



**5492 South Harbor Avenue • P.O. Box 872
Freeland, WA 98249**

**Phone: 360-331-5494 Fax: 360-331-7525
www.portofsouthwhidbey.com**

SOUTH WHIDBEY HARBOR REGULATIONS

I. INTRODUCTION

A. Purpose:

The Board of Commissioners of the Port District of South Whidbey Island have enacted these South Whidbey Harbor Regulations (“Regulations”) in order to promote the safe and efficient operation of the South Whidbey Harbor and to provide equitable service for boaters and the public.

B. Notification:

Visitors and users of the facility shall acquaint themselves with these Regulations, and it is the user's responsibility to obtain a copy of the Regulations from the Port or Harbormaster. Copies will be made available in the Harbor Office for all interested parties. It should be noted that posted “Rules” are simply a brief version of these Regulations, and in the case of conflict, the Regulations shall have precedence.

C. Application:

1. Use of the facility and/or moorage constitutes agreement to comply with these Regulations, and all occupants of Harbor property shall be bound by them. Failure to adhere to these Regulations will result in moorage termination
2. Signature of applicant on a Harbor Moorage Agreement shall constitute applicant's agreement to become familiar with South Whidbey Harbor Regulations, and agreement to comply with same, but moored boats and occupants of Port property shall be bound by said Regulations whether or not they have signed such application or Agreement. Failure to adhere to these Regulations, Policies and Procedures will result in moorage termination.
3. All persons present on Port or Harbor facilities are subject to and shall comply with all verbal or written instructions, issued or posted by the Port Commission or its designated representatives, the Harbormaster and the Port Manager.

D. Communications:

Harbormaster may be contacted via VHF Radio Channel 16 & 66A, or by telephone at 360-221-1120. After-hours emergency phone 360-579-2586 or 425-387-4950.

E. Definitions:

The following definitions are established for these Regulations:

1. "Annual Moorage" is a designated position where vessels or watercraft may anchor or moor on a year-around basis in that portion of the Port's harbor facility that is not restricted to transient use per grant funding from the Washington State Recreation and Conservation Office (RCO).
2. "Boats" are all boats of any size or type, including dinghies, canoes, motor or sail driven boats.

3. "Breakwater" is the vertical timber piles to the north and east of the floating moorage slips and any other structure (fixed or floating) in close proximity to the harbor that is designed to attenuate or reduce the force of waves into the harbor.
4. "Commercial vessel" includes but is not limited to any marine craft that is used or retained primarily for commercial fishing, crabbing or any other taking of fish for profit; any vessel that is operated by a person who holds any commercial fishing license issued under RCW Chapter 75.28; any charter boat from which fish are taken for personal use; any vessel used or designed for transport of freight; any vessel that is primarily for research or development of underwater resources; any vessel that is used or designed for the transport of passengers for profit.
5. "Charges" are the charges of the Port for moorage and all other charges owing or to become owing: under a contract between a vessel owner and the Port, as a result of actions in violation of these Regulations, or under an officially adopted tariff including, but not limited to, costs of sale and related legal expenses.
6. "Dock" is a structure designed to float on salt water or constructed on piles in such a fashion as to permit a means of access from boats to shore.
7. "Facility" is all structures lying over, under and on the water east by northeast of the bulkhead located in the Phil Simon Memorial Park at 260 Wharf Street; and the area known as Phil Simon Park, including the rest room facilities.
8. "Harbor" is the Port of South Whidbey Harbor at Langlely and includes those areas within the boundaries of the harbor to include the water above and below land, rock and bulkheads, gangways, launching ramp, floats, piers, repair grids, piling, work areas and air space above, and all buildings and facilities in or on Port properties.
9. "Harbormaster" is the individual duly appointed by the Port Manager to manage the harbor and approved by a majority of the Port Commissioners, and includes temporary, substitute and/or assistant Port personnel acting on his/her behalf. The Port Manager shall also have Harbormaster authority at the Harbor.
10. "Holding over" is defined as use or occupation of a moorage or storage area at the harbor past the expiration date of a lawful moorage under contract or by guest moorage.
11. "Length Overall" (LOA) is the length of vessel from the farthest tip of any attachments on the bow back to and including any overhangs off the stern of vessel.
12. "Lessee" is any person or entity who receives the use of Port facilities and/or services without regard toward payment. This includes responsible parties operating within the Harbor, including but not limited to: vessels or vehicles seeking an area of refuge, day use or overnight use of Harbor premises or facilities.
13. "Live-aboard" is a person who maintains a boat or other vessel as his or her primary residence or lives on a boat or vessel for more than fifteen days in any one month.
14. "Moorage" is a designated position where vessels or watercraft may anchor or moor.
15. "Operator" is the person designated by the owner to act on his/her behalf.
16. "Owner" is every natural person, firm, partnership, corporation, association, or organization or agent thereof, with actual or apparent authority, who expressly or impliedly contracts for the use of moorage or storage at the harbor.
17. "Overnight tie-up" is the moorage of a boat between the hours of four p.m. and eight a.m. or any portion of those hours.
18. "Pier" is any pier, wharf, float, grid or other structure to promote the convenient loading or unloading or other discharge of vessels or watercraft, or the repair thereof.
19. "Port" is the Port District of South Whidbey Island, a municipal corporation established under the laws of the State of Washington, and includes the marine and upland properties of the Harbor as defined herein.

20. "Port Commission" is the Board of Commissioners of the Port District of South Whidbey Island.
21. "Restricted area" is an area that has been marked and authorized by the regulations of the Port. It should be used for, or closed to, certain designated purposes such as fishing, swimming, skin-diving, and aquatic events.
22. "Transient vessel" is a vessel using a moorage facility that belongs to an owner who does not have a moorage agreement with the Port of South Whidbey. Transient vessels include, but are not limited to, vessels seeking a harbor of refuge, day use or overnight use of moorage facility on a space-as-available basis.
23. "Vessel" is every species of watercraft or other artificial conveyance capable of being used as a means of transportation on water that does not exceed 200 feet in length. "Vessel" includes any trailer used for the transportation of watercraft.
24. "Winter moorage", either for the full winter period of a portion thereof, is a designated position where vessels or watercraft may anchor or moor during the winter season from October 1 until the third Friday in April, in accordance with Use Certification criteria from the Wa. State Recreation and Conservation Office (RCO).

