

Addendum 6
Town Meeting Warrant, June 12, 2013
Mooring Regulations of Casco, Maine

10.1 TITLE

This Ordinance shall be known and cited as the "Mooring Regulations of Casco, Maine".

10.2 AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution and the provisions of 12 M.R.S.A. Section 13072, - 30-A.M.R.S.A. Section 3001, and 38 M.R.S.A. Sections 1-13.

10.3 PURPOSE

These standards are designed to insure that mooring installation, use and maintenance does not impair the health, safety, and welfare or result in lower water quality, loss of aquatic habitat, interference with navigation, or infringe on the rights of property owners.

10.4 APPLICABILITY

This Ordinance shall apply to the installation, use and maintenance of moorings for the purposes of securing a watercraft or float plane in a great pond, river or stream.

10.5 CONFLICT AND SEVERABILITY

- A. Conflict with Other Ordinances
Whenever a provision of this regulation conflicts with or is inconsistent with any other ordinances, regulations or statute, the more restrictive provision shall apply.
- B. Severability
The invalidity of any part of this regulation shall not invalidate any other part of this regulation.

10.6 DEFINITIONS

Common Mooring Area - A cluster of moorings in an area designated and approved by the Town of Casco Harbor Master so as not to create a hazard to navigation. Such Common Mooring Areas may result from, but are not limited to, abutting non-conforming shorefront lots with narrow frontage width, shoreline topography such as a cove that constrains the navigation fairway, and common shorefront access areas where multiple inland landowners share deeded Rights-of-Way to the water body.

Designated Mooring Area- The area of water from 100 feet to 200 feet off the shore normal high-water line in which all moorings require the Harbor Master's approval before registration and installation.

Fairway- Shall mean a navigable channel in a water body, which may, but need not, be marked with channel markers.

Marina- A commercial establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel and sewage service facilities.

Mooring- Shall mean any device designed to float, and attached to the anchoring device that secures a watercraft, as defined herein, to the bottom of a water body.

Right-of-Way- As used in this Ordinance refers to a deeded right-of-way or easement of non-shorefront landowners over a designated portion of a shorefront property for waterfront access.

Shorefront Mooring Area- Shall mean a rectilinear area on a body of water which is defined as the shorefront width of a property held in common or individually, and extending a distance of one hundred (100) feet from shore into a body of water.

Watercraft- Any craft meeting definition set forth in 12 M.R.S.A. Section 13001. For purposes of the Ordinance a swimming platform will be considered a watercraft.

10.7 MOORING STANDARDS

A. General Mooring Requirements:

1. Conformance: Moorings must conform to all the specifications and permits required by this Ordinance, as well as, all applicable Federal and State regulations and laws.
2. Anchorage: This Ordinance shall not preclude those individuals who wish to "anchor" a boat temporarily for a period of time not to exceed twenty-four (24) hours within the 200-foot water safety zone.
3. Mooring Location: Any mooring location in all areas must not create a navigation hazard adversely affecting aquatic vegetation, wildlife or habitat or interfere with other duly registered moorings, established swim areas, or access to a fairway.
4. Mooring Registration: All moorings shall be recorded at the Town Office and registered annually subject to the following requirements, fees, and deadlines:
 - a) Eligible shorefront owners can self-locate their moorings in the Shorefront Mooring Area per conditions of this Ordinance.
 - b) Moorings requested in the Designated Mooring Area and

Common Mooring Areas require prior Mooring Location Plan review before registration approval by the Harbor Master.

- c) When mooring availability in the Designated and Common Mooring areas is limited registration shall be granted on a first come first serve basis prior to the registration deadline.
- d) Preference for use in the Designated Mooring Area is granted to shore lot owners with limited Shorefront Mooring Area options per conditions allowed in Sections 10.7, A. 5 (a) and 10.8, B. 3.
- e) Mooring Registration shall include proof of shorefront ownership or access by deed or written permission of the owner of the lot adjacent to the mooring location, as well as address for vehicular access and parking availability and permission(s).
- f) The annual registration shall include the name and address of the shorefront lot owner, the name and address of the mooring registration holder, or holders in the case of a Common Mooring Area and the map and lot number of the shorefront or deeded access lot(s).
- g) Initial registration of an existing or new mooring shall include a Mooring Location Plan as described next. Annual registration renewals do not require a Mooring Location Plan unless the mooring location, number of moorings, any shorefront lot boundary change, or other affecting differences occur.
- h) The Town Office will provide an application for annual Mooring Registration. Mooring registration numbers shall be issued after review by the Harbor Master and posted on the mooring buoy per Section 10.7, B.9.

