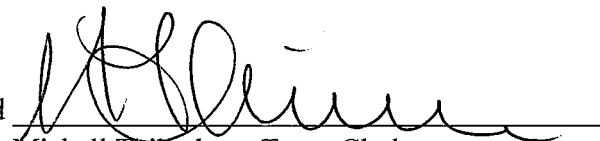


TOWN OF NAPLES

**MOORING & WATERFRONT
MANAGEMENT ORDINANCE**

Adopted April 29, 2021
Amended June 14, 2022
Amended June 13, 2023

Attested


Michell Thibodeau, Town Clerk

Section 1 Title

This ordinance shall be known as the “Town of Naples Mooring & Waterfront Management Ordinance”.

Section 2 Authority

This chapter is adopted pursuant to the enabling provisions of Article VIII, Part 2 Section 1 of the Maine Constitution, and the provisions of M.R.S.A. Title 12 ss.13072 M.R.S.A Title 38 ss. 113 and M.R.S.A Title 30-A ss. 3001

Section 3 Purpose

These standards are designed to ensure that mooring installation, swim float/platform installation, Dock/Slip Installations and their use and maintenance do not impair the public’s health, safety and welfare; does not result in interference with navigation, loss of aquatic habitat and degradation to water quality; and does not infringe on the rights of shoreland property owners.

Section 4 Applicability

This regulation allows for the installation of moorings, swim float/platforms and docks/slips for the purposes of securing watercraft, float planes, floats, swim structures or any other water/marine related structure in a lake, great pond, river or stream within the Town of Naples. The same regulations shall apply to anchoring.

Section 5 Definitions

Anchoring: To hold fast by way of anchor.

Aquatic Structure: A structure used for recreational or commercial use, which may or may not have a direct structural connection whether it be connected to/by land or is moored in the body of water not connected directly to land mass. This may include but not limited to a pier, wharf, dock/deck swim float/platform or inflatable swim structure or boat launching ramp.

Dock: A structure extending alongshore or out from the shore into a body of water, to which watercraft may be moored, docked, or secured.

Dock Slip: A space enclosed on three (3) sides attached to a dock or float for the purpose of mooring, docking, securing, or parking a watercraft.

Fee Schedule: Fees incorporated and set based on the recommendation of the Harbor Master which is adopted/assigned/set by the Town of Naples Selectboard.

Float: A floating platform moored or anchored for use other than personal recreation or sport.

Inspection(s): Inspection(s) of moorings (mooring ball to anchor), and dock slip systems shall be conducted on an annual basis set by the Harbor Master to ensure the proper safety of the mooring or dock/slip system.

Lake/Great Pond: Any inland body of water which in a natural state has a surface area in excess of Ten (10) acres.

Marina (Water Parking Facility): A specifically designed commercial or residential harbor with docks, dock slips or moorings for the purposes of mooring, dockings or storing commercial or residential pleasure craft and small boats.

Mooring: Any device designed to float and is attached to the anchoring device that secures a watercraft, float, float plane or swim floats/platform or swim structure to the bottom of the water body.

Mooring Field: An area within the Shorefront Mooring Zone designed or designated by the Harbor Master in an area of one or more residential property owner(s) with deeded water access share a common right of way access.

Mooring Location: A rectilinear area on a body of water in which the master or owner of a watercraft, float or vessel has been permitted to place a mooring.

Shorefront Mooring Zone: Area of water within the Two Hundred (200) feet of normal high-water line, or one third (1/3) the distance to the opposite shore's normal high-water line, whichever is less.

Swim Float/Platform: A floating platform or aquatic structure designed for swimming use and personal recreation. This shall include Aqua Floats and Trampolines.

Watercraft: Any craft meeting the Federal or State definition of watercraft.

