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Town of Barnstable
367 Main Street
Hyannis, MA 02601
townofbarnstable.us

Marina Rules and Regulations

Adopted 2022

Purpose

1.1 **Purpose.** The purpose of these regulations is to provide for the safe and efficient operation of the Town of Barnstable municipal marinas. To operate the marinas of the Town in a manner which is fair and uniform to all slip holders, including potential slip holders whose names appear on the wait list for a slip. Any interpretation of these regulations by the Town, or agents of the Town, shall be made with the basic premise that a slip is to be used for the personal and sole use of the slip holder and that the rental value of the slips themselves is an asset of the Town that must not be diverted by private parties. Therefore, the slip holder hereby agrees that any deviation from this premise by the slip holder shall result in the termination of any slip rental agreement and further, the Town may recover any amounts received by the slip holder from other parties which are essentially in the nature of payment for the use of the slip.

2.0 Authority

2.1 **Authority.** These rules and regulations are made by the Town Manager of the Town of Barnstable, under the authority of Chapter 32, Article II, Section 32-7 of the Town of Barnstable Ordinances. These regulations shall supersede any former marina regulations and shall continue in force until rescinded or replaced by the Town Manager, or until the authority to make and enforce marina regulations has been repealed. The Town Manager, using his or her discretion, may deviate from the regulations noted below if deemed to be in the best interest of the Town of Barnstable.

3.0 Preamble

3.1 **Preamble.** The following paragraphs are hereby made part of these regulations and shall appear in every Application for Berth executed by a vessel owner: The slip holder also understands and agrees that if it is the opinion of the Town of Barnstable Harbormaster, or his/her designee, that there may be a violation of any of the marina rules and regulations, or their intent, it shall be at the option of the Town to require the slip holder to provide any and all testimony or documentation which may be necessary to prove to the satisfaction of the Town that they are not in violation of the rules and regulations. Any slip holder who does not respond and show evidence on his behalf within two weeks receipt of such request, or any slip holder who fails to meet to the Town's satisfaction all marina regulations or their intent, shall relinquish the rights to the slip and all fees be forfeited to the Town. Furthermore, the slip holder hereby agrees that any violations of these regulations shall constitute for the removal of the vessel to a place away from the slip, such as a mooring, other anchorage, or dry storage. The slip holder agrees to indemnify and hold the Town, and its agents, harmless for any damage to his vessel or for the cost of towage or storage in connection herewith.

4.0 Enforcement

4.1 **Enforcement.** All vessels stored, docked at Town of Barnstable Marinas may be boarded by the Harbormaster and/or deputies for any reason (Massachusetts General Law, Chapter 90B, Sections 11 12). All directives of the Harbormaster or deputies must be complied with immediately and in full. Failure to comply with the directives and the rules and regulations can be cause for loss of slip, its fees, and the removal of the vessel from the marina at the owner's expense.

5.0 Violations

5.1 **Violations.** Any violation of these rules and regulations shall be considered a violation of the provisions of Town Ordinance, Chapter III, Article XXXIII, Section 4 and is punishable by a fine of two hundred (\$200.00) dollars for each offense. Each day such offense constitutes a separate offense. Any boat owner shall have the right of appeal to which he/she feel aggrieved and said appeals process may continue through the office of the Town Manager and/or any other avenue available through due process of law.

6.0 Slip Application

6.1 **Slip Application.** Individuals desiring to lease dock space at any Town owned marina must submit an application in writing to the Harbormaster's office. This application is known as an "Application for Berth". It is the slip applicant's responsibility to obtain an application for each calendar year. Slip applications are authorized through returning contract slip lease holders or waitlist applicants once offered a slip.

7.0 Waitlist

7.1 **Waitlist.** Vacancies occurring in dock space shall be filled from the established waiting list. The Harbormaster reserves the right to keep some dock space vacant for usage of transient dockage. A waiting list for dock space has been established and is maintained indefinitely. Applicants for dock space have been recorded in chronological order and the awarding of dock space shall follow this order. In order for an applicant to maintain his/her status on the list, he/she must pay a fee between the waitlist renewal dates of each calendar year of his/her desire to remain on the list. The applicant regardless of notification is required to pay the fee to remain on the list. For the purpose of these regulations, a taxpaying real estate owner shall be considered a resident as well. Proof of residency may be required. All wait list fees collected will be considered a non-refundable, administration fee as of January 1, 2023 and will not be applied to the applicants first year's dockage. Waitlist fees collected before the date of January 1, 2023 may be taken off the applicant's first year's dockage. Failure to comply with the above will result in the removal of the applicant's name from the list and all fees will be forfeited.

