

TOWN COUNCIL
TOWN OF FALMOUTH, MAINE

Proposed for Town Council Introduction on December 13, 2010

AN ORDINANCE AMENDING THE COASTAL WATERS ORDINANCE CONCERNING
MARINA RENTAL MOORINGS AND RIPARIAN MOORING RIGHTS

Text that which is ~~crossed-out~~ will be deleted and text which is underlined will be added to the ordinance.

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled that sections 9-91 and 9-94 of the Code of Ordinances, Town of Falmouth, Maine be amended as follows:

Section 1. Subsection 9-94(e)(1) is amended to read as follows:

- (1) Residents per mooring ... \$57.00
(including ~~40~~ 60 rental moorings – Handy Boat; 10 guest moorings – Portland Yacht Club)

Sec. 2. Subsection 9-94(j)(1) is amended to read as follows:

- (1) Marinas shall be assigned a total of not more than ~~forty (40)~~ sixty (60) mooring assignments each. These moorings shall be considered a rental mooring as approved by the US Army Corps of Engineers.

Sec. 3. Subsection 9-91, in the definition of Riparian, is amended to read as follows:

Riparian, Direct and Indirect: ~~Littoral and/or riparian rights under state law are not affected by this ordinance. Any mooring assignment previously termed riparian will fall into its appropriate category with the adoption of this ordinance.~~ Notwithstanding the provisions of 38 M.R.S.A. §11 to the contrary, the owners of property which fronts upon the anchorage and which is used as a residence are Direct Riparian Owners and, as such, qualify for a single mooring . Where property with at least 50 feet of frontage on the anchorage is a common element physically integrated within a condominium or is land owned by a homeowners association and physically integrated within a residential subdivision, unit owners in the condominium and house owners in the subdivision who are members of the association, as the case may be, are Indirect Riparian Owners and, as such, qualify for a single mooring per unit or lot.

Sec. 4. Subsection 9-94(h) is amended to read as follows:

- (h) **Mooring assignment:** All persons who received and used a mooring assignment in the previous year and all persons who will access their mooring from a place other than town

landing, and whose mooring application was received in a complete and timely fashion, will receive a mooring assignment for the current year before June 1st of that year. The harbormaster shall also, whenever practicable, locate a mooring for boat owners who are Direct Riparian Owners or Indirect Riparian Owners in front of their property if requested to do so, or if that location is determined by the harbormaster to be impracticable, at another location within the anchorage chosen by the harbormaster, provided that the total number of Indirect Riparian Owner moorings in the anchorage shall not exceed 150.

Additionally, the harbormaster shall, before June 1, 2010, issue mooring assignments to not more than twenty (20) persons who will access their mooring through town landing and who are on the waiting list established under subsection 9-94(i). Each year thereafter, the harbormaster may issue new mooring assignments to such persons on the waiting list but such new mooring assignments may not exceed the number of mooring assignments not renewed from the previous year. All assignments from the waiting list shall use the priorities set forth in subsection 9-94(i).

The harbormaster and the harbor/waterfront committee will endeavor to maintain a balance of not less than ten (10) percent non-residential mooring assignments. At all times the following priority order shall be maintained:

- (1) Resident fisherman;
- (2) Resident/recreational;
- (3) Commercial passenger boat;
- (4) Resident commercial marine enterprise;
- (5) Resident: additional mooring;
- (6) Non-resident recreational;
- (7) Rental moorings;
- (8) Non-resident fisherman;
- (9) Non-resident commercial marine enterprise;
- (10) Non-resident: additional mooring.