

STATE OF MAINE
HANCOCK, ss.

DISTRICT COURT
Location: Ellsworth
Docket No.: _____

TOWN OF BAR HARBOR,

]

Plaintiff

]

v.

]

GOLDEN ANCHOR, L.C.

]

Defendant

]

]

**CITATION AND COMPLAINT
PURSUANT TO M.R. CIV. P. 80K**

Pursuant to Maine Rule of Civil Procedure 80K, Plaintiff/Complainant, Town of Bar Harbor, by and through its attorneys, Rudman Winchell, alleges and charges Golden Anchor, L.C. (the “Defendant”), as follows:

PARTIES AND PROPERTY

1. Defendant, Golden Anchor, L.C. (“Golden Anchor”), is the owner of property that is the subject of this Citation and Complaint by virtue of a Warranty Deed recorded at Book 3630 and Page 0080 of the Hancock County Registry of Deeds (the “Property”). A copy of the aforementioned Deed is attached to this Complaint as Exhibit A.

2. Golden Anchor is a limited company duly organized under the laws of the State of Florida and is authorized to conduct business in the State of Maine.

3. The Property is located at 55 West Street, Bar Harbor, Maine, 04609, and is also known as Tax Map 101, Lot 010-000.

4. Plaintiff/Complainant, the Town of Bar Harbor (the “Town”), is a municipal corporation located in the County of Hancock, State of Maine.

5. The Property is located in the Shoreline General Development 1 district of the Town.

JURISDICTION & VENUE

6. This Court has jurisdiction over this matter pursuant to M.R. Civ. P. 80K, 4 M.R.S. § 152(6-A), and 30-A M.R.S. § 4452.

7. Venue is proper in Hancock County because the Town is a municipality located in Hancock County, and the cause of action took place on property located in Hancock County.

APPLICABLE LAW

8. Chapter 125 (the “Land Use Ordinance” or “LUO”), Article VII, of the Town Code requires a written permit from the Code Enforcement Officer (the “CEO”) for certain activities, regardless of whether such activities have received site plan or subdivision approval or whether they also require review by the Design Review Board.

9. Contained within Article VII of the LUO is Section 125-77H, which is the codification of an ordinance that passed by a citizens’ initiative on November 8, 2022 (the “Cruise Ship Ordinance” or “Section 152-77H”).

10. The Cruise Ship Ordinance contains a permitting requirement for properties, such as the Property, that are used for disembarking passengers from cruise ships on, over, or across such properties within the Town.

11. Section 125-77H also limits to 1,000 the number of persons, in the aggregate, that may disembark on a single calendar day from cruise ships and come to shore on, over, or across such properties.

12. Section 125-77H(3) requires the development of rules and regulations to establish (a) a reservation system for cruise ships that transport persons by watercraft for disembarkation in the Town of Bar Harbor; (b) a mechanism for counting and tracking the number of persons disembarking each day; (c) a mandatory procedure for reporting violations to the CEO; and (d) any other provisions that the Harbor Master deems necessary.

13. The Town's Cruise Ship Disembarkation Ordinance, codified as Chapter 52 of the Town Code (the "Cruise Ship Ordinance Rules"), constitutes said rules, and requires that a permit must be obtained from the CEO for a property to operate as a Cruise Ship Disembarkation Facility ("CSDF") prior to that property receiving any disembarking Persons from a cruise ship.

14. A CSDF is defined by § 52-5 to include any private property used for disembarkation of Persons arriving on land from cruise ships.

15. Section 52-6A of the Cruise Ship Ordinance Rules states as follows: "Permit Required: No person may allow or facilitate the disembarkation of Persons from a cruise ship over land or operate a CSDF without having first obtained a permit to operate a CSDF ('CSDF Permit')."

16. "Cruise ship" is defined in the Cruise Ship Ordinance and Cruise Ship Ordinance Rules by reference to § 153-22B of the Town Code, which defines "cruise

ship" as a "watercraft carrying passengers for hire which is capable of providing overnight accommodations for 49 or more passengers."

17. Section 52-5 of the Cruise Ship Ordinance Rules defines "Person" as follows: "Persons" means passengers of cruise ships and not those persons covered by 33 C.F.R. § 105.200 and 33 C.F.R. § 105.237 (titled 'System for seafarers' access"), namely, 'vessel personnel,' 'vessel crew,' 'seafarers assigned to a vessel,' 'pilots,' and 'representatives of seafarers' welfare and labor organizations' (collectively, 'Crew'). The word 'person' (i.e. not capitalized) shall have the meaning provided by § 125-108 of the Town Code."

18. Section 52-6C further provides that a CSDF owner must submit an application to the CEO, or designee, for a Disembarkation Permit to allow on a specified calendar day a specified number of Persons not exceeding 1,000 to disembark from one or more cruise ships with a confirmed reservation for anchorage.

19. Section 52-6C(4) provides that the CEO shall not issue a Disembarkation Permit to a CSDF that would authorize the disembarkation of more than 1,000 Persons, in the aggregate, on a single calendar day, regardless of the total number of Disembarkation Permits requested or issued for a specific calendar day—i.e. the 1,000 Persons disembarkation limit established by the Cruise Ship Ordinance.

20. Section 125-77H(4) provides that property owners in violation of § 125-77H shall be subject to such fines, penalties, actions and orders as authorized under

30-A M.R.S. § 4452, provided that each disembarking person exceeding the permitted daily limit of 1,000 is a specific violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized disembarking person.

21. Section 52-8B provides that the Cruise Ship Ordinance Rules shall be enforced by the CEO in accordance with §§ 125-100 and 125-101 of the Town Code and that CSDF Owners found to be in violation of the Cruise Ship Ordinance Rules may be subject to such fines, penalties, actions, and orders authorized by 30-A M.R.S. § 4452, provided that each disembarking Person exceeding the Disembarkation Permit is a distinct and separate violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized Person.

22. A certified copy of Chapter 52, §§ 125-99, -100 and -101, and § 125-77H of the Town of Bar Harbor Municipal Code is attached hereto as **Exhibit B** (the full Code is available at <https://www.barharbormaine.gov/224/Municipal-Code>).

23. A violation of Chapter 125 of the Code is deemed a nuisance, per § 125-99 of the Town Code.

24. Pursuant to § 125-101B(1), any person who continues to violate any provision of this chapter, which includes § 125-77H, after receiving notice of such violation, shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S. § 4452, as same may be amended. A fine or penalty may be imposed for each violation. Each day of violation after notification shall constitute a separate offense with respect to each violation.

25. Pursuant to § 125-103 of the Town Code, any decision or enforcement action by a municipal body or official which interprets Chapters 125 may be appealed to the Board of Appeals (“BOA”).

26. Pursuant to § 125-101D of the Town Code and 30-A M.R.S. § 4452(3)(D), if the Town is the prevailing party in this case, the Town must be awarded reasonable attorney fees, expert witness fees and costs, unless the Court finds that special circumstances make the award of these fees and costs unjust.

FACTS

27. Cruise ship visitation in Bar Harbor is seasonal; the season begins in May and runs through the end of October.

28. Bar Harbor is a tender port, meaning that cruise ships anchor in the anchorages in Frenchman Bay, and passengers board tender ships that transport them to piers on the shore, where they disembark.

29. There are only two such piers; the pier where most cruise passengers disembark is located at the Property.

30. The Town’s Harbor Master manages a reservation system for cruise ship anchorage, which predates and is independent of the Cruise Ship Ordinance and Cruise Ship Ordinance Rules at issue in this case.

31. Reservations are requested by and confirmed with the cruise lines; the pier owners are not involved in that process.

32. The Harbor Master is responsible for confirming reservations.

33. Reservations are for *anchorage*; reservations do not confer or imply any right on the part of pier owners to *disembark* passengers over their land.

34. A cruise ship reservation is for a single cruise ship identified by name and by its published lower berth capacity (“LBC”), which is a rough measure of the total passenger capacity of the ship.

35. The Town has historically estimated the number of passengers disembarking from cruise ships by reference to a cruise ship’s LBC.

36. On March 6, 2024, the Council stated at a special Town Council meeting, in relevant part, that the Town would honor cruise ship anchorage reservations made before November 8, 2022, the date the Cruise Ship Ordinance was enacted, and that passengers disembarking from cruise ships with reservations for the 2024 season that were made and accepted on or before November 8, 2022, would not be subject to the Cruise Ship Ordinance disembarkation limits.

37. During the 2024 cruise ship season in Bar Harbor, cruise ships anchored and disembarked passengers to Bar Harbor via the Property on 83 calendar days. The name of each disembarking cruise ship, the dates of each ship’s arrival, the date each ship requested anchorage, the date the Town confirmed and booked each ship’s anchorage, and the LBC of each ship was tracked by the Town and is reflected on **Exhibit C**.

38. On or about July 25, 2024, it was observed that individuals meeting the definition of “Person” under the Cruise Ship Ordinance Rules disembarked from a

cruise ship on, at, or over the Property without Golden Anchor having first obtained a CSDF Permit as required by the Cruise Ship Ordinance Rules and § 125-77H.

39. Individuals meeting this definition of Person also disembarked from cruise ships on, at, or over the Property, without Golden Anchor having obtained a CSDF Permit, on or about the following dates:

- a. July 26, 2024
- b. July 27, 2024
- c. July 31, 2024
- d. August 1, 2024
- e. August 2, 2024
- f. August 7, 2024
- g. August 8, 2024
- h. August 13, 2024
- i. August 14, 2024
- j. August 15, 2024
- k. August 19, 2024
- l. August 21, 2024
- m. August 22, 2024
- n. August 25, 2024
- o. August 27, 2024
- p. August 28, 2024
- q. August 30, 2024

- r. September 4, 2024
- s. September 5, 2024
- t. September 6, 2024
- u. September 7, 2024
- v. September 10, 2024
- w. September 11, 2024
- x. September 13, 2024
- y. September 14, 2024
- z. September 17, 2024
- aa. September 18, 2024
- bb. September 19, 2024
- cc. September 20, 2024
- dd. September 21, 2024
- ee. September 24, 2024
- ff. September 25, 2024
- gg. September 27, 2024
- hh. September 28, 2024
- ii. October 1, 2024
- jj. October 2, 2024
- kk. October 3, 2024
- ll. October 5, 2024
- mm. October 6, 2024

nn. October 9, 2024

oo. October 14, 2024

pp. October 15, 2024

qq. October 16, 2024

rr. October 17, 2024

ss. October 24, 2024

tt. October 27, 2024

40. In total, approximately 98,187 Persons disembarked from cruise ships on, at, or over the Property on the dates outlined in the previous two paragraphs, without Golden Anchor having applied for or obtained a single Disembarkation Permit authorizing any number of Persons to disembark.

41. On or about said dates, Golden Anchor facilitated said disembarkation over the Property.

42. On each of the following dates, excluding cruise ships that had confirmed reservations for anchorage on or before November 8, 2022, cruise ships disembarked on, at, or over the Property, with assistance from Golden Anchor, at least the following number of Persons, as follows:

a. July 31, 2024: 100

b. August 2, 2024: 100

c. August 7, 2024: 100

d. August 8, 2024: 170

e. August 13, 2024: 100

- f. August 14, 2024: 100
- g. August 21, 2024: 200
- h. August 30, 2024: 100
- i. September 4, 2024: 100
- j. September 11: 100
- k. September 13: 100
- l. September 14: 100
- m. September 17: 3,830
- n. September 18, 2024: 100
- o. September 19, 2024: 530
- p. September 20, 2024: 100
- q. September 21, 2024: 100
- r. September 24, 2024: 3,660
- s. September 25, 2024: 100
- t. September 27, 2024: 270
- u. September 28, 2024: 100
- v. October 1, 2024: 3,660
- w. October 5, 2024: 954
- x. October 6, 2024: 1,916
- y. October 14, 2024: 210
- z. October 15, 2024: 3,660
- aa. October 16, 2024: 210

bb. October 27, 2024: 230

43. The total estimated cruise ship Persons disembarked on, at, or over the Property, with assistance from Golden Anchor, on the dates identified in the preceding paragraph is 23,016.