7.2 **Waitlist Lottery.** When deemed appropriate, the waiting list shall be filled through a lottery system, open to all (except Prince Cove Marina see "Special Regulations for Prince Cove Marina"), and placement upon the list shall be in the order by which the name of the applicant was drawn. The Town, at its own discretion, shall determine the number of applicants to be placed upon the waiting list. All applicants upon their selection through the lottery system shall be subject to a non-refundable fee as determined by the Town, and all other rules and regulations as they pertain to this document. Proof of identification will be required to be placed on the waitlist if the applicants name is draw from the lottery.

7.3 **Waitlist Offering.** When an appropriate slip becomes available, the Harbormaster or his deputies will notify the applicant of the vacancy. The applicant shall have first right of refusal on leasing the slip. Should the applicant not accept or respond to the offer of the slip, the Harbormaster or his deputies will offer it to the next person on the list. If the applicant waives that slip offering or doesn't respond to the offering of the slip, their name will remain on the list. The vacant slip shall then be offered to the next eligible applicant. It shall be the responsibility of the applicant to notify the Harbormaster's Office of any change in the address or phone number or any other significant changes to the application. Furthermore, the applicant shall have five (5) calendar days to respond to a slip offering. The Harbormaster depending on certain situations has a right to allow the slip offering outside of the (5) five day period.

8.0 **Slip Usage**

8.1 **Slip Usage.** Vessel owners assigned slips shall not allow any other vessel to occupy said slip and no vessel may enter any other than assigned unless authorized by the Harbormaster. Slips assigned by the Harbormaster may not be re-assigned by the owner to any other person or legal entity. The Harbormaster or agent of the Town of Barnstable and/or the Town's Waterways Committee shall have the authority to request any financial or related document pertaining to the purchase and/or operation of the vessel. Including but not limited to a Purchase and Sales agreement, Bill of Sale, Abstract of Title, Sales Tax payment, Insurance Certificate, Mortgage Contract, Corporate Minutes/Papers. The applicant also shall agree to, and understands, that his/her vessel shall not be operated through a management company and must be able to substantiate, by documentation, that he/she is in fact the sole owner and sole beneficiary of any business or recreational use of the slip. Failure to comply may result in termination of slip contract.

8.2 **Change of Vessel.** If a lessee wishes to purchase a new vessel, he/she must complete and submit an "Application for Berth – Change of Vessel" to the Harbormaster for consideration. A fee may be required. The "Application for Berth - Change of Vessel" must be completed in its entirety, and all required documents as noted on the application must be submitted. Failure to comply may result in the immediate denial of the "Application for Berth - Change of Vessel" request. The Harbormaster using his/her discretion may request the "Application for Berth -Change of Vessel" request to appear in front of the Waterways Committee for guidance and/or public knowledge. Submitting incorrect information for change of vessel may result in termination of slip contract. No refunds will be granted to slip holders changing to a smaller vessel within that contract year. Furthermore, if a slip holder is increasing his vessel size that Harbormaster has a right to prorate that slip fee based upon the

current fee structure. The Harbormaster also reserves the right to relocate that said slip holder depending on the vessel to efficiently utilize dock space.

