

EASTHAM SELECT BOARD
ROCK HARBOR DOCKAGE ASSIGNMENT & GENERAL REGULATIONS
Adopted: February 6, 2023

For the benefit of all those who use the harbor, the following policies and regulations have been established:

It shall be the policy of the Town to maintain and administer separate waiting lists for thirty-four (34) recreational vessel slips, and twelve (12) commercial vessel slips at Rock Harbor in a fair and equitable manner so as to ensure public access and use of the Harbor and the slips contained therein. Twelve slips for commercial vessels shall be retained at the “south docks” area.

The Town recognizes the importance of the commercial dockage for vessels operating out of Rock Harbor to the overall economic health of the Harbor and the Town, and as a result seeks to maintain to the extent practicable, the current percentage of slips as 25% commercial slips and 75% recreational slips currently devoted to these uses.

A. DOCKAGE ASSIGNMENT

In order to achieve the desired number and percentage of commercial vessels able to dock in Rock Harbor, the following procedures are enacted:

1. A maximum of **one (1)** Rock Harbor slip shall be assigned per household at any one time. Multiple slips shall not be allocated per household, or to the same individual. The prospective or current slip holder has the burden of demonstrating that the individual slip holder, the vessel registration, and the household are all registered to the same domicile.
2. All slips within Rock Harbor shall be issued to Eastham or Orleans tax-payers only, or, year-round resident renters who can provide a lease for a rental property in Eastham or Orleans.
3. **“South Dock” Commercial Slips**
 - a. When a slip becomes available on the “South Docks”, it shall be allocated for commercial use.
 - b. ‘Commercial use’ means that the vessel docked in Rock Harbor is utilized as an integral part of a commercial business, such as shellfishing, fishing, lobstering, public chartering for paying customers, ecology tours for paying customers, sightseeing services for paying customers, transportation for paying customers, mooring services for paying customers, access to shellfish aquaculture grant areas, and the like.
 - c. All applications submitted for the “South Dock” waiting list shall adhere to the Rock Harbor Waiting List Regulations, and, shall include on their application detailed information on the intended commercial use of the slip and vessel details. All applications for the “South Dock” waiting list shall be submitted for commercial use only. Wait list applications for recreational use shall be submitted for the “Inside” or “Outside” waiting list.
 - d. Individuals listed on the South Dock waiting list as of June 1, 2022, will be allocated a slip on the South Docks when it becomes available regardless of commercial status, and current slip holders at the South Docks can apply to renew their slips annually in accordance with the dockage agreement, waitlist, and other applicable regulations.
 - e. Prior to slip issuance, individuals being allocated a “South Dock” slip shall provide documentation that their vessel docked in the harbor is used for commercial purposes.

Documentation may include a combination of: commercial business information such as tax information, sale receipts, catch reports, trip reports, or otherwise, totaling a minimum of \$10,000 in gross sales to qualify for commercial rate. The individual must provide the necessary documentation to the satisfaction of the Select Board and/or Harbormaster to demonstrate that use of the slip will be for “commercial use” as defined in Regulation A.3(b). Upon issuance of a commercial slip, the individual has two years to establish a commercial business meeting the criteria set forth above. At any point thereafter the initial two years, the slip shall be forfeited if the commercial criteria are not met.

- f. South Dock commercial slips will be issued to bona-fide domiciled **residents** of Eastham or Orleans. Residency documentation shall be provided to the Harbormaster annually.
- g. Documentation and subsequent dockage renewals shall be complete and submitted to the Harbormaster annually by the dockage renewal deadline, when renewing their Dockage Agreement. The Harbormaster may require that an annual dockage renewal(s) and/or initial slip assignments be reviewed by the Select Board prior to issuance or renewal.

4. Unallocated Commercial Slips

The Harbormaster may utilize any of the twelve (12) commercial slips in the “South Dock” area for transient/temporary use until the available slip(s) are allocated to an individual from the waiting list for commercial use. Slips may be temporarily unallocated for the following reasons:

- a. No eligible commercial users on the South Docks waiting list
- b. Prospective slip holder is establishing commercial documentation
- c. Ongoing hardship and/or appeal review

5. Slip Utilization

- a. Slips are allocated for active use throughout the boating seasons. Therefore, when a slip is allocated, it must be in continuous use by the slip holder.
- b. A slip may be left unused for one-season. Notifications of leaving a slip unused shall be submitted to the Harbormaster in writing. Should a slip be left unused for the following subsequent season, the slip holder will forfeit their slip. The Harbormaster may bring slips being unutilized by slip holders to the Select Board for review.

