

Port of Friday Harbor – Business Moorage Policy

PURPOSE

The primary purpose of the marina is to provide a safe harbor for commercial fishing, recreation, transportation and excursion vessels and seaplanes. The prime directive of the Port of Friday Harbor is to strive to maintain a healthy economy with family wage jobs, and to improve the social, economic and natural environments of the island.

The purpose of the Business Moorage policy is to allow appropriate water dependent businesses to provide a diverse range of marine services to guests and residents of the Port District. The Port will strive to serve as many different businesses and business owners as possible with the limited space available.

This policy provides an orderly way to assign moorage, business moorage and operate marine businesses in the marina. It sets limits for the amount of space that can be used for business purposes and the uses in those slips.

This Policy does not create any rights in anyone other than the Port. It cannot be used as a basis of any claim against the Port.

BUSINESS DEFINITIONS

Bare Boat Charter: Rental of a charter boat that has a sleeping cabin and a head without the accompaniment of captain, crew or owner.

Boat Rental: Renting a vessel, for a fee, for a day trip of less than 24 hours.

Boat Brokerage: A business that acts as an agent to rent, charter, or offer to sell vessels.

Commercial Marine Use: All uses of a boat, pier, dock, float, breakwater or any portions of property belonging to the Port of Friday Harbor which are intended to or do in fact produce revenue of any type, including the exchange of money, goods or services.

Cruise Ship: A vessel that brings passengers from elsewhere to Friday Harbor for either a day or overnight.

Excursion Vessel: Skippered vessel that takes passengers on sightseeing or educational trips or other types of excursions. Trips begin and end in Friday Harbor. Vessels may or may not be based in Friday Harbor.

Exempt Commercial: Commercial fishing vessels that do not fish in the marina, passenger vessels that do not load/unload in marina or landing craft that do not load/unload in the marina. The sole use of the marina is for moorage of the vessel.

Fishing Charter: A charter vessel that is registered with Washington State Department of Fisheries and has obtained a Charter Vessel Fishing License. Skipper must be a USCG captain.

Kayak/Non-Motorized vessels: Guided kayak tours, rental of kayaks, dinghies, skiffs, canoes, paddle boats, or other non-motorized craft.

Marine Salvage, Towing or Diving: Primary service is diving charters, diving instruction, compressed air sales, boat rescue, towing or vessel repair.

Skippered Charter: Rental of a charter boat with a sleeping cabin and a head in the accompaniment of captain, crew or owner.

Training Vessel: A vessel owned or operated by a non-profit organization for the purposes of teaching or training. Captain must be USCG licensed.

Transportation Vessel: A vessel that transports passengers from Friday Harbor to elsewhere or vice versa on a regular daily advertised schedule.

Water Dependent Business Use: A business that because of its function and form must be located on the water to exist. The fact that a particular endeavor has conducted its operation from a vessel in the past is not proof

that the business is water dependent. It must be shown that the business function can only exist on the water to be water dependent. If a use is not addressed in Federal, State, County or Town laws or regulations the Port Commission decision shall be the final word of whether a business use is water dependent.

6-pack/water taxi: A vessel limited to carrying 6 passengers or less. Captain must be USCG licensed.

QUALIFICATION FOR BUSINESS MOORAGE

Port Documents - Prior to occupancy of moorage slip, the business owner will sign the Port's Business Moorage Agreement and certify they've reviewed and agreed to the Marina's Rules and Regulations, which include the Port's Best Management Practices.

Licenses Required - Vessels must have all applicable State, Federal and Town licenses for the proposed business.

Insurance Required - Vessel Owners shall procure and maintain a comprehensive general liability policy covering all claims for personal injury (including death), property damage (including all real and personal property) and pollution liability arising out of the intentional or negligent acts of the Vessel Owner or breach of the Moorage Agreement by the Vessel Owner. The limits of liability shall be not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate. The foregoing insurance policy(s) shall name the Port as an additional insured. The Vessel Owner Liveaboard shall provide an Additional Insured Endorsement as evidence of the Port's additional insured status.

Marine Commercial License Required - Vessels must be assigned to a slip and the owner must have in their possession a signed or fully executed Marine Business License Agreement from the Port of Friday Harbor before business can be conducted.

Business Ownership - Slips are assigned to the business owner operating the business or the vessel owner rather than to the business itself.

BUSINESS MOORAGE ZONES

See exhibit 'A' for map of the following zones.

