

ORDINANCE NO. 2018-603

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE CHAPTER 21 "ZONING" BY AMENDING ARTICLE III "DISTRICT REGULATIONS," DIVISION 4 CREATING SECTION 21-146.3 RELATING TO PRIVATE MARINAS IN THE PC (PRIVATE CLUB) DISTRICT AND BY AMENDING ARTICLE VII "BOATS, WATERWAYS, BEACHES AND DOCKING FACILITIES," DIVISION 2 CREATING SECTION 21-438 RELATING TO EXISTING PRIVATE MARINAS IN PC (PRIVATE CLUB) DISTRICT; PROVIDING FOR CONFLICTS, SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, Bal Harbour Village proposes to enter into a settlement agreement with Bal Harbour Yacht Club, Inc., Park Preservation, LLC, and Flamingo Way Enterprises, LLC, (collectively "Yacht Club"), and other parties; and

WHEREAS, the settlement agreement, in part, involves the ongoing operation of the Bal Harbour Yacht Club Marina located at 200 Bal Bay Drive which is an existing private marina properly operating in the PC (Private Club) Zoning District; and

WHEREAS, it is in the public interest of the Village to codify and memorialize the existing rules and operational standards which are presently in force for the Bal Harbour Yacht Club Marina so that they are part of the PC Zoning District regulations, and can be enforced as Village regulations.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

Section 2. **Code Amended.** That Chapter 21 "Zoning" is hereby amended to read as follows¹:

¹ Additions to existing text are indicated by underlining; deletions are indicated by ~~striketrough~~.

Chapter 21. Zoning

ARTICLE III. DISTRICT REGULATIONS

Sec. 21-146.3. Private Marinas in PC District.

Private marinas are permitted to be located within the boundaries of the PC District, and shall comply with the requirements of Section 21-438. If slips in a private marina are rented, the minimum slip rental duration is six consecutive months.

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ARTICLE VII. BOATS, WATERWAYS, BEACHES AND DOCKING FACILITIES

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Section 21-438. Private Marinas in PC District.

(a) Definition. For purposes of this section, "boat" is defined as any vessel, barge, personal watercraft, whether or not it is propelled or powered by machinery, which is used or capable of being used as a means of transportation on water.

(b) Business Tax Receipt. Prior to annual payment of the business tax for a "Service" use under the "General" category, in accordance with Article II of Chapter 9 of this Code, Marinas regulated by this section must submit an affidavit signed by an authorized representative of their owner in the form approved by the Village attesting that the Marina is a noncommercial private facility, and will be operated in compliance with the requirements of the PC District, this section, and the Village Code.

(c) Regulations. Private Marinas in the PC District shall conform to the following criteria:

- (1) Only those boats which are specifically designed for and capable of navigation of open waters, whether by sail or motor, are permitted to dock in the Marina. Boat slips may be rented only to members of the private Marina, and each dockage contract shall be good for one boat only for each slip, and shall be of at least six consecutive months' duration.
- (2) A Dockmaster shall be available onsite from 9 am to 5 pm at least six days a week, and shall be on call and able to respond to inquiries within one hour at all other times.
- (3) Gasoline fueling is prohibited in boat slips. Diesel fueling in boat slips is only permitted through the Dockmaster between the hours of 8:30 A.M. and 5:30 P.M.

- Monday through Saturday, and may not occur at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day.
- (4) Boat owners are not permitted to reside on their boats or to allow others to live on boats, and may not file a declaration of domicile pursuant to Section 227.17, Florida Statutes, for their boats in the Marina.
 - (5) Each boat owner must register with the Dockmaster of the Marina, who will be responsible for registering boat owners with the security gate on Harbour Way.
 - (6) Boats that are under 90 feet long may only have two crew members stay overnight on the boat. Boats that are between 90 and 120 feet long may have three crew members stay overnight on the boat. Boats that are over 120 feet long may have more than 3 crew members stay overnight on the boat with special permission by the Dockmaster. If the boat owner is present on the boat, there is no limit on the number of crew members that may stay overnight. Boat owners shall register the crew members with the Dockmaster, who will register them with the security gate on Harbour Way. Crew members may not have guests in the Marina.
 - (7) Drilling into the Seawall is prohibited.
 - (8) Dumping or discharge of sewage or other tanks while in the Marina is prohibited.
 - (9) Fishing, cleaning, gutting, and disposing of fish or other marine life are prohibited in the Marina.
 - (10) Dumpster shall be utilized for trash, and no trash shall be placed outside of dumpsters. Pursuant to Section 16-34 of the Village Code, all doors or gates to such screens or enclosures shall be kept closed at all times except during active Trash and Garbage disposal or pickup.
 - (11) In accordance with Chapter 11 Article II "Noise" of the Village Code, it shall be unlawful for any Person to make, continue or cause to be made or continued any loud, excessive or unusual Noise Disturbance. Furthermore, the following authorized repair and maintenance activity on boats is allowed only between the hours of 8:30 A.M. and 5:30 P.M. Monday through Saturday, and shall not occur at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day:
 - a. Work ordinarily required to keep the boat seaworthy and in good condition.

