

**New Bedford Harbor Development Commission
Official Rules Effective December 10, 2007**

Kristin Decas, Executive Director

Rule 1. General Provisions

Section 1.1

These rules are supplementary to the provisions of Chapter 762 of the Acts of 1957, Chapter 247 of the Acts of 1982 and Chapter 126 of the Acts of 1991, (the "Act"), as they relate to the procedures and powers of the New Bedford Harbor Development Commission (hereafter HDC) and are adopted pursuant to authority granted thereunder. These regulations shall be applicable, and shall govern the harbor and waters within the City of New Bedford, and all other maritime or marine facilities operated within property under HDC administration and control.

Section 1.2

A copy of the rules and regulations governing the use of the piers and wharves shall be posted in the Harbormaster's office, the office of the HDC, and a copy of same may be obtained upon request.

Section 1.3

It shall be unlawful for any person to remove, deface or mutilate a notice, order, statement, or resolution posted pursuant to the provisions of the Act or these rules.

Rule 2. Meetings

Section 2.1

Regular meetings shall be held on the second Thursday of each month at 5:00 PM. in the offices of the HDC unless said day shall be an observed holiday, in which event the regular meeting shall be held on the third Thursday of that month. The time, date, or place of

any regular meeting may be changed by the HDC at any time, provided the HDC shall give ample time to allow public attendance. No regularly scheduled meetings shall be held during the months of July and August. No communications, requests, petitions or resolutions nor requests to address the HDC at a regular meeting shall be included on the agenda of such meetings unless the same has been filed with the offices of the HDC no later than seventy-two (72) hours prior to the scheduled regular meeting. This shall not include communications, requests, petitions, motions or resolutions sponsored by a member of the HDC. Addresses to the HDC at regular meetings shall be limited to five (5) minutes per speaker.

Section 2.2

Special meetings may be called by the Chairman at his discretion, or at the request of any three (3) members of the HDC, provided that forty-eight (48) hour notice of the date, time, place and subject matter is given to each member of the HDC and the same notice given to the public to allow attendance. If the subject matter of the special meeting requires an emergency action as defined by MGL c.39, s. 23A, then the forty-eight (48) hour notice requirement may be waived, provided that local representation of the media shall be notified of the meeting, whenever practical. The notification to include time and place, by the same or faster means used to notify members of the HDC.

Section 2.3

The HDC shall annually elect a vice-chairman, treasurer and clerk whose terms shall coincide with the HDC's fiscal year.

Section 2.4

The fiscal year for the Commission shall be the state fiscal year, beginning July 1 and ending June 30.

Rule 3. Rules of Order

Section 3.1

Meetings of the HDC shall be governed by any Rule supplemented by Robert's Rules of Order, except to the extent that these Rules shall provide to the contrary; and provided that the HDC may suspend these Rules by a vote of two-thirds (2/3) of those members present and voting.

Section 3.2

The Order of Business shall be as follows:

- A. Roll Call and declaration of quorum
- B. Reading and approval of minutes of the previous meeting, unless waived
- C. Correspondence
- D. Unfinished business
- E. New business
- F. Reading and acceptance of the Maintenance Report
- G. Reading and acceptance of the Treasurer's Report
- H. Adjournment.

Section 3.3

The Chairman shall preside at all meetings unless absent or disqualified from participation and shall preserve decorum and order. In the Chairman's absence, the Vice-Chairman shall preside and in the Vice-Chairman's absence, the Treasurer, or if he is absent, then the Clerk may preside.

Rule 4. Notice

Section 4.1

The Clerk shall give notice of HDC meetings and public hearings, which shall include the date, time, and place of such meeting or

hearing, and, in the case of hearings, a description of the content of the application or matter to be heard, and the address or location of any property involved; provided that notice of all meetings shall be sent to the New Bedford City Clerk for public posting. When notice by mail is required, such notice shall be mailed at least seven (7) days in advance of the hearing or meeting date by regular United States Mail, postage prepaid, unless a shorter time is prescribed by the HDC, through its Chairman or other officer, for cause. When notice by publication is required, notice shall be given by publication in a newspaper of general circulation in the City of New Bedford at least once, not more than thirty (30) days or less than seven (7) days before the date of the hearing or meeting. Other reasonable means of notice may be prescribed by the HDC, through its Chairman or other officer, for cause. If any statute or regulation requires a longer notice period or any additional notice content, such requirement shall control.

