

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## MOORING RULES

### A RESOLUTION OF THE ASSOCIATION'S BOARD OF DIRECTORS ESTABLISHING SPECIFIC MOORING RULES FOR THE MOORING OF VESSELS AT ISLAND MARINA

Every Vessel Owner and Slip Owner shall be governed by and comply with the terms of the Declaration of Covenants and Restrictions of Island Marina, the Articles of Incorporation and By-Laws of the Island Marina Boat Slip Owners Association, Inc. including any Rules and Regulations adopted pursuant thereto, Dockage Agreements and the Modified Sovereignty Submerged Lands Lease. *(For additional information, see paragraph 10 on page 8 of the Declaration of Covenants and Restrictions of Island Marina)*

The Dockmaster shall monitor all Vessel Owners utilizing the Marina and its facilities to ensure compliance with all Rules, Regulations and terms contained in the Dockage Agreements. *(For additional information, see paragraph 10 on page 1 of the Rules and Regulations of Island Marina)*

### **General**

The Dockmaster and the President of the Island Marina Boat Slip Owners Association Inc. (the "Association") shall have the sole discretion to determine whether a violation has occurred. All disputes, as to whether a violation has occurred, will be reviewed by the Board of Directors of the Island Marina Boat Slip Owners Association Inc. (the "Board").

The four attached rules shall be entitled "MOORING RULES" and are incorporated into the Association's Rules and Regulations. The Rules and Regulations are in effect and constitute a part of and are deemed incorporated into the Dockage Agreement.

Remedies for violations of these MOORING RULES shall be handled in the manner described for each individual Mooring Rule.

The Board may authorize the Association's Attorney to take legal action against any party in violation of these Mooring Rules in order to comply with the Modified Sovereignty Submerged Lands Lease that ultimately benefits the other Slip and Vessel Owners.

The Association may amend the Rules and Regulations (including these MOORING RULES) of Island Marina and shall provide notice of such amendments by posting a copy of the amendment on the Association's Bulletin Board.

Any fines or penalties received by the Association due to a vessel that is not moored in compliance with the MOORING RULES shall be charged and assessed to the Slip Owner.

### **Definitions**

**Mooring Piling:** The 18" diameter post located near the waterward boundary of the slip space. "Mooring Piling" is also referred to as a "Dolphin Pile" on various engineering drawings and charts prepared for the Island Marina.

**Spring Line:** A fore-and-aft line used to prevent a vessel from moving forward or astern while made fast to the dock.

**Tip-to-Tip Length:** The measurement from the tip of the anchor, bow or any other portion thereof that has the greatest extension, to the stern tip of the swim-platform or any other portion (including a dinghy) thereof that has the greatest extension. Measurement of the Tip-to-Tip length of the vessel may be completed by Island Marina personnel or by an independent source to be paid for by the Vessel Owner and will be used for determining compliance with these MOORING RULES.

**THESE MOORING RULES WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON APRIL 17th, 2003**

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**RULE # 1:** All Vessel Owners and Slip Owners shall be prohibited from and shall not allow any part of a vessel (including a dinghy) to extend waterward of the Marina's outboard mooring pilings when moored ("permitted slip boundary") except as defined in the following paragraphs:

- a) In certain instances, the outboard mooring pilings have been placed short of the permitted slip boundary thereby reducing the length of the permitted slip boundary ("reduced slip"). Mooring pilings that are positioned short of the permitted slip boundary are identified by a marking near the top on the inside surface of the mooring pilings. A diagram of all approved reduced slips and their markings shall be maintained in the Marina Office for review ("approved reduced slip").
- b) A reduced slip does not allow the Vessel Owner to fully utilize the permitted slip space that is identified in the Table of Permitted Boat Slip Lengths contained in the Declaration of Covenants and Restrictions of Island Marina.
- c) Therefore, if a vessel is moored in an approved reduced slip, those Vessel Owners will be permitted to utilize their permitted slip space as identified in the Table of Permitted Boat Slip Lengths contained in the Declaration of Covenants and Restrictions of Island Marina.