F. Authorization to Administer Regulations and Procedures

1. The Port Commission authorizes Harbormaster and Port Manager to enforce these Regulations by written or verbal directions or any other legal means.
2. The Port Commission authorizes the Harbormaster, Port Manager and/or designees to observe and inspect vessels (including interior spaces) as needed to ensure safety and compliance with these Regulations, in accordance with applicable state and federal laws.
3. Harbormaster may request persons violating these Regulations to leave the Harbor. Harbormaster may enforce these Regulations through any legal means and also obtain the assistance of law enforcement officers for the purpose of protecting property, lives, the environment, or preserving the peace.
4. The violation of any regulation governing Port moorages or lands may result in the revocation of the privilege of use of such facilities, and the offender may thereupon become a trespasser and subject to prosecution accordingly. Violations which result in additional costs to the Port (as for clean-up) may also result in the imposition of additional charges against the vessel, vehicle and/or its owner which shall be reasonable and commensurate with the costs to the Port.
5. If a trespasser's vessel and/or vehicle is not removed from the Harbor after reasonable efforts by Harbormaster to notify the vessel/vehicle owner, it may be impounded and/or removed by the Port or by private contractor acting on Port direction. For vessels in non-urgent or emergency circumstances, the procedures in Section III.I below shall be followed. For vehicles in non-urgent or emergency circumstances, the procedures in Section II.B below shall be followed. In circumstances considered to be very urgent or emergency by the Harbormaster, Port Manager or his/her designee, vessel/vehicle movement, removal and/or impoundment may be conducted without notice to the owner, although twenty-four (24) hour notice will be given if possible. In such cases, all charges incurred will be assessed against the vessel, vehicle and/or its owner as applicable in consideration of the cause.
6. Harbormaster may interpret the reasonable intent of these regulations, consistent with the policies and procedures adopted by the Port, to carry out the purposes of these regulations.

G. Denial of Use of Moorage:

Harbormaster may deny the use of any of the facilities of the Harbor or moorage when such use would not be in the best interest of the Port.

H. Applicable Statutes, Standards and Requirements:

All applicable Port, City of Langley, county, state, and federal regulations and laws, and generally accepted safety standards and requirements, apply to users of the Harbor.

I. Invalidity of Particular Provisions:

If any term or provision of these regulations or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of these regulations shall not be affected thereby and shall continue in full force and effect.

II. GENERAL USER REGULATIONS

A. Assumption of Risk:

Anyone visiting or using the Harbor or its facilities does so at his/her own risk. The Port does not assume any responsibility for personal injury, loss or damage to property, or to the environment caused by the user.

B. Vehicle Traffic/Parking:

1. The Port may establish such reasonable traffic and parking regulations as may be required for orderly handling of motor vehicles on the Port premises, including the signed or marked designation of "No Parking" areas and such other regulations as may be required for fire lanes, dumpsters, walkways and other safety and operational needs. A vehicle parked in violation of any such signs or regulations may be issued a parking violation notice and/or fine, and/or may be towed away and impounded, and will be released only after all charges and costs have been paid.
2. The vehicle parking areas are to be used only for temporary vehicular parking during daylight hours in connection with the use of the Port's facilities. It shall be unlawful to park or leave any vehicle, trailer, boat, boat on trailer, recreational vehicle or other equipment in the Harbor parking lot for an overnight period *without prior approval of the Harbormaster*.
3. Overnight parking is permissible only with the prior approval of the Harbormaster and is subject to an additional fee.
4. Except where specifically designated and posted by the Port, no overnight camping in vehicles, tents, or otherwise is permitted on any Port property.
5. Harbor users will not store recreational vehicles, travel or boat trailers, or any other personal property on any Port property.
6. All boats or vehicles using facilities or space within the Harbor are subject to all of the charges, rules, and conditions as prescribed by the Port.
7. The violation of any regulation governing Port lands including parking may result in: the revocation of the privilege of use of such facilities; the issuance of parking violation notices and/or fines; vehicle removal, towing and/or impoundment *at Owner's expense* pending payment of all incurred charges and/or fees; and/or the designation of the offender as a trespasser subject to removal and/or prosecution accordingly.

C. Garbage:

1. Garbage receptacles are provided throughout the Harbor for the collection of boating generated refuse. All appropriate garbage will be deposited in these containers. No garbage, trash, oil, fuel, debris, or other material, liquid or solid, shall be deposited in the water, on land areas of the Port facilities, or on any floats or piers.
2. Recycle containers provided throughout the Harbor are for the collection of mixed paper, glass, and aluminum or other recyclables as identified. Users are required to use these containers for these items.
3. Depositing of non-harbor related refuse in Port containers is PROHIBITED. Violators are subject to prosecution and /or civil penalties.
4. If the Port determines that an individual has caused the Port to spend money to clean up any waste or debris as described above, such costs will be the responsibility of and charged to that individual or assessed against his/her vessel subject to being collected as a lien against the vessel and through foreclosure proceedings allowed by law.
5. Users shall NOT deposit any of the following items in garbage containers, unless specifically designated for that use:
 - a. Fuel/Oil or Other Petroleum Products
 - b. Paints/Thinners
 - c. Batteries/Tires/Plastics
 - d. Lumber/Stumpage
 - e. Drywall/Sheet rock
 - f. Roofing Materials
 - g. Carpeting
 - h. Fly Ash
 - i. Concrete
 - j. Oversize Items (larger than 6-1/2 feet in length)
 - k. Boat Fixtures (fuel or water tanks, etc.)
 - l. Appliances
 - m. "Moderate-risk," "Dangerous wastes," "Hazardous substances," "Hazardous waste," or "Extremely hazardous waste" as defined in RCW 70.105.010; "Pesticide" as defined in RCW 15.58.020; or "Hazardous household substances" as defined in RCW 70.105.220.Users are responsible for removing these items from the Harbor for proper off-site disposal.
6. Users of the Harbor are encouraged to note vehicle license numbers of violators and to report such incidents to the Harbormaster.