5. The Mooring Location Plan: The mooring location plan required at initial registration or for renewals with changes as defined above in 4. (e) shall include the following:

- a) A scaled drawing of the shorefront lot or deeded access showing: the lot with frontage shape and direct length between shorefront property markers; the lots side property lines; the mooring location within the 100-foot line of the Shorefront Mooring Area and other moorings requested. If it is not possible to locate in the Shorefront Mooring Area than include the same information for a position requested in the Designated Mooring Area.
- b) All Plans must show the location of the requested mooring and demonstrate the diameter area the watercraft shall need swinging about the mooring. The Plan shall also include nearby mooring location(s); existing docks; shoreline topography and any natural features, such as a cove, rocks shallow water, or navigational fairway channel, that may hinder navigation or access to the owner's shore lot or deeded access and abutting properties.

- c) A description of the mooring design including float, anchor, chain length and type to conform to the mooring equipment specifications required in Section 10.7, B. of this Ordinance.
6. Registration Rejection: The Harbor Master may delay the acceptance of an annual mooring registration if the initial Mooring Location Plan is incomplete so further detail are requested or locational or mooring design alterations have occurred. Complex mooring issues; such as Common Mooring Areas may require the submission of a professionally developed Location Plan and Association By-laws for shared mooring use if required by the Harbor Master to determine applicable limitations or requirements. See Section 10.8 C of this Ordinance for Common Mooring Area requirements.
7. Registration Fee: An annual mooring fee established by the Board of Selectmen shall be charged for each Annual Mooring Registration of watercraft as defined in this Ordinance. Mooring registration shall apply to all mooring zones. Annual mooring fees include the initial registration and continuous annual renewals. The fee is due at the time of registration.
8. Registration Deadline: The deadline for annual mooring registration at the Town Office is June 15th by office close. A late fee of \$10 per mooring will be assessed for registrations submitted after the deadline. The Town will publish notice of the annual registration deadline two weeks in advance in area newspapers and on the Town website.
9. Designation of Fees, Penalties, and Deadlines: The Board of Selectmen shall have the authority under this Ordinance to establish and revise a schedule of mooring fees, penalties and mooring removal costs.
10. Registration Restrictions: No mooring may be rented, sold, or transferred by the party receiving the registration. This does not include use of a mooring by seasonal rental tenants, immediate family, or temporary guests of the mooring registration holder.
10. Abandonment: Any mooring which has not been occupied in the Shorefront, Designated or Common Mooring Areas with a watercraft for one boating season will lose its registration. Notice of the loss of the registration shall be sent to the mooring registration holder by certified and regular U.S. mail. If the mooring is not removed within fourteen - (14 days), the Harbor Master may cause the mooring ball to be removed and a fee of \$50.00 will be assessed to the owner as well as any incidental expenses. The status of previously existing moorings shall not be considered 'grandfathered'.
11. Parking: Proposed vehicle parking associated with access to a mooring in all mooring areas on private property especially Designated or Common Access Areas must be documented as part of the mooring registration. Proof of any easement or written permission shall be provided. Parking in private roads shall not be allowed for registered moorings without private Road Association approval.

12. Prohibited Mooring Locations: Moorings are prohibited in the body of water commonly known as the Crooked River. No moorings are allowed beyond 200 feet off the shore's mean normal high water mark or in any areas deemed a navigational hazard or blocking shorefront access as determined by the Harbor Master or the Maine Department of Conservation, Division of Inland Fisheries & Wildlife (IF&W) or other State agencies with designated authority.

B. Mooring Specifications:

1. Anchors shall all be of suitable construction, such as stone, granite, cured reinforced concrete or mushroom anchor, to adequately hold a watercraft in any anticipated storm and allowing the watercraft to swing without going into the mooring circle of any other watercraft or over or into abutting mooring areas.
2. Metal drums, engine blocks and other materials which may release contaminants shall not be used in the construction of anchoring structures. The anchoring device shall not extend up or out on to the ice zone or otherwise be subject to ice action.
3. The anchor line between the anchor and the buoy shall be chain of a size to fit boat exposure and water depth. Bolts, screws, rods, pads and other metallic fixtures shall be of adequate strength for mooring the intended watercraft. Mooring registration holders are responsible for managing mooring anchor lines and tether lines from the buoy to the watercraft to adjust for changing water levels in order to minimize an increased drift and swing radius by the watercraft around the mooring. This may especially be necessary during low water levels to avoid collision with nearby watercraft moorings, navigational hazard, restriction of shorefront access, or other issues.
4. Mooring gear and tackle shall meet or exceed those specified in the current edition of *Chapman's Piloting & Seamanship*.
5. The mooring registration holder is responsible for the adequacy and performance of all mooring gear, tackle and maintenance thereof. Moorings shall be inspected every two years by the mooring registration holder or contracted professional agent for safe condition. Such inspection shall be noted on the registration renewal form and shall demonstrate that the mooring continues to meet the requirements of this Ordinance.