Section 4.2

In the case of meetings or hearings relating to a particular vessel or piece of property, notice shall be given by mail to the owner or owners of such vessel or property and, in the case of real property, to the owners of all property directly abutting the subject property; provided, however, the HDC may rely upon:

- A. City of New Bedford Assessor's records in determining the owners of all such real property, except with respect to the owner or owners of such particular parcel; and
- B. The records of the U.S. Coast Guard, Commonwealth of Massachusetts or any other governmental agency relating to the ownership of any vessel;

and provided further that the HDC may require an applicant to provide the names of owners and abutters and to furnish the Notice re-

quired under this section, and to provide proof of service of such notice to the HDC. In the case of any adjudicatory hearing, notice by mail shall be sent to all parties. To the extent that further notice is required, failure to provide such notice shall not affect the validity of any action taken with respect to such property. The HDC, through its Chairman or other officer, may for cause shorten the time of notice or prescribe other means of notice.

Section 4.3

The Harbormaster or the HDC shall give two (2) days prior written notice to the master, custodian, managing agent or owner of any vessel to remove a vessel from a channel or from a dock, landing, pier or wharf, unless the HDC through its Chairman or other officer, shortens the time for such notice or prescribes other means of notice.

Rule 5. Conduct of Public Hearings

Section 5.1

Public hearings shall be held prior to the HDC's adoption of any rule or regulation of general application, whether substantive or procedural and prior to the issuance or revocation of any individual license, permit or authority, if required by further HDC rule.

Any party charged a docking, user, or mooring fee pursuant to the HDC's regulations has the right to request a review hearing. This request shall be in writing and be filed in the offices of the HDC within thirty (30) days of the date of the bill charging said fee. On receipt of any application for review by the HDC, the Chairman shall designate a time and place for the hearings and make other arrangements for hearings as necessary. The HDC may summons witnesses, administer oaths, order the production of books, records, papers, instruments and any additional evidence it deems necessary in order to make a decision.

Section 5.2

The following order of proceedings shall govern all public hearings conducted by the HDC:

1. The Chairman shall summarize the application and proposal and describe the public hearing procedure, including a statement that all exhibits and reports considered by the HDC are available for public inspection unless privileged by law.
2. The applicant shall present his opening statement and any testimony or other evidence.
3. The HDC shall receive any staff report, commentary or recommendation from any governmental bodies.
4. Parties designated by the Chairman as interested party proponents may offer evidence or statements.
5. Other proponents may offer evidence or statements.
6. Parties designated by the Chairman as interested party opponents may offer evidence or statements.
7. Other opponents may offer evidence or statements.
8. Rebuttal may be offered by the applicant and, with the permission of the Chairman, by any designated interested party.
9. Cross-examination of the applicant and designated interested parties shall be conducted as directed by the Chairman. Members of the HDC may ask questions of any person at any time.

Section 5.3

Any person may appear and testify at a public hearing either in person or by duly authorized agent or attorney and may submit documentary evidence. The applicant, or any person or organization designated by the Chairman as a specially interested party, may also present witnesses on his own behalf and offer rebuttal evidence; cross-examine all witnesses testifying in opposition to his position through the Chairman, or, with the permission of the Chairman, directly; and, examine and reproduce any documents produced at the hearing. Ten (10) minutes shall be allowed each speaker to express views.

Section 5.4

The HDC may hold a pre-hearing conference or conferences with the owner(s) of the particular parcel, vessel or business and interested parties to provide further for procedures to be followed at the hearing and for any other purpose which may expedite the just, speedy and inexpensive disposition of the matter when it comes for hearing before the HDC; provided, however, no action or decision on the merits shall be taken or discussed to the prejudice of any opposing party.