D. Swimming, Fishing, Water-skiing and Diving:

1. Swimming and water-skiing are prohibited WITHIN the Harbor, except in designated areas.
2. Diving is restricted to the designated Dive area (Dive Park). Diving outside the designated area MUST BE authorized by the Harbormaster in advance. Divers in the Harbor may be authorized for emergency or routine inspection of vessels, prop and zinc replacement. Bottom Cleaning is PROHIBITED. Divers will be required to report to the Harbormaster prior to and upon completion of Dive. It is the responsibility of the Diver to maintain proper safety measures, including a dockside safety watch. The diver and boat owner assume full risk with no liability to the Port Of South Whidbey and Staff
3. Fishing is prohibited from floats, boats and piers within the Harbor and channels except where designated and posted for Public Access Fishing Area.

E. Conduct:

1. Behavior which disturbs or creates a nuisance for others in the Harbor or on the premises adjacent thereto is prohibited.
2. Drinking of alcoholic beverages, except on licensed premises or private vessels, is prohibited. Engaging in the use or being instrumental in the exchange of illegal drugs or other illegal substance on Port property is expressly prohibited.
3. Violation of Conduct Regulations is cause for immediate termination of moorage and/or notification of the proper authorities, at the sole discretion and judgment of the Harbormaster. No refunds of any fees will be required if moorage is terminated as a result of violation of the Conduct Regulations.

F. Authorized Persons and Children:

1. Only those persons who are owners or operators of vessels located on Port property, or the guests of such owners, shall be permitted in the marina dock and facility areas between sunset and sunrise.
2. Parents or other responsible adults shall supervise children under the age of twelve (12) years while within the Harbor. Children under 12 years of age are not permitted on docks unless accompanied by a parent or other responsible adult. Children under 5 years of age must wear a life jacket while on docks and be under physical control of a responsible adult.
3. Children under the age of sixteen (16) years shall not operate vessels within the Harbor unless supervised by a parent or other responsible adult.

G. Pets:

1. Pets must be kept on a leash while on Port premises, and must be carried or kept on a 6'-maximum leash on all docks, floats and piers.
2. Owners of pets are responsible for immediate and proper clean-up and disposal of animal wastes on any Port premises. Failure to properly clean up after a pet may result in a cleanup service fee of not less than \$50.00
3. Any animal found wandering unattended within the Harbor, or left unattended in a situation which is judged to be inhumane or unacceptable for other Harbor users, will be turned over to the Island County Animal Control or other suitable shelter facility at the pet owner's expense. If any pet becomes a nuisance, the Port reserves the right to prohibit it from Port Property and/or request removal to the animal shelter.

H. Signs and Handbills:

1. Posting of signs on Harbor premises shall be subject to the approval of Harbormaster.
2. Distribution of advertising or handbills on vehicles or vessels is not permitted within the Harbor complex.
3. Bulletin boards are provided on the restroom building for the posting of signs, advertising materials, products, services, events, etc. related to boats and boating.
4. Individual notes/ads/bulletins should be dated and submitted to Harbormaster's office for posting. Advertisements and announcements for local services and events should be submitted to Harbormaster for posting and marina communications. All unapproved notes will be removed by the Port.

I. Bicycles, Skateboards, Motorcycles:

Riding of bicycles, skateboards, motorcycles, or similar vehicles on floats is prohibited.

J. Firearms and Fireworks:

1. The display or use of firearms or airguns on Port premises is strictly prohibited.
2. The display or use of fireworks on Port premises is strictly prohibited.

III. BOAT OWNER/OPERATOR REGULATIONS

A. Agreement and Rates:

1. All tariff rates for moorage charges and other charges for services provided by the Harbor shall be adopted by action of the Port Commission. Notice of rates adopted (“South Whidbey Harbor Fee Schedule”) shall be posted at the Harbor.
2. All moorages at the Harbor shall be by written contract (Moorage Agreements) except for transient moorages or emergency tie-ups. All rates for service and moorage specified in the Agreements shall be subject to change by the Port Commission.
3. All moorages at the Harbor shall be subject to lawful regulation issued by the Port of South Whidbey and may be modified from time to time.
4. All Long-Term Moorage fees and other charges owed shall be paid by the FIRST day of the month for which they are billed.
5. All Transient Moorage Fees shall be paid immediately upon arrival at the Harbor.

B. Transient Moorage:

1. Transient moorage rates shall be set by the Port Commission.
2. Continuous moorage by one boat, at the moorage facility, is limited to fourteen (14) consecutive nights within a thirty-day (30) period, except for those boats with annual or winter moorage Agreements. Changing slips or leaving the moorage facility temporarily and returning shall not affect this limit. The thirty-day (30) period starts with the first day of moorage.

C. Moorage Assignment and Registration:

1. Slip assignment will be made by Harbormaster and/or staff upon vessel arrival.
2. All vessel owners or operators are required to register with the Harbormaster immediately upon arriving at Port facilities.
3. Vessels arriving after normal business hours shall register immediately at the self registration and may tie up inside breakwater. Owner/operators of such vessels shall report to Harbormaster when office opens for moorage assignment. Arrangements can be made by calling before close of business on the day of arrival.
4. Any vessel which is not registered may be subject to impoundment fees and/or towing fees. To be properly registered, an owner/operator must fill out a guest registration card. Fees must be paid in advance.
5. Moorage fees for guests will be assessed the current guest moorage fee based on overall length of the vessel (LOA) whether alongside or rafted. All vessels in the Harbor between 1600 hours and 0800 hours will be charged the Overnight Transient Moorage fee regardless of duration of stay without PRIOR arrangement with the Harbormaster.
6. Check out time is 1400 hours.

D. Rafting:

1. During times that dockside moorage is full, rafting of boats will be allowed in posted areas or at the direction of the Harbormaster in areas which are not unsafe or obstructive. Established moorage fees will be collected for boats that are rafted.