Section 6 Moorings

- A. Mooring placement shall be the responsibility of the property owner, provided that the mooring(s) placed in the location specified by the Harbor Master. Leasing, Sub-Leasing or Rental of moorings shall be prohibited in the Town of Naples.
- B. Mooring placement and costs incurred shall be the responsibility of the homeowner of said mooring(s) and shoreline property shall be limited to one (1) mooring with a minimum of (50) fifty feet of shore frontage. A second mooring may be issued not for use for watercraft but for a recreational swim platform/float at the inspection and permission of the Harbor Master.
- C. No mooring shall be placed outside of the designated "Water Safety Zone", specifically the Two Hundred (200) feet of normal high-water line, or one third (1/3) the distance to the opposite

shore's normal high-water line, whichever is less or in areas that will create a hazard to navigation to all watercrafts, unless authorized and granted permission by the Harbor Master and Department of Conservation ATON's Division

- D. Moorings are prohibited in the bodies of water known as the Songo River or Crooked River.
- E. All moorings not located in the correct location shall be moved by the owner at his/her own expense in accordance with the instruction of the Harbor Master. In the event of the failure of the owner to comply with these instructions, the Harbor Master shall move or cause to have removed by a commercial operator the improperly located mooring at the expense of assigned owner. Failure to more or remove a mooring at the order of the Harbor Master is a violation of the Mooring Regulations and is subject to penalty.

F. **Mooring Specifications:**

Moorings must conform to all specification and permits required by this regulation and the State of Maine. This regulation shall not preclude those individuals who wish to "anchor" a boat temporarily for a period of twenty-four (24) hours without the permission of the Harbor Master. Locating a mooring outside the area designated by the Harbor Master is prohibited unless a permit is received from the Harbor Master prior to placement of the mooring. Any mooring/anchoring located for longer than twenty-four (24) hours will constitute a mooring which requires a permit from the Harbor Master in accordance with the procedure for registering mooring set forth in this regulation.

- i. All anchors shall be of stone, granite or cured, reinforced concrete with mushroom anchor without dangerous protrusions or others commercially designed mooring anchor as approved by the Harbor Master and shall be of sufficient weight to hold the watercraft or vessel for which they are to be used.
- ii. The anchor line between anchor and buoy shall chain of size to fit the boat, exposure, and water depth. The mooring shall have heavy steel bottom chain of a minimum as stated in standards. (See Naples Mooring Inspection Form) for specifications.
- iii. All mooring balls shall be white in color with a blue horizontal stripe mid-line of the mooring as required by commercially available as required by State Law. Mooring balls shall be a minimum of fifteen (15) to eighteen (18) inches maximum in diameter. The mooring shall display the mooring registration sticker and be renewed annually.
- iv. All moorings shall have (last name of permit holder & assigned mooring #) affixed in a minimum of 2-inch black lettering above the blue horizontal stripe.
- v. All moorings placed after the effective date of this ordinance must comply with the above specifications and applicable paragraphs of this regulation.
- vi. Mooring shall be inspected safe for use every (3) third calendar year by an agent certified in mooring construction and inspection. The inspection must include all mooring features from the mooring anchor to the mooring ball and pendant. A copy of the mooring inspection shall be submitted to the Harbor Master to be placed on file.
- i. In accordance with the Town of Naples this Marine Division Ordinance, the Town has established December 1st as the due date to have all mooring balls removed from the

waterways. Failure to remove mooring balls past the December 1st due date will result in an ordinance violation and will result in fines issued by the Town. Failure to comply with the removal date or failure to pay fines will result in the loss of mooring privileges.

Moorings may be installed in the spring (Whichever First) beginning April 1st OR “Ice Out” date when reported by the State of Maine Department of Conservation.

G. Designated Mooring Area:

The Harbor Master may design and create a designated mooring field in any area where one or more residential property owners (the “owner” or “owners”) have deeded rights to a common area or right of way. The Harbor Master has the ability to allow a mooring field in a designated (ROW) right of way in areas of less than (50) fifty feet of shoreline frontage. All moorings (the physical anchor) in a designated mooring field must be located in front of the common land right of way. An exception may be made if the neighboring property owner give permission in writing to allow for the mooring in front of their waterfront as part of the designated mooring field unless other permissions have been authorized by the Harbor Master. When considering the establishment of a designated mooring field, the Harbor Master shall make sure that it will not interfere with navigation or unduly burden the rights of other property owners. The owners shall submit a plan with the following criteria:

- i. Plans shall indicate the capacity of the field respecting the water safety zone, which is two hundred (200) feet from any shore or is one third (1/3) the distance from the opposite shore, whichever is less.
- ii. Plan shall indicate the number of boats, and the maximum length boat allowed on each mooring.
- iii. Plan shall be to scale.
- iv. Failure to provide a plan that meets the requirements of the standards as listed may lead to rejection of the plan by the Harbor Master who may require a plan designed by a competent consultant to be paid for by the owners.
- v. The owners shall designate one representative with decision-making authority who shall be the contact person with the Harbor Master regarding the mooring field, and the owners’ representative shall provide annually a list of those eligible for a mooring within the mooring field. The list shall comply with plan laid out in Section 6 and include the total number of moorings and the following information:
 - a. Listing of each mooring
 - b. Person assigned to each mooring
 - c. Length of boat owned by the person assigned to the mooring.
 - d. Annual waitlist of those who are waiting in line for the next available mooring within the field.
- vi. Owners are responsible for managing mooring field(s) during changing water levels and mooring field will be designed to prevent boat damage. Any damages within the mooring fields are the responsibility of the owner(s).

- vii. An owner is not eligible for a mooring in the mooring field if the owner can place a mooring off the owners' own frontage and if the field is or will be at capacity from eligible owners with no frontage. In the event of the failure of the owners to comply with these instructions, the Harbor Master shall move or cause to have removed by a commercial operator the improperly located mooring(s) at the expense of the assigned owner(s). Failure to move or remove a mooring(s) at the order of the Harbor Master is a violation of the Mooring Regulations.

Section 7 Marinas

To enhance the safety of the residence of and visitors to the Town of Naples and its surrounding waters, the mooring of watercraft in or adjacent to marinas is prohibited. A marina shall provide docks, permanent or temporary, for the docking of watercraft only. New and existing docks shall be permitted in an area measured along the frontage of the marina parcel and extending into the water a distance not to exceed one hundred fifty (150) feet from any shore or one third (1/3) distance to the opposite shore, whichever is less, and not to be placed outside the water safety zone. Existing docks extending into the water greater than two hundred (200) feet but not more than three hundred feet (300) may continue in place and normal maintenance shall be allowed, provided the marina possess, and is in compliance with all required State permits or leases, but such docks may not be enlarged. Docks shall be attached to the adjacent upland. Notwithstanding any limitations on the number of watercrafts imposed by the Aquatic Structure Ordinance, the number and types of watercraft which may be present at the marina's dock or docks at any one time shall be limited to those that can be accommodated safely, as determined by the marina operator, subject to review by the Harbor Master and reviewed and approved by the Planning Board. Any required Shoreland Zoning or Department of Environmental Protection permit, or Submerged Lands lease required shall be obtained prior to construction of any dock. Marinas may choose to retain existing moorings; however, the number of moorings may not exceed the number in use during the 1996 boating season and no additional dock space is permitted.

Section 8 Docks, Slips, Wharfs & Aquatic Structures

- A. In the case of an aquatic structure which does not (1) extend from its point of attachment to land a distance of more than fifty (50) feet into or toward the adjacent body of water, and (2) which does not contain a maximum allowable gross floor area in excess of three hundred (300) square feet on a parcel with water frontage of 50' to 200' or four hundred (400) square feet on a parcel with water frontage of 200'+ a permit must be obtained and issued from the Harbor Master and (3) A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses. In the case of a municipal aquatic structure (as defined in the Definitional Ordinance), a permit must be obtained from the Harbor Master. Such permit may be granted if the Harbor Master determines that the structure is consistent with any applicable provisions of the Mooring & Waterfront Management Ordinance, is located on or adjacent to the land it purports to serve and will not unreasonably interfere with navigation and aquatic access to

adjacent lots, insofar as aquatic structures and other structures and uses extending over or below the normal high-water line of a water body or within a wetland and shoreline stabilization area.

Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

- a. The location shall not interfere with existing developed or natural beach areas.
 - b. The facility shall be located so as to minimize adverse effects on fisheries.
 - c. In the case of a non-commercial aquatic structure, which either (1) extends from its point of attachment to adjacent upland more than fifty (50) feet into or toward the adjacent body of water, or (2) contains a maximum allowable gross floor area in excess of three hundred (300) square feet, a permit must be obtained from the Planning Board. Such permit may be granted if the Planning Board finds that the use or construction of the structure is consistent with any applicable provision of the Mooring & Waterfront Management Ordinance and the Comprehensive Plan, is located on or adjacent to the land it purports to serve, will not unreasonably interfere with navigation and aquatic access to adjacent lots insofar as they are currently being used, and will not significantly contribute to or aggravate existing foreseeable future aquatic congestion. In these cases, the permittee shall need to show a need/proof of hardship for requests greater than the maximum allowable square footage. A permit issued under this section shall not expire unless the structure is removed and not replaced for a twenty-four (24) month period, or unless the use of said structure ceases for a twenty-four (24) month period.
- B. In the case of a commercial aquatic structure which either (1) extends from its point of attachment to land and a distance of more than fifty (50) feet into or toward the adjacent body of water, or (2) contains a gross floor area in excess of three hundred (300) square feet, or (3) accommodates one or more boats or vessels which provide access to moored boats or vessels, a permit may be granted by the Planning Board.

Such permit shall be granted if the Planning Board finds that the use or construction of the structure is consistent with any applicable provisions of the Shoreland Zoning Ordinance, Mooring & Waterfront Management Ordinance and the Comprehensive Plan, is located on or adjacent to the land it purports to serve, will not unreasonably interfere with navigation and aquatic access to adjacent lots insofar as they are currently being used, and will not significantly contribute to or aggravate existing or foreseeable future aquatic congestion, and the owner(s) have provided adequate off-street long-term parking on the adjacent upland or within three hundred (300) feet of the adjacent upland. Such permit shall be issued for a period of one (1) year and may be renewed upon terms consistent with this section.

In addition, with respect to renewal of annual permits, the Board shall also be required to find that the aquatic structure has been maintained in a safe condition having regard to the nature of its use.

The facility/system shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.

- C. In the case of all residential & commercial aquatic structures (as defined in this ordinance) except for watercraft parking facilities (or marina) the maximum number of motorized watercrafts docked or moored or otherwise accommodated there in shall not exceed a total density of one (1) motorized watercraft for every twenty-five (25) feet of shore frontage, measured in a straight line between the; points of intersection of the side lot line with the shoreline at normal high-water elevation.
- D. In the case of all aquatic structures (as defined in this ordinance), the “temporary adjacent upland access structure” is not included in the dimensional restriction of this ordinance. However, the “temporary adjacent upland access structure” shall be the minimum size required to provide access to the aquatic structure as determined by the reviewing authority.
- E. In the case of a watercraft parking facility (as defined in this ordinance), a permit shall be granted if the Planning Board finds that all applicable provisions of the Mooring & Waterfront Management Ordinance, except for Section 6, Subsection C) are fully complied with and that the following conditions are satisfied:
- a. The facility shall not provide fuel, water, sanitary or other services to persons using the facility.
 - b. The facility shall not permit any vessel to remain docked at the facility between the hours of 2:00 a.m. and 7:00 a.m. any day; and
 - c. The owner of the facility shall staff, maintain, police and assume all liability for the facility.
- F. Existing Structures: Existing aquatic structures, other than commercial aquatic structures, may continue to be used, repaired and maintained to the same extent as they existed or were used as of the effective date of this ordinance. Those structures which have been seasonally removed from the water may be seasonally returned to the water provided they have been in use within the twenty-four (24) months preceding the effective date of this ordinance. Existing structures may not be enlarged without a permit required by Section 8, A or 8, E. Existing commercial aquatic structures which do not conform to the requirements of the ordinance may continue to be used, repaired, maintained and annually licensed (if maintained in a safe condition) to the same extent as they existed on or within twenty-four (24) months prior to the effective date of this ordinance. Marinas, state licensed campground, the three (3) commercial docks and the one (1) municipal dock abutting the Causeway, existing as of the effective date of this ordinance shall not be required to obtain an annual license. Provided, nevertheless, that such aquatic structures, other than marinas, state licensed campgrounds and the three (3) commercial docks and the one (1) municipal dock abutting the Causeway, existing as of the effective date of this ordinance, shall either be rendered conforming or be removed within ten (10) years following the effective date of this ordinance.
- G. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- H. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit

has been obtained from the Department of Environmental Protections, pursuant to the Natural Resources Protection Act.