B. COMMERCIAL SLIP TRANSFERS

1. Slips may not be transferred by sale, gift, devise, bequest, or for any other reason. However, the Harbormaster, Town Administrator, and the Select Board, in carrying out the provisions of these regulations, may consider hardship, financial or otherwise. In determining whether a commercial hardship exists for the purposes of transferability, the following criteria may be taken into consideration:

- a. Financial hardship
- b. Continuity of a family-operated commercial business, where transfer is to an immediate family member or established and documented business partner.
- c. Physical characteristics of the vessel (i.e., size and type)
- e. Purpose of vessel use (i.e., commercial or recreational)
- f. Potential for impact on navigation

2. The duration of the transfer of a dockage slip due to a hardship shall be set by the Select Board for a period of not more than two years, and will be reviewed again at a public hearing thereafter to determine whether the permanent transfer of the slip or to consider an extension of the hardship is in the public interest. The Harbormaster may bring forth review of the slip transfer sooner as necessary based on compliance with the Harbor Dockage agreement and Harbor Regulations, or other reasons.
3. Individuals requesting a slip transfer shall submit a timely and detailed request to the Harbormaster in writing prior to Select Board review.

C. GENERAL HARBOR REGULATIONS

- a. To be admitted and to continue as an occupant of the harbor, a vessel must be registered, identified, marked, equipped, operated and maintained as required by law and standard practice.
- b. Harbormaster may change slip assignments from time to time.
- c. Any vessel docked within the harbor shall be subject to periodic inspection by the Harbormaster to determine the maintenance of proper safety conditions.
- d. Federal, State and Town statutes prohibit the discharge of sewage, waste material, oil and fuel, rubbish or refuse of any kind or description, into any river, stream, pond or tidal waters. Penalties include significant fines and/or imprisonment. Any such discharge, accidental or otherwise, must be immediately reported to the Harbormaster or the Eastham Fire Department. Failure to do so shall be considered a breach of these regulations in addition to the penalties required by any Federal, State, County or Town law, by-law or regulation.
- e. Boat owners shall not place supplies, materials, accessories or debris on any float or walkway, and shall not construct or place thereon any lockers, chests, cabinets or containers without the permission of the Harbormaster.
- f. Charcoal, or any form of open fire, anywhere within the harbor is absolutely prohibited.
- g. Young children shall be accompanied by adults at all times.
- h. The use of alcoholic beverages is prohibited by law on any town property including the harbor, floats, docks, bulkheads, and parking areas owned by or under the jurisdiction of the town.
- i. The disposal of fish or parts thereof is prohibited anywhere within the harbor including service and parking areas.
- j. Boats shall only be fueled from the Fuel Dock. Fueling from trucks or cans is prohibited within the harbor.
- k. The committing of any misdemeanor or felony on, in, or adjacent to any vessel or on property owned by the town at Rock Harbor shall be considered a violation of these regulations.

D. VIOLATIONS

Pursuant to Massachusetts General Laws: Chapter 40 – (Powers and Duties of Cities and Towns), Section 21D – (non-criminal disposition of ordinance, by-law, rule or regulation violations) the following regulation does apply:

- a. Violations of any provision of these regulations shall be punishable by a fine of two hundred dollars (\$200) and/or the loss of dockage agreement, with each violation constituting a separate offense.
- b. The foregoing regulations shall be enforced by the Harbormaster and his/her designees of the Town of Eastham.

E. APPEAL

Any boat owner, aggrieved by a decision of the Harbormaster, shall have the right of appeal to the Select Board. The appellant shall submit a detailed request for review in writing to the Office of the Select Board. Upon receipt of any such appeal, the Select Board shall hold a public hearing within 45 days at which the boat owner shall be afforded an opportunity to present evidence, prior to deciding the merits of the appeal. All decisions of the Select Board shall be final.