- 8.3 **Change of Slip.** If a vessel owner desires a change in slip assignment he/she must secure approval of the Harbormaster. Any request for a change of slip assignment shall be made in writing by the slip holder and shall state in full the reason for the request. All requests for slip assignment changes start January 1, 2020 at 12:00 a.m. and will be time stamped by the Harbormaster's office via email. The request for a change in slip assignment may be granted, but not guaranteed. No refunds will be given for changes to slip assignments within that contract year.
- 8.4 **Business.** No business shall be conducted at a transient, vacant, or unassigned slip without approval from the Harbormaster.
- 8.5 **Individuals.** Boat slips will be leased to individuals (a living person) only. It is the intent of this regulation to provide the periodic turnover in boat slips. No survivorship rights are allowed or intended. The lessee and the owner of the vessel shall be one and the same. Furthermore, if a vessel is owned by cooperation the full name of the owner of the vessel and the percent of ownership claims to said vessel must be accurately stated upon the application. Proof of the vessel's documentation or state registration and the ownership or corporate status must be verified by the ship's papers and the current ownership or corporate papers. Said papers must show the ownership or corporate principals and percent of ownership and they will remain on file. Any unapproved change in percent of ownership of the vessel shall be grounds for termination of the slip and the contract shall be deemed null and void with all fees forfeited. It shall remain the prerogative of the Harbormaster to review these papers at any time to insure compliance.
- 8.6 **Right To Rent.** The owner or operator shall advise the Harbormaster/Dockmaster when leaving for a cruise of one day or more. The Town may re-rent the space for a temporary period (transient dockage) during the absence of the vessel regularly occupying the space. No credit for such temporary use of space shall be granted to the slip contract holder occupying the space.
- 8.7 **In-Season.** Slip contracts shall be on an in-seasonal basis only, from May 1st to October 31st. Slips shall be leased for a fee, as set forth by the fees established by the Town of Barnstable. The option for renewal for the following season is at the discretion of the Town of Barnstable and is not in any manner required of the Town, nor will it be considered unless the following conditions exist: 1. that there have been no unapproved changes in the application. 2. that the applicant has submitted

documents as required by the application for annual review. 3. that the applicant has shown proof of the payment of the Town of Barnstable excise tax (if applicable). 4. that the seasonal dockage fee has been paid in full. 5. that the lessee has proved to be a good and cooperative tenant during the preceding years.

8.8 **Off-Season.** Slips may be rented in the off-season, from November 1 to April 30. Slips shall be rented (transient dockage) for a fee, as set forth by the fees established by the Town of Barnstable. If an in-season leased slip is vacant before November 1 the Harbormaster may set an off-season rate effective September 15 to fill the vacant slip(s). No credit for such temporary use of space shall be granted to the contracted in-season slip holder for occupying the space.

8.9 **Occupancy Deadline.** Slips shall be occupied by the assigned vessel by July 1. If slips are not occupied by said date, the owner shall forfeit the assigned slip and the slip will be awarded to the first person on the waiting list. No refunds will be given. If for some reason this is impossible, the owner shall notify the Harbormaster, in writing, explaining the circumstances surrounding the situation. The Harbormaster may, using his/her discretion, permit an extension of this date, but in no case shall this extension be greater than one season. A one-time grace period for in-season contract may be granted by the Harbormaster however, the slip fee must be paid in full.

8.10 **Insurance.** The owner of a vessel agrees to have his/her vessel covered by a full marine insurance package including but not necessarily limited to personal injury, fire, and property damage indemnity and liability coverage naming the Town of Barnstable as additional insured, and shall provide proof of same to the Town and as noted on the "Application for Berth" form.

9.0 Reassignment of Slips

9.1 **Reassignment of Slips.** The Town of Barnstable reserves the right to reassign slips within its marinas in a fashion which is deemed to be in the best interest of the Town and reserves the right to vary this policy in any fashion which would better serve the interest of the Town. Failure to comply may result in termination of slip contract.

10.0 Loading/Unloading

- 10.1 **Loading/Unloading.** The designated loading/unloading zone (also called offload zone) is the only area where vessels may offload fish/catch. All vessels must be attended to while berthed at the loading zone and shall be made to move if another vessel wishes to unload. All vessels are responsible for the cleanliness of the designated zone and shall clean, sweep and wash down before departure. No vessel may remain tied up to the loading/unloading zone unless authorized by the Harbormaster. Failure to abide by the above rules and regulations shall result in the revocation of this privilege.
- 10.2 **Loading/Unloading Slip Holders.** Slip holders who are engaged in casual, recreational, or limited commercial fishing may, at the discretion of the Harbormaster/Dockmaster, unload fish at their respective dock. All other commercial boats shall be required to land their catch at the designated loading/unloading zones determined by the Town of Barnstable.
- 10.3 **Loading/Unloading Fees.** Fee for the usage of the loading/unloading zone areas shall be set forth by the fees established by the Town of Barnstable. Fees for such usage shall be annual (calendar year) January 1 to December 31 or either per usage. Individuals wishing to use the loading/unloading by the annual fee must be paid in full before usage. Individuals will be charge a per usage charge which will not count towards the annual fee if not paid in full before usage. Locations requiring fees for the usage of the loading/unloading zone will be determined by the Harbormaster.