44. On each of the following calendar dates, excluding cruise ships that had confirmed reservations for anchorage on or before November 8, 2022, cruise ships disembarked on, at, or over the Property, with assistance from Golden Anchor, at least the following number of Persons *in excess of 1,000*, as follows:

- a. September 6, 2024: 1,016
- b. September 17, 2024: 2,830
- c. September 24, 2024: 2,660
- d. October 1, 2024: 2,660
- e. October 6, 2024: 916
- f. October 15, 2024: 2,660

45. The total estimated excess disembarking Persons identified in the preceding paragraph, which excludes Persons disembarking from cruise ships that received confirmed reservations for anchorage on or before November 8, 2022, is 12,742.

46. Upon information and belief, Golden Anchor and its closely related corporate affiliates financially benefit directly and indirectly from this unlawful activity.

47. On or about August 5, 2024, the CEO sent a certified Notice of Violation (the “NOV”) to Golden Anchor. The NOV notified Golden Anchor of its violation of the Code by failing to have a CSDF permit, ordered Golden Anchor to take corrective action within 30 days, and warned Golden Anchor that unless within that time it applied for the applicable permits for disembarking Persons at the Property, the Town would take further enforcement action. A copy of the NOV is attached hereto as **Exhibit D**.

48. Following issuance of and receipt by Golden Anchor of the NOV, Golden Anchor continued to violate the Town’s Code by coordinating the disembarking of cruise ships and disembarking from those cruise ships an excess of 1,000 Persons on numerous calendar days at its Property without a CSDF permit and without any Disembarkation Permit.

49. Golden Anchor’s actions are consistent with its statement, made through its legal counsel, on May 4, 2024, to the Town Council at a public meeting, that Golden Anchor would never adhere to the Cruise Ship Ordinance or Cruise Ship Ordinance Rules, stating “[o]ur client, that includes the pier owners, you’re going to find is a bit more of a brick wall . . . You’re seeking to impose an application requirement on a property owner . . . It’s not going to happen. There will be no application. There will be no acceptance of a permit under this ordinance. I just want to make that clear up front.”

50. On or about September 4, 2024, Golden Anchor filed an administrative appeal of the NOV with the BOA.

51. On or about November 19, 2024, the Town Council authorized the Town Attorney to file this enforcement action in Maine District Court.

52. The BOA heard the appeal on December 10 and 18, 2024.

53. Following a public hearing and deliberations, the BOA denied Golden Anchor's appeal on December 18, 2024.

54. The BOA issued its written decision denying Golden Anchor's appeal on December 23, 2024.

55. Golden Anchor has appealed this decision to the Maine Superior Court.

56. That appeal was transferred to the Business and Consumer Docket, which is presently presiding over other dockets involving the same parties and concerning similar facts and legal issues as this matter.

COUNT I

Continually Disembarking Cruise Ship Passengers On, At, or Over the Property Without a CSDF Permit in Violation of Town Code § 125-77H and § 52-6A

57. The Town repeats and realleges as if fully incorporated into this paragraph all the preceding paragraphs.

58. From on and after July 25, 2024, on a total of 47 different days, Golden Anchor continued to allow and facilitate the disembarkation of Persons from cruise ships at its CSDF on the Property without applying for or having a CSDF permit.

59. By doing so, Golden Anchor violated § 125-77H and § 52-6A on each of those 47 days.

60. Golden Anchor fully knew and understood that it was violating these laws, and Golden Anchor continued to flagrantly violate these laws long after receiving a municipal order to stop.

61. Golden Anchor's activities on each of these days were a nuisance in violation of § 125-99.

WHEREFORE, Plaintiff/Complainant, the Town of Bar Harbor, pursuant to §§ 125-100 and -101 and § 52-8 of its Town Code, and 30-A M.R.S. § 4552, respectfully requests this Court:

- a) find that Defendant has violated the above-cited laws;
- b) award Plaintiff/Complainant the maximum \$5,000 per day penalty for 47 days beginning on or about July 25, 2024, or twice the economic benefit resulting from the violation, whichever is greater (i.e. at least \$235,000);
- c) order Defendant to cease operating a CSDF at the Property unless and until Defendant receives a CSDF Permit as required by § 125-77H and the Chapter 52;
- d) award Plaintiff/Complainant reasonable attorney's fees and costs to be paid within thirty (30) days of the Court ordering a specific amount of fees and costs based on its consideration of Plaintiff/Complainant's submission of an Affidavit of Costs and Fees to the Court and Defendant; and
- e) order such other and further relief as is just and proper.

COUNT II

Disembarking Cruise Ship Passengers On, At, or Over the Property Without a Disembarkation Permit on 47 Separate Days in Violation of Town Code § 125-77H and § 52-6C

62. The Town repeats and realleges as if fully incorporated into this paragraph all the preceding paragraphs.

63. Defendant knowingly violated the Town's Code by disembarking Persons on 47 separate calendar days without having applied for or received a Disembarkation Permit for any of those days, even though the Code required that it have a separate Disembarkation Permit for each of those days.

64. By doing so, Defendant violated § 125-77H and § 52-6C on each of those 47 days.

65. Defendant fully knew and fully understood that it was violating these laws, and Defendant continued to flagrantly violate these laws long after receiving a municipal order to stop.

66. Defendant's activities on each of these days were a nuisance in violation of § 125-99.

WHEREFORE, Plaintiff/Complainant, the Town of Bar Harbor, pursuant to §§ 125-100 and -101 and § 52-8 of its Town Code, and 30-A M.R.S. § 4552, respectfully requests this Court:

- a) find that Defendant has violated the above-cited laws;
- b) award Plaintiff/Complainant the maximum \$5,000 per day penalty for 47 days beginning on or about July 25, 2024, or twice the economic

benefit resulting from the violation, whichever is greater (i.e. at least \$235,000);

- c) award Plaintiff/Complainant a minimum penalty of \$100 per every unauthorized Person that disembarked on each calendar day a cruise ship disembarked Persons over the Property in the 2024 cruise ship season, excluding Persons disembarking from cruise ships that had reservations confirmed on or before November 8, 2022 (i.e. at least \$2,301,600);
- d) order Defendant to cease allowing or facilitating the disembarkation of any Person from a cruise ship at its CSDF at the Property on any calendar day, unless the Defendant has previously applied for and obtained a Disembarkation Permit to do so on that calendar day, as required by § 125-77H and the Chapter 52 of the Town Code;
- e) award Plaintiff/Complainant reasonable attorney's fees and costs to be paid within thirty (30) days of the Court ordering a specific amount of fees and costs based on its consideration of Plaintiff/Complainant's submission of an Affidavit of Costs and Fees to the Court and Defendant; and
- f) order such other and further relief as is just and proper.

COUNT III

Disembarking in Excess of 1,000 Cruise Ship Passengers On, At, or Over the Property on each of 6 Separate Days in Violation of Town Code § 125-77H(2)

67. The Town repeats and realleges as if fully incorporated into this paragraph all the preceding paragraphs.

68. Defendant knowingly violated the Town Code § 125—H(2) by disembarking in excess of 1,000 Persons on each of 6 separate calendar days at its CSDF on the Property, as set forth above.

69. By doing so, Defendant violated § 125-77H(2) and § 52-6C on each of those 6 days.

70. Defendant fully knew and fully understood that it was violating these laws, and the Defendant continued to flagrantly violate these laws long after receiving a municipal order to stop.

71. Defendant's activities on each of these days were a nuisance in violation of § 125-99.

WHEREFORE, Plaintiff/Complainant, the Town of Bar Harbor, pursuant to §§ 125-100 and -101 of its Town Code, § 125-77H(4) of its Town Code, and 30-A M.R.S. § 4552, respectfully requests this Court:

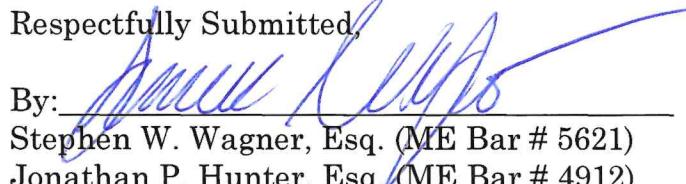
- a) find that Defendant has violated the above-cited laws;
- b) award Plaintiff/Complainant a minimum penalty of \$100 per every unauthorized Person in excess of a 1,000 Persons each calendar day a cruise ship disembarked over the Property in the 2024 cruise ship season,

excluding Persons disembarking from cruise ships that had reservations confirmed prior to or on November 8, 2022 (i.e. at least \$1,274,200);

- c) award Plaintiff/Complainant the maximum \$5,000 per day penalty for 6 days, or twice the economic benefit resulting from the violation, whichever is greater (i.e. at least \$30,000);
- d) order Defendant to cease allowing or facilitating the disembarkation of more than 1,000 Persons in the aggregate from CSDFs in the Town on any one calendar day,
- e) award Plaintiff/Complainant reasonable attorney's fees and costs to be paid within thirty (30) days of the Court ordering a specific amount of fees and costs based on its consideration of Plaintiff/Complainant's submission of an Affidavit of Costs and Fees to the Court and Defendant; and
- f) order such other and further relief as is just and proper.

Date: March 10, 2025

Respectfully Submitted,

By: 

Stephen W. Wagner, Esq. (ME Bar # 5621)

Jonathan P. Hunter, Esq. (ME Bar # 4912)

RUDMAN WINCHELL

Attorneys for the Town of Bar Harbor

P.O. Box 1401

Bangor, ME 04402-1401

(207) 947-4501

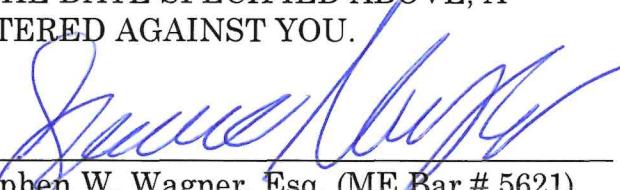
swagner@rudmanwinchell.com

jhunter@rudmanwinchell.com

NOTICE TO ALLEGED VIOLATOR

This Citation and Complaint will be heard before the Maine District Court in Ellsworth, on **Monday, April 7, 2025 at 1:30 p.m.** The address of the Maine District Court is 50 State Street, Ellsworth, Maine, 04605. IN THE EVENT THAT YOU FAIL TO APPEAR IN COURT ON THE DATE SPECIFIED ABOVE, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU.