- b. Minor repairs and routine maintenance, provided all such work is done within the interior confines of the boat and not carried out, in any manner on a boat hull or upon Marina piers.
- (12) Boat owners are prohibited from running their auxiliary motors during the night to charge batteries.
- (13) Chartering, commercial use of a boat, and advertising commercial use of a boat moored in the Marina are prohibited.
- (14) No parking is allowed on the grass. At least one parking space shall be provided per boat slip. Parking of trailers, boat trailers, or commercial vehicles is prohibited, except for the purpose of making deliveries. Parking of other motor vehicles shall be in a designated parking space. Vehicles shall not be washed at the Marina.
- (15) Extensive overhaul repairs or painting of boats in the Marina is prohibited.
- (16) The following boat repair and maintenance activity is prohibited at all times:
 - a. Painting of any exterior portion of a boat, as well as scraping or sanding of paint on any portion of a boat.
 - b. Any major repair including, but not limited to, the construction, repair, retrofit, rebuild or replacement of structural members or portions of a boat or propulsion system.
 - c. Use of welding equipment, burning torch or other open flame apparatus.
 - d. Sandblasting

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Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word Ordinance shall be changed to "Section" or other appropriate word.

Section 5. **Conflict.** That all sections or parts of sections of the Village Code, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this Ordinance shall be effectively immediately upon adoption on second hearing.

PASSED AND ADOPTED on first reading this 13th day of December, 2017.

PASSED AND ADOPTED on second reading this 30th day of January, 2018.



Mayor Gabriel Groisman

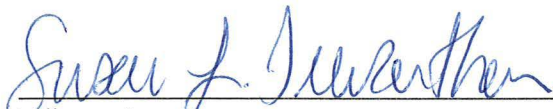


Attest:



Dwight S. Danie, Village Clerk

Approved as to form and legal sufficiency:



Village Attorney

Exhibit C

Rules and Regulations Governing Dockage

**ALL MEMBERS SIGNING DOCKAGE AGREEMENT MUST PAY THEIR DOCKAGE
UPON SIGNING AGREEMENT.**

1. Members requesting dockage will be assigned space by the Dockmaster. The Club reserves the right to change slips at their discretion. Boat under contract is the only boat allowed in contracted slip. Only one boat per slip allowed.
2. Memberships in the Bal Harbour Yacht Club are for one year periods, and membership must be renewed annually. Only members can enter into dockage contracts.
3. Dockage contracts must be for periods of no less than 6 months. There shall be no short term dockage contracts that are for periods of less than 6 months.
4. Only those boats that are specifically designed for and capable of navigation of open waters, whether by sail or motor, may dock in the Yacht Harbour.
5. Boats are prohibited by local fire regulations to gas while in harbor. Diesel fueling only permitted through the Dockmaster, between the hours of 8:30 am and 5:30 pm Monday through Saturday and may not occur at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day.
6. Members are not permitted to live on boats or to allow others to live on boats, and may not file a declaration of domicile pursuant to Section 227.17, Florida Statutes, for their boats in the Yacht Harbour. Members shall be permitted to stay overnight on their boats but shall not reside on their boats.
7. Electric meters are installed at each dock. Boat owners will be charged according to their usage.
8. Upon docking, the boat owner must register with the Dockmaster, who will register all persons at the Marina with the security gate on Harbour Way. Boats are required to be docked bow-in to protect the "berm" at base of sea wall unless otherwise specified by the Dockmaster. Captains and owners are requested to notify the Dockmaster who will notify the security gate when leaving, even for a short period, so that mail and phone calls can be handled properly, and vehicular access through the gate can be properly controlled.
9. Each boat owner is eligible to receive two E-Z Go Passes for his or her personal use only and for the period that a dockage agreement is in effect only and on the condition that the E-Z Go Passes may only be issued to vehicles which are registered under the same name as the boat owner, a spouse, or immediate family member. The passes will be deactivated at the conclusion of the dockage agreement.
10. For boats which are less than 90 feet in length, up to two (2) crew members may stay overnight on the boat. For boats which are more than 90 feet and less than 120 feet in