Rule 6. Conduct of Adjudicatory Hearings**Section 6.1**

Any person aggrieved by an act or decision of the HDC, its members, agents, or employees may request an adjudicatory hearing within thirty (30) days of the date of said act or decision or, upon good cause shown, within thirty (30) days of receipt of notice of said act or decision; provided, the request shall be submitted in writing on a form prescribed by the HDC indicating the nature of the dispute. All hearings shall be conducted in an impartial manner. Upon the filing in good faith by any interested party in an adjudicatory proceed-

ing of a charge of bias, or of personal or financial interest, direct or indirect of a Board member in any proceeding, the member shall disclose his position fully on the record regarding such charge, and the remaining Board shall then determine, as part of the record, whether he or she is disqualified from participation in the hearing. Any such charge of bias shall be filed in writing with the HDC and addressed to the Chairman at least three (3) days prior to the date of the hearing, except that for good cause shown for late filing, a charge of bias may be made at any time of the adjudicatory proceeding.

Section 6.2

The HDC shall not be bound by the technical rules of evidence. Evidence which is relevant and material to the subject matter of the hearing shall be admissible. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded. Except as otherwise provided herein, objections shall be deemed to go to the weight of the evidence and not to its admissibility. The HDC may, at any time, take official notice of any fact of which judicial notice would be taken in a Court proceeding. If a person issues official notice of a fact or facts to be taken, the person shall so request the HDC. The HDC shall permit the claim of any privilege recognized by the courts of the Commonwealth of Massachusetts in civil cases. The HDC may draw a negative inference from a claim of any privilege by a person at the proceeding.

Section 6.3

Summation may be allowed at the discretion of the HDC. The time for summations may be limited at the discretion of the HDC.

Section 6.4

The HDC may render its decision orally following the hearing or may do so in writing within a reasonable period of time following the close of the hearing. If an oral decision is given at the hearing, the HDC shall reduce such decision to writing and any variance between the

written decision and the oral decision shall be resolved in favor of the written decision. Such written decision shall include the conclusions of the HDC and findings of fact sufficient to apprise the parties of the basis for that decision and shall specifically state what underlying facts in the record were relied upon by the HDC. A copy of the written decision shall be delivered or mailed to each party or his designated representative. The time for the taking of any appeal from the decision of the HDC shall be computed from the date on which the written decision is delivered or mailed to the party, whichever occurs first.

Section 6.5

The record of the proceeding shall consist of all relevant applications, complaints, petitions, pleadings, motions and the evidence received or considered by the HDC, any facts officially noticed, offers of proof, any objections and rulings thereon, and the written decision of the HDC.

Rule 7. Miscellaneous

Section 7.1

The HDC may amend its rules and regulations by majority vote after first providing notice of the proposed changes by publication. The clerk or such other person as the Chairman may appoint shall keep written minutes of all meetings, after being accepted by the HDC.

Section 7.2

Penalties imposed under this section shall be additional to any amount due to the HDC for costs, expenses and fees incurred by it in relation to a violation and HDC action in response thereto. Any violation of an order of the HDC shall constitute a violation of these rules and the Act.

Section 7.3

Users or owners of vessels which fail to make permit payments when due shall be considered to be in violation of the HDC regulations.

Section 8. Indemnification

Permitted users and owners of vessels shall be responsible for any loss, personal injury, death, and/or damage to property or persons that may be done to or suffered by third parties, the HDC or its personnel, pursuant to permitted activities on the piers, wharves, and bulkheads under the control of the HDC, and shall indemnify and save harmless the HDC, against claims for any loss, injury, death and/or damage. Permitted users and owners of vessels shall give HDC prompt notice of any claim made or suit instituted which, in any way affects the HDC or the City of New Bedford and the HDC or the City of New Bedford shall have the right to compromise or defend the same to the extent of their own interests.

Section 9. Dockage**Section 9.0**

HDC Piers and Wharves include the following properties:

1. Fishermen's Wharf
2. Steamship Wharf
3. Coal Pocket Pier
4. Homers Wharf
5. Leonard's Wharf
6. Fish processors and dealers on HDC owned portions of South Terminal Bulkhead