Date: March 10, 2025

By: 

Stephen W. Wagner, Esq. (ME Bar # 5621)

Jonathan P. Hunter, Esq. (ME Bar # 4912)

RUDMAN WINCHELL

Attorneys for the Town of Bar Harbor

P.O. Box 1401

Bangor, ME 04402-1401

(207) 947-4501

swagner@rudmanwinchell.com

jhunter@rudmanwinchell.com

EXHIBIT

tables:

A

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Thomas Walsh, a married person, of 23 Willow Avenue, North Hampton, County of Rockingham and State of New Hampshire 03801, **FOR CONSIDERATION PAID**, grants to Golden Anchor, L.C., a Florida limited liability company; with an address of 1000 Market Street, Portsmouth, County of Rockingham, State of New Hampshire, **with WARRANTY COVENANTS**

All of his right, title and interest in and to a certain parcel of land, together with any buildings thereon, situate in the Town of Bar Harbor, County of Hancock, State of Maine, more particularly bounded and described as follows:

Beginning on the northerly line of West Street in Bar Harbor at the southeasterly corner of land described in a deed to The Golden Anchor, Inc., recorded in Hancock County Registry of Deeds, Book 1830, Page 536; thence along the northerly line of West Street, North 80 degrees, 45 minutes, 0 seconds West, a distance of 162.2 feet to the southeasterly corner of land described in a deed to Eden Street Trust recorded in Hancock County Registry of Deeds, Book 2809, Page 212; thence along said land of Eden Street Trust, North 2 degrees, 17 minutes, 0 seconds East, a distance of 66.4 feet to an iron rod found; thence along the northerly line of said land of Eden Street Trust, North 81 degrees, 0 minutes, 0 seconds West, a distance of 49.2 feet to an iron rod found; thence along the westerly line of said land of Eden Street Trust, South 12 degrees, 5 minutes, 15 seconds West, a distance of 65.8 feet to the northerly line of West Street; thence along the northerly line of West Street, North 80 degrees, 45 minutes, 0 seconds West, a distance of 154.5 feet to the southeasterly corner of land described in a deed to 31047, Inc., recorded in Hancock County Registry of Deeds, Book 2066, Page 164; thence along the easterly line of said land of 31047, Inc., North 12 degrees, 1 minutes, 45 seconds East, a distance of 413.5 feet to a stone monument, found; thence continuing along the easterly line of 31047, Inc., North 12 degrees, 1 minutes, 45 seconds East, a distance of 114.3 feet to the northerly face of a concrete retaining wall; thence by the face of said retaining wall, South 88 degrees, 26 minutes, 45 seconds East, a distance of 115.0 feet to an angle; thence by the face of said retaining wall, North 8 degrees, 57 minutes, 0 seconds East, a distance of 52.4 feet to an angle; thence by the face of said retaining wall and a granite retaining wall, South 81 degrees, 14 minutes, 15 seconds East, a distance of 214.1 feet to an angle; thence by the face of said granite retaining wall, South 16 degrees, 21 minutes, 30 seconds West, a distance of 170.0 feet to an angle; thence by the face of said granite retaining wall, South 17 degrees, 39 minutes, 30 seconds West, a distance of 137.5 feet to the easterly face of a concrete retaining wall; thence by easterly face of a concrete retaining wall, South 27 degrees, 47 minutes, 15 seconds East, a distance of 48.9 feet to

an angle; thence by easterly face of a concrete retaining wall, South 51 degrees, 1 minutes, 15 seconds East, a distance of 42.2 feet to an angle; thence by easterly face of a concrete retaining wall and a prolongation of said wall, South 26 degrees, 23 minutes, 0 seconds East, a distance of 131.1 feet to the southeasterly line of land described in a deed from Michael T. Hanson et al., recorded in Hancock County Registry of Deeds, Book 1830, Page 536; thence along the southwesterly line described in said Hanson deed, North 42 degrees, 30 minutes, 0 seconds West, a distance of 97.7 feet to a drill hole in a boulder found at approximate high water line; Thence continuing along the southwesterly line described in said Hanson deed, North 37 degrees, 28 minutes, 30 seconds West, a distance of 49.7 feet to the point of beginning, enclosing 4.56 acres.

Together with all land, shore and flats lying seaward of the above described parcel extending to the low water line of the Atlantic Ocean, together with Glenn Webber wharf and other easements rights and benefits appurtenant to the above described parcel.

Bearings referenced herein are oriented to magnetic north 1969, as determined by a survey conducted by Plisga & Day, Land Surveyors.

Subject to the following easements, to the extent in force and applicable.

Utility easement from The Clark Coal Company Bangor Hydro-Electric Company dated June 7, 1965 and recorded in the Hancock County Registry of Deeds in Book 986, Page 146.

Outstanding rights, if any, to Bangor Hydro-Electric Company as referenced in a deed from Island View Corporation to Golden Anchor, Inc. dated February 1, 1979 and recorded in the Hancock County Registry of Deeds in Book 1342, Page 186.

Easement from Golden Anchor, Inc. to New England Telephone and Telegraph Company dated June 21, 1988 and recorded in said Registry of Deeds in Book 1704, Page 32.

Easement from Golden Anchor, inc. to the Bangor Hydro-Electric Company dated July 15, 1988 and recorded in said Registry of Deeds in Book 1710, Page 182.

Outstanding rights, if any, to the Town of Bar Harbor as set forth in a deed from Island View Corporation and Golden Anchor, Inc. dated October 23, 1974 and recorded in said Registry of Deeds in Book 1205, Page 522.

Meaning and intending to convey and hereby conveying the same premises described in the following referenced deeds: Book 1207, Page 442; Book 1602, Page 564; Book 1342, Page 186; and Book 1830, Page 536.

The hereinabove described lot is conveyed expressly subject to an Easement granted by said Island View Corporation and The Golden Anchor, Inc. to the Inhabitants of the Town of Bar Harbor, dated October 23, 1974 and recorded in the Hancock County, Maine, Registry of Deeds in Book 1205, Page 522, to which easement and the record thereof express reference is hereby made for all particulars therein contained.

Also a right of way for all purposes of a way over a strip of land fifteen feet wide, as now laid out, extending over the Northeasterly corner of said lot Easterly and Southerly to said West Street, and the Grantee covenants to and with the said Grantor and the owners of the adjoining lots that said right of way shall never be encumbered with boxes, barrels, sweepings or any other debris or waste nor be used as a place of storage for any articles whatsoever, but shall be kept free from any obstructions and clear.

Also a right of way for all purposes of a way over a strip of land fifteen feet wide as now laid out extending along the North and East sides of said lot to West Street.

For title reference is made to: (a) a deed from Charles W. Sawyer, Jr., to The Golden Anchor, Inc., recorded in Hancock County Registry of Deeds, January 7, 1975, Book 1207, Page 442; (b) Island View Corporation to The Golden Anchor, Inc., recorded in Hancock County Registry of Deeds, February 1, 1979, Book 1342, Page 186; (c) Michael W. Hanson and Jessica M. Hanson to The Golden Anchor, Inc., dated September 28, 1990, recorded in Hancock County Registry of Deeds, Book 1830, Page 536.

Meaning and intending to describe and convey the same premises conveyed to the Grantor herein by Warranty Deed dated November 10, 2000 and recorded in the Hancock County Registry of Deeds on November 13, 2000 at Book 2988, Page 64.

Signed this 21st day of May, 2003.

Thomas Walsh

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this 21st day of May, 2003, personally appeared the above named Thomas Walsh and acknowledged that he executed the foregoing instrument in his capacity for the purposes contained herein. Before me,

Notary Public/Justice of the Peace
LISA M. GRELLA, Notary Public
My Commission Expires October 24, 2008

HANCOCK COUNTY

SEAL

TOWN OF BAR HARBOR

Town Clerk's Office

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400

Tel. 207-288-4098 Fax 207-288-4461

EXHIBIT

B

Elizabeth N. Graves, Town Clerk

email: clerk@barharbormaine.gov

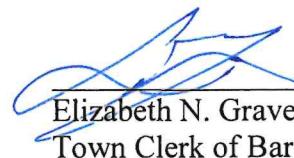
Town Clerk's Certification

I, Elizabeth N. Graves, Town Clerk of Bar Harbor do hereby certify that the attached document is a true and accurate copy of the following provisions of the Bar Harbor Code, duly enacted by the Town of Bar Harbor, Maine, as municipal ordinances of said Town:

- Chapter 52, "Cruise Ship Disembarkation,"
- Sections of Chapter 125, "Land Use," specifically
 - Article VII, Permits, including §125-77(H)
 - Article X, Enforcement, §§125-99, 125-100, and 125-101

Dated at Bar Harbor, Maine, this 28th day of February 2025.

By



Elizabeth N. Graves
Town Clerk of Bar Harbor

Chapter 52

CRUISE SHIP DISEMBARKATION

| | | | |
|----------------|-----------------------------------|----------------|--|
| § 52-1. | Purpose. | § 52-6. | Requirements to Operate or Disembark at a CSDF. |
| § 52-2. | Authority. | § 52-7. | Disembarkation Procedures. |
| § 52-3. | Validity and Severability. | § 52-8. | Enforcement. |
| § 52-4. | Administration. | | |
| § 52-5. | Definitions. | | |

[HISTORY: Adopted by the Town Council of the Town of Bar Harbor 6-18-2024 by Ord. No. 2024-06. Amendments noted where applicable.]

§ 52-1. Purpose.

The purpose of this Chapter is to govern the disembarkation of Persons to docks or land within the Town from cruise ships and implement the purpose and intent of § 125-77H of the Town Code, as well as the promotion of the health, safety, and general welfare of the present and future inhabitants of the Town in a manner that serves to balance the interests of the general public and those of individual property owners.

§ 52-2. Authority.

Under federal, state and local law, the Town has regulatory authority over disembarkation of Persons into the Town. This Chapter is adopted pursuant to the Town's home rule powers as provided for in Article VIII, Part Second, of the Maine Constitution, 30-A M.R.S. §§ 2101 et seq.

§ 52-3. Validity and Severability.

If any section, subsection, clause, or phrase of this Chapter shall be found to be invalid or unconstitutional, such invalidity shall not affect the remaining provisions of this Chapter, and to that end the provisions of this Chapter are hereby declared severable.

§ 52-4. Administration.

The provisions of this Chapter shall be administered jointly by the Code Enforcement Officer and Harbor Master or their respective designee(s).

§ 52-5. Definitions.

Except as otherwise provided by this Chapter, language used herein shall be construed as set forth in § 125-108 of the Town Code and specific words and phrases shall have the meanings set forth in § 125-109 of the Town Code.

As used in this Chapter, the following terms shall have the following meanings:

CRUISE SHIP — "Cruise ship" has the same meaning as set forth in § 153-22B of the Town of Bar Harbor Code.

CRUISE SHIP DISEMBARKATION FACILITY ("CSDF") — A public or private property, or a public

or private structure, used for disembarkation of persons arriving on land from cruise ships.

CSDF OWNER — An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity that owns, operates, or otherwise is authorized to represent the CDSF.

DISEMBARKATION — The arrival of persons to docks and/or land within the Town from cruise ships by tender vessels, or otherwise.

PERSONS — For purposes of this Chapter and the enforcement of § 125-77H, "Persons" means passengers of cruise ships and not those persons covered by 33 C.F.R. § 105.200 and 33 C.F.R. § 105.237 (titled "System for seafarers' access"), namely, "vessel personnel," "vessel crew," "seafarers assigned to a vessel," "pilots," and "representatives of seafarers' welfare and labor organizations" (collectively, "Crew"). The word "person" (i.e. not capitalized) shall have the meaning provided by § 125-108 of the Town Code.

§ 52-6. Requirements to Operate or Disembark at a CSDF.

- A. **Permit Required:** No person may allow or facilitate the disembarkation of Persons from a cruise ship over land or operate a CSDF without having first obtained a permit to operate a CSDF ("CSDF Permit").
- B. **Cruise Ship Reservation Required:** No CSDF or person shall receive disembarking Persons from a cruise ship that has not first received confirmation from the Harbor Master for a booked reservation for anchorage pursuant to the Town of Bar Harbor Cruise Ship Standard Operating Procedures, as they may be amended.
- C. **Disembarkation Application and Permit Required:**
 - (1) **Application Required.** A CSDF Owner shall submit an application to the Code Enforcement Officer, or designee, for a Disembarkation Permit to allow on a specified calendar day a specified number of Persons not exceeding 1,000 to disembark from one or more cruise ship(s) with a confirmed reservation for anchorage.
 - (2) **Application Review.** Applications shall be reviewed and acted upon in the order in which they were received within 30 days of receipt. The application must identify the specific site of disembarkation, the calendar day of disembarkation, and the requested number of Persons to be disembarked to the identified CSDF and site of disembarkation on that calendar day.
 - (3) **Issuance of Permit.** Upon confirming the applicant has satisfied all other application criteria and requirements of this Chapter, the Code Enforcement Officer, or designee, shall grant the application and issue a Disembarkation Permit for the maximum number of Persons that does not cause the Daily Disembarkation Limit established by § 52-6C(4) of this Chapter to be exceeded.
 - (4) **Daily Disembarkation Limit.** The Code Enforcement Officer, or designee, shall not issue a Disembarkation Permit that would authorize the disembarkation of more than 1,000 Persons, in the aggregate, on a single calendar day, regardless of the total number of Disembarkation Permits requested or issued for a specific calendar day.

§ 52-7. Disembarkation Procedures.