Zone BW/PT (Breakwater Passenger Terminal)

This zone, designated by the Harbormaster, consists of portions of the breakwater up to 420 feet which may be used for loading and unloading passengers. A separate area is designated for seaplane loading and unloading. The seaplane loading float shall not be used for any other marine terminal uses. The BW/PT zone will be used specifically for the loading and unloading of passengers from cruise, excursion, training and transportation vessels.

Zone F/D (Fuel Dock)

This zone includes all of the moorage and leases associated with fuel sales and moorages on south side of Fuel Dock that are used for separate commercial businesses.

Kayak operations in this area are limited to one business with prior approval from the Harbormaster. Operator must be able to demonstrate through previous operations in the marina or letter of reference to establish record of safe and appropriate experience. All kayak routes must traverse north of the fuel pier.

Zone M/D (Main Dock)

This zone includes five 40' slips at the shoreward end of the main dock. This zone also includes slip K-13. Slip K-13 has a grandfathered use. This zone is restricted from use for kayak rentals and all non-motorized vessel or charter operations.

Zone SSL (Spring Street Landing)

This zone includes all of the floats associated with the SSL Facility, except the Breakwater float. This zone is restricted from kayak rentals and all non-motorized operations or charters.

SSL/PT (Spring Street Landing Passenger Terminal)

This zone consists of 185 feet of breakwater to be used for the sole purpose of loading/unloading passengers. Transportation vessels that operate daily between Friday Harbor and other locations will be given first priority for scheduling in this area.

Zone WDK (W-Dock Kayak Zone)

This zone includes and is part of the dry dinghy storage, skiff tie up shallow water area and includes slips W-01 and W-02.

ASSIGNMENT OF BUSINESS MOORAGE

Assignment of Port facilities for business purposes is available through the Business Moorage Wait list process. A waiting list is maintained for marine businesses separately from the recreation moorage wait list. This list is organized according to the application date and the length of the vessel. Due to the variability of slip, vessel and business needs the Harbormaster will assign moorage with regard to business and vessel characteristics. In addition, safety and security will be considered in the assignment of moorage.

Waitlist Application Procedures

A business moorage applicant must complete a Business Moorage Waitlist form and pay the non-refundable Waitlist fee (See Port of Friday Harbor's Fees & Charges for current fee amount).

Applicants are responsible for updating their contact information with the Harbormaster in the event of any changes.

In order to maintain accuracy of the Business Moorage Waitlist information, the Harbormaster will contact each applicant annually at the beginning of the calendar year. A letter will be sent to every applicant and must be returned to the Harbormaster with current contact information. The applicant must respond and pay the Annual Waitlist Fee (See Fees & Charges) to remain on the Waitlist.

When a Business is on the Business Moorage Waitlist

Approved Marine Businesses shall have priority for the assignment of slips up to the Business Space Limits within Marine Business Zones M/D, SSL, WDK & F/D. Business Moorage uses shall have a separate waiting list. When a licensee wants to change their slip license from a Business use to a non-business moorage license, the slip will first be made available to the next person on the Business Moorage Waiting list. Anyone on the Business Moorage waiting list who has an approved business shall have a chance to be licensed into the slip.

When there is not a Business on the Business Moorage Waitlist

In the event, there are no applicants on the Business Moorage Waitlist and moorage is available in the Business Moorage Zone, the Harbormaster may assign the vacant slip to an applicant on the Recreation Waitlist on a temporary basis. When a Business Moorage Waitlist is reestablished, the Harbormaster will relocate the recreation customer outside of the Business Moorage Zone.

All business slips assigned as of March 1st are obligated in the slip through December 31st of the same year or will pay the summer sublet rate for the months of June, July and August.

Notification of slip availability

When a slip within the Business Moorage Zone becomes vacant, moorage will be offered to the first business on the waitlist. Notification will be sent by the Harbormaster via email, phone or letter. When moorage is offered by the Harbormaster, the applicant has 20 days to respond. If there is no response the applicant will be removed from the Waitlist and the next person on the Waitlist will be notified of slip availability. Applicants have the option to refuse the slip offer and will then be moved to the bottom of the Waitlist with the date of refusal as their new date of application.

Brokerage Temporary Assignment

If permanent moorage is available and no recreation moorage waitlist exists for a slip category, the slip may be used for brokerage. Brokerage moorage will be on a temporary basis until recreational demand for the slip exists. A separate moorage agreement will be signed and include the specific use of the slip as brokerage. When the brokerage vessel is sold, it is the responsibility of the customer to notify the Harbormaster of the sale. The typical 15 day notice to terminate requirement will be waived for temporary moorage use. The vessel sold must vacate the temporary slip within 2 weeks of the sale.