2. Only at the direction of the Harbormaster, or authorized Port staff, rafting may be allowed in other areas to protect life and property during times of foul weather or other natural emergency-

E. Long-Term Moorage:

Stays in excess of fourteen days require Harbormaster approval in accordance with a written Moorage Agreement, including a deposit, subject to availability.

1. Winter Monthly Moorage.
 - a. Winter monthly moorage may be provided for recreational or commercial vessels and other aqua-cultural activities during the period of October 1st through the third Friday in April of each year.
 - b. The monthly rate for winter moorage shall be set by the Port Commission and may include utilities available at the moorage facility.
 - c. Preference for winter monthly moorage is granted to those boat owners who successfully complete the Winter Moorage Agreement from the year before. After those owners have been given an opportunity for winter moorage, applications will be considered on a first come, first serve basis. The Port reserves the right to refuse moorage to owners who have been delinquent in payments or have violated the terms and conditions of previous lease agreements.
 - d. All boaters interested in Winter Monthly Moorage shall submit a completed application, on forms provided by the Port, along with a copy of the boat registration and proof of insurance along with an application fee as set by the Port Commission. Commercial vessels will be required to present a copy of their state business license and are required to obtain all necessary business license(s). The Port Manager shall review and approve or disapprove all applications.
2. Annual Moorage
 - a. Annual moorage shall be provided to a limited number of vessels.
 - b. The monthly rate for annual moorage shall be set by the Port Commission and may include utilities available at the moorage facility.
 - c. A waiting list has been established, allowing potential private boaters to sign up for an annual moorage space, and proposals for possible commercial opportunities may also be submitted to the Port at any time. When an annual moorage berth becomes available, the Commission shall prioritize consideration of proposals for commercial opportunities which enhance the recreational experience, with the waiting list for possible private moorage to be reviewed (with the following factors i and ii to be taken into consideration) only if there are no commercial proposals which are determined to be preferable with respect to addressing the Port's Comprehensive Scheme goals within the legal constraints applicable to the Harbor properties.
 - i. Priority shall be given to boaters who have successfully held a Winter Moorage Agreement with the Port during the previous term; whose boats fit the available space; and are either property owners in the Port District or are residents of Port District.
 - ii. Second priority shall be given to boaters who have been on the list the longest and whose boats fit the available space.
 - d. If an annual moorage space becomes available during the year and there are no boaters on the waiting list, then the Port shall advertise for new applicants based on the priorities set forth above.
 - e. All boaters interested in annual moorage shall submit a completed application along with a copy of the boat registration and proof of insurance along with an application fee as set by the Port Commission.

- f. The Port Manager shall review and approve or disapprove all final awarding of moorage.
3. All boats that have a monthly or annual moorage agreement that leave the facility may be re-assigned to a new slip upon return. For extended absences, the Port shall have the authority to sublet a Long-Term Moorage slip when the long-term moorage occupant is gone for more than 48 hours

F. Live-aboards:

1. A maximum of two (2) live-aboards may be allowed for Long-Term Moorage.
2. In addition to qualifying for Winter or Annual Moorage, a Live-aboard Application must be completed to live-aboard a vessel moored in the Harbor. The Application must be reviewed and approved by the Port. Permanently living aboard a vessel or watercraft in the Harbor is prohibited except when written permission is received from the Port.
3. Applicant must agree to a credit check & criminal background check, and submit with an application fee as set forth by the Port. Adverse results from the credit or criminal background checks will be adequate justification for rejection of a Live-aboard Application. Also, in determining whether or not a vessel may be used as permanent quarters, the Port shall consider the size of the vessel, the adequacy of the quarters and sanitation facilities.
4. Upon approval of the Live-aboard Application, the lessee agrees to a monthly Live-aboard fee as adopted by the Port Commission, in addition to all applicable moorage and utility fees and taxes.
5. Live-aboards must own the live-aboard vessel. Renting vessels to people seeking live-aboard status is not allowed.
6. All live-aboard vessels must be capable of leaving the Marina under their own power and meet U.S.C.G. requirements for Recreational Boats.
7. All live-aboards must provide proof of sufficient use of pump-out facilities or pump-out service.
8. The Port may issue rules and regulations to implement any permission or permits for living aboard. The Port may revoke permission for any live-aboard situation immediately if, in the Harbormaster's opinion, there is any dumping of debris or sewage. In general, if there is any breach of the rules and regulations as prescribed by the Port herein, then five days notice shall be given to cure any breach and if, in the opinion of the Harbormaster, such violation continues, the approval to live-aboard may be terminated. Upon termination of the approval to live-aboard, the vessel must be immediately vacated. Any notice of appeal shall be submitted to the Port Commission within 20 days from the termination, and the Board of Commissioners shall review and issue direction on the appeal at its next Regular Meeting following receipt of the appeal. The vessel may not be re-occupied for live-aboard unless and until the Board of Commissioners issues approval for a live-aboard occupancy and any associated conditions.

G. Utilities:

1. Lessee shall pay for electrical service at the fee schedule established by the Port. The Port does not guarantee continuity of utility services to a vessel, nor the characteristics or compatibility with the vessel's internal systems.
2. All shore power cords connected to any Port electrical outlet must be an exterior grade cord and must have an AMP capacity rating which matches or exceeds the rating of the outlets. Also, these cords must have weather proof boots on the ends.
3. All shore power cords connected to any Port electrical outlet shall be secured

between vessel and outlet in such a manner as to prevent creating a hazard (i.e. tripping), and to prevent cord from hanging in the water.

4. Water service is provided at several locations on all floats. This service is intended for filling tanks. Other attachment, not authorized by Harbormaster, for vessel exclusive use is prohibited.
5. Winter service: All water lines on all floats will be turned off and drained during freezing temperatures. When the temperature is above freezing, the water service may be reinstated, if possible. The Port does not guarantee uninterrupted water service.
6. Sewage: Discharge of waste or other contaminated material from vessels in the Marinas is strictly prohibited. Vessels that discharge contaminated waste, particularly raw sewage, will be subject to revocation of their moorage privileges and forfeiture of their assigned slip. The Port provides pump-out facility for proper disposal of waste.

