall be charged to the vessel and its owner.

A. Nothing in the above shall be deemed to prevent emergency action by the Harbormaster with or without notice to the owner if, in his judgment, such action is necessary for the health and safety of persons or property.

B. Removal of any stray vessel by the Harbormaster shall be without liability to the Town of Newbury, its officers, agents or employees.

§ 122-5. Parking and ramp; Parker River town facility.

A. Use of the Town Ramp is limited to those vessels displaying a current Town of Newbury waterways sticker or by purchase of a one day ramp permit. [Amended 5-27-2004; 1-23-07]

B. No parking except in designated areas. The vehicle must display a current parking sticker from the Town of Newbury at all times while parked. [Amended 5-27-2004]

C. Live parking only is permitted on the boat entrance ramp area.

D. Residents of the Town of Newbury may use the Town Ramp and float facility provided the boat owner holds a valid waterways permit. [Amended 5-27-2004; 1-23-07, 2-26-08]

E. No vessel will make fast to the town float for more than fifteen (15) minutes unless the express permission of the Harbormaster has been obtained and the temporary tie-up fee paid. [Amended 5-27-2004; 2-26-08]

F. Swimmers and persons fishing must yield to boats using the town float at all times.

§ 122-6. Prohibited uses.

- A. The Harbormaster may prohibit scuba or other types of diving in mooring areas if such diving cannot be conducted safely without undue inconvenience to other boat operations.
- B. No lobstering whatsoever is permitted in the designated mooring areas.
- C. Water skiing, tubing, or uses of a board or similar device being pulled by a line are prohibited in the mooring areas. [Amended 5-27-2004]
- D. Diving off the Route 1A Bridge over the Parker River is prohibited.
- E. No boat shall exceed six (6) miles per hour or cause a disturbing wake within the confines of posted areas or mooring areas. [Amended 5-27-2004]
- F. No person shall operate a boat within three hundred (300) feet of any beach or designated swimming area while water skiing, tubing or use of a board or similar devices being pulled by a line. [Amended 5-27-2004]
- G. No person shall operate a motor boat (a boat with machinery) within one hundred fifty (150) feet of any beach, public bathing area, or designated swimming area. [Amended 5-27-2004]
- H. Operation Near Scuba or Skin Divers. No person shall operate a power boat in the tidal waters of the Town within fifty (50) feet of a scuba diver's flag or marker unless such boat is being operated by a person identified with, working with or rendering assistance to such scuba diver. Persons skin diving or scuba diving in Newbury waters shall tow a float and divers flag while submerged. Such persons shall surface under such float and flag.
- I. No person shall operate a vessel in a reckless or negligent manner so as to endanger the life, safety or property of another person. Operators shall be responsible for damage caused by their excessive wake at any time.
- J. Except in the case of an emergency, boats are prohibited from tying up to any speed marker float, buoy or aid to navigation. (State Law Reference - Municipal authority to regulate motorboats and other vessels, M.G.L.A. Chapter 90B, Section 15)

§ 122-7. Unlawful deposits.

- A. No person shall throw or deposit in the Parker River, Plum Island River or in any pond, brook, or natural waterway within the limits of the Town, any dead animal, dead fish, rubbish, filth, foul or offensive substance, or any refuse matter whatsoever, fuel lubricating oil or other greasy

substance so that the same shall create a danger to the public health, safety and welfare.

B. No person shall discharge or cause to be discharged any petroleum products or waste into the Parker River, Plum Island River or any of the other waters surrounding the Town. (State Law References-Water pollution generally, M.G.L.A. Chapter 21, Section 26 et seq., Chapter 102, Section 17, Chapter 131, Section 41 et seq.; discharge of petroleum products, et seq. into tidal waters, etc., M.G.L.A. Chapter 91, Section 59.)

§ 122-8. Personal watercraft (jet skis, water bikes, surf skis).

A. No person shall operate a personal watercraft in a negligent manner. Including but not necessarily limited to:

(1) Excessive or disturbing wake in restricted areas. [Amended 5-27-2004]

(2) Weaving through congested vessel traffic.

(3) Unreasonable jumping, or attempting to jump the wake of another vessel.

(4) Crossing unreasonably close to another vessel.