- A. **Counting Method.** CSDF Owners shall employ a means to electronically count each individual person that disembarks at a given CSDF ("Counting Method"). The Counting Method must include a means

for discounting from the total count of individuals all crew. The Counting Method shall be approved by the Harbor Master, or their respective designee, and subject to annual review.

- B. Daily Certification. For each Disembarkation Permit, the CSDF Owner shall submit a certification to the Code Enforcement Officer specifying how many Persons were in fact disembarked on the calendar day specified on the Disembarkation Permit and from what cruise ship said Persons disembarked.
- C. Code Enforcement Officer Access. Consistent with 30-A M.R.S. § 4452(1)(A), the Code Enforcement Officer, or designee, shall be permitted to access the site(s) of the CSDF at which Persons disembark, at any time during normal business hours, or at any time Persons are disembarking or embarking, for the purposes of ensuring and verifying that Persons are being counted properly. The CSDF shall not obstruct or otherwise interfere with said access. Whether access is necessary is within the sole discretion of the Code Enforcement Officer and Harbor Master. If access is denied, the Code Enforcement Officer may apply for an administrative search warrant pursuant to Maine Rule of Civil Procedure 80E.
- D. Code Enforcement Officer Audit. Upon request to the CSDF Owner, the Code Enforcement Officer, and their respective designee(s), shall have unobstructed and immediate access to the records and instruments used to implement the CSDF Counting Method for the purposes of auditing the CSDF Counting Method for accuracy and functionality and implementing and enforcing this Chapter and § 125-77H of the Town Code. Whether an audit is necessary is within the sole discretion of the Code Enforcement Officer. The CSDF Owner shall retain all records generated by the CSDF Counting Method for 3 years.

§ 52-8. Enforcement.

- A. Violation Report. If the Code Enforcement Officer, or designee, determines that the terms of this Chapter have been violated, including without limitation if a CSDF has disembarked Persons without a Disembarkation Permit or disembarked more Persons than authorized per this Chapter and any applicable Disembarkation Permit, the Code Enforcement Officer within a reasonable time of the alleged violation, shall create a Violation Report. The violation report should include the date and time of the incident giving rise to the violation, the tender dock where the violation occurred, who witnessed the violation, the number of Persons who disembarked over the Disembarkation Permit limit, and any other pertinent information as determined relevant by the Code Enforcement Officer.
- B. Penalties and Enforcement. This Chapter shall be enforced by the Code Enforcement Officer in accordance with §§ 125-100 and 125-101 of the Town Code. CSDF Owners, individuals, firms, associations, corporations, partnerships, trusts or other legal entities found to be in violation of this Chapter may be subject to such fines, penalties, actions, and orders as are authorized by 30-A M.R.S. § 4452, as the same may be amended, provided that each disembarking Person exceeding the Disembarkation Permit is a distinct and separate violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized Person.

ARTICLE VII

Permits

§ 125-77. Permit required for certain activities. [Amended 5-7-1991; 11-2-1999]

After the effective date of this chapter, a written permit from the Code Enforcement Officer shall be required for the following activities, regardless of whether such activities have received site plan or subdivision approval or whether they also require review by the Design Review Board pursuant to Article XIII, Design Review:

- A. Flood hazard areas. All construction or earthmoving activities or other improvements within the one-hundred-year floodplain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- B. New construction. New construction of buildings and structures.
- C. Alteration. Alteration of a building, structure, or land, or parts thereof, including but not limited to: [Amended 5-3-2004]
 - (1) Change in size of windows or doors;
 - (2) Repair of foundations, whether concrete, cinder block, granite and posts, or piles;
 - (3) Interior renovations for change in use;
 - (4) Remodeling interior walls to create new rooms;
 - (5) Enclosing open frame porch;
 - (6) Installing skylights;
 - (7) Erection of fences;
 - (8) Construction of new steps;
 - (9) Creation of roads or driveways;
 - (10) Erection of panels for winter closure or the erection of winter storm vestibules in the Downtown Village or Waterfront Development Districts; provided, however, that a permit need only be obtained in the first year of the useful life of the structure to be erected. [Amended 6-8-2010]
- D. Placement of signs. Placement of signs except temporary signs. [Amended 5-3-2004]
- E. Moving or demolition. All buildings or structures which are removed from or moved onto, or moved around within, a lot or demolished.
- F. Change of use. The change of any premises from one category of land use to any other land use.
- G. Activities. Any other activities described in Article III as requiring a permit from the Code Enforcement Officer.

H. Disembarking persons from cruise ships on, over, or across any property located within the Town of Bar Harbor. [Added 11-8-2022]

- (1) For the purposes of this section, "cruise ship" has the same meaning as set forth in § 153-22B of the Town of Bar Harbor Code.
- (2) As determined by the Harbor Master, no more than 1,000 persons, in the aggregate, may disembark on a single calendar day from any cruise ship(s) and come to shore on, over, or across any property located within the Town of Bar Harbor; provided, however, that this subsection shall not apply with regard to any cruise ship reservations that have been accepted by the Harbor Master prior to March 17, 2022.
- (3) The Harbor Master shall develop rules and regulations in order to establish (a) a reservation system for cruise ships that transport persons by watercraft for disembarkation in the Town of Bar Harbor; (b) a mechanism for counting and tracking the number of persons disembarking each day; (c) a mandatory procedure for reporting violations to the Code Enforcement Officer; and (d) any other provisions that the Harbor Master deems necessary under this subsection. Any property owner issued a permit under this § 125-77H shall comply with all rules and regulations promulgated by the Harbor Master under this subsection.
- (4) This subsection shall be enforced by the Code Enforcement Officer in accordance with § 125-100 of this chapter, based on information as to violations provided by the Harbor Master, and property owners in violation of this subsection shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S. § 4452, as the same may be amended, provided that each disembarking person exceeding the permitted daily limit in § 125-77H(2) is a specific violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized person.
- (5) Notwithstanding 1 M.R.S. § 302, and regardless of the date on which it is approved by the voters, this subsection will be applicable as of March 17, 2022, and shall govern any and all applications for permits or approvals required under this subsection that were or have been pending before any officer, board, or agency of the Town of Bar Harbor on or at any time after March 17, 2022; provided, however, that the Town will not take any enforcement action under this subsection with regard to any cruise ship visits occurring prior to the date of adoption by voters at Town Meeting.

§ 125-78. Prohibitions. [Amended 6-13-2006¹]

- A. No activity or use requiring a permit under this article shall be commenced unless and until the property owner has received any required permits for the Code Enforcement Officer.
- B. No building permit shall be approved for a particular property if the property owner is in violation of this chapter or of any other previously approved subdivision or site plan on said property.

1. Editor's Note: This ordinance also provided that it shall apply retroactively to all proceedings, applications and/or petitions pending on or commenced after 9-6-2005, notwithstanding the provisions of 1 M.R.S.A. § 302.

§ 125-79. Procedure.

- A. Application. All applications for permits shall be submitted in writing in duplicate to the Code Enforcement Officer on forms provided for the purpose, together with such fees as shall, from time to time, be set by the Town Council.
- B. Submissions. All applications for a permit shall be accompanied by a plan accurately drawn to scale or showing actual dimensions or distances and showing:
 - (1) The actual shape and dimensions of the lot for which a permit is sought.
 - (2) The location and size of all buildings, structures, water bodies, and other significant features currently existing on the lot.
 - (3) The location and building plans of new buildings, structures or portions thereof to be constructed.
 - (4) The existing and intended use of each building or structure.
 - (5) Where applicable, the location of soils test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffer strips and private wells.
 - (6) Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this chapter.
- C. To whom issued. No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.
- D. Compliance with this chapter. All activities undertaken pursuant to a permit issued under this article shall comply with all applicable standards set forth in Article V. Each application and each permit shall bear the following conspicuous notations which, on the application, shall be acknowledged in writing by the applicant: "The undersigned applicant acknowledges that the applicant and the person on whose behalf a permit is sought are responsible to ensure that the proposed activity complies with all applicable standards of the Bar Harbor Land Use Ordinance."
- E. Deadline for decision. The Code Enforcement Officer shall, within 30 days of receipt of an application, issue the permit, if all proposed construction and uses meet the provisions of this chapter, refer the applicant to the Planning Board for site plan review under Article V, or deny the application. All decisions of the Code Enforcement Officer shall be in writing. Failure of the Code Enforcement Officer to act within 30 days shall constitute denial of the application.
- F. Copies. One copy of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant and one copy, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record. The applicant shall cause any permit issued to be conspicuously posted on the lot where the activity will occur at a location clearly visible from the street.
- G. Other permits required. No permit shall be issued for any structure or use until all other necessary federal, state and local permits and approvals have been obtained. The issuance of

a permit under this article shall not be deemed a permit under any federal or state statutes or other ordinance of the Town of Bar Harbor. It is the responsibility of the landowner or applicant to comply with all other laws and regulations.

§ 125-80. Certificate of occupancy.

A certificate of occupancy, certifying that all applicable provisions of this chapter have been satisfied, shall be obtained from the Code Enforcement Officer:

- A. After a building, structure or part thereof has been erected, altered, enlarged or moved pursuant to a permit, site plan approval or subdivision approval, for the proposed use before the building or structure or part thereof may be used or occupied;
- B. After a site has been modified or otherwise developed pursuant to a permit, site plan approval, or subdivision approval to ensure all terms, conditions and the plan approved by the Planning Board, the Design Review Board, the Board of Appeals, the Planning Department or the Code Enforcement Officer, as applicable, have been met; **[Added 6-8-2010²]**
- C. After a building has been modified to accommodate additional dwelling units, before such units may be used or occupied;
- D. After a building or structure has been modified to accommodate a home occupation, before said home or structure may be used or occupied for a home occupation;
- E. Before a change in use of a nonconforming structure or lot;
- F. Before the occupancy and use, or change in use, of vacant land, except for the raising of crops.

2. Editor's Note: This amendment also redesignated former Subsections B through E as Subsections C through F, respectively.

ARTICLE X Enforcement

§ 125-99. Violation deemed a nuisance. [Amended 11-2-2004]

Any violation of this chapter shall be deemed to be a nuisance. Failure to comply with the terms and conditions of any permit or approval granted under this chapter shall be a violation of this chapter.

§ 125-100. Code Enforcement Officer. [Amended 11-5-1991]

- A. Authority. The Code Enforcement Officer shall be appointed or reappointed annually by July 1 and, if certified in accordance with 30-A M.R.S.A. § 4451, shall have all of the powers and authorities described in 30-A M.R.S.A. § 4452, as the same may be amended. [Amended 11-2-2004]
- B. Enforcement and notice of violation. The Code Enforcement Officer shall enforce the provisions of this chapter and the terms and conditions of any permit or approval granted under this chapter, including approvals from the Planning Board, the Design Review Board, the Board of Appeals, the Planning Department and the Code Enforcement Officer. If, after investigation, the Code Enforcement Officer finds that any provision of this chapter or any term or condition of any permit or approval granted under this chapter is being violated, he/she shall give written notice by certified mail, return receipt requested, of such violation to the owner and to the occupant of such premises, and to any other person responsible for such violation, indicating the nature of the violation and ordering that action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions, be taken within some designated reasonable time. A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record. [Amended 11-2-2004]
- C. Inspection and investigation. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and all terms and conditions attached to permits and approvals under this chapter (including subdivision approvals). The Code Enforcement Officer shall also investigate all complaints of alleged violations of this chapter. [Amended 11-2-2004]
- D. Records. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied by the Board of Appeals, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

§ 125-101. Proceedings; violations and penalties.