Section 9.1

No owner, operator, master, or any person in charge of any vessel shall permit any vessel to dock at a pier or wharf under HDC control

without first obtaining a Docking Permit as provided in these rules. Only active commercial fishing vessels, which are seaworthy as required by Rule 9.6 and which possess adequate insurance as required by Rule 9.7, shall be eligible to obtain a Docking Permit. At a minimum, each vessel or individual that applies for a Docking Permit must possess a valid state or federally issued commercial fishing license. Those vessels or individuals which possess such a state or federally issued commercial fishing license, but which at the time of application the license is under suspension or revocation by the issuing authority, shall not be eligible to receive a Docking Permit. For purposes of this rule, the Harbormaster in conjunction with the Executive Director of the HDC shall both be charged with the authority to determine if a vessel is an active commercial fishing vessel, if a vessel is seaworthy and if the vessel possesses the proscribed insurance. They shall both take into consideration such information as the fishing history of the vessel for the previous two years, trip landing records for the vessel during this time, the number of days-at-sea that the vessel is authorized to use during each year and any such other information that the Harbormaster and the Executive Director may deem relevant to their determination. If the applicant, or any three disinterested parties, is aggrieved by the determination of the Harbormaster and the Executive Director concerning the eligibility of a vessel to receive a Docking Permit, said aggrieved party shall, within 30 days of the determination of the Harbormaster and Executive Director, request a hearing before the full Commission. The hearing shall be administered in accordance with the procedures contained in Rule 5 of these rules. Notice of the hearing shall be given in accordance with Rule 4 of these Rules.

Section 9.1(A)

No owner, operator, master, or any person in charge of any vessel shall permit any vessel to be moored in waters under HDC control without first obtaining a Mooring Permit as provided in these rules. Only vessels which are seaworthy as required by Rule 9.6 are eligi-

ble to receive a Mooring Permit. Additionally, prior to the issuance of any mooring permit, the applicant must provide the Executive Director with a certificate of insurance showing coverage at such levels as may be proscribed by the Commission from time to time.

Section 9.2

Yachts, tugs, barges, or any other vessels not classified as a commercial fishing vessel, shall not be issued docking permits and cannot dock at piers under the jurisdiction of the HDC prior to the permission of the Harbormaster and Executive Director. This determination shall be at the joint discretion of the Harbormaster and Executive Director.

Section 9.3

The captain or owner of any vessel moored or berthed within the waters or along piers, bulkheads, and wharves under the jurisdiction of the HDC shall be responsible for causing such vessels to be at all times tied and secured or anchored with proper care and equipment in such manner as may be required to prevent breakaway and resulting damage. All vessels docked or berthed at any pier or wharf under the HDC's jurisdiction shall be manned during all storm or hurricane warnings.

Section 9.4

Any changes in a vessel's ownership, captain, or mailing address shall be promptly reported to the office of the HDC. Failure to promptly report same shall be considered a violation of these regulations.

Section 9.5

Permitted vessels shall be required to adhere to all applicable state and federal laws and regulations.

Section 9.6

Permitted vessels shall at all times be maintained in a seaworthy condition, tight fit and staunch in all respects.

Section 9.7

Vessels with docking permits shall at all times maintain Protection and Indemnity insurance (P & I), and Water Pollution Liability Insurance. The P & I form used must be acceptable to the HDC in regards to policy form and limits of liability. Notwithstanding anything contained in these rules, the prescribed P & I policy must not contain any exclusion for wreck removal costs. All policies must have an A.M. Best rating of A- or better at such levels as the Commission shall from time to time proscribe. For those vessels that are unable to obtain insurance from the conventional insurance market, those vessels may apply for a waiver to the requirement found in this section and request the ability to provide adequate substitute security. Notwithstanding the forgoing sentence, no permit shall issue until such time as the Commission has, by a majority vote, granted such a waiver and the Executive Director is in possession of any security and/or security agreement between the waiver applicant and the HDC as authorized by the vote of the Commission.

Section 9.8

All Docking Permits shall only allow the permit holder to tie up at a pier or wharf under the HDC's control and does not convey any rights to the vessel or permit holder to park vehicles or store other equipment inside the cap log area.

Section 9.9

Both the Harbormaster and the HDC reserve the right when needed to designate particular docking locations for vessels.

Rule 10. Users

Section 10.1

The HDC shall require all private contractors who conduct business on the piers and wharves owned by the City of New Bedford and under the general administration and control of the HDC to obtain a permit, by filing an application with the HDC. This permit shall be available at an annual cost provided in Section 11.1 of these rules. Additional permits shall be required for each additional mobile unit or units at a fee provided in Section 11.1 of these rules.

Section 10.2

In order to secure a permit, applicants must apply in person at the HDC's executive office. Permitted users shall also timely inform the HDC of any changes in their trade name, address, phone number, management, or ownership. Failure to promptly report same shall be considered a violation of these regulations.

