

NEW MAILING ADDRESS
58 East State Street
Drawer 20
Montpelier, VT 05620-3201



scanned 7/15/07

STATE OF VERMONT
WATER RESOURCES BOARD
MONTPELIER, VERMONT 05602
(802) 828-2871

**RULES REGULATING THE MOORING OF VESSELS IN
MALLETTS BAY, LAKE CHAMPLAIN**
Adopted May 10, 1993

Rule 1. All public waters in Malletts Bay and portions of Lake Champlain adjacent to the Town of Colchester are hereby designated a Mooring Management Area. This Mooring Management Area is depicted on a map, entitled "Town of Colchester Mooring Management Area and Mooring Management Zones" dated March 29, 1993 hereby incorporated.

Rule 2. Within the Mooring Management Area, six (6) Mooring Management Zones (MMZ) are designated, as depicted on the above-referenced map.

Rule 3. Pursuant to 10 V.S.A. § 1424(f), the Board delegates authority to regulate moorings in MMZ 1-6 to the Town. This delegation shall be effective only when both of the following requirements are met:

a. The Town has a duly adopted ordinance for implementing this delegation; and

b. The Board has determined in writing that the implementing ordinance, and any subsequent amendment to that 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 Town is in effect, moorings are prohibited in the Mooring Management Area except as may be allowed in the Mooring Management Zones under the implementing ordinance.

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

a. No existing moorings shall be "grandfathered" in the Mooring Management Area.

b. Within MMZ 1, 5, and 6 the Town may prohibit new moorings or limit their placement until May 30 of the year following the adoption of a management plan for these waters.

c. Within any MMZ, the Town may prohibit new moorings or require relocation of existing moorings taking into consideration the actual or potential adverse impacts on Class I and II wetlands, endangered plant and animal species, fish or wildlife habitat, public lands and natural scenic areas.

4PW91-01 Rules

d. Within any MMZ, the Town may prohibit new moorings or require relocation of existing moorings taking into consideration the actual or potential adverse impacts on established recreational and other uses of the water, including public and private water supplies.

e. Mooring permits shall be for a specified period of time determined by the Town with due regard for the economic considerations attending the regulated activity. All such permits shall expire within a period not to exceed one year if not used. A permit for an existing mooring that has been authorized by a permit issued under 29 V.S.A. Chapter 11 or that has a specified expiration date may be issued for a period not to exceed that expiration date. All other mooring permits shall be issued for a period not to exceed the term of this delegation. However, all permitted moorings as of January 1, 1999 may be renewed subject to criteria established by any extension or expansion of the delegation granted pursuant to Rule 15.

Rule 6. The Town's implementing ordinance shall identify classes of applicants and shall establish criteria for prioritizing the granting of mooring permits that are consistent with the following:

a. First priority in the issuance of mooring permits shall be given to existing moorings that have been authorized by a permit issued under 29 V.S.A. Chapter 11;

b. Second priority in the issuance of mooring permits shall be given to existing lawful moorings that are not authorized by a permit issued under 29 V.S.A. Chapter 11;

c. Third priority shall be given to those moorings that do not qualify under priority one or two.

d. Within each class of applicants, higher priority shall be given to those mooring arrangements that are the most space efficient per vessel accommodated.

Rule 7. The Town's implementing ordinance shall ensure that the general public is able to compete for available mooring capacity in all MMZ's on an equitable basis.

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

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

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 Town may establish and collect reasonable mooring fees. However, said fees shall be established only to meet the administrative costs of the Town directly related to the regulation of moorings within the MMZ's. Any schedule of fees shall be incorporated in the implementing ordinance and in the case of multiple-year permits shall allow payment on an annual basis.

Rule 10. The Town may enforce the implementing ordinance through its general police power, consistent with the penalty and enforcement provisions of the Charter of the Town of Colchester, as amended.

Rule 11. The Town shall appoint a Harbormaster, who shall be a law enforcement officer of the Town of Colchester, to administer and enforce the implementing ordinance.

Rule 12. The Town'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 Town. The ordinance also shall specify that appeals from any final action of the Town, other than an enforcement action, shall be filed with the Board.

Rule 13. Any powers not expressly delegated to the Town by these rules and incorporated in the implementing ordinance as approved by the Board under Rule 3, shall be retained by the Board. If another state or federal agency has jurisdiction over the waters 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 14. This delegation shall expire on January 1, 1999. The Board may terminate this delegation upon six months notice to the Town as provided for in 10 V.S.A. § 1424(6).

Rule 15. The Board will propose additional rules extending and expanding the scope of this delegation of authority to the Town when:

a. A management plan for the public waters within the Mooring Management Area, is developed that addresses the following provisions:

- (1) Identifies those waters in which specific uses of public waters, including but not limited to the mooring of vessels, should be further regulated or prohibited in a manner that avoids or minimizes redundancies in the review process where there is concurrent jurisdiction by state or federal agencies; and
- (2) After considering all uses of the waters, identifies a basis for determining limits on the number of moored vessels that should be accommodated in each MMZ; and
- (3) Identifies a strategy for reducing the surface area of Malletts Bay devoted to the mooring of vessels by encouraging more space efficient methods of moorage. This strategy shall consider the cost of implementation and in that context may provide for achieving this objective over a reasonable period of time provided that well defined mileposts are established so that progress can be tracked; and
- (4) Identifies a strategy for insuring that access to the limited capacity of Malletts Bay for appropriate

recreational and other uses, including the mooring of boats, is available to the general public in an equitable manner; and

- (5) Identifies a strategy by which the Town and State will work in a coordinated manner to increase and improve public access; and
- (6) Is consistent with any general management policies pertaining to the use of public waters adopted by the Board; and

b. The Town petitions the Board under 10 V.S.A. § 1424 for such a delegation where the petition is consistent with the presented management plan.

