

APPENDIX D

RULES REGULATING THE MOORING OF VESSELS  
WITHIN LAKE MEMPHREMAGOG AND OTHER PUBLIC WATERS  
WITHIN THE CITY OF NEWPORT, VERMONT

10 V.S.A. § 1424(f)

Adopted by the Vermont Water Resources Board, November 2, 2000.

*The Vermont Use of Public Waters Rules are amended to add Appendix D:*

Lake Memphremagog, City of Newport

**Rule 1.** All public waters in Lake Memphremagog, the Clyde River, and the Black River within the city limits of the City of Newport, Vermont ("City"), are hereby designated a Mooring Management Area. The Mooring Management Area is depicted on a map, entitled "Newport City Mooring Management - Attachment A, Ordinance #114 Pertaining To Mooring Management of Public Waters (September 11, 2000 Revision 4)," hereby incorporated and referred to as the City's "Attachment A."

**Rule 2.** Within the Mooring Management Area, ten (10) Mooring Management Zones ("MMZ") are hereby created and designated, as depicted in Attachment A by the letters A, B, C, D, E, F, G, H, J, and K described by coordinates in a document, entitled "Newport City Mooring Management - Attachment B, Ordinance #114 Pertaining To Mooring Management of Public Waters (September 11, 2000), hereby incorporated and referred to as "Attachment B."

**Rule 3.** Pursuant to 10 V.S.A. § 1424(f), the Vermont Water Resources Board ("Board") delegates authority to the City to regulate mooring and anchoring in the Mooring Management Area to protect the public health, safety, and general welfare by prohibiting impediments to navigation and conflicts with normal uses of public waters. The City shall not restrict swimming, fishing, boating, and any other public uses conducted in accordance with state law, except mooring, in the Mooring Management Area. This delegation shall be implemented through the MMZ created by Rule 2. Moorings are prohibited in all navigable public waters within the City not specifically identified as MMZ in Rule 2.

This delegation shall be effective only when both of the following requirements are met:

a. The City has duly adopted an Ordinance for implementing this delegation pursuant to Section 23 of the City Charter; and

b. The Board has determined in writing that the implementing Ordinance, is consistent with the provisions of 10 V.S.A. § 1424, any general management policies pertaining to the use of public waters adopted by the Board, and these Rules.

**Rule 4.** When the delegation to the City is in effect, moorings are prohibited in the Mooring Management Area except as may be allowed in the MMZ under the implementing ordinance.

**Rule 5.** The City's implementing ordinance shall contain the following provisions:

a. No existing moorings shall be "grandfathered" in the Mooring Management Area. However, in the first year that the Ordinance is in effect, first priority in the issuance of Certificates of Registration shall be given to persons with existing moorings as of September 18, 2000, to assure an orderly transition to management of moorings within the MMZ.

b. Within any MMZ, the City may prohibit new moorings or require relocation of existing moorings taking into consideration the actual or potential adverse impacts on fairways, recreational and other uses of the waters, including, but not limited to, private or public water supplies, Class I and II wetlands, endangered plant and animal species as provided for in 10 V.S.A. Chapter 123, fish or wildlife habitat, underwater historic property, public lands and natural scenic areas.

c. Certificates of Registration authorizing moorings shall be for a specified period of time determined by the City with due regard for the economic considerations attending the regulated activity. All such Certificates of Registration shall expire within a period not to exceed one year if not used. All Certificates of Registration shall be issued for a period not to exceed the term of this delegation.

**Rule 6.** The City's implementing Ordinance shall identify classes of applicants, describe the process for obtaining Certificates of Registration, establish criteria for granting Certificates of Registration, set forth the grounds for forfeiture and revocation of Certificates of Registration and address enforcement of the implementing Ordinance.

**Rule 7.** The City's implementing Ordinance shall ensure that the general public is able to compete for available mooring capacity in all MMZ on an equitable basis with City residents. After the first year the Ordinance is in effect, Certificates of Registration shall be allocated on a first-come, first-serve basis for all moorings. If maximum mooring capacity within regulated MMZ is reached, the City shall institute a lottery or such other measures as are necessary to assure that all applicants will eventually be allocated mooring locations.

**Rule 8.** The City shall require all applicants to demonstrate that:

a. Moorings are located within a reasonable distance of a point of access;

b. The point of access has adequate on-shore support facilities for the number of moorings served; and

c. The point of access support facilities are consistent with applicable zoning requirements and state law.

