

## **TOWN OF BROOKLYN**

### **ORDINANCE NO. 2025-02**

#### **REGULATION OF MOORINGS**

##### **1.010 Regulation of moorings.**

Wis. Stat. Ch. 30 is hereby adopted and incorporated herein by reference to the greatest extent legally permissible to provide for the Town of Brooklyn's ability to exercise primary or concurrent jurisdiction over navigable waters in the Town of Brooklyn over the mooring of watercraft. To the greatest extent permissible, this chapter shall be deemed to supplement and create additional regulations as currently exist or may be amended by changes in the Wisconsin Statutes, Administrative Code or other lawful enactments by the state of Wisconsin.

##### **1.020 Definitions.**

All definitions of Wis. Stat. § 30.01 are adopted and incorporated herein by reference into this section, including but not limited to the following:

"Mooring," when used as a noun, means a mooring anchor and mooring buoy together with the attached chains, cables, ropes and pennants and related equipment unless the term is qualified or restricted.

"Mooring anchor" means any anchor or weight which is designed to rest on the bed or to be buried in the bed of a navigable water, which is designated to be attached by a chain, cable, rope or other mechanism to a mooring buoy and which is designated to be left in position permanently or on a seasonal basis.

"Mooring buoy" means any float or marker which is attached to a mooring anchor and either is suitable for attachment to a boat through the use of a pennant or other device or facilitates the attachment of the boat to the mooring anchor.

"Riparian property" shall refer to property abutting navigable waters, and such property shall be deemed to be a single property whether or not the same owner has separate tax key numbers or is recorded under a plat showing multiple lots or parcels for the same.

"Riparian zone" means the area that extends from riparian land waterward to the line of navigation as determined by a method that establishes riparian zone lines between adjacent riparian owners in a manner that equitably apportions access to the line of navigation.

"Shore", which is not defined in chapter 30, is defined as the ordinary high water mark as determined by the DNR for the purposes of this ordinance.

"Watercraft" means any device used and designed for navigation on water.

##### **1.030 Intent.**

It is the intent of this chapter to promote and enhance:

1. The health, safety and welfare of individuals using navigable waters;
2. The long-term quality of navigable waters in the Town of Brooklyn;
3. The beauty and aesthetic appearance of navigable waters and properties and improvements adjacent to such navigable waters;
4. The orderly usage of navigable waters by riparian owners and public;
5. The harmonious and nonexclusive use of all areas of navigable waters in the Town of Brooklyn in conjunction with the rights of riparian property owners; and

6. To discourage the use of moorings which unfairly restrict or are used to assert exclusive or excessive privileges, control, or use of navigable waters.

#### **1.040 Regulations.**

1. No mooring shall obstruct or interfere with public rights or interest in the navigable water.

2. The establishment of a mooring shall not adversely affect critical or significant fish or wildlife habitat area. The Town shall consider any application dealing with such issue with the intent of minimizing or avoiding any detrimental impact.

3. The use of a mooring shall not unfairly restrict or be used to assert exclusive or excessive privileges, control or use of navigable waters. Moorings may not enclose navigable waters with the exception of designated swimming areas, which shall be permitted only after approval is granted by the DNR and an applicant for the same follows the permit process set forth herein for moorings.

4. Boats moored to buoys thereto shall be at least 20 feet from any other mooring, boat, or structure located in navigable waters, exclusive of those structures to which such boat is moored.

5. No mooring shall be located within 50 feet of any properly marked swimming area or unreasonably threaten any properly marked swimming area as determined in the sole discretion of the Town Board, which may require additional safety features or conditions.

6. Any mooring buoys shall be placed within a riparian owner's riparian zone within 150 feet of the ordinary high water mark without a permit.

7. No portion of a mooring buoy shall be placed within 12 feet of a lot line or extension of the lot line into the navigable waters. Where such lot line extension is not at a right angle, the respective rights of neighboring riparian owners shall be determined by drawing a cord between each pair of property lines at the point where each line meets the shoreline, extending perpendicular lines into the navigable water from each end of such cords, and bisecting the resulting angles. The bisecting lines shall be considered the coterminous riparian rights line extension off of which the 12-foot setback shall be determined.

8. To the extent that the Wisconsin Department of Natural Resources does not have jurisdiction over, declines to exercise jurisdiction over or otherwise fails to establish the riparian rights zone between neighboring property owners or amongst competing owners of riparian property, the Town of Brooklyn shall make such determination. This determination shall be made using the methodology provided elsewhere in this chapter with respect to competing property owners and shall take into account the interests of the public to use navigable waters and any relevant consideration given the interests of the parties involved. Where an issue arises regarding the competing interests of co-owners of property or property that is held jointly or in common with more than one party, the Town may allocate riparian rights amongst the owners and allocate the same as otherwise set forth in this chapter. The Town Board may also determine to decline jurisdiction over such matters if neighboring property owners, the public or reasonable use of such frontage is not affected thereby.

9. Only riparian owners or those holding riparian rights consistent with the state law, including Wis. Stat. §30.133, may make an application under this chapter. Nonriparian owners who claim riparian rights must establish the same consistent with the foregoing statutes, shall be required to establish the same to the satisfaction of the Town and shall fully cooperate with any informational or documentary requests that the Town may require. Unless the applicant demonstrates a reasonable degree of certainty of entitlement to an application, the Town Board may deny any such request pending a determination by the DNR or the Circuit Court for Green Lake County which will be considered by the Town as evidence of the same, but shall not be presumptive unless the Town has been notified of or participated in such proceedings.

#### **1.050 Mooring buoys.**

Mooring buoys, including temporary rigging buoys, shall be restricted to temporary use. A temporary use may not exceed five consecutive days. Any use in excess of five consecutive days and shall require a permit. A permit is valid for the calendar year in which it is issued.