USE OF MOORAGE SPACE

Bare Boat Charter

Boats in this category are owned either by an individual or by a charter company and are leased to others. Boats that are chartered must leave the marina during the charter period and may not be used as dockside accommodations. Charters lasting 3 or more days may spend one night aboard vessel dockside at the beginning or end of the trip. . Bare Boat Charters will pay passenger fees and meet Qualifications for Business Moorage (see Section 3).

A Bare Boat Charter vessel must be piloted to and from the assigned slip by an operator experienced in handling the boat within the confines of the marina.

Boat Sales and Brokerage Boats

A slip holder may list their boat for sale while it remains in the slip. Once the vessel is sold, the new owner has 30 days to remove it from the slip or arrange to sublet a slip with the Harbormaster if one is available. If slip holder retains their slip and places a new vessel in it, the vessel must remain in that slip and licensed to the owner for 90 days before it can be advertised for sale.

Brokerage Businesses may use the slips to display boats for sale or charter. Signs may be displayed according to the marina sign policy (see Section 11). All boats in brokerage or charter business slips must be clearly identified or registered with the Harbormaster or they will be considered as trespassers and will be impounded.

Summer overnight and winter monthly guest moorage slips may be used for brokerage and boat sales if space is available. All contracts with a term over 30 days must have a deposit on file equivalent to one month rent.

Grandfathered Charter Boats

Grandfathered Charter Boats are vessels that are properly licensed with the Port for charter over 50 feet in length before January 1, 1989. These vessels are not required to leave the marina on every charter and may be used as dockside accommodation. Grandfathered Charter Boats are subject to the terms and conditions of the business assignment agreement.

Skippered Boat Charters

Boats in this category are chartered for a voyage with a captain. Passengers may board and disembark in the loading area or in the vessel's assigned permanent berth in Zones M/D & SSL. Vessels may not be used as overnight accommodations at the dock and must leave the harbor during charter. Charters lasting 3 or more days may spend one night aboard vessel dockside at the beginning or end of the trip.

Passenger Vessels

Excursion vessels are passenger-carrying boats with more than 6 passengers which begin and end each tour with the same passengers. Excursion vessels may load and unload passengers from the loading areas or from their assigned slip in Business Zones BW/PT, M/D & SSL/PT.

A marina customer who does not have Business Moorage may load or unload passengers from the designated Loading Zone as long as they maintain insurance and permits as required by the Business Moorage Policy. These customers must furnish a business activity report and must pay the passenger fee as described by this policy (See Schedule of Fees and Charges).

Cruise, excursion, transportation and training vessels that do not have permanent moorage at the Port of Friday Harbor will be charged a fee (See Schedule of Fees and Charges).

Boating School Charter

A boating school business may apply for an annual license to allow students in their programs to stay on the vessel for a maximum 3 nights while engaged in taking boating courses. The license will be reviewed at the end of each calendar year and there is no guarantee that it will be renewed. Notification must be made to the marina office when overnight guests are aboard.

Non-Based Business Use

All businesses that operate within the Marina but do not lease space from the Port must check in with the Harbormaster, furnish a Town of Friday Harbor Business License and maintain \$1 million liability insurance policy with the Port listed as additionally insured.

SEAFOOD SALES ON MARINA PREMISES

Seafood Sales Market (Barge)

Use: The primary purpose of the business is to be a wholesale buyer of local seasonal seafood products with the understanding that 20% or less of the products available for sale are non-local or non-seafood items.

Limits/Restrictions: The Port allows for one fish sales market in the marina, located in Zone M/D. The use of the aquatic lands and shoreline are subject to both state and local laws. The Washington State Department of Natural Resources and the Town of Friday Harbor also have authority and may overrule Port policies as they pertain to non-water dependent uses.

Permits and Licenses: The Seafood Sales Market is required to be registered with the Washington State Department of Licensing, must hold a Wholesale Fish Dealers License, a Food Processor's License and a San Juan County Health permit.

Commercial Fishers

The Port will make every effort to accommodate commercial fishers who are actively engaged in the commercial fishing business to sell their catch from their vessel. However, a wholesale fish dealer's license is required for "Fishers who land and sell their catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state" (RCW 77.65.280).