Section 10.3

As a condition to the issuance of this permit, applicants, unless such condition is waived in writing by the Executive Director of the HDC, shall be required to show proof of general liability, bodily injury, and property damage insurance and coverage in the amount of Two Hundred and Fifty Thousand (\$250,000.00) Dollars (Combined Limits).

Section 10.4

Under no circumstance may any user or contractor use the city piers to conduct their business without first securing a valid permit. Any violation of these regulations may result in the loss of the permit or the imposition of penalties, at the sole discretion of the HDC. Permit revocation shall occur only after notice and hearing.

No user permit shall be issued for any crane without submission to HDC of proof of current state regulations and operation by a licensed individual.

Section 10.5

The HDC may refuse to issue or renew a user permit for one or more of the following reasons:

- A. The making of any false statement as to a material matter in the application for a permit, or permit renewal or in a hearing concerning the permit.
- B. Failure to pay in full outstanding balance for current or past permits or for assessed damages upon demand by the HDC.

Rule 11. Fees

Section 11.1

Fees shall be payable at the office of the HDC. Permits shall be issued only after receipt of a complete application form including the name and address of a contact person. The following fees shall be charged for the issuance of permits:

Annual rates for berthing and off-loading

Dockage – up to and including 50'	\$1,000 per year
Dockage – over 50'	\$1,500 per year

Off-loading rates for vessels that homeport, but just use HDC infrastructure to off-load product*:

\$50.00/Day or \$500 Annual

* Those that dock permanently in the Port of New Bedford/Fairhaven, but not on HDC Piers and Wharfs (Pier 3, Steamship Pier, Coal Pocket Pier, Homer's Wharf, Leonard's Wharf) and use HDC infrastructure to off-load product.

Transient Rates for berthing and off-loading

Dockage – up to and including 50'	\$100/day with an annual cap of \$1,000
Dockage – over 50'	\$200/day with an annual cap of \$1,500
User (Annual)	\$300
User (Additional Annual Mobile, Welding, Painting Rafts)	\$75
User (Daily)	\$50

Late charge interest 1-1/2 percent per month from January 1 (Effective starting year 2008. Interest accrues April 15 for years 2007 and prior).

Section 11.2

Fees for renewals of Annual dockage and user permits from the HDC shall be due January 1 each year**. Fees for initial annual dockage or user permits and for daily dockage or user permits shall be payable in full upon application to the HDC, or upon demand by the Harbormaster whichever comes first.

Section 11.3

Users or owners of vessels which fail to make permit payments when due shall be considered to be in violation of the HDC regulations and shall be responsible for interest from January 1 in the amount shown in Section 11.1, and for all costs of collection, including but not limited to court costs, attorney, and sheriff fees**.

***Exception to Sections 11.3 and 11.2: The interest payments for year 2007 and prior will accrue starting April 15.*

Rule 12. Use of Facilities

All regattas and races must obtain permission from the HDC at least thirty (30) days before the event. No fee will be required. All organizations wishing to use the piers and wharves of the City of New Bedford for weekend or holiday activities must also obtain prior permission of the HDC and must provide the HDC with a valid Certificate of Insurance in such amount as the HDC may deem proper.

Rule 13. Wharf Rules and Regulations

Section 13.1

The Harbormaster shall make periodic inspection of the piers and wharves. The purpose of these inspections shall be to ascertain if the piers and wharves are in a clean and orderly condition and that the rules and regulations adopted by the HDC are followed.

Section 13.2

Repairs to vessels or to gear belonging to vessels shall be permitted only if they are (in the opinion of the harbormaster) minor in nature. When repairs are completed, all debris and rubbish shall be removed from the area. Any violation of these rules may result in the denial of the use of the piers and wharves for the purpose of making such repairs and/or the revocation of the docking or user permit. Any damage to property under the jurisdiction of the HDC as a result of said repairs, shall be payable to the HDC by the responsible user or vessel within five (5) days of the presentation of an itemized invoice for the same.

Section 13.3

Receptacles and containers for the placement and removal of rubbish and debris are provided on the piers and wharves for vessel debris only. Failure to utilize said receptacles and containers, the

disposal of trash, debris, or rubbish into the harbor, and the leaving of oil barrels in or alongside any piers, wharves, containers, or dumpsters under the HDC's jurisdiction are prohibited and shall result in a Three Hundred \$500 Dollar fine per each violation and/or revocation of the issued permit.