- A. Actions and consent agreements. [Amended 11-5-1991]
 - (1) If, after notice given pursuant to § 125-100B, the violation or nuisance condition is not abated or corrected within the specified time, the Code Enforcement Officer shall report

same to the Town Council. The Code Enforcement Officer's report shall indicate the additional enforcement actions that he/she intends to take and whether the Town Attorney has been consulted or will subsequently be involved. At its next meeting, the Town Council shall vote to accept the Code Enforcement Officer's report. The Town Council shall not entertain comment from the person alleged to have violated this chapter nor shall it take any evidence relating to whether a violation has in fact occurred. **[Amended 5-4-1998]**

- (2) The Town Council or its authorized agent is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue in a shoreland district unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

B. Fines and penalties.

- (1) Any person who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this chapter or who violates any term or condition of an approval from the Planning Board, Design Review Board, Board of Appeals, Planning Department or Code Enforcement Officer or who continues to violate any other provision of this chapter after receiving notice of such violation shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S.A. § 4452, as same may be amended. A fine or penalty may be imposed for each violation. Each day of violation after notification shall constitute a separate offense with respect to each violation. **[Amended 11-5-1991; 11-2-2004]**
- (2) Any contractor involved in any activity regulated by the provisions of this chapter may be held liable for fines for violating this chapter if the necessary permits for said activity have not been obtained. **[Amended 11-5-1991]**
- (3) Any person, including, but limited to, a landowner, the landowner's agent, tenant, contractor or seller at a farmers' market, who violates any provision of this chapter shall be liable for the penalties set forth herein. **[Added 3-24-1998]**

C. Suspension or revocation of approvals or permits.

- (1) The Code Enforcement Officer may suspend an approval or permit if:
 - (a) It was granted on incomplete or false information;
 - (b) Continuation of the land use activity authorized would result in the violation of federal or state law or local ordinances;
 - (c) The continuation of the land use activity authorized is endangering or may endanger the safety or general welfare of the community during the construction or work for which the approval or permit was granted;

- (d) The applicant or his/her agent is exceeding the scope of the work for which the permit was issued;
- (e) The Code Enforcement Officer determines that he/ she is unable to rule on the continued validity of an approval or permit, in which case he/she shall suspend the approval or permit, without penalty, and require the holder to file an appeal.
- (f) The Code Enforcement Officer determines that any term or condition of an approval by the Planning Board, the Design Review Board, the Board of Appeals, the Planning Department or the Code Enforcement Officer has not been met.
[Added 11-2-2004]

(2) The Code Enforcement Officer shall suspend an approval or permit by furnishing to the applicant a written notice of suspension stating:

- (a) The reason for the suspension;
- (b) The corrective measures to be taken; and
- (c) The period of time given to the applicant to correct the violation or potential violation.

(3) A suspension shall cease when the Code Enforcement Officer certifies that the violation or potential violation ceases to exist. When a cause for suspension has been removed or corrected, the Code Enforcement Officer shall so certify, in writing, and state:

- (a) The reason for the suspension;
- (b) The corrective measures taken;
- (c) The period of time which the applicant had to correct the violation; and
- (d) A statement that all applicable penalties have been paid.

(4) If, within the time specified in a notice of suspension for correction, the violation has not been corrected or removed, the Code Enforcement Officer shall revoke the approval or permit by furnishing to the applicant a written notice of revocation setting forth the reasons therefor.

(5) During the period of a suspension or revocation, no work shall continue on a project for which an approval or permit was granted except in the interests of public safety and protection of the property in place at the time of revocation, such work having the written approval of the Code Enforcement Officer. No such work for which an approval or permit has been revoked shall be resumed until and unless a new approval or permit is obtained by the applicant.

D. Attorneys' fees and costs. An applicant shall pay to the Town all attorneys' fees, court costs and out-of-pocket expenses incurred by the Town in any enforcement action undertaken to correct the applicant's violation of this chapter.

| Requested Date | Arrival Date | PAX# | Status | Booked Date |
|------------------|-----------------------|------------|--------|-------------|
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2022-07-27 16:26 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2022-08-17 17:04 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2022-08-17 17:06 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2022-07-27 16:29 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2024-05-10 | Seven Seas Mariner | 730 | Booked | 5/10/2024 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 100 | Booked | 10/27/2023 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2022-07-27 16:30 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2022-07-27 16:31 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 100 | Booked | 10/27/2023 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 100 | Booked | 10/27/2023 |
| 2023-10-16 | AMERICAN CONSTITUTION | 170 | Booked | 10/27/2023 |
| 2022-07-27 16:32 | VOLENDAM | 2394 | Booked | 11/8/2022 |
| 2022-07-27 16:36 | NORWEGIAN GEM | 2024-06-20 | Booked | 11/8/2022 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-06-21 | Booked | 11/8/2022 |
| 2022-07-27 16:32 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2022-07-27 16:36 | NORWEGIAN GEM | 2024-06-23 | Booked | 11/8/2022 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-06-27 | Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-07-03 | Booked | 10/27/2023 |
| 2022-07-27 16:37 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2023-10-16 | American Glory | 100 | Booked | 10/27/2023 |
| 2022-07-27 16:38 | VOLENDAM | 1839 | Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN CONSTITUTION | 2024-07-05 | Booked | 10/27/2023 |
| 2021-08-19 09:31 | CORAL PRINCESS | 2024-07-10 | Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-07-10 | Booked | 5/10/2024 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-07-11 | Booked | 11/8/2022 |
| 2022-01-05 10:54 | INSIGNIA | 684 | Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 100 | Booked | 10/27/2023 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2394 | Booked | 11/8/2022 |



| | | | | |
|------------------|-----------------------|------------|-------------|------------|
| 2023-10-16 | AMERICAN CONSTITUTION | 2024-07-19 | 170 Booked | 5/10/2024 |
| 2024-06-20 | American Glory | 2024-07-19 | 100 Booked | 7/11/2024 |
| 2021-09-07 06:38 | ZUIDERDAM | 2024-07-19 | 1916 Booked | 11/8/2022 |
| 2021-11-02 14:06 | ZUIDERDAM | 2024-07-21 | 1916 Booked | 11/8/2022 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-07-24 | 100 Booked | 10/27/2023 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-07-25 | 2394 Booked | 11/8/2022 |
| 2022-07-27 16:41 | VOLENDAM | 2024-07-26 | 1839 Booked | 11/8/2022 |
| 2021-02-17 09:48 | Emerald Princess | 2024-07-27 | 3577 Booked | 2/17/2021 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-07-31 | 100 Booked | 10/27/2023 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-08-01 | 2394 Booked | 11/8/2022 |
| 2023-10-23 | American Eagle | 2024-08-02 | 100 Booked | 10/27/2023 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-08-07 | 100 Booked | 10/27/2023 |
| 2023-10-16 | AMERICAN CONSTITUTION | 2024-08-08 | 170 Booked | 5/10/2024 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-08-08 | 2394 Booked | 11/8/2022 |
| 2023-10-23 | American Eagle | 2024-08-13 | 100 Booked | 10/27/2023 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-08-14 | 100 Booked | 10/27/2023 |
| 2021-10-26 16:50 | NORWEGIAN GEM | 2024-08-15 | 2394 Booked | 11/8/2022 |
| 2021-12-06 15:09 | VOLENDAM | 2024-08-19 | 1839 Booked | 11/8/2022 |
| 2023-10-16 | American Glory | 2024-08-21 | 100 Booked | 10/27/2023 |
| 2024-07-09 | AMERICAN INDEPENDENCE | 2024-08-21 | 100 Booked | 7/11/2024 |
| 2021-10-26 | NORWEGIAN GEM | 2024-08-22 | 2394 Booked | 11/8/2022 |
| 2022-08-17 17:09 | ZUIDERDAM | 2024-08-25 | 1916 Booked | 11/8/2022 |
| 2022-10-27 | ENCHANTED PRINCESS | 2024-08-27 | 3660 Booked | 11/8/2022 |
| 2020-04-03 12:02 | NORWEGIAN BREAKAWAY | 2024-08-28 | 3963 Booked | 4/3/2020 |
| 2023-10-16 | American Glory | 2024-08-30 | 100 Booked | 10/27/2023 |
| 2020-04-03 12:02 | NORWEGIAN BREAKAWAY | 2024-09-04 | 3963 Booked | 4/3/2020 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-09-04 | 100 Booked | 5/10/2024 |
| 2020-04-03 12:09 | NORWEGIAN GEM | 2024-09-05 | 2394 Booked | 4/3/2020 |
| 2022-08-17 | ZUIDERDAM | 2024-09-06 | 1916 Booked | 5/30/2024 |
| 2023-10-16 | American Glory | 2024-09-06 | 100 Booked | 10/27/2023 |
| 2020-04-03 12:10 | NORWEGIAN GEM | 2024-09-07 | 2394 Booked | 4/3/2020 |
| 2020-04-03 13:24 | NORWEGIAN SKY | 2024-09-10 | 2480 Booked | 4/3/2020 |
| 2020-04-03 12:02 | NORWEGIAN BREAKAWAY | 2024-09-11 | 3963 Booked | 4/3/2020 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-09-11 | 100 Booked | 5/10/2024 |

| | | | | |
|------------------|-----------------------|------------|-------------|------------|
| 2023-10-16 | American Glory | 2024-09-13 | 100 Booked | 10/27/2023 |
| 2023-11-27 | American Eagle | 2024-09-14 | 100 Booked | 5/10/2024 |
| 2023-10-16 | AMERICAN CONSTITUTION | 2024-09-17 | 170 Booked | 10/27/2023 |
| 2023-09-07 | ENCHANTED PRINCESS | 2024-09-17 | 3660 Booked | 5/14/2024 |
| 2020-04-03 12:02 | NORWEGIAN BREAKAWAY | 2024-09-18 | 3963 Booked | 4/3/2020 |
| 2023-10-16 | AMERICAN INDEPENDENCE | 2024-09-18 | 100 Booked | 5/10/2024 |
| 2020-04-03 12:12 | NORWEGIAN GEM | 2024-09-19 | 2394 Booked | 4/3/2020 |
| 2023-04-12 | Roald Amundsen | 2024-09-19 | 530 Booked | 5/10/2024 |
| 2023-10-16 | American Glory | 2024-09-20 | 100 Booked | 5/10/2024 |
| 2023-11-27 | American Eagle | 2024-09-21 | 100 Booked | 5/10/2024 |
| 2020-04-03 12:17 | NORWEGIAN GEM | 2024-09-21 | 2394 Booked | 4/3/2020 |
| 2023-09-07 | ENCHANTED PRINCESS | 2024-09-24 | 3660 Booked | 5/14/2024 |
| 2020-04-03 12:02 | NORWEGIAN SKY | 2024-09-25 | 2480 Booked | 4/3/2020 |
| 2023-10-17 | AMERICAN INDEPENDENCE | 2024-09-25 | 100 Booked | 5/10/2024 |
| 2023-10-17 | American Glory | 2024-09-27 | 100 Booked | 5/10/2024 |
| 2023-11-20 | AMERICAN CONSTITUTION | 2024-09-27 | 170 Booked | 5/10/2024 |
| 2023-11-27 | American Eagle | 2024-09-28 | 100 Booked | 5/10/2024 |
| 2023-09-07 | ENCHANTED PRINCESS | 2024-10-01 | 3660 Booked | 5/14/2024 |
| 2020-04-03 12:02 | NORWEGIAN BREAKAWAY | 2024-10-02 | 3963 Booked | 4/3/2020 |
| 2020-04-03 12:24 | NORWEGIAN GEM | 2024-10-03 | 2394 Booked | 4/3/2020 |
| 2020-04-03 12:25 | NORWEGIAN GEM | 2024-10-05 | 2394 Booked | 4/3/2020 |
| 2022-08-18 | Viking Neptune | 2024-10-05 | 954 Booked | 5/10/2024 |
| 2023-09-07 | ZUIDERDAM | 2024-10-06 | 1916 Booked | 5/30/2024 |
| 2020-04-03 12:02 | NORWEGIAN BREAKAWAY | 2024-10-09 | 3963 Booked | 4/3/2020 |
| 2023-05-30 | Pearl Mist | 2024-10-14 | 210 Booked | 5/10/2024 |
| 2023-09-07 | ENCHANTED PRINCESS | 2024-10-15 | 3660 Booked | 5/14/2024 |
| 2020-04-03 12:02 | NORWEGIAN SKY | 2024-10-16 | 2480 Booked | 4/3/2020 |
| 2023-05-30 | Pearl Mist | 2024-10-16 | 210 Booked | 5/10/2024 |
| 2020-04-03 12:26 | NORWEGIAN GEM | 2024-10-17 | 2394 Booked | 4/3/2020 |
| 2020-04-03 12:28 | NORWEGIAN GEM | 2024-10-24 | 2394 Booked | 4/3/2020 |
| 2022-07-28 | Hanseatic Inspiration | 2024-10-27 | 230 Booked | 10/30/2023 |

TOWN OF BAR HARBOR Code Enforcement Division

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400
Tele. 207-288-3329 Fax 207-288-3032
E-Mail: ceo@barharbormaine.gov

Angela M Chamberlain

Code Enforcement Officer
Building Inspector
Electrical Inspector
Plumbing Inspector

August 5, 2024

Golden Anchor LC
1000 Market Street
Building One, Suite 300
Portsmouth, NH 03801

NOTICE OF VIOLATION

DELIVERED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

**55 West Street – NOTICE OF VIOLATION AND ORDER TO TAKE CORRECTIVE ACTION–
FAILURE TO SECURE NECESSARY PERMITS**

To Whom It May Concern:

The Town of Bar Harbor has determined that your use of the property located at 55 West Street, Bar Harbor, Maine, also known as Tax Map 101, Lot 010-000, (hereinafter the “Property”), is in violation of the Town’s Cruise Ship Disembarkation Ordinance, which went into effect on July 18, 2024.