6. The location of the anchoring device shall be mapped, attached to a submerged buoy, tied-off to shore, or marked in some way so that it can be found the following season.
7. The Summer Buoy specifications, as set by the Maine Department of Conservation, shall be colored white with a single BLUE horizontal band clearly visible above the water line. The buoy must be removed by December 1st each year.
8. A Winter Buoy, if used instead of a submerged rope line to shorefront for retrieval, may be made of polyball, plastic bottles or plastic material. The buoy must be white and have the mooring holder's annual registration number affixed to it.
9. The mooring registration holder must affix the Town provided registration waterproof decal to the buoy or otherwise display the assigned annual mooring registration number marked in at least three-inch letters of contrasting color.
10. If a mooring buoy does not display the annual mooring registration numbers for identification it shall be considered in violation of this Ordinance. If the annual registration number is not displayed within ten (10) days of written Notice of Violation by the Harbor Master, the mooring will be removed by the Harbor Master at the owner's expense and a \$50.00 penalty will be assessed before the mooring buoy can be recovered.

10.8 MOORING AREAS

A. Shorefront Mooring Area

Mooring placement for watercraft shall be the responsibility of the property owner subject to the following conditions:

1. All new or existing shorefront area moorings shall be registered initially accompanied by a mooring location plan and thereafter by annual renewal for continuous use.
2. A mooring may be placed in conformance with this Ordinance by a shorefront property owner, or with the shorefront property owner's written permission granting such use.
3. A mooring may be located without the Harbor Master's initial approval only in the mooring area directly adjacent to the owner's shoreline property. The Shorefront Mooring Area is defined as the water body area out 100-feet from the shoreline and bounded on the sides by extending out the bearing direction of the side lot lines.

4. In all cases, the owner-located mooring shall be restricted to the water within 100 feet of the shore; specifically one hundred (100) feet from shore, or one third (1/3) the distance to the opposite shore, whichever is less. If the property owner can prove he/she cannot establish a mooring area within 100 feet from shore, the Harbor Master may allow one established as near to the 100-foot mark within the Designated Mooring Area.
5. If a mooring is deemed to create a navigation hazard or restrict abutting shorefront access the Harbor Master shall notify the owner to move its location or remove it as necessary. Failure to remove a mooring upon order of the Harbor Master is a violation under this Ordinance.
6. A mooring shall not be allowed if watercraft will swing over into abutting mooring areas.
7. There shall be no more than one mooring for every 50 feet of shoreline of each lot. In cases where the lot has less than 50 feet of shoreline, the Harbor Master shall determine where a safe mooring can be installed.
8. The number of moorings for existing campgrounds, summer children's camps, motels and marinas shall be one per 25 feet of shoreline frontage.

B. Designated Mooring Area

All moorings in the area of water from 100 feet to 200 feet off the shore's normal high-water line shall require the Harbor Master's approval before registration and installation. The conditions for mooring approval in this Area by the Harbor Master include are:

1. A shorefront property owner must prove that a mooring cannot be established within their 100-foot Shoreline Mooring Area. The Harbor Master may allow one mooring to be established as near to the 100' mark within the Designated Mooring Area as possible provided it does not create a hazard to navigation. No more than one mooring per 80 feet of shore lot frontage shall be allowed in the Designated Mooring Area.
2. The Harbor Master may choose to consult with the Maine Department of IF&W and other State agencies with designated jurisdiction prior to granting mooring registration approval in this Designated Mooring Area.
3. The Harbor Master may utilize the Designated Mooring Area for abutter's moorings only when necessary in order to resolve navigational and shorefront access issues for abutters. Abutter moorings shall not supersede the immediate shorefront lot owner's use of the Designated Mooring Area should that owner need use of this area to resolve lack of a mooring location within their 100-foot Shorefront Mooring Area.

4. Prohibited: Swim floats and watercraft for similar use shall not be allowed in the Designated Mooring Area.
5. Waiting List: When the number of applications exceeds the number of available mooring spaces as determined by the Harbor Master, the Harbor Master shall maintain a waiting list of all applicants who have not been issued a mooring registration. This waiting list shall be maintained and available at the town office. The list shall be used by the Harbor Master in issuing mooring permits as mooring spaces become available, as the first person on the list will get the next available mooring space, except as set forth in (C.) below.