Section 13.4

Sandblasting of vessels when said vessels are docked or berthed alongside the piers and wharves or another vessel under the control and supervision of the HDC is strictly prohibited.

Section 13.5

All parking regulations posted along the piers and wharves shall be adhered to and the Harbormaster shall have the right and responsibility to remove any vehicles that are impeding traffic or preventing business alongside the piers and wharves.

Section 13.6

There will be no hauling or marking of trawl wires on piers and wharves, without prior approval of the HDC's Executive Director or Harbormaster.

Section 13.7

Any damage to the piers, wharves or bulkheads under the jurisdiction of the HDC is to be promptly reported to the Harbormaster. Failure to make a prompt report of such damage may result in a permit's revocation. The cost of repairs for damage will be assessed by the HDC to those parties determined to be responsible. Payment for same shall be due within five (5) days of the presentation of an itemized invoice by the HDC.

Section 13.8

All oil trucks and ice trucks making deliveries on the piers and wharves shall make certain that they are not interfering with other

permitted users of the facilities and shall make certain that oil and gasoline leaks are prevented from occurring. Ice shavings are not to be dumped on the piers and wharves and allowed to remain there. All oil delivery users must adhere to all applicable federal and state regulations and licensing requirements.

Section 13.9

Fire lanes shall be clearly marked and parking, standing, or any obstruction of same shall be strictly prohibited.

Section 13.10

There shall be no electricity, water, security, or other ancillary services provided by the HDC to valid permit holders, unless so voted by the Commission.

Section 13.11

Fishing gear must be stowed inside the rails of said vessels to prevent chafing of piers and vessels berthed along side. The storage of lobster pots and other fishing gear, materials, or supplies, etc. will not be allowed on any piers under the HDC jurisdiction unless requested in writing and given approval by the HDC or its Executive Director and/or the Harbormaster.

Section 13.12

The HDC will not be responsible for any liability, theft, fire, or damage to persons or vessels while using piers, bulkheads, or wharves under its control.

Section 13.13

No equipment, materials, or debris are to be left overnight on any areas maintained by the HDC, without prior permission of the Harbormaster or the Executive Director of the HDC.

Section 13.14

All oil barrels and containers shall be marked to reflect the oils' point of sale and shall sufficiently identify the vendor.

Rule 14. Berthing Policy**14.1**

Annual Dockage:

1. All vessels must check in with the HDC and fill out an application with complete information (i.e. owners name, address, contact number) not just settlement house information.
2. The application must approved by the Executive Director of the HDC or his/her designee
3. A vessel cannot dock until the annual fee is paid in full
4. The failure to comply shall result in fines of up to \$500/day and removal of the vessel from the pier per orders of the Executive Director of the HDC and/or his/her designee and/or the Harbormaster and/or Assistant Harbor Masters and/or the New Bedford Police Port Security Unit.

14.2

Annual Dockage Renewal Policy:

1. Renewal statements will be issued by November 15 of each year. Fees are not refundable and will not be prorated.
2. Fees for renewals of Annual dockage and user permits from the HDC shall be due January 1 each year.
3. The HDC may refuse to issue or renew a docking permit for one

or more of the following reasons:

- A. The making of any false statement as to a material matter in the application for a docking permit, or permit renewal, or in a hearing concerning the permit.
- B. Failure to pay in full outstanding balances for current or past docking permits or for assessed damages upon demand by the HDC.
- C. Failure to maintain insurance, or other authorized substitute security as the case may be, on the permitted vessel as proscribed in Rule 9.7.
- D. If the Harbormaster or Executive Director of the HDC or his/her designee determines that the vessel is un-seaworthy or in a badly deteriorated condition as provided by Section 13.10.
- E. If the vessel does not possess a state or federally issued commercial fishing license or if the vessel's state or federally issued commercial fishing license has been suspended by the issuing authority.
- F. If the vessel is not an active fish vessel as defined in section 9.1.

14.3

Daily Dockage:

- 1. All vessels must check in with the HDC and fill out an application.
- 2. The application must approved by the Executive Director of

the HDC or his/her designee.