The Town’s Cruise Ship Disembarkation Ordinance (hereinafter the “CSD Ordinance” and to be codified at Chapter 52)¹, which constitutes the rules necessary to implement Section 125-77H of the Land Use Ordinance, requires that a permit must be obtained from the Code Enforcement Officer (“CEO”) for a Cruise Ship Disembarkation Facility prior to receiving any disembarking Persons from a cruise ship. This CSD Ordinance, a copy of which is attached, constitutes the rules anticipated by and necessary to enforce Section 125-77H of the Town Code.

Section 52-6 of the CSD Ordinance states as follows: “Permit Required: No person may allow or facilitate the disembarkation of Persons from a cruise ship over land or operate a CSDF without having first obtained a permit to operate a CSDF (“CSDF Permit”).”

¹ This Chapter was enacted effective July 18, 2024. However, it has not yet been codified. A copy of the enacted but uncodified draft is attached.

Section 52-5 of the CSD Ordinance defines person as follows: ““Persons” means passengers of cruise ships and not those persons covered by 33 C.F.R. § 105.200 and 33 C.F.R. § 105.237 (titled “System for seafarers’ access”), namely, “vessel personnel,” “vessel crew,” “seafarers assigned to a vessel,” “pilots,” and “representatives of seafarers’ welfare and labor organizations” (collectively, “Crew”). The word “person” (i.e. not capitalized) shall have the meaning provided by § 125-108 of the Town Code.”

Section 52-5 of the CSD Ordinance defines a Cruise Ship Disembarkation Facility (“CSDF”) as follows: “a public or private property, or a public or private structure, used for disembarkation of persons arriving on land from cruise ships.”

On or about July 25, 2024, it was observed that individuals meeting the definition of “Person” under the CSD Ordinance disembarked from a cruise ship on your Property without the property owner having first obtained a CSDF Permit as required by the Ordinance.

These actions are in violation of Chapter Section 52-6 of the CSD Ordinance and Section 125-77H of the Land Use Ordinance. Such violations are a nuisance in violation of Chapter 125-99. See Section 125-77H and 125-101B for possible maximum fines.

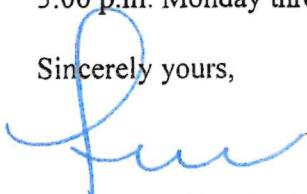
You are hereby ordered to take the following corrective action: within thirty (30) days from the date of this letter you must submit an application to allow for the disembarkation of individuals meeting the definition of Person under the CSD Ordinance. Failure to apply for the applicable permits within 30 days will result in further enforcement action.

In addition to the CSD Ordinance, I have included copies of Section 125-77H, the Cruise Ship Disembarkation Facility permit application, and the Cruise Ship Disembarkation permit application for your use.

Pursuant to Section 125-103, “the Board of Appeals may, upon written application of an aggrieved party received by the Planning Department within 30 days of any decision or enforcement action by a municipal body or official who or which interprets this chapter, hear appeals from such decision.”

If you have any questions about this letter, please contact me at 207-288-3329 between the hours of 8:30 a.m. - 5:00 p.m. Monday through Friday.

Sincerely yours,



Angela M. Chamberlain
Code Enforcement Officer

Cc: Building Permit File
Eben Salvatore
P. Andrew Hamilton, Esq.
Stephen Wagner, Esq. ✓
Town Council Members
James Smith, Town Manager

TOWN OF BAR HARBOR Code Enforcement Division

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400
Tele. 207-288-3329 Fax 207-288-3032

VIOLATION REPORT

Tender Dock where the violation occurred:

55 West Street (Tax Map 101, Lot 010-000)

Property Owner:

Golden Anchor, LC

Property Owner Mailing Address:

1000 Market Street
Building One, Suite 300
Portsmouth, NH 03801

Date of Violation: July 25, 2024

Time: 10:30 am

Witnesses to the violation:

1. Angela Chamberlain, Code Enforcement Officer
2. Chris Wharff, Harbor Master
3. _____

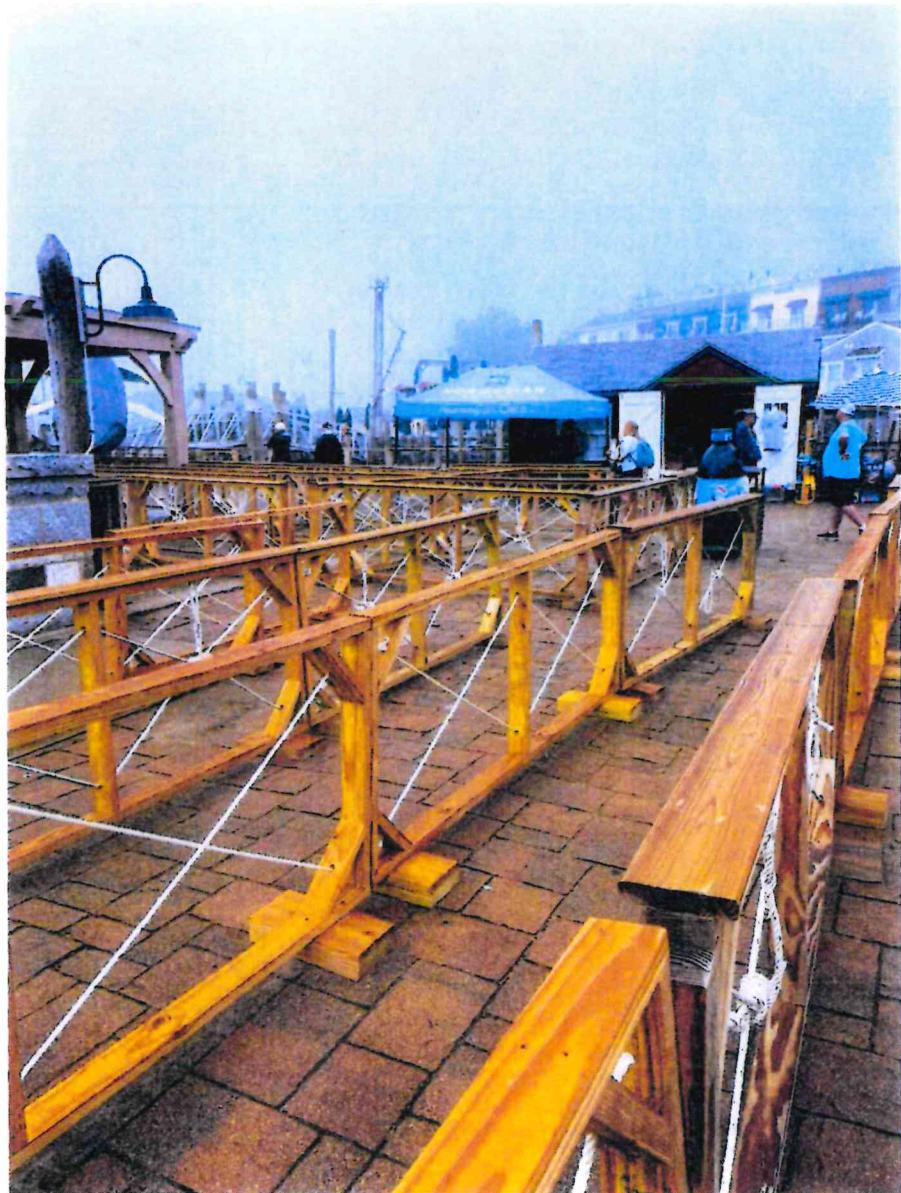
Number of Persons who disembarked over the limit: _____

Other pertinent information:

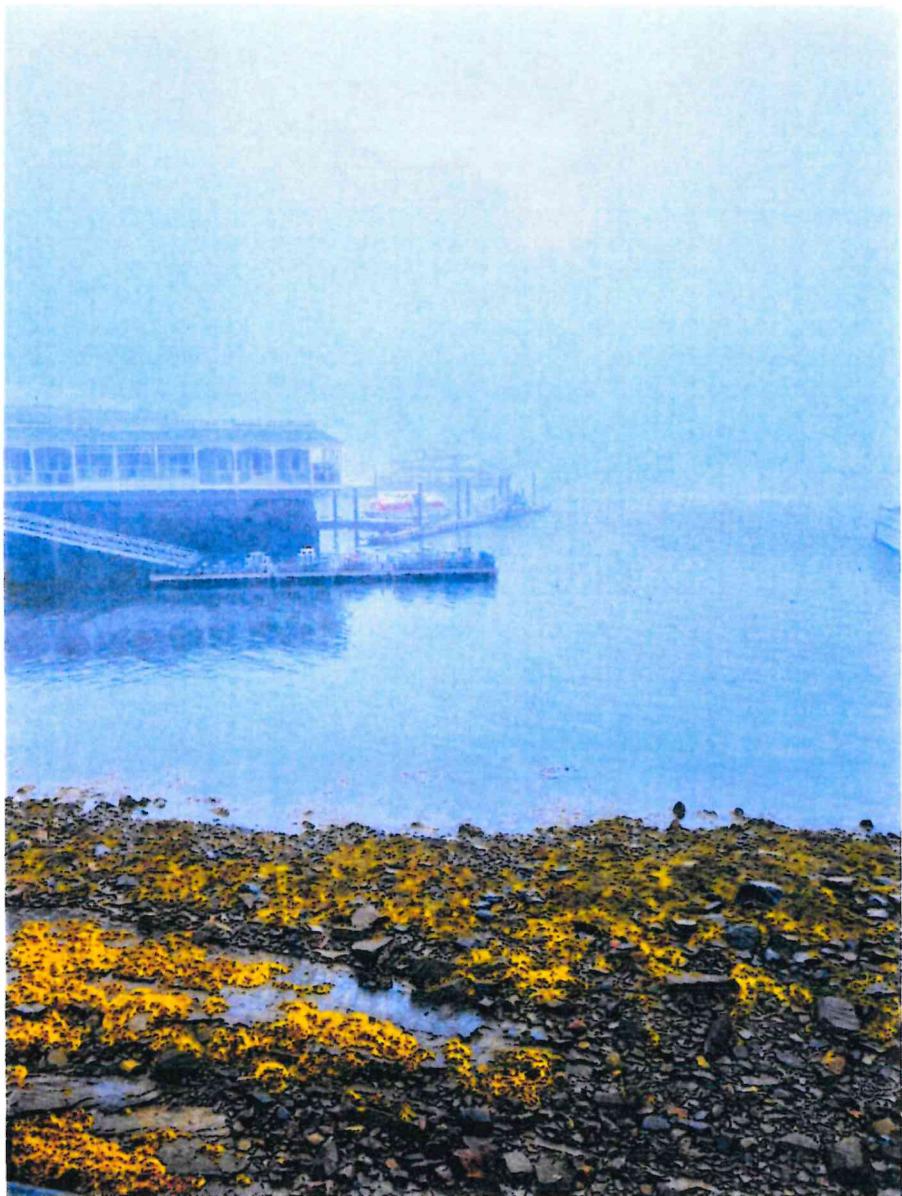
Tenders were arriving at the dock and we witnessed passengers being unloaded from the tenders onto the dock. Norwegian tents were set up on the site for the Norwegian GEM.