11.0 General Conditions

- 11.1 **Discharge of Waste.** Federal, State and Town statutes prohibit the discharge of sewage, waste material, oil, fuel or refuse of any kind into any river, pond, stream or tidal waters. Heavy fines and/or imprisonment are the penalties for violation. Trash and/or garbage shall be placed in a container provided by the Town. Oil, oil filters or any other flammable substance may not be placed in such containers and must be disposed of according to Federal, State and Town statutes. Discharge of fish guts, bones and or skin is not allowed.
- 11.2 **Obstruction of Docks.** Boat owners shall not place supplies, materials, accessories or debris on any pier or walkway and shall not construct or place thereon any lockers, chests, cabinets or containers without written permission of the Harbormaster/Dockmaster. Boats having tenders on davits, boarding ladders, bow and/or stern sprits, etc., shall be secured in such a manner that none of these will be a

hazard or block free passage along any pier or walkway. Stairways, boarding ladders, or gangways that provide access to boats and take up more than one-half the width of the pier cannot be left on the pier when the vessel is not in the process of loading or unloading passengers or provisions.

- 11.3 **Vessels Condition.** All vessels shall be maintained in a safe and seaworthy condition. Vessels' owners/captains are responsible for proper lines, fenders, etc. Any vessel which is unsightly in appearance, badly deteriorated, a menace to navigation (in the opinion of the Harbormaster/Dock master or his deputies) or likely to damage property shall be removed by the owner at the owner's expense upon request of the Harbormaster or his deputies. In the event that the owner is unavailable or available, but refuses to act upon such a request, the Town shall have the right to cause removal at the owner's expense.
- 11.4 **Dangerous Devices.** No vessel may have on board any dangerous devices, equipment, or materials.
- 11.5 **Noise.** Noise shall be kept to a minimum at all times and any noise, loud talk or radio, musical instruments, prolonged running of engines, auxiliary generators, and any other disturbing noise after 8:00 p.m. is prohibited. Vessels on shore power must turn off generators, as soon as shore power is connected.
- 11.6 **Marina Decorum.** No part of the marina shall be used for the conducting or solicitation of business of any kind except for the necessary business of the boat, and its soliciting must be confined to the immediate area of the berth assigned, by the written slip lease contract, to the vessel. No booths, signs, or other advertising material will be permitted without permission of the Harbormaster, who can control size, placement, etc. of such material. In any event, there shall be no more than one sign permitted per slip (to be attached to either the assigned berth or assigned vessel, but not both), such sign shall not measure greater than two feet by two feet, and such sign shall be professionally crafted and maintained. Slip holders should understand that Bismore Park is within the Hyannis Waterfront Historic District, and therefore, all signs are also subject to the regulations of that District. Also, in accordance with Town ordinance, any sign which is set in motion by movement including pennants, banners or flags (except official flags of nations or administrative or political subdivisions thereof) shall be expressly prohibited.

