

ITEM

17-013

To hold a Public Hearing to consider and act on amendments to Chapter 48 (Coastal Waters), Section 5 (Moorings) of the Cumberland Code, as recommended by the Coastal Waters Commission



M E M O R A N D U M

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To: Town Council
From: William R. Shane, Town Manager
Date: January 5, 2017
Re: 17-06 Moorings

With our new Mooring Area off Broad Cove Reserve, additional tweaking and housekeeping was required to keep our Mooring Ordinance current and enforceable.

This summer we will be undertaking a compliance and education program to regain control of our shorefront and better organize and identify boats in the waters of the Town.

§ 48-5 Moorings.

- A. General. No person **shall can** place or establish a mooring in the coastal and tidal waters of the Town except within designated mooring areas as described in and shown on the Coastal and Tidal Waters Plan; provided, however, that:
- (1) A riparian owner who is the master or owner of a watercraft may be assigned a mooring fronting his/her land even though the mooring is not within a mooring area shown on the Coastal and Tidal Waters Plan, so long as said mooring does not encroach upon the natural channel or channels established in said Coastal and Tidal Waters Plan and provided that the riparian owner **shall must** annually register the mooring as provided in Subsection B of this section.
 - (2) A riparian owner using a mooring or moorings fronting his/her land but not located within the mooring areas shown and described in the Coastal and Tidal Waters Plan of the Town as of the effective date of this chapter and said plan **shall may** be allowed to continue to use up to three such moorings at the same location, so long as said moorings do not encroach upon the natural channel or channels established in said plan and provided that such person informs the Harbormaster of the location of said moorings within one year from the effective date of this chapter and annually registers the moorings as provided by Subsection B of this section.
 - (3) A property owner with a right-of-way (ROW) to the water is accorded the same rights and restrictions accorded to a riparian owner under Subsection A(1) and (2) above, except that the mooring(s) **shall may** be placed as conveniently as possible in front of the ROW and **shall must** not interfere with the reasonable placement or moorings allowed for riparian owners. Furthermore, should space be insufficient to meet demands, the number of moorings allowed for a ROW property owner in front of the ROW may be reduced to one.
- B. Assignment and location of moorings.
- (1) No person **shall may** moor his/her watercraft in any part of the coastal and tidal waters of the Town without first annually registering said watercraft **with the Town** and obtaining a mooring assignment specifying the location of the mooring. **The mooring registration number and the name of the watercraft owner or master must be affixed to the mooring float.**
 - (2) No owner or master of any watercraft **shall may** permit or suffer his/her watercraft to be docked or moored in such a manner as to obstruct the free passage of other watercraft going to or from any wharf or pier in the Town.
 - (3) Any mooring assignment in the coastal and tidal waters of the Town **shall is** governed by the following guidelines:
 - (a) Application for a mooring must be made by May 1 of each year unless an applicant shows good cause why he/she could not apply before May 1 (as, for example, a person who acquires a boat or becomes a resident after May 1). A mooring assignment **shall will** be valid until the next April 30.
 - (b) All persons applying for and receiving a mooring assignment must pay to the Town a fee as established by order of the Town Council.
 - (c) If a person with an assigned mooring changes watercraft during the permit year, a new mooring application **shall must** be submitted as soon as possible describing the new watercraft. If the

characteristics of the mooring (block, chain, pennant) must be changed to accommodate the new watercraft, the application should be made in advance of the changes. If the mooring location needs to change, the application and approval **MUST** precede any changes. No new fees will be charged. The Harbormaster should be consulted if there are any questions.