- I. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- J. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- K. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.
- L. Per Order of the Maine Department of Environmental Protection no dock or aquatic structure shall have a canopy or roof structure affixed whether permanent or temporary
- M. No more than one non-commercial pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in this Ordinance, a second structure may be allowed and may remain as long as the lot is not further divided. This limitation does not apply to commercial uses, such as marinas.

Section 9 Abandoned Boats, Vessels, Wrecks, Etc.:

- A. **Abandonment Prohibited.** No person shall cause to be abandoned any watercraft or related equipment or appurtenances on the shores within the Town of Naples or on the waters of Naples, whether mooring or anchor. Nor shall any person abandon or cause to be abandoned any boat, vessel, hull or any raft at any wharves, docks or permanent floats within Naples waterways. No person shall abandon any boat, vessel, hull or watercraft upon unimproved shoreline, dock, float, mooring or at the anchor except with the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master.
- B. **Presumption.** Any boat, vessel, hull, or raft left within the confines of Naples waterways, and which has been unattended for a period of seven (7) days without the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master; shall be declared abandoned.
- C. **Disposal.** Property deemed to be abandoned under this section shall be handled by the Town according to the procedures established in Title 25, Sections 3501 et seq. or Title 33, Sections 1951 et seq. of the Maine Revised Statutes Annotated.
- D. **Penalty.** A violation of this Ordinance may be prosecuted, and relief, fees, fines, and penalties assessed, pursuant to the provisions of Title 30-A Section 4452. Each day the violation is permitted to exist beyond the limits above described shall be considered a separate offense.
- E. **Impounding.** If an abandoned watercraft is deemed to be a nuisance, a threat to navigation or a safety hazard, the Harbor Master may impound the watercraft at a site designated for this purpose. Impounding shall continue until such time as all procedures pursuant to Title 25

Section 3501 et seq. of the Maine Revised Statutes Annotated have been completed or the owner of the watercraft has paid all costs involved with impounding as well as any fines, which have been assessed.

- F. **Penalty for Neglecting to Remove or Replace.** In the case or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of a different character, when so directed by the Harbor Master, the Harbor Master shall cause the mooring to be removed, or shall make such change in the character thereof as required, and shall collect from the master or owner if such boat or vessel the sum of one hundred (\$100) dollars for either of such services rendered. In addition, the owner of the mooring tackle shall be liable for all expenses incurred to comply with the Harbor Master Order.

Section 10 Fees

A. **Mooring Registration Fee:**

Registration Fees Schedules (Initial and Annual Renewals) shall be assessed, approved, and set by the Naples Board of Selectpersons upon recommendation of the Harbor Master.

B. **Dock Permit Fee(s):**

Any and all fees associated with the permitting and approval of a dock permit shall be assessed, approved, and set by the Naples Board or Selectpersons upon recommendation of the Harbor Master.

C. For list of current fee schedules see Town of Naples Fee Schedule

Section 11 Enforcement

A. **Nuisances:** Any violation of this Ordinance shall be deemed to be a nuisance.

B. **Harbor Master:**

- a. It shall be the duty of the Harbor Master to enforce the provisions of this Ordinance. If the Harbor Master shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the 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. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- b. The Harbor Master shall conduct on-site inspections to ensure compliance with all applicable inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Harbor Master shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Harbor Master shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

C. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Harbor Master, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue 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.

D. Fines

Any person, including but not limited to a landowner, a landowner's agent, or contractor, builder or developer who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A., section 4452.

Section 12 Suppression, Severability, Amendments, and Adoptions

A. Suppression

This Ordinance supersedes and replaces any or all like or comparable ordinances, policies or decisions previously enacted or adopted by the Town, including or without limitation the implementation policy for Naples Marine Safety, Naples Marine Patrol or Office of the Harbor Master. This Ordinance shall remain in effect unless it is revoked or suspended in accordance with Title 30A Chapter 141 ss3001-3009.

B. Severability

The invalidity of any portion of this Ordinance shall not invalidate any other thereof.

C. Amendments

This Ordinance may be amended from time to time in accordance with the provisions of Title 30A M.R.S.A. Chapter 141 ss3002, as may be amended. It is recommended the Harbor Master review this Ordinance periodically and consult with the Town Manager as to urgent or necessary amendments.

D. Adoptions

This Ordinance was submitted to the voters of the Town of Naples and shall be effective upon its adoption by regular or special Town Meeting.