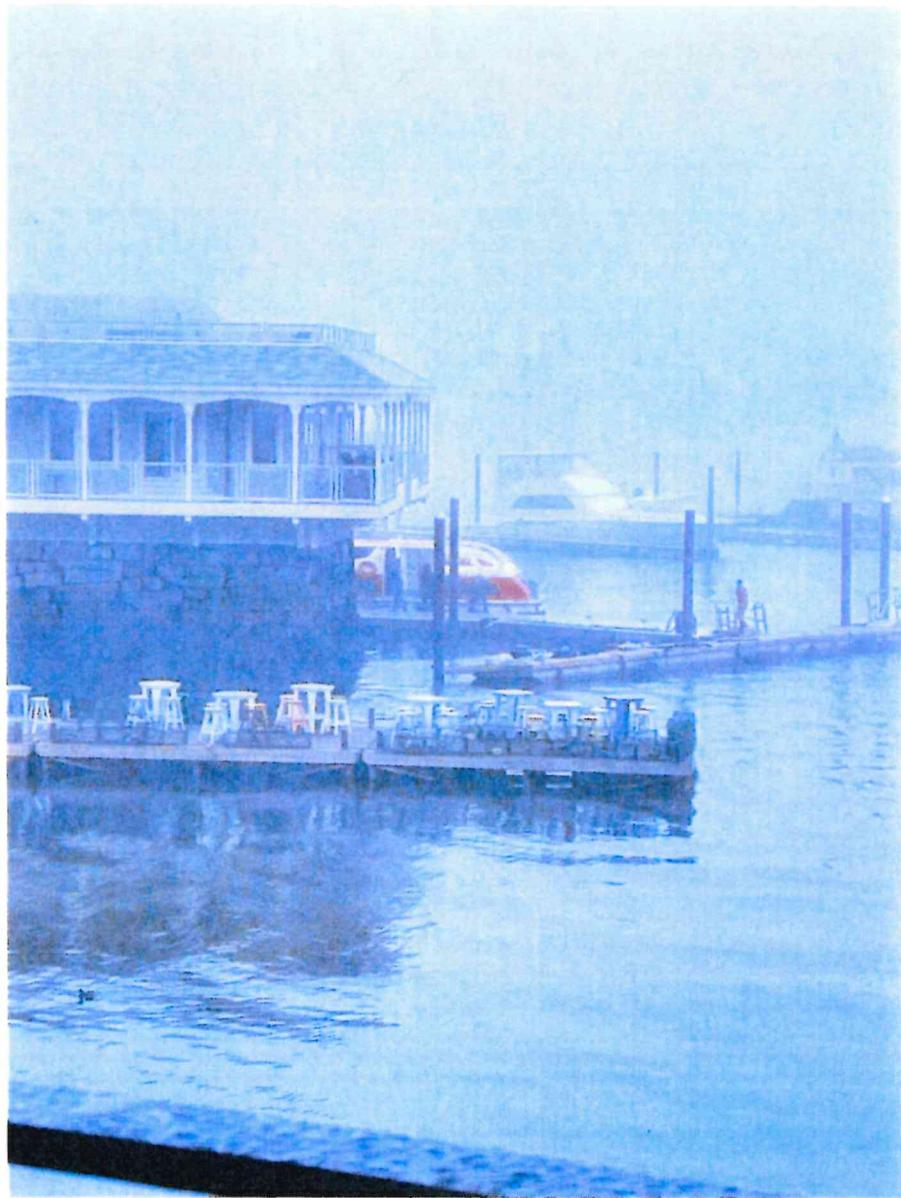
The Code Enforcement Department does not have any pending Cruise Ship Disembarkation Facility Permit or Cruise Ship Disembarkation Permit applications on file for this property.

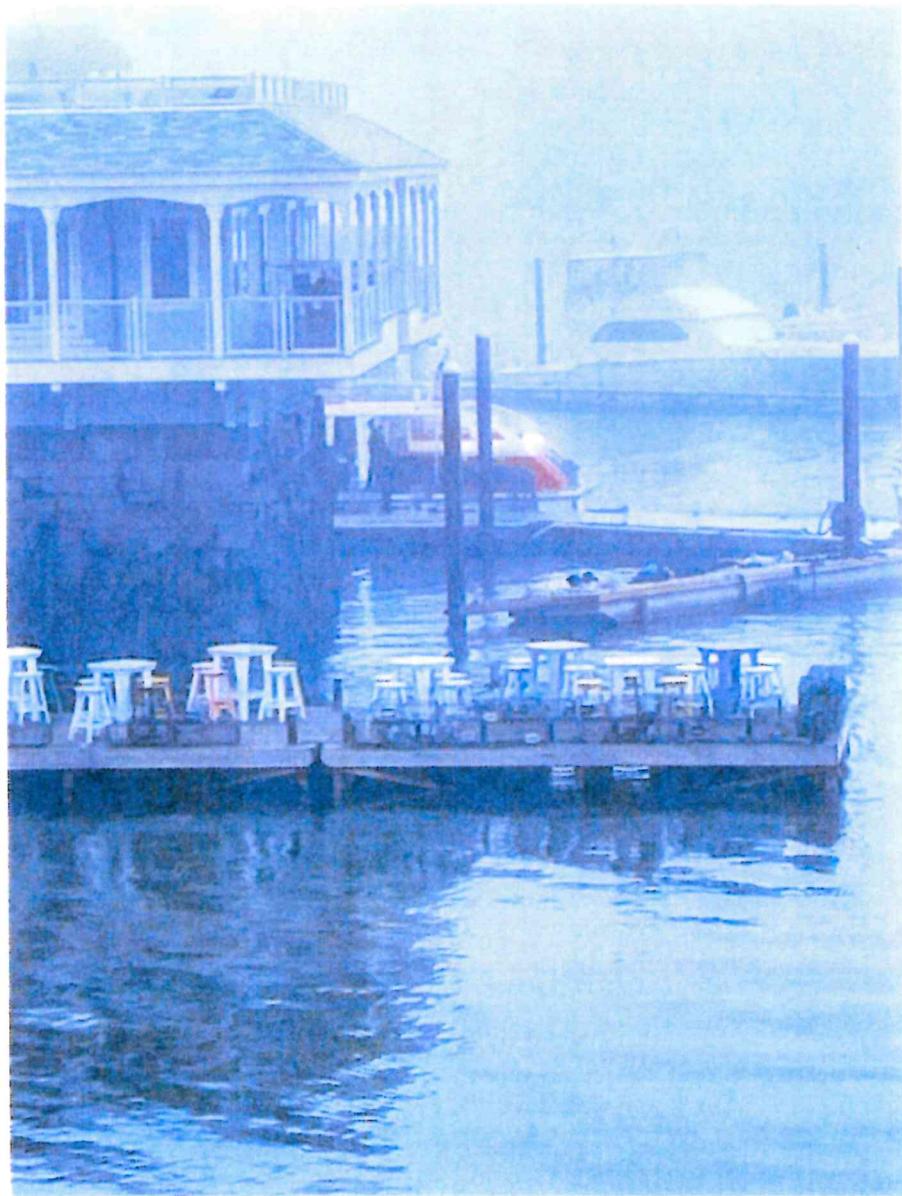
Report prepared by Angela Chamberlain, Code Enforcement Officer.













On Tuesday, June 18, 2024, the Bar Harbor Town Council adopted the following amendment to the Municipal Code. The amendment takes effect July 18, 2024. A copy has been filed with the Town Clerk.

Cruise Ship Disembarkation Ordinance Amendment

Town of Bar Harbor
2024-06

An amendment to enact Chapter [###]: Cruise Ship Disembarkation

The Town of Bar Harbor hereby ordains that Chapter [###]: Cruise Ship Disembarkation, is enacted as follows:

[Please Note: Old Language is stricken. New language is underlined.]

Chapter [###]. Cruise Ship Disembarkation

§ [###]-1. Purpose:

The purpose of this Chapter is to govern the disembarkation of Persons to docks or land within the Town from cruise ships and implement the purpose and intent of § 125-77(H) of the Town Code, as well as the promotion of the health, safety, and general welfare of the present and future inhabitants of the Town in a manner that serves to balance the interests of the general public and those of individual property owners.

§ [###]-2. Authority:

Under federal, state and local law, the Town has regulatory authority over disembarkation of Persons into the Town. This Chapter is adopted pursuant to the Town's home rule powers as provided for in Article VIII, Part Second, of the Maine Constitution, 30-A M.R.S. §§ 2101 et seq.

§ [###]-3. Validity and Severability:

If any section, subsection, clause, or phrase of this Chapter shall be found to be invalid or unconstitutional, such invalidity shall not affect the remaining provisions of this Chapter, and to that end the provisions of this Chapter are hereby declared severable.

§ [###]-4. Administration:

The provisions of this Chapter shall be administered jointly by the Code Enforcement Officer and Harbor Master or their respective designee(s).

§ [###]-5. Definitions:

Except as otherwise provided by this Chapter, language used herein shall be construed as set forth in § 125-108 of the Town Code and specific words and phrases shall have the meanings set forth in § 125-109 of the Town Code.

As used in this Chapter, the following terms shall have the following meanings:

Cruise Ship - "cruise ship" has the same meaning as set forth in § 153-22(B) of the Town of Bar Harbor Code.

Cruise Ship Disembarkation Facility ("CSDF") - a public or private property, or a public or private structure, used for disembarkation of persons arriving on land from cruise ships.

CSDF Owner – an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity that owns, operates, or otherwise is authorized to represent the CSDF.

Disembarkation - The arrival of persons to docks and/or land within the Town from cruise ships by tender vessels, or otherwise.

Persons - For purposes of this Chapter and the enforcement of § 125-77(H), "Persons" means passengers of cruise ships and not those persons covered by 33 C.F.R. § 105.200 and 33 C.F.R. § 105.237 (titled "System for seafarers' access"), namely, "vessel personnel," "vessel crew," "seafarers assigned to a vessel," "pilots," and "representatives of seafarers' welfare and labor organizations" (collectively, "Crew"). The word "person" (i.e. not capitalized) shall have the meaning provided by § 125-108 of the Town Code.

§ [###]-6. Requirements to Operate or Disembark at a CSDF

A. Permit Required:

No person may allow or facilitate the disembarkation of Persons from a cruise ship over land or operate a CSDF without having first obtained a permit to operate a CSDF ("CSDF Permit").

B. Cruise Ship Reservation Required:

No CSDF or person shall receive disembarking Persons from a cruise ship that has not first received confirmation from the Harbor Master for a booked reservation for anchorage pursuant to the Town of Bar Harbor Cruise Ship Standard Operating Procedures, as they may be amended.

C. Disembarkation Application and Permit Required:

(1) **Application Required.** A CSDF Owner shall submit an application to the Code Enforcement Officer, or designee, for a Disembarkation Permit to allow on a specified calendar day a specified number of Persons not exceeding 1,000 to disembark from one or more cruise ship(s) with a confirmed reservation for anchorage.

(2) **Application Review.** Applications shall be reviewed and acted upon in the order in which they were received within 30 days of receipt. The application must identify the specific site of disembarkation, the calendar day of disembarkation, and the requested number of Persons to be disembarked to the identified CSDF and site of disembarkation on that calendar day.