H. Storage on Piers and Docks:

1. No storage is permitted on piers or fingers. Oily rags, open paints, or other inflammable or explosive material must not be stored in locker boxes or other Port facilities.
2. All dock boxes must be approved by the Harbormaster and maintained by the owner.
3. Landing steps shall not exceed one half the width of the finger pier, and must be capable of being removed at the Harbormaster's request.
4. Any objects left on the docks or in the land areas of the Port in violation of the regulations will be removed by the Port and placed in storage. To recover these goods, a \$65.00 service charge in addition to storage charges must be paid in full. After 6 months, the goods will become property of the Port and the use or disposal will be determined by the Port.

I. Fenders and Dock Lines:

1. Fixed or permanent fenders may be installed to any float only with prior written permission from the Harbormaster.
2. Vessel owners or operators are responsible for their own fenders to protect their vessel and adjacent vessels.
3. It is the responsibilities of the Lessee to maintain proper docklines securing the vessel in a safe manner in all conditions. Lines must be secured to appropriate cleats and not allowed to cause trip or safety hazards.

J. Dinghies, Rowboats, Kayaks and Tenders:

1. Rowboats, skiffs, dinghies and similar small boats may be stored in the water with the primary boat, as long as the primary boat is in the slip. Such storage may not encroach upon space allocated to adjacent slips or present a safety hazard.
2. Small manpowered craft, rowboats, kayaks and vessels under 20 ft must be secured in designated area(s) or as assigned by Harbormaster, and will be subject to an additional fee. Any small vessel left without proper arrangements will be in violation of the rules and relocated and subject to a fee or impoundment by the Port.

K. Contract deposit:

Occupancy of a slip for a period of fourteen days or greater will require execution of a written contract ("Agreement") at the time of occupancy. At the time of execution, payment of the first month's moorage will be required. Additionally, a deposit equal to one full month's moorage will be required. This deposit shall be applied to any

moorage charges owing at the time of termination of the moorage. The remainder shall be refunded. Thirty days' notice is required prior to vacating a slip. A deposit of an additional one month's moorage paid in advance may be required if during the time a vessel is moored in the Harbor, the account has become delinquent and the original deposit has been applied to the delinquency or the original deposit for any reason can no longer be used for security.

L. Harbor Late Fees:

1. Late charges shall be collected under the circumstances provided below as set forth by the Port Commission.
 - a. Late charge at the rate of eighteen percent (18%) per year on the outstanding balance shall be charged on all accounts in excess of 30 days delinquent.
 - b. A service charge shall be imposed when notice of delinquency is mailed by certified mail.
 - c. A service charge shall be imposed when the vessel is chained or otherwise secured.
 - d. A service charge shall be imposed when Commission action is requested to sell a vessel.
 - e. A service charge shall be imposed when it is necessary to inventory a vessel.
2. In addition, the person contracting for moorage or storage, or the vessel's owner, as the case may be, shall pay all costs incurred by the Port in collection including, but not limited to, costs of title and lien search, postage, publication of notice, fees and wages for auctioneer and reimbursement to the Port for employees' time spent on collection at an hourly rate of \$35.00 per hour for tasks required in securing, safekeeping and selling the property and for which no fixed charge is set out in subsections H.1.a through H.1.e above.

M. Waiver of Responsibility, Indemnification and Insurance:

1. All users of the Harbor and its facilities as operated by the Port of South Whidbey, including without limitation berthage permittees and guest moorage users, shall indemnify and hold the Port of South Whidbey, its employees, officials, and agents harmless from all damage to property and injury or death to persons that results, directly or indirectly, from user's use and/or occupancy of the Port property. This indemnification shall not apply to damage caused by the sole negligence of the Port. This indemnification provision shall supplement any other agreements that user has with the Port.
2. It is mutually agreed that the Port does not accept boats and/or vessels for storage, and shall not be liable or responsible in any manner for the safekeeping and condition of boats and/or vessels and associated tackle, apparel, fixtures, equipment and/or furnishings at any time. It is further agreed that the Port will not be liable or responsible for any personal injury suffered by the Owner or his agents, guests or invitees arising from any cause, upon the boat or vessel, Boat Harbor premises, or premises adjacent thereto. The Owner acknowledges and agrees that the Owner has inspected the Harbor and the premises adjacent to the Harbor and the Owner accepts the Harbor and the adjacent property in their present condition.
3. Owner agrees to indemnify and hold harmless the Port for any loss, damage or injury, including death, resulting from the acts or omissions of the Owner, his agents, employees, contractors, guests and invitees or resulting from boat or vessel un-seaworthiness or resulting from a defective product used in connection with boats and vessels, or for any other cause unless the loss, damage or injury is caused solely by the negligence of the Port or its employees, agents, or contractors. All persons

who berth a vessel in the Port of South Whidbey Harbor, even on a temporary basis, shall maintain liability and property damage insurance at their own expense insuring against claims for injury to or death of persons, and loss or damage to property, occurring in, on or about the berth space. For private vessels, the insurance shall provide Protection and Indemnity (watercraft liability) coverage with limits of at least 1) One Hundred Thousand Dollars (\$100,000.00) per occurrence for boats <26' LOA, or 2) Three Hundred Thousand Dollars (\$300,000.00) per occurrence for boats > 26' LOA. For all vessels engaged in charter, foot ferry, tour, launch, shuttle services, or similar activities where the general public is invited to Port facilities, the required minimum amount of coverage shall be One Million Dollars (\$1,000,000.00) per occurrence. The Port reserves the right to reject any coverage not deemed adequate by the Port's insurer. As a condition of using Port of South Whidbey facilities, the user shall have documentation available to Port Staff, upon request, which documents that the required insurance is in force. The Port Staff shall have the right, but not the obligation, to request such evidence of insurance. Failure to have such documentation may be grounds for termination of any berthage privileges.