3. The vessel owner will be sent an invoice for daily dockage.
4. The vessel owner has 30 days to make payment in full.
5. The failure to comply shall result in fines of up to \$500/day and refusal to tie up to any HDC piers and wharves.
6. If a vessel ties up that is in violation of HDC Rules and Regulations, the Executive Director of the HDC and/or his/her designee and/or the Harbormaster and/or Assistant Harbor Masters and/or New Bedford Police Port Security can order the vessel removed.

14. 4

Reserved Berthing as designated by the HDC for pier access will be subject to the fee structures defined in section 11.1. The vessel owner or his/her designee must come to the HDC office to make a reservation. Reservations can be made by the hour, by the day, or for overnight. Friday 8:00am through Monday morning 8:00 am is considered one overnight.

14. 5

A person shall not moor or permit to be moored or berthed in New Bedford Harbor or along piers and wharves under the HDC jurisdiction, a vessel which, in the opinion of the Harbormaster or Executive Director of the HDC, is un-seaworthy or in a badly deteriorated condition or which is likely to sink or to damage docks, wharves, floats, or other vessels or which may become a menace to navigation, except in cases of distress or emergency when reasonable precautions for the safety of the persons and property of others have been taken.

14.6

If the harbormaster, assistant harbormasters, and/or the Executive Director of the HDC and/or his/her designee determine a vessel meets the conditions of 14.5 the following policy applies:

In accordance with Section 4.4 the owner, master, custodian, or managing agent shall be given 2 days from receipt of written notice to remove the abandoned or derelict vessel.

In the event, the said owner, master, custodian, or managing agent fails, refuses, or neglects to cause the removal of the vessel, then the HDC shall be entitled to:

1. Have the vessel removed or cause its removal at the sole and exclusive cost of the owner. The HDC shall not be responsible for any damage to the vessel, third party property, or any claims for loss of income caused by removal said vessel.
2. Impose a fine of \$500/day.
3. If the owner of the said vessel has other vessels (whether in the same corporation or not*) using HDC piers and wharves, the HDC is entitled to cause all docking permits to be revoked.

**This provision made effective June 9, 2007.*

Rule 15. Reserved

Rule 16. Reserved

Rule 17. Penalties

Section 17.1

The HDC may by its vote impose a penalty not less than Fifty (\$50) Dollars and not more than Three Hundred (\$500) Dollars for any violation of the Act or these rules, except where a specific penalty is hereafter prescribed. Each day that a violation continues shall constitute a separate offense. Furthermore, any violation of these rules is hereby declared to be a nuisance, with the HDC and/or the City of New Bedford thereby able to apply to a Court of Competent jurisdiction for an injunction to prohibit the continuation of any violation of these rules. Such application for relief may include seeking a temporary restraining order and permanent injunction.

Section 17.2

The following violations shall cause the indicated penalties. Each day shall constitute a separate violation:

1. For failure to remove a docked vessel after revocation of a permit or after order of the Harbormaster to move said vessel - \$500;
2. For failure to obtain a current dockage permit - \$500 and/or removal of vessel at the owner's liability and expense;
3. For depositing waste oil or any solvents in the waters of New Bedford or on the HDC piers, wharves, or bulkheads - \$500;
4. For conducting business on the piers and wharves without obtaining a current user permit - \$100;
5. For violation of an order of the Harbormaster and/or the Executive Director of the HDC and/or his/her designee - \$500;
6. For failure to adhere to posted parking regulations - \$50;

7. If the Executive Director of the HDC or his/her designee determines a vessel is an obstruction to navigation and the vessel is not removed upon order to be moved - \$500;
8. For any violation, a vessel owner can be subject up to a \$500 fine, removal of vessel at the owners expense, and revocation of the dockage permit; Annual fees will not be refunded;
9. For failure to obtain a special permit for any floating rafts, and other activities requiring temporary use of the water ways under the HDC's jurisdiction or failure to comply with a condition imposed under such a permit - \$100

Section 17.3

Penalties imposed under this section shall be additional to any amounts due to the HDC for court costs, expenses, and attorney and other fees incurred by it in relation to a violation and HDC action in response thereto. Any violation of an order of the HDC shall constitute a violation of these rules.