- (d) Each mooring application **shall must** be fully completed.
- (e) Notwithstanding any provision of this chapter to the contrary, any person using a mooring located within the mooring areas shown and described in the Coastal and Tidal Waters Plan of the Town as of the effective date of this chapter and said plan **shall will** be allowed to continue to use that mooring at the same location, so long as said mooring does not encroach upon the natural channel or channels established in said plan, and provided that such person informs the Harbormaster of the location of said mooring within one year from the effective date of this chapter and annually registers the mooring as provided by this Subsection B.
- (4) In the event that more mooring applications are received than there are available spaces, the Harbormaster **shall may** maintain a waiting list of all applicants who have not been assigned a mooring. Further, if a plan is amended and that revised plan provides for fewer moorings, the moorings available under the revised plan **shall must** be assigned to persons who had registered moorings at the time of amendment of the plan under this allocation system, except as otherwise provided by this chapter. Persons may add their names to the waiting list at the Town Clerk's office during normal business hours. This procedure **shall must** be posted in the Town Hall, and the waiting list **shall must** be a public document under the Freedom of Access Law. The waiting list **shall must** be maintained in chronological order of application, and any vacant space **shall must** be assigned to the first person on the waiting list, in accordance with the following priorities:
 - (a) A riparian owner who is the owner or master of a watercraft and who is applying for a mooring assignment **shall must** receive the first vacancy available, and the mooring **shall must** be located fronting his/her property, provided that such location does not encroach upon the natural channel or channels established by municipal officers. No more than one mooring may be assigned to any shorefront parcel of land under this priority, but this limitation **shall may** not prevent a riparian owner from receiving additional mooring assignments under this allocation system.
 - (b) A home owners' association member who has recorded rights to the shore through a deed, subdivision plan, or homeowners' association document.
 - (c) A property owner with a right-of-way (ROW) to the water is accorded the same rights and restrictions accorded to a riparian owner, except that the mooring(s) **shall may** be placed as conveniently as possible in front of the ROW and **shall must** not interfere with the reasonable placement of moorings allowed for riparian owners.
 - (d) Any other resident or property owner of the Town.
 - (e) Any person who does not meet the requirements of Subsection B(4)(a) through (d) above; however, if a waiting list is created, the next vacant space **shall must** be assigned to the first nonresident on the waiting list in accordance with the following priority:
 - [1] If the principal use of the vessel is noncommercial and less than 10% of the assigned moorings in the mooring area are currently assigned to persons fitting this description, then to the first such person on the waiting list.
 - [2] If the principal use of the vessel is commercial and less than 10% of the assigned moorings in the

mooring area are currently assigned to persons fitting this description, then to the first such person on the waiting list.

- [3] If both nonresident noncommercial and nonresident commercial assignments are below 10% of the moorings and there are both types of applicants on the waiting list, the available space **shall must** be assigned to the first applicant in the category that is farthest below 10%.
- (5) The Harbormaster **shall must** maintain a record of each mooring assignment, including the location of assignment as well as the application information required by this chapter.
- (6) Mooring assignments **shall not be transferred are not transferrable**, and such assignments **shall must** not be rented unless **the provision for rental was made known to approved by** the Harbormaster.
- (7) The Town reserves the right to reassign moorings each year to better use available space.
- C. Moorings. Moorings **shall must** consist of appropriately sized mushroom anchors, granite blocks, or helix moorings, connected to a surface buoy by a chain of appropriate size and length for the vessel, depth of water, and exposure to weather. Concrete blocks, engine blocks, and other ~~“objects of convenience”~~ are not allowed. The surface float **shall must** consist of a white mooring ball on which the **name of the watercraft owner or master and** mooring registration **number** is painted with at least three inch tall **letters and** numbers in a contrasting color. A pennant of suitable diameter and length completes the mooring assembly. Guidance for selecting the sizes of materials can be obtained from the Town website and/or from qualified mooring specialists who are also listed on the Town website.
- D. Inspections. Each mooring must be inspected every two years by a qualified mooring specialist. The inspection results must be reported to the Harbormaster and all deficiencies repaired within 30 days.
- E. Winter spars. Winter spars cannot be installed before September 15 and **are required to must** be attached by **December 31 November 1 December 1** each year. They must be removed and replaced **by with** the white ball by June 1.
- F. Removal of moorings. An owner who **wishes to discontinue maintenance and discontinues the** use of a mooring is responsible for removing the mooring from the marine environment. The Town has the right to remove any mooring **that has not been registered including unsafe, abandoned, unregistered and “objects of convenience” moorings** at the owner's expense.
- G. **An applicant receiving a mooring assignment within Broad Cove Reserve, effective on or after May 1, 2017, must install the mooring during the first year of assignment. Should a mooring not be installed during that first year and the applicant again apply within three years, a relocation fee must be paid to cover the expense of retrieving the original marker and subsequent locating and marking of the second mooring site.**

84-12 C. Relocation fee \$250.00