N. Measures for Securing Boats and Protecting the Harbor As Authorized by Statute:

1. The following procedures may be used if an owner mooring or storing a vessel at the Harbor fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such Harbor charges are owing, to pay the Harbor charges owed or to commence legal proceedings. The Harbormaster, or his or her designee, may take reasonable measures, including the use of chains, ropes and locks or removal from the water, to secure such vessels within the Harbor so that the vessels are in the possession and control of the Port, and cannot be removed from the Harbor. Notification shall be by registered mail to the owner at owner's last known address. In the case of a transient vessel, or where the owner has furnished no address, the Port need not give such notice prior to securing the vessel. At the time of securing the vessel, the Harbormaster, or his or her authorized designee, shall attach to the vessel a readily visible notice. The notice shall be of reasonable size and shall contain the following information:
 - a. The date and time notice was attached;
 - b. A statement that if the account is not paid in full within 90 days from the time the notice was attached; the vessel may be sold at public auction to satisfy the Harbor charges;
 - c. The address and telephone number at which additional information may be obtained concerning release of the vessel.After a vessel is secured, the Port shall make reasonable efforts to notify the owner by registered mail in order to give the owner the information contained in the notice.
2. The Harbormaster, or his or her designee, may move a moored vessel ashore for storage within properties under the Port's control or for storage with private persons under its control as bailees of the Port, if the vessel is, in the opinion of the Harbormaster or his/her designee, a nuisance, if the vessel is in danger of sinking or creating other damage; or is owing Harbor charges. The vessel's owner shall pay costs of any such procedure.
3. If a vessel is secured under above subsection I.1, or moved ashore under above subsection I.2, the owner who is obligated to the Harbor for Harbor charges may regain possession of the vessel by:
 - a. Making arrangements satisfactory with the Harbormaster for the immediate removal of the vessel from the marina or for authorized moorage; AND

- b. Making payment to the Port of all Harbor charges, or by posting with the Port a sufficient cash bond or other acceptable security, to be held in trust by the Port pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the Port shall reserve so much of the bond or other security as agreed or as is necessary to satisfy any judgment, costs and interests as may be awarded to the Port. The balance, if any, shall be refunded immediately to the owner at his last known address.
4. If a vessel has been secured by the Harbormaster under above subsection I.1, remains moored or stored at the Harbor, and is not released to the owner under the bonding provisions of this section within 90 days after notifying or attempting to notify the owner under said subsection I.1, the vessel shall be conclusively presumed to have been abandoned by the owner.
5. If a vessel moored or stored at the Harbor is abandoned, the Harbormaster may, at the direction of the Port Commission, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as follows:
 - a. Before the vessel is sold, the owner of the vessel shall be given at least 20 days' notice of the sale in the manner set forth in above subsection I.1, if the name and address of the owner are known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of Harbor charges owed with respect to the vessel. The notice of the sale shall be published at least once, more than 10 but not more than 20 days before the sale, in the designated legal newspaper for the port. Such notice shall include the name of the vessel, if any, the last known owner and his or her address, and a reasonable description of the vessel to be sold. The Port may bid all or part of its marina charges at the sale and may become a purchaser at the time of sale.
 - b. Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the Island County superior court to contest the validity of the impoundment or the amount of the Harbor charges owing. Such lawsuit must be commenced within 10 days of the date the notification was provided pursuant to above subsection I.1, or the right to a hearing shall be deemed waived and the owner shall be liable for any Harbor charges owing the Port. In the event of litigation, the prevailing party shall be entitled to reasonable attorney's fees and costs.
 - c. The proceeds of a sale under this section shall first be applied to payment of Harbor charges. The balance, if any, shall be paid to the owner. If the owner cannot, in the exercise of due diligence, be located by the Port within one year from the date of the sale, the excess funds from the sale shall revert to the Derelict Vessel Removal Account established in RCW 79.100.100. If the sale is for a sum less than the applicable Harbor charges, the Port is entitled to assert a claim for a deficiency.
 - d. In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within 10 days of sale, title to the vessel shall revert to the Port as facility owner.
6. All tariffs, including these regulations shall be conspicuously posted at the Harbor at all times.

O. Port Rights Not limited:

Nothing contained in this chapter shall be construed as a limitation on the power of the Port to exercise other powers or rights granted by law or contract

P. Vessel Numbering:

All boats entering the Harbor shall have valid registration as required by the U.S. Coast Guard or applicable state law. The Port reserves the right to require proof of ownership. Failure to comply will be cause for refusal of, or termination of moorage.

Q. Vessels – Condition:

Vessels, which in the opinion of the harbormaster do not meet normal safety standards or are deemed hazardous to the Harbor property or other vessels, may be denied permission to remain on the Harbor premises. All vessels that do not carry the equipment required by the applicable United States laws or regulations now in existence or as the same may be amended in the future which pertain to the vessel shall be deemed not to meet normal safety standards. If the Harbormaster, or his/her designee, deems that hazard is imminent, he may request the vessel to leave immediately. Vessels moored at the Harbor, or who enter the Harbor water, may be boarded and inspected to see that they meet the applicable safety standards. Boarding may be done by the Harbormaster, or his/her designee, at reasonable times and places, and failure to comply with a reasonable boarding and inspection request shall be grounds to cancel the moorage contract immediately. All vessels which do not carry the equipment required by the applicable United States laws or regulations which pertain to said craft, as now in force or as they may be amended in the future, may have the moorage agreement canceled. The Harbormaster, or the Harbormaster's designee, shall have the power to take possession of a vessel within the Harbor that is deemed hazardous to the Harbor property or other vessels, and move said vessels ashore or to another location in or outside the Harbor to provide for safety of the Harbor property or other vessels.