Rule 16. For purposes of these rules, the terms below shall have the following meanings:

- a. Board shall mean the Vermont Water Resources Board.
- b. Town shall mean the Town of Colchester.
- c. Mooring shall mean any equipment, structure or system 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, but shall include the equipment, structure or system to attach vessels to the docks. Mooring shall not mean anchoring.
- d. Anchoring shall mean to secure a vessel within a MMZ for a period not exceeding 72 hours.
- e. Vessel means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water (23 V.S.A. § 3302 (11)).
- f. Existing mooring means any mooring determined by the Town to have been established as of January 1, 1992.
- g. New mooring means any mooring not determined by the Town to have been established as of January 1, 1992.
- h. Management plan means a surface use management plan prepared in cooperation with the Town and the Secretary of the Vermont Agency of Natural Resources.
- i. On-shore support facilities includes but is not limited to roads or other means of access, parking areas, sanitary waste disposal facilities and trash disposal.

ADDENDUM

MMZ - 1, Clay Point/Malletts Creek - Beginning at a point, X 93614.7 - Y 234766, in the centerline of the Lamoille River, then southerly for a distance of 2,085.02 FT (635.51 M) to a point, X 93880 - Y 234188, then southerly for a distance of 10,270 FT (3130.3 M) to a point, X 94613.1 - Y 231145, then south easterly for a distance of 4,830.3 FT (1472.3 M) to a point, X 95889.4 - Y 230411, then easterly for a distance of 5,843.4 FT (1781.1 M) to a point, X 97577.7 - Y 230978, then southerly for a distance of 1,797.1 FT (547.75 M) to a point, X 97559.2 - Y 230431, then in an easterly direction for a distance of 1,372.3 FT (418.3 M) to a point on the shoreline, X 97975.4 - Y 230389, then northerly along the shoreline to the beginning point, X 93614.7 - Y 234766.

MMZ - 2, Malletts Creek/Bayside Park - Beginning at a point, X 97975.4 - Y 230389, on the shoreline north of the confluence of Malletts Creek and inner Malletts Bay, then in a westerly direction for a distance of 1,372.29 FT (418.3 M) to a point, X 97559.2 - Y 230431, then in a south, south westerly direction for a distance of 5,300.6 FT (1615.62 M) to a point, X 97229.5 - Y 228849, then south westerly for a distance of 7,055.4 FT (2150.48 M) to a point on the shoreline, X 95562.2 - Y 227496, then in a northerly direction along the shoreline to the beginning point, X 97975.4 - Y 230389.

MMZ - 3, Bayside Park/Coates Island - Beginning at a point on the shoreline at Bayside Park, X 95562.2 - Y 227496, then in a northerly direction for a distance of 4,516.0 FT (1376.5 M) to a point on the northeast shoreline of Coates Island, X 95341.3 - Y 228854, then along the shoreline in a southerly direction to the point of beginning, X 95562.2 - Y 227496. (Includes a fairway for Malletts Bay Boat Club).

MMZ - 4, Spaulding Bay/Marble Island - Beginning at a point on the northeast shoreline of Coates Island, X 95341.3 - Y 228854, then in a northerly direction for a distance of 6,555.6 FT (1998.2 M) to a point on the north end of Marble Island, X 94390.8 - Y 230611, then in a westerly direction for a distance of 2,391.6 FT (728.9 M) to a point on the northern shore of Malletts Head, X 93664 - Y 230555, then in a south, south easterly direction along the shoreline to the beginning point, X 95341.3 - Y 228854. (Including a fairway for the State Fishing Access).

MMZ - 5, Malletts Head/Thayer Beach/Porters Point/Mills Point - Beginning at a point on the west shoreline of Malletts Head, X 93449 - Y 230350, then in a southerly direction for a distance of 2,636.8 FT (803.7 M) to a point, X 93184.1 - Y 229592, then in a westerly direction for a distance of 7,854.3 FT (2394.0 M) to a point, X 90953 - Y 228724, then north westerly for a distance of 2,333.7 FT (711.3 M) to a point, X 90374.4 - Y 229138, then westerly for a distance of 6,500.6 FT (1998.6 M) to a point on the east side of the railroad fill, X 88394.4 - Y 229068, then

southerly along the railroad fill to its intersection with the shoreline, X 88394.3 - Y 229068, then southerly along the railroad fill to its intersection with the shoreline, X 88697.3 - Y 228724, then in an easterly direction along the shoreline to the beginning point, X 93449 - Y 230350.

MMZ - 6, Colchester Point/Delta Park - Beginning at a point on the west side of the railroad fill, X 88377.4 - Y 229060, then in a south westerly direction for a distance of 2,662.3 FT (811.5 M) to a point X 87886 - Y 228414, then southerly for a distance of 656.5 FT (189.8 M) to a point, X 87895.8 - Y 228214, then south easterly for a distance of 10,928.6 FT (3331.0 M) to a point, X 90278.5 - Y 225886, then easterly for a distance of 2,011.4 FT (613.1 M) to a point, X 90891.6 - Y 225886, in the centerline of the Winooski River, then 176.5 FT (53.8 M) northerly to a point, X 90865.1 - Y 225933 on the shoreline, then northerly along the shoreline to the beginning point, X 88377.4 - Y 229060.