#### REMEDIES FOR ENFORCING RULE # 1:

- 1) Upon a violation of this rule (the "Violation"), the Dockmaster or his Agent shall serve a written "**Caution**" statement to the Vessel Owner either in person or by certified mail return receipt requested. The Violation shall be corrected within two (2) calendar days following notification to the Vessel Owner of the violation.
- 2) A second violation shall occur if the Violation is not corrected within the two (2) day period and a written "**Warning**" shall be issued. This written "**Warning**" shall explain the Violation and be mailed to the Vessel Owner and the Slip Owner if they are not the same person or entity, by certified mail return receipt requested. Additionally, a copy of the "**Warning**" notice shall be mailed to the Florida Department of Environmental Protection, Fort Myers office.
- 3) A third violation shall occur if the Violation is not corrected within seven (7) calendar days following notification of the second violation. Upon the occurrence of this third violation, the Vessel Owner and Slip Owner shall be in default of the Dockage Agreement and the Vessel Owner shall be given one (1) hour to remove the vessel from the Marina.
- 4) Should the Vessel Owner fail to remove the vessel within one (1) hour, the Dockmaster or his agent shall have the vessel towed to an off-site storage facility and the Vessel Owner shall be required to pay all towing and storage fees.

*(These remedies only apply when the Dockmaster is unable to reposition the "vessel in violation" from encroaching into State property. The Dockmaster shall enter all attempts to reposition vessels into his daily log. There shall be no penalty if the Dockmaster is able to cure the Violation by repositioning the "vessel in violation" so long as the Dockmaster is not required to reposition the same "vessel in violation" on multiple occasions. Repeated repositioning will be brought to the attention of the Board and fines may be levied.)*

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**RULE # 2:** When any vessel is moored, the stern or bow of the vessel shall not be in contact with any part of the docks. The "spring line" must prevent any part of the stern or bow of the vessel from touching or bumping any part of the docks.

#### REMEDIES FOR ENFORCING RULE # 2:

- 1) Upon a violation of this rule (the "Violation"), the Dockmaster or his Agent shall serve a written "**Caution**" statement to the Vessel Owner either in person or by certified mail return receipt requested. The Violation shall be corrected within two (2) calendar days following notification to the Vessel Owner of the violation.
- 2) A second violation shall occur if the Violation is not corrected within the two (2) day period and a written "**Warning**" shall be issued. This written "**Warning**" shall explain the Violation and be mailed to the Vessel Owner and the Slip Owner if they are not the same person or entity, by certified mail return receipt requested.
- 3) A third violation shall occur if the Violation is not corrected within seven (7) calendar days following notification of the second violation. Upon the occurrence of this third violation, the Slip Owner shall be in default of the Dockage Agreement and shall be assessed a penalty of one-hundred (\$100.00) dollars per calendar day for up to a maximum of ten (10) calendar days or until the Violation is cured.
- 4) Following the nineteenth (19<sup>th</sup>) day of the Violation, the Vessel Owner shall be given one (1) hour to remove the vessel from the Marina.
- 5) Should the Vessel Owner fail to remove the vessel within one (1) hour, the Dockmaster or his agent shall have the vessel towed to an off-site storage facility and the Vessel Owner shall be required to pay all towing and storage fees.

*(These remedies only apply when the Dockmaster is unable to reposition the "vessel in violation" from encroaching into State property and violating Rule # 1. The Dockmaster shall enter each repositioning of the vessel into his daily log. There shall be no penalty if the Dockmaster is able to cure the Violation by repositioning the "vessel in violation" so long as the Dockmaster is not required to reposition the same "vessel in violation" on multiple occasions. Repeated repositioning will be brought to the attention of the Board and fines may be levied. All costs of repair to any damage to the Association's Property [e.g. the dock, finger pier, plumbing, electrical, etc.] that is caused by a vessel that violates this rule shall be charged to the Slip Owner.)*

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**RULE # 3:** Any vessel moored in a slip at this Marina shall comply with the following requirements:

- a) Following the adoption of the Mooring Rules by the Board, all subsequent Vessel Owners shall enter into a Dockage Agreement with the Association for any vessel that is to be moored in a designated slip at this Marina and a member of the Board of Directors must approve that agreement.
- b) A subsequent Dockage Agreement shall not be approved for any Vessel Owner whose vessel does not comply with these Mooring Rules or any other requirements of the Association.
- c) A new Dockage Agreement shall be required and entered into for all existing Vessel Owners anytime the Vessel Owner changes their vessel or a slip location.
- d) The Tip-to-Tip length of the vessel approved for its' designated slip shall not be greater than the overall permitted slip length as identified in the Table of Permitted Boat Slip Lengths contained in the Declaration of Covenants and Restrictions of Island Marina.
- e) Following the adoption of these Mooring Rules by the Board, if an existing moored vessel assigned to a designated slip does not comply with the Mooring Rules ("non-compliant vessel"), the following remedies shall be complied with so the Board may allow said vessel to remain moored in that slip. Also, both the existing Vessel Owner(s) and Slip Owner(s) shall enter into a **HOLD HARMLESS AND INDEMNIFICATION AGREEMENT** with the Association for any non-compliant vessel.