**Rule 9.** The City may establish and collect reasonable fees for Certificates of Registration. However, said fees shall be established only to meet the administrative costs of the City directly related to the regulation of moorings within the MMZ. Any schedule of fees shall be adopted on an annual basis by the City Council, posted at the City Clerk's office, and be provided to the public upon request made to the City Clerk or Harbormaster.

**Rule 10.** The City may enforce the implementing Ordinance through its general police power, consistent with the penalty and enforcement provisions of the City Charter.

**Rule 11.** The City may appoint a Harbormaster to administer and enforce the implementing Ordinance and a Harbor Commission to, among other things, hear appeals, hear and decide revocation proceedings, consider waiver requests, recommend Ordinance amendments and proposed Rules and Regulations to the City Council, and conduct studies and make recommendations to the City Council on water use and the conditions of navigable waters within the City limits.

**Rule 12.** The City's implementing Ordinance shall provide for a process by which a person in interest aggrieved by a decision or act of the Harbormaster may appeal to the Harbor Commission. The Ordinance also shall specify that appeals from any final action of the City, other than an enforcement action, shall be filed with the Board.

**Rule 13.** The City may, from time-to-time, amend the implementing Ordinance consistent with its delegated authority and pursuant to Section 23 of the City Charter, provided that a copy of any proposed amendment(s) is filed with the Board at least 45 days prior to its/their adoption by the City Council. The Board shall review, submit written comment, and, if necessary, recommend corrective action to assure that proposed changes are within the authority delegated under 10 V.S.A. § 1424(f) and consistent with these Rules. Failure to timely notify the Board of proposed Ordinance amendments or to take corrective action may constitute grounds for the termination of the delegation authorized by these Rules.

**Rule 14.** The City may adopt Regulations to facilitate the administration of the implementing Ordinance, provided that these Regulations are consistent with powers expressly delegated to the City by these Rules and the provisions of the Ordinance. Such Regulations may be adopted, amended, or repealed in the same manner as prescribed for any ordinance under the Section 23 of the City Charter. A copy of any proposed Regulations shall be filed with the Board and the Board reserves the right to file written comment and take corrective action as provided for in Rule 13.

**Rule 15.** Any powers not expressly delegated to the City by these Rules and incorporated in the implementing Ordinance as approved by the Board under Rule 3 and, if

amended, under Rule 13, shall be retained by the Board. If another state or federal agency has jurisdiction over the navigable waters within the City limits otherwise subject to regulation under 10 V.S.A. § 1424, the other agency's rules shall apply if inconsistent with, or more restrictive than, the implementing Ordinance.

**Rule 16.** This delegation shall expire on January 1, 2006. The Board may terminate this delegation, for cause or without cause, upon six months notice to the City as provided for in 10 V.S.A. § 1424(f)(2).

**Rule 17.** The Board may propose rules extending and/or expanding the scope of this delegation of authority to the City when the City petitions the Board under 10 V.S.A. § 1424(f) for such an extended and/or expanded delegation.

**Rule 18.** For purposes of these Rules, the terms below shall have the following meanings:

a. **Anchoring** shall mean to secure a vessel by use of an anchor or by attachment to another vessel or object for a period not exceeding seventy-two (72) hours. Vessels anchored within a MMZ for a period exceeding seventy-two (72) hours shall be considered to be moored.

b. **Certificate of Registration** shall mean a written mooring registration, granted by the City, and its associated numbered identifying tag that shall be attached above the water in a visible location on each mooring buoy.

c. **Existing Mooring** shall mean any mooring determined by the City to have been established before and including September 18, 2000.

d. **New Mooring** shall mean any mooring determined by the City to have been established after September 18, 2000.

e. **Mooring** shall mean any equipment, structure or system(s) for securing a vessel in the water beyond the mean water level. Each vessel shall be considered to be attached to a separate mooring for the purpose of counting moorings. Mooring shall not mean docks that are either exempt or permitted pursuant to 29 V.S.A. Chapter 11. Mooring shall not mean anchoring.

f. **Mooring Management Zones (MMZ)** shall mean clearly delineated areas of navigable waters within the City limits, in which the Board and City have determined that the placement of moorings requires regulation in the public interest.