Requirements: Fishers must submit a current season's commercial fishing license, current season's fish ticket, landing permits or other proof that the product to be sold is in fact the applicant's catch and obtain a Town of Friday Harbor Business License. Sales are restricted to the fish caught by fishers on their own boat.

MOORAGE MANAGEMENT

Fee Policy for Business Moorage Uses

Marina Businesses may be charged a higher rate than permanent non-commercial moorage due to the extra demands that business activities place on the marina facilities and staff.

Security Deposit

Security deposit for each business will equal one month of commercial moorage rent plus leasehold tax per slip.

Maximum Space Permitted to a Single Business

No single business shall be permitted to use more than a total of 250 lineal feet of moorage space in the entire Business Moorage Zone. This maximum space is not applicable to Boat Brokerage. If vacancy exists in Business Moorage Zone as of May 1st the space may be assigned to any business regardless of the maximum space provision. This space may be reassigned to another business through the waitlist process after September 30th.

Vessels in business moorage slips are allowed a maximum of 2' of overhang and may not reduce the fairway width to less than 1.75 of the slip length.

The Harbormaster reserves the right to assign or transfer businesses renting more than one slip into contiguous moorage spaces in order to create contiguous slips for other business opportunities.

More Than One Boat in a Single Slip

More than one boat may use a single slip as long as the boats do not occupy more than the length and breadth a single vessel would normally be permitted to occupy in that slip. The customer will be charged whichever is greater, the combined boat lengths or the slip length. Boats that are not rafted or side-tied shall be charged the slip length or the total length of the vessels in the slip. Businesses that raft vessels together between slips will be charged for additional width. If a customer intends to moor two or more vessels in a slip, a written request must be submitted to the Harbormaster prior to the vessel occupying the slip.

Parking

Business Moorage customers may purchase one parking permit for the Port's upper parking lot per business moorage slip per the adopted Fees and Charges Schedule. Permits for the Port's remote lot are available to businesses whose customers may need to park for more than 24 hours.

Corporate, Multiple and Partner Ownerships

In order for an individual to obtain a business moorage slip, the business customer must adhere to the following provisions:

- a) In the event the business owner does not own the business vessel, the contact information for the vessel owner is required on the Business Moorage Agreement in addition to the business owner's information.
- b) All parties involved as partners must be listed on the ownership papers.
- c) If a partnership in a vessel exists only those partners who have gone through the waitlist process may obtain rights to the moorage in the event of a change in ownership.

Before any moorage agreement will be issued for business moorage for a vessel owned by a partnership, corporation, joint venture, or trust, the moorage customer must submit ownership documents for approval. The Port recognizes the following documents as acceptable proof of partnership:

- a) Washington State Registration listing all parties as owners in the vessel, accompanied by a partnership agreement clearly outlining each partner's percentage of ownership.
- b) Coast Guard documentation listing all parties as owners in the vessel and percentage of ownership.

Change of Stated Information

The Business Moorage customer shall notify the Harbormaster of any change in the information set forth in the Agreement and will execute a new agreement. Failure to comply with the provisions of this paragraph shall constitute grounds for termination of the Moorage Agreement.

Business Activity Report

All transportation, excursion and cruise operators (including 6-pack operators) are required to report monthly to the Harbormaster the number of passengers accommodated by each operator during that period. The report must be submitted by the 15th of the following month or a late fee will be charged. This fee is established in the Port of Friday Harbor's schedule of Fees and Charges.

Renewal of Business Moorage Agreement

Business Moorage Agreements must be renewed annually before March 31st. Commercial Moorage Agreements shall be renewed if the business continues to operate to the benefit and in the interests of the Port District and

the Town, has maintained all insurance and required licenses, and has continued to pay Business Moorage Fees. The Port reserves the right to check the activity of businesses operating within the marina.

Rental for Liveaboard or Overnight Rental in the Marina

Vessels may not be rented, leased or used for liveaboard or overnight rental purposes. All Charter vessels must leave the marina or they will be considered overnight rentals. Only owners and crew members of vessels are permitted to live aboard vessels in the marina, subject to liveaboard regulations, agreements, quotas and fees.

TRANSFER OF BUSINESS MOORAGE AGREEMENTS

Business Moorage Sublet Prohibited

Only Business Moorage licensees may operate marine businesses in the marina. Only the vessel licensed to a slip may be used in that slip for a marine business; however, brokerage slips may be used for displaying different vessels, so long as they are for sale. No Marina Business slip may sublet to another for any commercial use.