(5) Operating a personal watercraft in such a manner that it endangers the life, limb or property of any person.

(6) Towing a water-skier or any person in any manner from a personal watercraft. [Amended 5-27-2004]

(7) Operating a personal watercraft during the evening (sunset to sunrise).

(8) No person 16 or 17 years of age shall operate a personal watercraft without having received a safety certificate evidencing satisfactory completion of a training course in safe operation. [323 CMR 4:00(b)]

(9) No person shall operate a personal watercraft if such person is under the age of sixteen (16).

B. No person shall operate a personal watercraft:

(1) Within one hundred and fifty (150) feet of a beach, designated swimming area, or public bathing area. [Amended 5-27-2004]

(2) Within fifty (50) feet of a moored vessel. [Amended 5-27-2004]

(3) Between one hundred and fifty (150) and three hundred (300) feet of a beach, designated swimming area, or public bathing area except at headway speed. [Amended 5-27-2004]

(4) Within one hundred fifty (150) feet of a swimmer in the water.

C. Violations of Personal watercraft Subsections A(1) through (7) and B(1) through (4) will result in a fine of \$50.00.

§ 122-8.1. Dinghies on Town Dock. [Added 1-8-2002]

Maximum length of dinghy on Town Dock not to exceed 10' (feet) unless written exception is attained from the Harbormaster.

§ 122-8.2. Vessel Regulations.

A. Operator Provision of Personal Flotation Devices - The operator of any vessel on the waters of the Town of Newbury shall provide a United States Coast Guard approved personal flotation device for each person aboard a vessel. (CMR 207:p15)

B. Any child under 12 years of age must wear a U.S.C.G. approved personal flotation device when above deck on any vessel underway. An open boat is considered above deck. (CMR 207:p14) [Amended 1-8-2002]

C. Any person using a canoe, kayak from September 15 through May 15 must wear a U.S.C.G. approved personal flotation device. (CMR 207:p10)

D. Overloading of vessels as set by the U.S. Coast Guard Maximum capacity plate or Manufacturers capacity plate or for vessels without these plates the formula: [Added 1-8-2002]

$$\text{Number of people} = \frac{\text{Length of Vessel} \times \text{Width of Vessel}}{15}$$

§ 122-9. Penalties and enforcement.

A. A waterway permit may be denied or revoked by the Harbormaster an any time for failure to comply with any waterways rules and regulations of the Town of Newbury and the Commonwealth of Massachusetts.

B. Whoever violates any of these rules and regulations or refuses or neglects to obey the lawful orders of a Harbormaster, or resists him in the

execution of his duties, shall subject the offender to a fine as set forth below and shall be liable in tort to any person suffering damage thereby. Each day of violation shall constitute a separate offense. Fines for acts constituting a violation are as follows:

- (1) Placement of a mooring, float or dock without obtaining a waterway permit: \$50 per day. [Amended 1-23-07]
- (2) Invalid, no vessel registration, or failing to display registration sticker: \$50.00. [Amended 5-27-2004]
- (3) Failure to obtain, or display waterways permit for use of waterways of the Town of Newbury as defined in 122-3-1 through 122-3-8: \$40.00. [Amended 1-8-2002; 5-27-2004; 1-23-07]
- (4) Exceeding six (6) mph in mooring area or causing a disturbing wake within the confines of posted areas or mooring areas: \$50.00. [Amended 1-8-2002; 5-27-2004]
- (5) Reckless/negligent operation of a vessel: \$50.00. [Amended 1-23-07]
- (6) Failure to mark mooring buoy or float with the assigned mooring number: \$40.00. [Amended 1-8-2002; 1-23-07]
- (7) Water skiing, tubing, or pulling a similar device with a line in the mooring area: \$50.00. [Amended 5-27-2004]
- (8) Pollution of waterways: \$300.00.
- (9) Any vessel dumping waste materials (sewerage, garbage, plastics or paper products) in the Town of Newbury waterways: \$300.00.
- (10) Exceeding fifteen (15) minute tie up limit at Town ramp: \$50.00. [Amended 1-8-2002] [Amended 1-23-2008]
- (11) Unauthorized moving/tampering of moorings: \$50.00.
- (12) Failure to remove derelict, abandoned, sunk and/or unsafe vessel after notice has been given: \$50.00 per day. [Amended 1-23-07]
- (13) Operation of motor boat or personal watercraft within one hundred fifty (150) feet of a beach, designated swimming area, or

public bathing area. (§ 122-6G, 122-8b-1): \$50.00. [Amended 5-27-2004]

(14) Parking in Town Ramp Parking Area without displaying a valid parking permit: \$50.00. [Amended 1-8-2002; 5-27-2004]

(15) Failure to wear a Type I, II, III personal flotation device from September 15 through May 15 for users of canoe, kayak: \$ 50.00.