(3) **Issuance of Permit.** Upon confirming the applicant has satisfied all other application criteria and requirements of this Chapter, the Code Enforcement Officer, or designee,

shall grant the application and issue a Disembarkation Permit for the maximum number of Persons that does not cause the Daily Disembarkation Limit established by § 6(C)(4) of this Chapter to be exceeded.

(4) Daily Disembarkation Limit. The Code Enforcement Officer, or designee, shall not issue a Disembarkation Permit that would authorize the disembarkation of more than 1,000 Persons, in the aggregate, on a single calendar day, regardless of the total number of Disembarkation Permits requested or issued for a specific calendar day.

§ [###]-7. Disembarkation Procedures.

A. Counting Method.

CSDF Owners shall employ a means to electronically count each individual person that disembarks at a given CSDF ("Counting Method"). The Counting Method must include a means for discounting from the total count of individuals all crew. The Counting Method shall be approved by the Harbor Master, or their respective designee, and subject to annual review.

B. Daily Certification.

For each Disembarkation Permit, the CSDF Owner shall submit a certification to the Code Enforcement Officer specifying how many Persons were in fact disembarked on the calendar day specified on the Disembarkation Permit and from what cruise ship said Persons disembarked.

C. Code Enforcement Officer Access.

Consistent with 30-A M.R.S. § 4452(1)(A), the Code Enforcement Officer, or designee, shall be permitted to access the site(s) of the CSDF at which Persons disembark, at any time during normal business hours, or at any time Persons are disembarking or embarking, for the purposes of ensuring and verifying that Persons are being counted properly. The CSDF shall not obstruct or otherwise interfere with said access. Whether access is necessary is within the sole discretion of the Code Enforcement Officer and Harbor Master. If access is denied, the Code Enforcement Officer may apply for an administrative search warrant pursuant to Maine Rule of Civil Procedure 80E.

D. Code Enforcement Officer Audit.

Upon request to the CSDF Owner, the Code Enforcement Officer, and their respective designee(s), shall have unobstructed and immediate access to the records and instruments used to implement the CSDF Counting Method for the purposes of auditing the CSDF Counting Method for accuracy and functionality and implementing and enforcing this Chapter and § 125-77(H) of the Town Code. Whether an audit is necessary is within the sole discretion of the Code Enforcement Officer. The CSDF Owner shall retain all records generated by the CSDF Counting Method for 3 years.

§ [###]-8. Enforcement.

A. Violation Report.

If the Code Enforcement Officer, or designee, determines that the terms of this Chapter have been violated, including without limitation if a CSDF has disembarked Persons without a Disembarkation Permit or disembarked more Persons than authorized per this Chapter and any applicable Disembarkation Permit, the Code Enforcement Officer within a reasonable time of the alleged violation, shall create a Violation Report. The violation report should include the date and time of the incident giving rise to the violation, the tender dock where the violation occurred, who witnessed the violation, the number of Persons who disembarked over the Disembarkation Permit limit, and any other pertinent information as determined relevant by the Code Enforcement Officer.

B. Penalties and Enforcement.

This Chapter shall be enforced by the Code Enforcement Officer in accordance with §§ 125-100 and 125-101 of the Town Code. CSDF Owners, individuals, firms, associations, corporations, partnerships, trusts or other legal entities found to be in violation of this Chapter may be subject to such fines, penalties, actions, and orders as are authorized by 30-A M.R.S. § 4452, as the same may be amended, provided that each disembarking Person exceeding the Disembarkation Permit is a distinct and separate violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized Person.

Chapter 125. Land Use

Article VII. Permits

§ 125-77. Permit required for certain activities.

[Amended 5-7-1991; 11-2-1999]

After the effective date of this chapter, a written permit from the Code Enforcement Officer shall be required for the following activities, regardless of whether such activities have received site plan or subdivision approval or whether they also require review by the Design Review Board pursuant to Article XIII, Design Review:

- A. Flood hazard areas. All construction or earthmoving activities or other improvements within the one-hundred-year floodplain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- B. New construction. New construction of buildings and structures.
- C. Alteration. Alteration of a building, structure, or land, or parts thereof, including but not limited to:
[Amended 5-3-2004]
 - (1) Change in size of windows or doors;
 - (2) Repair of foundations, whether concrete, cinder block, granite and posts, or piles;
 - (3) Interior renovations for change in use;
 - (4) Remodeling interior walls to create new rooms;
 - (5) Enclosing open frame porch;
 - (6) Installing skylights;
 - (7) Erection of fences;
 - (8) Construction of new steps;
 - (9) Creation of roads or driveways;
 - (10) Erection of panels for winter closure or the erection of winter storm vestibules in the Downtown Village or Waterfront Development Districts; provided, however, that a permit need only be obtained in the first year of the useful life of the structure to be erected.
[Amended 6-8-2010]
- D. Placement of signs. Placement of signs except temporary signs.
[Amended 5-3-2004]
- E. Moving or demolition. All buildings or structures which are removed from or moved onto, or moved around within, a lot or demolished.
- F. Change of use. The change of any premises from one category of land use to any other land

use.

- G. Activities. Any other activities described in Article III as requiring a permit from the Code Enforcement Officer.
- H. Disembarking persons from cruise ships on, over, or across any property located within the Town of Bar Harbor.
[Added 11-8-2022]
 - (1) For the purposes of this section, "cruise ship" has the same meaning as set forth in § 153-22B of the Town of Bar Harbor Code.
 - (2) As determined by the Harbor Master, no more than 1,000 persons, in the aggregate, may disembark on a single calendar day from any cruise ship(s) and come to shore on, over, or across any property located within the Town of Bar Harbor; provided, however, that this subsection shall not apply with regard to any cruise ship reservations that have been accepted by the Harbor Master prior to March 17, 2022.
 - (3) The Harbor Master shall develop rules and regulations in order to establish (a) a reservation system for cruise ships that transport persons by watercraft for disembarkation in the Town of Bar Harbor; (b) a mechanism for counting and tracking the number of persons disembarking each day; (c) a mandatory procedure for reporting violations to the Code Enforcement Officer; and (d) any other provisions that the Harbor Master deems necessary under this subsection. Any property owner issued a permit under this § 125-77H shall comply with all rules and regulations promulgated by the Harbor Master under this subsection.
 - (4) This subsection shall be enforced by the Code Enforcement Officer in accordance with § 125-100 of this chapter, based on information as to violations provided by the Harbor Master, and property owners in violation of this subsection shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S. § 4452, as the same may be amended, provided that each disembarking person exceeding the permitted daily limit in § 125-77H(2) is a specific violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized person.
 - (5) Notwithstanding 1 M.R.S. § 302, and regardless of the date on which it is approved by the voters, this subsection will be applicable as of March 17, 2022, and shall govern any and all applications for permits or approvals required under this subsection that were or have been pending before any officer, board, or agency of the Town of Bar Harbor on or at any time after March 17, 2022; provided, however, that the Town will not take any enforcement action under this subsection with regard to any cruise ship visits occurring prior to the date of adoption by voters at Town Meeting.



Town of Bar Harbor
Planning & Code Enforcement

Cruise Ship Disembarkation Facility Permit Application

SECTION I.

PROPERTY INFORMATION

Property Address: _____ Map _____ Lot _____

SECTION II.

PROPERTY OWNER/APPLICANT INFORMATION

Owner: _____

Address: _____ City: _____ Zip: _____

Phone number: _____ Email: _____

Applicant: _____

Address: _____ City: _____ Zip: _____

Phone number: _____ Email: _____

NOTE: If not owner, please attach written authorization to apply for permits and/or approvals.

SECTION III.

APPLICATION INFORMATION

I have attached a written description approved by the Harbor Master describing the means to count each individual person that disembarks at this Cruise Ship Disembarkation Facility. This includes a means for discounting the crew from the total amount of individuals disembarking.

“Persons” means passengers of cruise ships and not those persons covered by 33 C.F.R.

§ 105.200 and 33 C.F.R. § 105.237 (titled “System for seafarers’ access”), namely, “vessel personnel,” “vessel crew,” “seafarers assigned to a vessel,” “pilots,” and “representatives of seafarers’ welfare and labor organizations”.

SECTION IV.

INSTRUCTIONS

Fill out this Cruise Ship Disembarkation Facility Permit Application to the Code Enforcement Officer.

SECTION V.**ACCEPTANCE**

The undersigned applicant acknowledges that the applicant and the person on whose behalf a permit is sought are responsible to ensure that the proposed activity complies with all applicable standards of the Municipal Code and Council policies, including but not limited to, Chapter 125 Land Use Ordinance, Chapter 153 Port and Harbor, and Chapter _____ Cruise Ship Disembarkation.

1. By accepting this permit, I agree to allow the Code Enforcement Officer, the Harbor Master or their respective designees to be present on the permitted site during disembarkation of cruise ships for the purpose of ensuring compliance with this permit and all applicable standards of the Municipal Code.
2. By accepting this permit, I acknowledge that no more than the number of persons approved by a Disembarkation permit are entitled to disembark from any cruise ships on any single day at the permitted site, and I agree to abide by the 1,000-person daily limit. "Persons" shall have the meaning provided by the Cruise Ship Disembarkation Ordinance.
3. This permit shall expire one (1) year after the date of issuance.

By accepting this permit, I agree to comply with all applicable standards of the Municipal Code.

Name _____ Date _____

Signature _____

----- For Office Use Only -----

Disembarkation Facility Permit # _____ Fee: _____

Code Enforcement Officer _____ Date _____

Harbor Master _____ Date _____



Town of Bar Harbor
Planning & Code Enforcement

Cruise Ship Disembarkation Permit Application

SECTION I.

PROPERTY INFORMATION

Property Address:

Map _____ Lot _____

SECTION II.

PROPERTY OWNER/APPLICANT INFORMATION

Owner:

Address: _____ City: _____ Zip: _____

Phone number: _____ Email: _____

Applicant:

Address: _____ City: _____ Zip: _____

Phone number: _____ Email: _____

NOTE: If not owner, please attach written authorization to apply for permits and/or approvals.

SECTION III.

APPLICATION INFORMATION

Cruise Ship Disembarkation Facility Permit #: _____

Date of Disembarkation:

I have attached proof that a reservation for anchorage on this date has been approved by the Harbor Master.

Number of Persons to Disembark (<1,000):

Number of Cruise Ships

"Persons" means passengers of cruise ships and not those persons covered by 33 C.F.R.

§ 105.200 and 33 C.F.R. § 105.237 (titled "System for seafarers' access"), namely, "vessel personnel," "vessel crew," "seafarers assigned to a vessel," "pilots," and "representatives of seafarers' welfare and labor organizations".

SECTION IV.

INSTRUCTIONS

Fill out this Cruise Ship Disembarkation Permit Application along with proof of accepted anchorage reservation to the Code Enforcement Officer.

SECTION V.**ACCEPTANCE**

The undersigned applicant acknowledges that the applicant and the person on whose behalf a permit is sought are responsible to ensure that the proposed activity complies with all applicable standards of the Municipal Code and Council policies, including but not limited to, Chapter 125 Land Use Ordinance, Chapter 153 Port and Harbor, and Chapter _____ Cruise Ship Disembarkation.

1. By accepting this permit, I agree to allow the Code Enforcement Officer, the Harbor Master or their respective designees to be present on the permitted site during disembarkation of cruise ships for the purpose of ensuring compliance with this permit and all applicable standards of the Municipal Code.
2. By accepting this permit, I acknowledge that no more than the number of persons approved by a Disembarkation permit are entitled to disembark from any cruise ships on any single day at the permitted site, and I agree to abide by the 1,000-person daily limit. "Persons" shall have the meaning provided by the Cruise Ship Disembarkation Ordinance.
3. This permit is only valid for the date of disembarkation listed.

By accepting this permit, I agree to comply with all applicable standards of the Municipal Code.

Name _____ Date _____

Signature _____

----- For Office Use Only -----

Disembarkation Permit # _____ Fee: _____

Date of Disembarkation _____ Persons permitted to disembark _____

Code Enforcement Officer _____

Date _____