- 11.7 **Prohibitions.** The following acts are prohibited by all persons using dockage space, the facilities, or the premises at Town of Barnstable municipal marinas.
- 1) Pumping out bilges containing oil or the pumping out of toilets/sewage.
 - 2) Overhauling or remodeling of any watercraft unless written permission is granted by the Harbormaster or Deputy Harbormaster.
 - 3) Hanging washing or clothing when tied up to berth.
 - 4) Fueling of gasoline.
 - 5) Running of engines in gear while tied up.
 - 6) Allowing dogs or pets on Marina property unless restrained by leash.
 - 7) Swimming.
 - 8) Hibachis, grills, or any open fire in the Marina area.
 - 9) Washing down vessel(s), trailer(s) on Town own land or road ways.
- 11.8 **Fueling.** The fueling of diesel powered vessels shall be permitted at designated areas only. The local fire department depending on the village within Barnstable may have certain regulations to abide by.
- 11.9 **Disclaimer.** The owner/captain/master shall hold harmless the Town of Barnstable, its agents, or employees from any liability or damage which may occur to the assigned vessels by virtue of the interruption of services provided at Bismore Park Bulkhead, Gateway Marina, Barnstable Harbor Marina or The Marina at Prince Cove areas.
- 11.10 **Parking.** Parking shall be in the designated boat-owners parking area only.
- 11.11 **Damage to Facilities.** The owner of any vessel found causing or having caused damage to any portion of a Town Marina shall be responsible for providing prompt payment to the Town of Barnstable for such repairs. Failure to comply with the provisions of this section may result in the termination of the slip agreement or use of the facility until such time as party responsible for the damage has arranged for payment.
- 11.12 **Transient Dockage In-Season.** Some slips may remain vacant for the usage of transient dockage. In-season transient dockage is from May 1 to October 31. Fee for such usage shall be set forth by the Town of Barnstable. Transient slips shall not be rented for more than three consecutive weeks. If a transient slip is rented for three consecutive weeks the vessel renting the slip must vacate said slip for one week before returning unless there is no one waiting for transient dockage. The time restriction does not apply to commercial fishing vessels at Bismore Park Marina.

- 11.13 **Transient Dockage Off-Season.** Off-season transient dockage is from Nov 1 to April 30. Fee for such usage shall be set forth by the Town of Barnstable. Transient slips in the off-season shall have no time limit for usage.

12.0 **Fees**

- 12.1 **Deposit.** There is a non-refundable deposit which is required by all slip renewal applicants to maintain eligibility for consideration of a slip contract for the upcoming season. Deposits shall be due between January 1 through January 31.
- 12.2 **Fee Schedule.** The fee schedule shall be displayed upon request or available at the Harbormaster's Office. The fee schedule shall also be displayed online at the Town of Barnstable Marina website.
- 12.3 **Commercial.** Where the fee is based upon a per foot charge, commercial fishing vessels; the rate is based on length overall (LOA). This measurement will be taken from the top of the transom to the foremost extension, including pulpits, gill brackets or sprits (except anchor pulpits under three (3) feet). Tuna pulpits shall be measured to the foremost extension, unless such pulpit is folded when berthed, and in such case shall be measured to the pivot point. The Harbormaster or his agent(s), reserves the right to measure and/or request a survey (at owners expense) of measurement of any vessel.
- 12.4 **Recreational.** Where the fee is based upon a per foot charge, recreational vessels; the rate is based on documentation/state registration length unless such vessel is determined by the Harbormaster to be measured by a LOA bases. This measurement will be taken from the top of the transom to the foremost extension, including pulpits, gill brackets or sprits (except anchor pulpits under three (3) feet). Tuna pulpits shall be measured to the foremost extension, unless such pulpit is folded when berthed, and in such case shall be measured to the pivot point. The Harbormaster or his agent(s), reserves the right to measure and/or request a survey (at owners expense) of measurement of any vessel.
- 12.5 **Pro Rate.** With the understanding that Town slips might be offered/awarded to a waiting list applicant "late" in the season for a number of reasons, the Town of Barnstable adopts the following "pro rate" fee schedule for slips awarded after June 30th and prior to Nov. 1 of the calendar year:
- | | |
|------------------|-----------------------|
| July 1 - July 31 | 1/3 off seasonal rate |
|------------------|-----------------------|

Aug. 1 - Oct. 31 1/2 off seasonal rate

The slip with the pro-rated fee will be offered to all waiting list applicants in chronological order, beginning at the top. This policy is adopted with fairness in mind for both the person accepting the slip offer and those on the established waiting lists. Prior to July 1 of the calendar year, the full fee as noted in "Fee Schedule" shall apply. No prorated refund will be given to slip holders for changes of vessel, vacating slip etc.