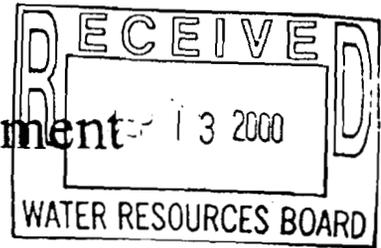
g. **On-shore Support Facilities** include, but are not limited to, roads or other means of access, parking areas, sanitary waste disposal facilities and trash disposal.

h. **Rule or Rules** mean "Rules Regulating the Mooring of Vessels within Lake Memphremagog and Other Navigable Waters of the City of Newport, Vermont," adopted by the Vermont Water Resources Board.

i. **Vessel** shall mean every description of watercraft used or capable of being used as a means of transportation on water including but not limited to amphibian or pontoon aircraft.

# Newport City Mooring Management

## Attachment B



Ordinance #114 Pertaining To Mooring Management of Public Waters  
September 11, 2000

Enacted by the City Council  
On the \_\_\_\_ Day of \_\_\_\_, 2000

### Zone A:

Beginning at a point that is 200 feet from northeasterly edge of the railroad bridge, Longitude -72° 12' 59.362" Latitude 44° 56' 13.467", then northerly 100 feet to a point, Longitude -72° 12' 58.857" Latitude 44° 56' 14.384", then westerly 150 feet to a point, Longitude -72° 12' 0.773" Latitude 44° 56' 15.001", then northerly 1070 feet to a point, Longitude -72° 12' 55.372" Latitude 44° 56' 24.862", then southeasterly 840 feet to a point, Longitude -72° 12' 51.696" Latitude 44° 56' 21.136", then southerly 400 feet to a point, Longitude -72° 12' 49.389" Latitude 44° 56' 14.185", then westerly along a parallel line 200 feet from the shoreline to the point of beginning.

### Zone B:

Beginning at the easterly most point of Farrant's Point, Longitude -72° 13' 0.116" Latitude 44° 56' 29.692", then southerly along the shoreline to a point, Longitude -72° 13' 5.764" Latitude 44° 56' 20.602", then northeasterly 920 feet to a point, Longitude -72° 12' 58.553" Latitude 44° 56' 28.099", then northwesterly 200 feet to the point of beginning.

### Zone C:

Beginning at a point 200 feet from the shoreline and 200 feet east of the City dock, Longitude -72° 12' 44.669" Latitude 44° 56' 15.041", then north 400 feet to a point, Longitude -72° 12' 40.649" Latitude 44° 56' 18.991", then easterly 370 feet to a point, Longitude -72° 12' 35.575" Latitude 44° 56' 19.683", then south 400 feet to a point 200 feet from the shoreline, Longitude -72° 12' 35.595" Latitude 44° 56' 15.739", then westerly 370 feet to the point of beginning.

### Zone D:

Beginning at the easterly most point of Farrant's Point, Longitude -72° 13' 0.116" Latitude 44° 56' 29.692", then northwesterly along the shoreline to a point at the intersection of the Newport City/Newport Town line, Longitude -72° 14' 3.907" Latitude 44° 57' 1.651", then northeasterly along the Newport City/Newport Town line to a point 400 feet from the shoreline, Longitude -72° 13' 59.101" Latitude 44° 57' 3.635", then southeasterly along a parallel line 400 feet from the shoreline to a point, Longitude -72° 13' 4.848" Latitude 44° 56' 34.503", then southeasterly 595 feet to the point of beginning.

### Zone E:

Beginning at a point on the northern edge of the Landing Street Boat Launch, Longitude -72° 12' 27.450" Latitude 44° 56' 36.976", then northwesterly along the shoreline to a point, Longitude -72° 13' 18.305" Latitude 44° 57' 20.550", then south westerly along the Newport City/Derby Town line to a point 400 feet from shoreline, Longitude -72° 13' 22.973" Latitude 44° 57' 18.607", then southeasterly along a parallel line 400 feet from the shoreline to a point, Longitude -72° 12' 33.011" Latitude 44° 56' 36.990", then east 400 feet to the point of beginning. Except no mooring shall be allowed within 500 feet from a point along Prouty Beach, Longitude -72° 12' 33.789" Latitude 44° 56' 48.180" and no mooring shall be allowed within 300 feet of the mouth of Pender Cove.



Newport Town

Lake Memphremagog

Prouty Beach

South Bay

Coventry

00 0 1000 2000 Feet

Drawn by Bob Kelley  
September 11, 2000  
Revision 4

# Newport City Mooring Management

Attachment A

Ordinance #114 Pertaining To Mooring Management of Public Waters

Enacted by the City Council  
on the \_\_\_\_ Day of \_\_\_\_, 2000