**1.060 Permit procedure.**

Any person requesting a permit under this chapter shall use the application form on file with the Town Clerk, which form shall be approved by the Town Board which may amend the same from time to time to comply with the requirements and intent of this chapter. The specific requirements of the application form shall be deemed to supplement the following minimum requirements:

1. The date, name, and mailing address and phone number of the applicant.
2. The address of the property, if different than under subsection (1) of this section.
3. The names and addresses of all title holders to the lake property in question.
4. Name and address of adjoining riparian owners and/or of the riparian owner if an easement for the applicant is the basis for the permit.
5. A description of the mooring being applied for. Such description shall include the construction materials used in the structure, specify the location and dimensions of the proposed structure, and identify the location of all moorings on the property and on adjacent properties. If more than one watercraft is to be secured to any individual mooring, the location of all watercraft to be secured by said moorings shall be identified. A survey, map, or drawing to scale shall be attached identifying the property in question, the adjacent lake properties, the location of any existing structure or buoys, and any other information bearing upon the location of the proposed mooring. All distances shall be accurately and clearly marked on such a diagram.
6. A statement as to whether or not any mooring is to be rented out, leased, or used by a nonriparian owner. If more than five moorings are being applied for by any individual property owner, the intended use of said moorings shall be fully described.
7. Any other information that is requested by the Town Board that is relevant in determining whether or not said mooring complies with the intent of this chapter or any other applicable Town ordinance.
8. Permit Fee. Each application shall be accompanied by a permit fee of \$25.00 or in an amount established by a resolution or ordinance duly adopted by the Town Board.

**1.070 Review procedures.**

1. All permits shall be reviewed by the Town Board, who shall inform the applicant, within 60 days, as to whether the application complies with this chapter and all applicable state regulations and statutes.
2. Within 60 days of receipt of the application, if the Town Board deems that additional information is required to act on such application, or if there are any objections raised thereto, the Town will notify the applicant and may hold a public hearing concerning the application within 60 days after sending written notice to the applicant.
3. After the permit is granted, it will be assigned a number matching the house number. Such permit shall apply to each mooring permitted with the number and letter assigned to each. The permit number shall be placed on each permitted structure such that the number faces away from the shoreline. Such number and lettering (in the event of multiple permits) shall be no smaller in size and of the same lettering as is required for boat registration numbers.
4. After a permit is granted, no subsequent permit will be required unless the mooring location or number is changed or expanded.
5. If the Town is requested to granting a variance of the terms of this chapter, or the Town has reason to believe that the granting of a permit may be contrary to the intent of this chapter, the Town may grant a one-year conditional permit. Such conditional permit shall be reviewed after its expiration. The Town shall thereafter issue or deny the requested permit.
6. A permit may be revoked if the mooring is either used or found to be in violation of the regulations stated herein or the intent and purpose of this chapter, or is expanded, altered or relocated.

7. The provisions and procedures of Wis. Stat. Ch. 68 shall apply to the granting, denial or revocation or conditional grant of a permit.

**1.080 Limitations of permit.**

Owners of moorings may not rent, lease or give mooring rights to nonriparian individuals unless approved by the Town Board. Guest mooring is allowed but cannot exceed five consecutive days or 10 days per season. "Guest mooring" shall be defined as those temporary moorings that are allowed to nonriparian owners, nonoccupants or others who are permitted to temporarily moor watercraft without any form of compensation, bartering or other consideration of any type or nature.

**1.090 Violation deemed nuisance.**

Any mooring, mooring anchor, mooring buoy or any other structure which is placed or used in any navigable water in violation of this chapter shall constitute a nuisance under the Town of Brooklyn ordinances, and may be removed as provided pursuant to the procedures set forth in Wis. Stat. § 30.13(5m), or other applicable law.

**1.100 Existing moorings.**

Any mooring which has been legally established prior to the effective date of the ordinance codified in this chapter or its predecessor ordinance shall be considered a nonconforming use and such use shall be permitted to exist notwithstanding the provisions of this chapter or any successor ordinance. In the event that such use or mooring is not maintained for at least 30 days of every year following the effective date of the ordinance codified in this chapter or its successor ordinance, such nonconforming use shall be extinguished. Any person desiring nonconforming use status shall make application for such status and shall file an application as set forth under this chapter or its predecessor ordinance, but shall specifically designate the nonconforming use requested and shall request approval of the nonconforming use status. If no such use is requested for approval in the 12 months following the effective date of the ordinance codified in this chapter or in the event such status was not timely requested under the predecessor ordinance, such nonconforming use shall be extinguished. Existing moorings which are nonconforming are not exempt from the limitations on the use of a permit set forth in section 1.080.

**1.110 Buoys.**

All buoys shall comply with the requirements of Chapter 30 of the Wisconsin Statutes.

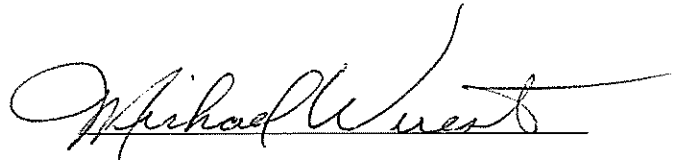
**1.120 Violation.**

Any mooring found to be in violation of this chapter shall be subject to a forfeiture of not more than \$500.00 nor less than \$50.00 for each separate violation. Each day during which the violation exists is a separate offense.

**1.130 Severability of code provisions.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, or any superseding Wisconsin State Statute or regulation, only that invalid or unconstitutional portion shall be deemed severed from the chapter and the remainder of the chapter shall have continuing validity.

Dated this 11<sup>th</sup> day of February 2025.

  
Michael Wuest, Chairman

ATTEST:

  
Amy Wesenberg, Town Clerk