13.0 Special Regulation Bismore Park Marina

- 13.1 **Length Overall Limits.** Due to structural limitations, no vessel over 75' LOA may use the facilities at Bismore Park Marina. The Harbormaster or his deputies, reserves the right to measure and/or request a survey (at owners expense) of measurement of any vessel that may appear longer than 75' LOA.
- 13.2 **Vehicles.** Motor vehicles shall only be permitted to enter roadway along the face of the bulkhead for delivery and pick-up of materials such as oil, groceries, etc. Parking along the bulkhead shall be in the turnout areas only. Use and parking will be limited to the time needed for discharge or pick-up only. All others shall be in the designated boat-owners parking area unless authorized by the Harbormaster.
- 13.3 **Loading/Unloading zone.** Refer to 10.1 (loading/unloading), additionally, there shall be a fee per occurrence for any other use of the area, including but not limited to the stepping of masts, the loading and unloading of dunnage or similar activities. If, in the opinion of the Harbormaster or designee, the use of this area is casual in nature, such as the boarding or disembarking of passengers from recreational boats or similar activities, the fees may be waived at the discretion of the Harbormaster or designee. Each use shall require the prior approval of the Harbormaster or designee.
- 13.4 **Fueling.** The fueling of vessels permanently docked at Bismore Bulkhead may be fueled in their respective slips between the hours of 4:00 AM to 8:00 AM daily. The fueling of vessels at the loading/offloading zone shall be allowed between the hours of 4:00 AM through 10:00 PM daily. Bismore Park slip holders shall not be required to pay a fee for fueling in the loading/offloading zone. Any vendor wishing to dispense fuel to vessels at Bismore Park may need permit from the Town of Barnstable. Additional requirements may be required by the Hyannis Fire Chief. Said permit shall be valid for a period of two years and may require a fee. Licensed fuel vendors shall familiarize themselves with the "Special Regulations for Bismore Park Marina" as it pertains to fueling and agree to dispense fuel in a manner consistent with said regulations, as well as any and all state, federal, and/or local law. The

vendor understands that from time to time the Harbormaster may issue directives for the orderly and safe fueling within the facility. Any vendor who fails to abide by the Harbormaster's orders or who violates any of the aforementioned federal, state, and/or local laws shall be subject to revocation of said permit with all fees forfeited. Any revoked permit may be reinstated at the discretion of the Town Manager. Clean up of fuel related spills on land or fuel spills that result in fuel getting in the water are the responsibility of the vendor.

- 13.5 **Commercial Transient Parking Pass.** Commercial Transient slip users at Bismore Park Marina may purchase a Transient Parking Pass at the Harbormaster's office. The parking pass is valid for commercial transient/slip users only. Parking is in designated areas only.

14.0 **Special Regulations Prince Cove Marina**

- 14.1 **Parking.** Parking for slip holders will be in designated areas only. One (1) parking pass per slip will be issued upon receipt of the required slip fee and approved slip contract. Daily parking fee will be charged for the usage of the facility for all other vehicles. The purchase of a seasonal parking passes will be available for purchase April 1. All parking, with the exception of slip holder pass, will be on a first come first served basis. Overnight parking will be at the owners risk at the daily fee, season pass, or a slip parking pass with Harbormaster/Dockmaster permission only. Vehicles with trailers are required to pay a daily fee or seasonal pass for parking. Parking is no guaranteed due to limited space.
- 14.2 **Fueling.** There will be no fueling of vessels of any kind at the Marina.
- 14.3 **Passenger Vessels.** There will be no passenger carrying commercial vessels allowed.
- 14.4 **Waiting List.** To establish a new wait list there will be a lottery as outlined in these regulations, each applicant must be a real estate tax payer of the Town of Barnstable. All wait list fees and/or lottery fees collected will be considered a non-refundable, administration fee. Proof of residency will be required if an individual is drawn from a waitlist lottery.

HELP MAKE A DIFFERENCE

The Town of Barnstable realizes that there are many contributors to coastal pollution including faulty septic systems, storm water runoff, water fowl, boats, oil spills, fertilizers, as well as many other sources. Fortunately, citizen's groups and government are becoming more aware of the problem and beginning to address it.

Knowing that you want to do the right thing and care a great deal about our harbors and foreshores, we ask for your help. How? By monitoring our own actions as well as actions of others to ensure full compliance with existing regulations, by education, by using pump out facilities where available, by using waste receptacles, by using the least damaging bottom paint, by being concerned. Each of you can make a difference.

Town Manager:  Date: 12.15.2022