Sublets to non-business vessels whether daily or monthly may only be done with permission from the Harbormaster. All sublet agreements will be Port issued contracts signed and billed by the Port. Sublets to non-business vessels may be up to six (6) months maximum and only in the off-season October through April. Subletting of a business slip without using this process is grounds for termination of moorage.

Transfer Authority

The Port will consider the assignment of Business Moorage if the transfer benefits the marina and Port District. The right to assign Business Moorage contracts rests entirely upon the judgment of the Harbormaster.

Requirements to Transfer

A Business Moorage customer may submit a written request to assign their Business Moorage Agreement to the prospective purchaser only if the moorage contract account has remained current and the customer has been in compliance with all Marina and Business Moorage Policies and license provisions for the previous 12 months and the business has remained operational for the previous 12 months.

Transfer Documents

A written petition to assign a Business Moorage space must include the following:

1. A disclosure of the proposed sale price of the business that includes the costs allocated to the various aspects of the business. No value can be allocated to the moorage contract.
2. A written statement by the proposed purchaser that no compensation was given for the assignment of the contract along with a statement of understanding, in the words of the purchaser, that all moorage contracts are month to month with no implied extensions, continuations or assignments outside of the moorage agreement.
3. Payment of the first and last month's rent, signed business moorage contract, business plan, hazardous material and garbage plan. Rent payment will be returned if the assignment is denied.

SIGNS

All signage is subject to the Port of Friday Harbor Signage Policy.

HAZARDOUS MATERIAL

Declaration of Hazardous Material

Business Moorage customers must list all dangerous and hazardous materials that may be used and/or disposed of when doing business on Port-owned facilities. An estimate of quantities of these materials must be included on the list. This list submitted to the Harbormaster must be updated each year to reflect any change in hazardous or dangerous material use. This is included in the Renewal of the Business Moorage Agreement.

Business Moorage customers must submit a hazardous and dangerous material waste disposal plan. This plan and the hazardous material list will be attached to each business contract.

Storage

Storage of hazardous or dangerous materials on docks or upland Port property is prohibited. Hazardous waste is defined by the 1991 San Juan County Hazardous Waste Management Plan, as any liquid, solid, gas or sludge waste that exhibits the properties of toxicity, flammability, corrosiveness, or reactivity. This includes antifreeze, used motor oil, wet-cell batteries, gasoline, asbestos, photo-chemicals, pool chemicals, pesticides, solvents, thinners, paints, holding tank chemicals, transmission fluid, diesel, kerosene, brake fluid, varnish, weed killers, or wood preservatives.

GARBAGE

All Business Moorage customers must submit a garbage disposal plan. This plan must include an estimate of quantities and types of solid waste to be disposed of. Garbage generated by Business Moorage customers may be disposed in Port marina dumpsters and must be paid for as indicated in the Schedule of Fees & Charges. Fees paid for Business Moorage do not include the cost of garbage disposal.

SEWAGE DISPOSAL

Sewage may not be discharged overboard anywhere within the marina or surrounding waters. Business operators must provide proof of holding tank disposal. Vessels must comply with all local, State and Federal regulations regarding sewage disposal.

TERMINATION OF BUSINESS MOORAGE

Business Moorage licenses will be terminated under the following conditions after review by Port staff:

1. Non-payment of moorage fees. Accounts that are 90 days past due will incur an increase of their security deposit to equal three months of moorage plus leasehold tax.
2. The licensee violates the same marina rule three times in six months. Violation notices will be issued in writing by Port staff and a copy will be kept in the Commercial Moorage Licensee's file. In the event three or more complaints are received about this business, Port staff will review and report to the Commission.
3. Failure to maintain insurance requirements.
4. When a Marine Business interferes with other customers' use and enjoyment of the marina, as reasonably determined by the Port.
5. Failure to maintain registration permits to operate a business.
6. When a business proves not to operate in the public interest or its services are substandard and become a detriment to the marina, as reasonably determined by the Port.
7. When the business places greater demands upon the marina and marina staff than the Port can reasonably expect to support, as reasonably determined by the Port.
8. When a business or vessel violates Federal, State or Local laws or is improperly licensed or registered.

The Port or the Business Moorage customer has the right to terminate the account with 15 days advanced written notice.

Failure to comply with the Marina Rules and Regulations or the requirements of this Policy shall be grounds for immediate termination of the Business Moorage license by the Port.

PERIODIC REVIEW

The Port may periodically review the Business Moorage Policy. The Port has the authority to change or update this policy as deemed necessary. It is the responsibility of Business Moorage customers to review the updated policy.