length, up to three (3) crew members may stay overnight on the boat. For boats which are more than 120 feet in length, more than three (3) crew members may stay overnight on the boat with special permission by the Dockmaster. If the boat owner is present, there is no limit on the number of crew members who may stay overnight with them. Boat owners shall register the crew members with the Dockmaster, who will register them with the security gate on Harbour Way. Only registered crew members may be inside the gated community past 6PM. Crew members may not have guests in the Marina.

11. All Dock Boxes installed at Marina will become the property of Marina at signing of this contract. Dock Boxes will not be moved.
12. Drilling into Seawall is forbidden.
13. In the event of a hurricane or storm, all boat owners remaining in Marina will be responsible for all damages caused by their boats.
14. Any dumping or discharge of sewage or other tanks while in Marina is prohibited, offender will be expelled from Marina and Coast Guard notified.
15. Should a device be found that will correct a possible electrolysis problem, or assist in the elimination of a possible electrolysis problem – then we may request the cooperation of the yacht owners in installing same or in having tests made to ascertain whether a specific yacht has an electrolysis problem.
16. Any infractions of the rules of the Bal Harbour Yacht Club will subject the offender to censure or expulsion.
17. A copy of the boat registration must be submitted with signed contract.
18. Washing of automobiles at the Basin is prohibited.
19. No fishing is allowed in the Yacht Basin. No cleaning, gutting and disposal of fish or other marine life on Marina property.
20. Dumpster is on shore and must be used neatly. No trash shall be placed outside Dumpster. Village regulations require that all garbage be wrapped. The parkway between the inner road and the sea wall cannot be used to store trash or property of any kind.
21. This contract is binding and Club does not issue refunds on any unused time remaining on the dockage.
22. Creation of loud noise, of any kind, that disturbs residents is forbidden. Boat owners are not permitted to run their auxiliary motors during the night to charge batteries. The Marina and all boats shall comply with the Noise regulations for Residential Neighborhoods in Article II “Noise” of Chapter 11 “Nuisances” of the Village Code of Ordinances.
23. No chartering or other commercial use of boats, or representation of a boat as a place of business or a professional or other commercial enterprise, is allowed.

24. NO PARKING is allowed on the grass. Parking spaces are indicated on the roadway. Parking of trailers, boat trailers or trucks shall not be permitted in the area except for the purpose of making deliveries and this should not obstruct movement of traffic on the roadway. All vehicles must be parked in the designated parking area.
25. No extensive overhaul repairs or painting is to be done on the boats while in the Yacht Harbour. Dock personnel are not permitted to start engines, move boats, or engage in boat repairs, except in emergencies and then only to the extent necessary to resolve the emergency.
26. In conformance with Chapter 11, Article II of the Village Code for residential neighborhoods, the following authorized repair and maintenance activity on boats is allowed only between the hours of 8:30 A.M. and 5:30 P.M. Monday through Saturday, and may not occur at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day:
 - a. Work ordinarily required to keep the boat seaworthy and in good condition.
 - b. Minor repairs and routine maintenance, provided all such work is done within the interior confines of the boat and not carried out, in any manner on a boat hull or upon Marina piers.
27. The following repair and maintenance activity on boats is prohibited at all times:
 - a. No painting of any exterior portion of a boat or the scraping or sanding of paint on any portion of a boat.
 - b. No major repairs to boats including, but not limited to the construction, repair, retrofit, rebuild or replacement of structural members or portions of the boat or propulsion system.
 - c. No use of welding equipment, burning torch or other open flame apparatus on boats.
 - d. No sandblasting on boats.

I, the undersigned, have read the above Rules and Regulations Governing Dockage and hereby agree to comply with such rules and regulations during the period of the lease herein.

Lessee's Signature

Guest Signature (as required)

DATE

THE DOCKMASTER IS ON DUTY FROM 9:00 A.M. – 5:00 P.M. EVERY DAY EXCEPT
MONDAY, AND IS ON CALL AND ABLE TO RESPOND TO REQUESTS WITHIN AN
HOUR AT ALL OTHER TIMES

NO WAKE PLE