### REMEDIES FOR EXISTING VESSELS MOORED PRIOR TO THIS AGREEMENT:

- 1) Existing moored vessels that are longer than the permitted slip length inevitably cause the bow or anchor of that vessel or any other portion (including a dinghy) to extend into common area dock space. The common area dock space is Association property and the Board has determined that it is necessary to penalize the Slip Owner for any vessel authorized to use that slip that encroaches one (1) foot or more into Association space until the vessel moored in that slip complies with these Mooring Rules. The penalty for encroachment onto Association property shall be as follows:
  - a) No penalty will be assessed if the encroachment into the common area dock space is less than one (1) foot so long as the "spring line" prevents the vessel from further encroachment.
  - b) A sixty dollar (\$60.00) penalty per month shall be assessed for any encroachment into the common area dock space for any distance between one (1) foot and less than two (2) feet so long as the "spring line" prevents the vessel from further encroachment.
  - c) A one hundred and twenty dollar (\$120.00) penalty per month shall be assessed for any encroachment into the common area dock space for any distance between two (2) feet and less than three (3) feet so long as the "spring line" prevents the vessel from further encroachment.
  - d) A moored vessel that extends three (3) feet or greater into the common area dock space shall never be authorized at any time and shall be removed from the Marina immediately. The Dockmaster is authorized to have this vessel towed to an off-site vessel storage facility should the Vessel Owner fail to remove the vessel immediately. Vessel Owner shall be required to pay all towing and storage fees.

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**RULE # 4:** Any vessel with a bow, anchor or any other portion thereof that extends into the Association common dock space must have that bow, anchor or portion thereof covered with a brightly colored cushioned protective device to aid in the safety of persons utilizing the docks.

#### REMEDIES FOR ENFORCING RULE # 4:

- 1) Upon a violation of this Rule, the respective Vessel Owner shall be notified in person or by telephone by the Dockmaster or his representative and shall remedy the violation within twenty-four (24) hours of the notification.
- 2) If the Vessel Owner cannot be contacted or if the Vessel Owner has not corrected the violation within twenty-four (24) hours, the Dockmaster shall remedy the violation by purchasing and installing a brightly colored cushioned protective device. The Slip Owner shall be charged and assessed the cost of the protective device. The Dockmaster will enter the incident in his daily log.
- 3) Upon a second violation of this rule by the same Vessel Owner, the Dockmaster will contact the Vessel Owner in accordance with the provisions of this rule. If the Vessel Owner cannot be contacted or if the Vessel Owner has not corrected the violation within twenty-four (24) hours, the Dockmaster shall remedy the violation by purchasing and installing another brightly colored cushioned protective device. The Slip Owner shall be charged and assessed the cost of the protective device. The Dockmaster will enter the incident in his daily log.
- 4) Upon the third violation of this rule by the same Vessel Owner within a three (3) month period, the Dockmaster will contact the Vessel Owner in accordance with the provisions of this rule. If the Vessel Owner cannot be contacted or if the Vessel Owner has not corrected the violation within twenty-four (24) hours, the Dockmaster shall remedy the violation by purchasing and installing another brightly colored cushioned protective device. The Slip Owner shall be charged and assessed the cost of the protective device. The Dockmaster will enter the incident in his daily log and assess the Slip Owner a two hundred dollar (\$200.00) assessment in addition to purchasing and the installation of the protective device. Notice of this assessment shall be mailed to the Slip Owner by certified mail return receipt requested. Should another violation of this rule occur following expiration of a three (3) month period, the Vessel Owner shall be treated as if he/she has not previously violated this Rule.
- 5) Upon the fourth and subsequent violations of this rule, a two hundred dollar (\$200.00) penalty shall be assessed against the Slip Owner in addition to the cost of purchasing and installing another brightly colored cushioned protective device so long as the fourth and subsequent violations occur within a three (3) month period of the third or subsequent violations of this rule. Should a fourth or subsequent violation of this rule occur following expiration of a three (3) month period, the Vessel Owner shall be treated as if he/she has not previously violated this Rule.
- 6) The Vessel Owner and/or Slip Owner is not relieved of any liability due to the Dockmaster's installation of a protective device. The purpose of the installation is to minimize any damages that may occur due to the Vessel Owners' vessel encroaching into the Association common dock space.

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