R. Trespassing:

1. It is unlawful to secure, tie up, anchor, moor or otherwise fasten any vessel to or adjacent to a float, dock, pier, breakwater, piling, or vessel in the waters of the South Whidbey Harbor for more than two hours without the continuing permission of the Harbormaster. Upon revocation of such permission, the owner or other person in charge of the vessel, or both, shall immediately remove the vessel from Harbor waters.
2. It shall be unlawful to bring an unseaworthy vessel into the waters of the South Whidbey Harbor except in the case of emergency necessary to prevent injury or death to person or damage to property.
3. It shall be a defense to an offense charged under above subsection N.1 that the person charged entered the South Whidbey Harbor area with the vessel to save life or property and could not obtain permission prior to his or her entry into the waters of the South Whidbey Harbor; provided, further, that this defense shall be unavailable if the vessel, boat, ship, barge or other floating object has remained in the waters of the South Whidbey Harbor for a period longer than necessary to make or to obtain a tow to another port to make the vessel seaworthy or 10 days, whichever period of time is shorter.
4. It shall be unlawful to park or leave any vehicle, trailer, boat, boat on trailer, recreational vehicle or other equipment in the Harbor parking lot for a period in excess of 72 consecutive hours.

S. Speed Regulations:

On all waters of the Harbor it is unlawful for any person to operate any vessel at a speed in excess of three knots or leave a wake.

T. Interference with Navigation:

No person shall operate any vessel in a manner that unreasonably or unnecessarily interferes with other vessels or with the free and proper navigation of the waterways of the Harbor. Anchoring or mooring in heavily traveled channels of the Harbor shall constitute such interference if unreasonable under the prevailing circumstances. It is unlawful for any person to moor a boat in a channel designated for ingress or egress from the Harbor.

U. Obstructions – Moving:

No master or person having charge of any vessel or obstruction shall moor or anchor it in a way so as to unreasonably hinder use of navigable waters of the Harbor by others, or fasten or attach said vessel or obstruction to any buoy, pier or other structure owned by or under the authority and control of the Port without obtaining permission from the Harbormaster or his/her designee.

V. Floating Objects:

All vessels, watercraft, logs, pilings, building materials, scows, houseboats or any other article of value found adrift in Harbor waters, may be taken in charge by the Harbormaster and shall be subject to reclamation by the owner thereof, on payment by him to the Port of any expenses incurred by the Port, and in case of failure to reclaim may be sold or disposed of according to law.

W. Restricted Areas and Activities::

1. In the interest of safe navigation, life, safety and protection of property, the Harbormaster may designate and identify restricted areas within the Harbor area. No person shall operate a vessel, or vehicle, or trespass in a restricted area without written approval of the Harbormaster; provided, that this provision shall not apply to vessels or persons engaged in or accompanying the activity to which the area is restricted, nor to patrol or rescue craft or in case of an emergency.
2. Maintenance and repair activities for vessels may only be conducted with the prior approval of the Harbormaster or his/her designee. Maintenance and repair shall be conducted according to Best Management Practices, and no impacts shall be allowed to extend beyond the limits of the vessel. No maintenance and repair shall be conducted in the parking, beach or park areas, except for emergency situations and only as approved by the Harbormaster on an individual-case basis. No bottom cleaning is permitted in any area.

X. Swimming and Diving:

Swimming and diving areas shall be allowed only in designated areas. These designated areas shall be identified by posted placards. Swimming and diving in areas outside the designated areas is prohibited. Diving for maintenance purposes may be allowed with permission of the Harbormaster.

Y. Firefighting Equipment:

Fire extinguishers and other firefighting equipment are to be used only for the fighting of fires. Any other use will subject user to replacement of items or contents.

Z. Oil and Petroleum Products in Waters:

Any person in charge of any vessel or on or about any vessel, pier or dock or on the shore or breakwater of the Harbor who throws, spills or causes to be discharged petroleum products upon the waters of the Harbor or disposes of them other than at an approved site is guilty of an unlawful act. Any person causing or allowing petroleum products to get on the waters of the Harbor shall immediately take whatever steps are necessary and available to remove or confine the same from the water and said person shall also promptly notify the Harbormaster, or his/her designee. Failure to promptly report is unlawful. The Harbormaster or his/her designee may use whatever equipment or facilities may be deemed necessary to remove the petroleum product from the water. Any clean-up expenses, including the hourly pay of persons employed by the Port in the cleanup, shall be charged to the person causing the spill or the owner of the boat responsible. Such unlawful discharge of petroleum products may be deemed sufficient justification for revocation of moorage.

AA. Debris, Litter and Waste:

It is unlawful for any person to deposit, throw or place any object, garbage, litter, debris or any waste in the Harbor waters or on the Port lands, pedestrian or vehicle parking areas except into a receptacle or litter container. Unlawful littering or debris/garbage discharge, especially into the Harbor waters, may be deemed sufficient justification for revocation of moorage and imposition of commensurate clean-up fees.

BB. Use of Sanitary Facilities:

It is unlawful for any person to flush any untreated sewage or improper waste matter into the waters of the Harbor. All persons shall use dockside sanitary facilities. Unlawful discharge of untreated or improper sewage or sanitary waste, especially into the Harbor waters, may be deemed sufficient justification for revocation of moorage and imposition of commensurate clean-up fees.

CC. Harbormaster Authority:

The Harbormaster shall have the authority to issue orders and/or written rules and regulations necessary for the safe and efficient operation of the Harbor consistent with these regulations and for the preservation and use of park and open spaces included within the Harbor area. The Harbormaster may move boats for the protection of life or property or proper utilization of the facility.

DD. Peace and Quiet:

Quiet hours at the facility shall be from 11:00 p.m. to 6:00 a.m.

EE. Exclusion of Persons from the Harbor or Portions Thereof:

1. The Harbormaster or his/her designee may order anyone to leave the Harbor premises when that person:
 - a. Causes injury to another or creates a substantial risk of injury to another; or
 - b. Causes damage to property of the Port or to the Harbor or the property of another or creates a substantial risk of such damage; or
 - c. Causes, while within the Harbor, an unlawful interference with another person's lawful use of the Harbor or associated facilities; or
 - d. Engages in conduct creating a substantial risk of damage to property of the Port or another or to the Harbor; or

- e. Commits any offense or violation of these Harbor Regulations under circumstances where it is likely that the conduct would have continued but for action of others acting under authority of these regulations; or
- f. Allows a boat to trespass at the Harbor as defined under Harbor Regulations III.N.