(16) Fine for § 122-8E will be administered to adult on board for any child not wearing a USCG approved personal flotation device: \$ 50.00.

(17) Failure to have a Coast Guard approved personal flotation device for each person aboard a motorboat will result in end of voyage and fine of : \$50.00. [Amended 1-23-07]

(18) Operating without light - sunset to sunrise or restricted visibility (M.G.L.A. Ch. 90B Sec.5): \$50.00.

(19) Overloading of vessel will result in end of voyage and fine of \$50.00. [Added 1-8-2002]

(20) Sublet of private mooring or floating dock: loss of waterways permit and/or \$50.00 per day. [Added 1-8-2002; 1-23-07]

(21) Use of ramp by Commercial vessel hauler without permit \$100.00 per offense [Added 2-26-08]

§ 122-10. Operation by minors.

A. Safety Certificate. Any person of at least 12 years of age and less than 16 years of age shall satisfactorily complete a training course in boating safety approved by the National Association of State Boating Law Administrators. Courses approved include those sponsored by the Division of Law Enforcement, boating agencies of other states in the U.S.A., the United States Coast Guard Auxiliary, the United States Power Squadron, or any other entity approved by the Director. Any such person who satisfactorily completes said course will be issued a safety certificate, which shall be in possession when operating a motorboat and available for inspection by empowered law enforcement officers. (323 CMR 2.08:1)
Violation: \$50.00

B. Exception. The provisions of 323 CMR 2.08 (1) shall not apply if the person (minor) who is operating the motorboat is accompanied on board and directly supervised by a competent person 18 years of age or older. (323 CMR 2.08:2) Violation: \$50.00

C. Minimum Age. No person under 12 years of age may operate a motorboat on the waters of the Commonwealth, unless accompanied on board and directly supervised by a competent person 18 Years of age or older. (323 CMR 2.08:3) Violation: \$50.00

§ 122-11. Miscellaneous.

A. Nothing contained herein shall be held or construed to supersede or conflict with or limit the Jurisdiction of the United States Government with respect to the enforcement of the navigation, shipping, anchorage, and associated laws of the United States, or any lawful regulation of the Division of Marine and Recreational Vehicles, or any of the laws of the Commonwealth of Massachusetts.

B. In the event that any provisions of these rules and regulations are judicially found to be invalid, Such decision, invalidity or voidance shall not affect the validity of the remaining provisions.

§ 122-12. Fees. [Amended 1-8-2002; 5-27-2004; 2-13-07]

Use	Fee
Mooring Permit - Commercial	\$100.00 per year
Mooring Permit - Private	\$4.00 per foot powered \$2.00 per foot Non-powered
Floating dock permit – Commercial	\$200.00 per year per float
Floating dock permit – Private	\$55.00 per year per float
Town Dock slip permit - resident	\$80.00 per year
Town Dock slip permit – non-resident	\$125.00 per year
Town Dock Temporary tie-up fee	\$25 per day
Season ramp permit, Powered vessel - resident	\$3.00 per foot
Season ramp permit, Non-powered - resident	\$1.00 per foot up to maximum \$20.00
Waterway permit - All other vessels - powered	\$3.00 per foot

Waterway permit - All other vessels - non-powered	\$1.00 per foot up to maximum \$20.00
Waiting list fee	\$10.00 per year
Commercial Hauler season ramp permit	\$400.00 per season
Commercial Hauler Additional Copy of Permit	\$10.00
Commercial Hauler One Use Permit	\$75.00
One day ramp permit	\$20.00 day
Private dock or wharf (10a permit)	\$55.00 per year
Late fee renewals not rec'd by: May 1	\$10.00
Non-resident equipment fee	\$25.00 per year