C. Common Mooring Area

The Harbor Master shall determine the number and placement of moorings in the Common Mooring Area and those moorings shall be subject to the following restrictions:

1. The Harbor Master shall require that a designated representative of the property Owners or Association, appointed by those individuals with deeded water access rights, solely coordinate for the group location, registration and other applicable matters for moorings in the Common Mooring Area with the Harbor Master.
2. Moorings within a common mooring area shall be registered in the name of the mooring registration holder(s) and annual registration identification numbers must be affixed to the mooring buoy(s).
3. Moorings shall be placed, and if necessary limited in total, by Harbor Master approval so as to prevent collision between adjacent watercraft as well as meet the other requirements of this Ordinance.
4. When the number of moorings approved in the Common Mooring Areas exceeds those requested the appointed group representative shall provide the Harbor Master the procedure for shared usage.
5. Moorings shall not be located in water safety areas beyond 200 feet offshore or where they may pose a navigational hazard at any distance.
6. Moorings shall be located a sufficient distance from existing piers or docks so as to permit safe passage of a watercraft to its mooring or to a docking facility.
7. Swim floats and watercraft for similar use shall not be allowed in the Common Mooring Area unless requested by the common access owners and incorporated in the Mooring Location Plan approved by the Harbor Master.

Where the number of watercraft to be moored in a Common Mooring Area

exceeds the number of potentially available mooring sites, provision may be made for securing watercraft to piers or docks provided that:

1. The piers or docks shall be temporary, installed at the beginning of each boating season and removed at the end of each boating season.
2. The piers or docks shall not be positioned such that secured watercraft extend into a water safety area or constitute a navigational hazard.
3. The installation of any piers or docks shall comply with all applicable requirements of the Shoreland Zoning Ordinance.

10.9 MARINAS

To enhance the safety of the residents and visitors to the Town of Casco and its surrounding waters, the mooring of watercraft in marinas is regulated by this Ordinance. The Zoning Ordinance shall regulate the establishment and construction of marinas.

All marina moorings shall be considered commercial moorings and the total registered number allowed by the Harbor Master shall not exceed a number equal to each 25 feet of the marina's shorefront as determined by direct survey lines along the shore between parcel sidelines.

Marinas are a commercial use and shall comply with all applicable performance, construction and site plan standards set forth in the Zoning Ordinance.

10.10 HARBOR MASTER APPOINTMENT, DUTIES & ENFORCEMENT

A. Harbor Master Appointment & Duties:

1. The Board of Selectmen shall appoint a Harbor Master to carry out and enforce provisions of this Casco Mooring Regulations Ordinance. The Harbor Master shall be appointed for a term of no less than one (1) year in accordance with the requirements of 12 M.R.S.A. Section 13072 and this Ordinance.
2. The Board of Selectmen shall establish the Harbor Master's compensation. The Board of Selectmen may remove the Harbor Master for cause, after notice and hearing and appoint a replacement.
3. Subject to prior approval of the Board of Selectmen, the Harbor Master may appoint deputies who, under his/her direction, shall aid in enforcing and carrying out the provisions of this Ordinance.
4. The Harbor Master may refuse to assign mooring privileges to any applicant who has not paid any fee, charge for services, forfeiture, or penalty levied.

B. Enforcement & Violations:

The Harbor Master shall determine whether provisions of this Ordinance have been violated. The Board of Selectmen, together with the Harbor Master, shall assess the nature and severity of the violation and shall take the necessary course of corrective action, which may include assessment of a penalty or loss of mooring privileges. If an illegally placed mooring is not removed within fourteen (14) days after a Notice of Violation has been sent by certified mail and regular U.S. mail to the address listed on the most recent mooring registration, the Harbor Master may remove the mooring. The mooring registration holder shall be responsible for all expenses incurred in the removal, including legal fees.

Any person who violates any provision of this Ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$2,500.00 for a first violation. The violator may be ordered to correct or abate the violation unless the court finds that such action will create a threat or hazard to public health or safety, substantial environmental damage, or substantial injustice. Each day that such a violation continues to exist shall be considered a separate violation. This Ordinance shall be enforced pursuant to 30-A, M.R.S.A. Section 4452. The failure to obey the lawful order of a Harbor Master shall be punished as a Class E crime pursuant to Title 38 M.R.S.A. Section 13.

C. Appeals Process and Procedures:

Appeals by any person aggrieved by a decision, act, or failure to act by the Harbor Master as it relates to the implementation and enforcement of the Ordinance shall be made to the Board of Appeals. In all cases, a person aggrieved by an order or decision made or failure to act by the Harbor Master shall file his appeal within fourteen (14) days of receipt of notice of the decision or order appealed. The appeal shall specifically describe the grounds for such action. The Town Clerk shall notify the Board of Selectmen, Town Manager, the Harbor Master and the Board of Appeals of the appeal.