Upon such an order being given, the recipient shall no longer be invited, licensed or otherwise privileged to remain in the Harbor area from which he or she was ordered to leave. The order may specify an area of the upland or the moorage area on the docks and adjacent waters or both. A person who has been ordered by the Harbormaster to leave the Harbor or a portion thereof shall not re-enter the premises of the Harbor from which he or she was ordered to leave for a period of 24 hours after the order was given.

2. The Harbormaster may forbid anyone from re-entering the premises of the Harbor for a period longer than 24 hours and less than a year whenever:
 - a. The person has been ordered to leave one or more times for reasons set out in above subsection EE.1; and
 - b. The person who, while in the Harbor under the incidents specified in above subsection EE.1, engaged in acts as listed in this subsection; and
 - (i) Had caused injury to another, or
 - (ii) Had engaged in conduct creating a substantial risk of injury to another within the Harbor, or
 - (iii) Had caused damage to property, or
 - (iv) Had engaged in conduct creating a substantial risk of damage to property of the Port or another or to the Harbor, or
 - (v) Had caused while on Harbor property an unlawful interference with another person's lawful use of the Harbor or associated facilities, or
 - (vi) Had committed two or more violations of this regulation within the area of the Harbor within a one-year period, or
 - (vii) Made threats to kill or harm a Port employee, tenant or guest of the Harbor;
 - c. The Harbormaster finds it is necessary to continue exclusion of the person from the Harbor to provide for safety of persons using or working in the Harbor, or for protection of Harbor property, or to prevent interference with Harbor functions.
3. An order prohibiting re-entry for a period longer than 24 hours shall be in writing by the Port. It shall identify rights of appeal. Appeal from the decision shall be in writing to the Port Manager or the Port Commission in his/her absence.
4. Any of the following persons are guilty of the crime of illegal trespass in the Harbor:
 - a. Anyone who fails to leave the Harbor or the portion of the Harbor from which he or she was excluded after being ordered by the Harbormaster or another authorized to act in his or her behalf under the authority of this section to leave;
 - b. Anyone who re-enters the Harbor or the portion of the Harbor from which he or she was excluded during the time period of exclusion after leaving the premises under an order of exclusion on this section;
 - c. Anyone who enters the Harbor within the period contained in a written order prohibiting entry issued by the Harbormaster under the authority of this section;
5. Any of the following persons may issue orders of exclusion for 24 hours on behalf of the Harbormaster:
 - a. Any Port employee working at the Port of South Whidbey Harbor.

FF. Prohibited activities:

1. The following activities are not permitted in the Harbor area:

- a. Violating the limit of fourteen consecutive nights within a thirty-day period without a written moorage agreement.
- b. Knowingly or intentionally disturbing or interfering with any individual or group engaged in a lawful use of Harbor facilities, or conducting oneself in a way that is a danger to oneself, other people or other property;
- c. Willfully marking, marring, defacing, disfiguring, injuring, tampering with or displacing, removing, burning, cutting, carving, digging up or damaging any Harbor property or attendant facility, statue, structure, monument, fountain, vase, wall, fence, railing, vehicle, bench or any plants, trees or shrubs, or attaching rope, wire or other contrivance to a tree, plant, shrub or structure;
- d. Engaging in lewd or lascivious conduct in public;
- e. Opening, possessing alcoholic beverages in an open container, or consuming any alcoholic beverages, except on private vessels.
- f. Urinating or defecating in any public place in the Harbor other than in a designated restroom;
- g. Urinating or defecating on the floor or walls of a public restroom;
- h. An open fire on the float, including cutting torches, welders or anything else that would constitute a fire hazard, unless specifically authorized by the Harbormaster.
- i. Conducting oneself as to disturb boaters or live-aboards in their sleeping quarters during quiet hours. The use of sound-emitting electronic equipment including electrical speakers, radios, phonographs, televisions or other such equipment at a volume that emits sound beyond the immediate moorage site that may disturb other moorage users without specific permission of the Harbormaster is prohibited.
- j. Assisting any other person or persons in carrying out any of the above acts.
- k. Spitting on sidewalks, docks, grounds, buildings or water areas;
- l. Cursing or swearing at another person who is using the marina or who is using the adjacent park or street;
- m. Blocking any roadway, gangway, pier, float, finger pier, sidewalk, dock or pathway in the marina or adjacent to the marina. "Blocking" means standing, sitting or reclining on a sidewalk by oneself or in concert with others in such a way that more than half of the width of a walkway is blocked from normal use as a walkway; or placing landing steps so that they occupy more than half the width of the finger pier.
- n. Standing or walking on the tabletops of any picnic table in the marina;
- o. Distributing, leaving, throwing, tacking or posting any sign, hardback poster, advertisement or inscription for advising any good, service, meeting of people or similar purpose except for authorized locations authorized by the harbormaster or his or her designee;
- p. Soliciting, interfering with, or accosting other people for purpose of selling, begging, immoral acts, harassing or otherwise interfering with another's use of the marina or adjacent park or for other similar purposes;
- q. Disposing of or depositing any refuse or other material in the marina except in designated receptacles;
- r. Noncompliance with directions from the harbormaster;
- s. Unattended boats that are not securely moored with bow, stem and spring lines. (Four or more lines are required.)
- t. Unattended dinghies stored in the water or in an area that is not designated for dinghy moorage.
- u. Fishing on the float area.

- v. Unauthorized personnel on the float. Authorized personnel are registered boat owners, their guests, City staff or as approved by the harbormaster.
 - w. Allowing children under the age of 12 on the floats or finger piers unless supervised by an adult.
 - x. Dogs without a leash.
 - y. Rafting without the prior direction of the harbormaster. Moorage fees shall apply.
 - z. Assisting any other person or persons in carrying out any of the above acts.
2. Anyone violating these Prohibited Activities shall be deemed a trespasser and shall be subject to immediate removal as such. The Port Manager, the Harbormaster or his/her designee shall have the authority and responsibility to determine violation(s) of the Prohibited Activities and subsequent designation of the violator(s) as trespasser(s) subject to removal.