Rule 18. Enforcement

Section 18.1

The rules and regulations of the HDC shall be strictly enforced by the Harbormaster and Assistant Harbormaster of the City of New Bedford, the Executive Director of the HDC and such other HDC personnel as the HDC may designate.

Rule 19. Personnel

Section 19.1

The Executive Director of the HDC is designated by the Commission as the supervisor of all HDC personnel, to whom such personnel shall directly report with such frequency as the Executive Director may determine. The Executive Director is to make recommendations to the HDC regarding all personnel matters, except where otherwise provided by the Massachusetts General Law and ordinances of the City of New Bedford.

Rule 20. New Bedford Seafood Display Auction

These regulations shall be applicable to and shall govern development, operation and maintenance of seafood display auction(s) duly licensed by the HDC.

Rule 20/Section 1.1 Purpose

The HDC shall grant a license to operate the establishment and maintenance of seafood display auction(s) pursuant to this rule.

Rule 20/Section 1.2 Grant of License

The HDC shall grant a license to operate any seafood display auction, which complies with the following criteria:

- A. The auction is a full display auction through which all perishable ocean products may be bought and sold;
- B. The auction is located in a facility which shall not also contain any processing operations, other seafood broker operations, or other fishing operations;
- C. The auction is owned by an entity which does not also have a controlling or beneficial interest in seafood processing, seafood harvesting or other seafood brokerage, and said operator is in compliance with all applicable federal, state

and local laws;

- D. The auction's computer hardware and software facilitate access to the auction through the Internet and further said computer hardware and software possess the capacity to be upgraded in the future to allow the purchase and sale of processed seafood and seafood futures if so warranted by the market; and
- E. The auction's computer hardware and software facilitate the collection and reporting of verifiable statistics relative to seafood landings and sales by species and size.

Rule 20/Section 1.3 Term of License

The term of said license to operate a seafood display auction shall be for five (5) years and said license shall be renewed for successive additional terms of five (5) years provided the auction seeking license renewal is not in substantial or material violation of applicable federal, state and local laws, the terms of its license or any rules and regulations of the HDC, which violation licensee has failed to correct after reasonable notice.

Rule 20/Section 1.4 Oversight of Auction

The HDC shall provide public oversight of a seafood display auction as follows:

A. Auction Review Board

The HDC shall create an Auction Review Board which shall consist of four (4) representatives of the seafood processing industry, four (4) representatives of the fishing boat owners or operators (at least two (2) from each group will be members of a licensed auction in New Bedford), one (1) member from each licensed auction, the Chairman of the Mayor's

Fisheries Task Force and the Executive Director of the HDC, who shall serve as Chairman of the Auction Review Board.

- B. The Auction Review Board shall regularly meet and review the operations of seafood auction(s) and from time to time propose amendments to this rule to the HDC to enhance the effectiveness and efficiency of such seafood display auction(s).
- C. The Auction Review Board shall hear all complaints or disputes relative to the neutrality and fairness of such seafood display auction(s), for the purpose of assuring the absence of collusion, price fixing or other forms of economic misconduct or coercion in the operation of such auction(s); and that the display fairly represents landed product and that sales are conducted open to all members.
- D. Any party aggrieved by the decision of the Auction Review Board may appeal said decision to the HDC which shall hold a public hearing on said appeal within 14 days of receipt of a completed appeal request.
- E. Said Auction Review Board and licensee shall produce any and all records pertinent to the matter appealed and requested by the HDC within seven (7) days of receipt of such a request.
- F. Disputes resulting from decisions of the HDC shall be subject to and decided by arbitration in accordance with the rules of the American Arbitration Association. The decision rendered by the arbitrator shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

Rule 20/Section 1.5 License Provisions

The HDC may set forth additional conditions and requirements in the license to operate a seafood display auction provided that said provisions do not contradict any of the foregoing provisions and are intended primarily to protect the integrity and further the effectiveness of the seafood display auction(s). No changes to these regulations shall affect any licensee holding a valid HDC license hereunder during the term of said license unless said licensee agrees to said changes.

Rule 20/Section 1.6 Violations

Violations of any section of this rule or the license granted hereunder shall be punishable by imposition of fines set forth in Rule 17 of the Rules and Regulations of the Harbor Development Commission or revocation of said license as determined by the HDC after the appropriate public hearing.