

The Chilmark Waterways Rules & Regulations

Approved by Board of Selectmen and the Harbormaster on October 21st 2008.

I. Purpose

The purpose of these regulations is to establish standard policies and practices within Chilmark waters to provide for the safety of moored and berthed vessels, safety on all Chilmark waters and to preserve the historic uses of the ponds and harbor. Menemsha harbor is principally a commercial fishing port and a family oriented harbor with limited Transient Boat facilities.

These regulations shall be enforced by the Harbormaster appointed by the Board of Selectmen, the Assistant Harbormasters, and members of the Chilmark Police Department as appropriate. It shall be the responsibility of all those operating in Chilmark waters, and those seeking mooring or docking space in Chilmark to comply with these regulations, which will be strictly enforced for the benefit of all residents and visitors to Chilmark.

Copies of these regulations are available from the Harbormaster, the Town Clerk and are posted on the Town website: www.ci.chilmark.ma.us

II. Definitions:

- A. "Mooring", as specified in these regulations, means anything attached to the bottom (excluding docks, piers and partial day or emergency anchoring) used to secure a boat. "Mooring Areas" shall mean those portions of Chilmark waters designated as such by the Board of Selectmen and the Harbormaster.
- B. "Mooring Permit Holder" shall mean the holder of a Mooring Permit and space assigned to him/her by the Harbormaster.
- C. "Private Mooring" shall mean any Mooring placed in Chilmark waters for owner's sole private use.
- D. "Mooring Permit" means a notice from the Harbormaster that the applicant has received permission to place a Mooring in a specified area.
- E. "Mooring Year" is the period for which a Mooring is assigned. The period runs from January 1st to December 31st.
- F. "Mooring Application" means a form approved by the Harbormaster that must be returned to the Harbormaster prior to 5 PM January 15* each year with the registration fee to obtain a Mooring Permit. The Harbormaster will furnish such an application to each Mooring Permit Holder from the prior year. Should Town Hall be closed on January 15, the deadline will be the next business day at 5 PM.
- G. "Mooring Waiting List" is a chronological listing of qualified applicants (who must be over 18) based on the date they first applied to the Harbormaster by filing a written request to be on the Mooring Waiting List. Such written request must be renewed in writing each year prior to 5 PM January 15* to remain on the list. Should Town Hall be closed on January 15, the deadline will be the next business day at 5 PM. If no annual written request is timely filed, the applicant's name shall be removed from the Mooring Waiting List and those below that applicant will move up accordingly. Applicants removed from the list for failure to submit the annual request must file a new request to be on the list and will be placed at the bottom of the list as of the date of the request. The Mooring Waiting List shall be maintained by the Harbormaster and kept available for public inspection as well as posted on the Town website.
- H. "Docked Boat" means any boat that is tied to a dock, pier, slip, clothesline system, placed on the beach below the high water mark, or made fast in any way to shore.
- I. "Marina" means any facility that provides dockage at a slip or berth for more than three boats that are not registered to the facility owner. This does not include boats above the high water mark.

- J. "Filled Dock" means the dock and parking area on the west side of Menemsha Basin and accessed by the Causeway.
- K. "Causeway" means the wooden structure leading to the Filled Dock.
- L. "Slip Waiting List" means a chronological listing of qualified applicants for a harbor slip based upon the date which they applied in writing to the Harbormaster for a slip assignment on a specified dock. Beginning in 2005, an applicant for the Slip Waiting List must be over the age of 18 when he/she first applies. Each application must be renewed in writing each year prior to 5 PM on January 15* to remain on the list. Should Town Hall be closed on January 15 the deadline will be the next business day at 5 PM. There shall be separate waiting lists for the east side of the Filled Dock, the commercial dock on the east side of the Causeway, the floating dock on the east side of the Causeway, the channel dock on the west side of the Causeway and the charter dock area on the east side of the harbor. Section VI. describes the various dock requirements. A person may only be on one slip waiting list at a time and anyone moving from one slip waiting list to another will start as a new applicant for that list. The Harbormaster shall assign slips from these lists according to availability and as appropriate for each boat. These lists shall be kept available for the public inspection at the Harbormaster's office and shall be on the Town website.
- M. "Year Round Resident" means a resident of the Town who resides at least 9 months a year in Chilmark.
- N. "Transient Boat" means a boat not owned or chartered by someone who is a beneficial owner of property in the Town or is a resident of the Town for all or part of the year.
- O. "Fee and Fine Schedule" means a list of fees and fines which apply to these regulations as adopted and amended from time to time by the Board of Selectmen, a copy of which shall be available at Town Hall and be posted on the Town website.
- P. "Commercial Mooring" means any Mooring placed in Chilmark waters for which a rental fee is charged and is paid to the two existing Chilmark marine service businesses (the "CMSB"), which have been historically issued multiple annual permits for at least twenty five (25) years and are permitted to continue their operations in accordance with this provision or until the Department of Environmental Protection, or other governing authority, rules otherwise, or until these regulations are amended or revoked. To remain in operation, the CMSB must be registered as required by the appropriate state or federal authorities and may not transfer their right to charge rental fees for commercial moorings to any other person or entity, with the exception that the CMSB may be maintained by the surviving spouse of the present operators. In the event that a commercial mooring becomes available from either of the CMSB, the available commercial mooring shall be offered to the next eligible person on the Mooring Waiting List. The right of the two CMSB to continue the practice of issuing commercial moorings may be revoked by the Harbormaster, in his discretion and after hearing with at least seven days notice, for failure to follow any of these rules and regulations, or for any other reason within the scope of the Harbormaster's powers. The Board of Selectmen shall participate in said hearing and, prior to the Harbormaster's decision; make a recommendation on whether to revoke.

III. GENERAL WATERWAYS RULES AND REGULATIONS

- A. The Waterways of the Town are Stonewall Pond, Nashaquitsa Pond, Menemsha Pond, Chilmark Pond, Squibnocket Pond, Tisbury Great Pond, Menemsha Creek or Channel, Menemsha Basin, and Menemsha Bight.
- B. No boat shall operate at a speed greater than headway or four knots, or which would cause a wash or wake in Mooring areas, channels, or harbor.
- C. Water skiing is not allowed in Nashaquitsa Pond, Stonewall Pond, Chilmark Pond, the Chilmark portions of Squibnocket Pond, Tisbury Great Pond, Menemsha Basin, and Menemsha Creek or channel; or within 500 feet of bathing areas, moored vessels and shellfish propagation floats.
- D. Personal watercraft or jet ski operation is prohibited except in channels to access the Vineyard Sound.

- E. Wind surfing is not allowed in Menemsha Basin, Menemsha Creek, the channel or within 300 feet of the bathing beach.
- F. Pollution- The discharge of sewage, garbage, rubbish, or other debris or pollutants is prohibited in Chilmark waters. Transient Boats shall be required to pump-out holding tanks once every seven days or more often as needed. The Harbormaster should be contacted for use of the pump-out facilities. The Harbormaster may inspect any vessel in Chilmark waters at any time to determine compliance with this and all other pollution regulation.
- G. Swimming and Diving- No person shall swim, snorkel (skin dive), or Scuba dive in the Menemsha Harbor or the Menemsha Channel without permission issued by the Harbormaster or his/her designee from Memorial Day to Labor Day. The Menemsha Channel shall be defined as the area from bell Buoy #1 to Buoy #4. The Harbormaster shall keep a list of such permitted persons. A fine as specified on the Fee and Fine Schedule shall punish whoever is found in violation of this ordinance.
- H. Fishing- All vessels shall use care and courtesy when transiting Menemsha Channel or operating near boats in which people are fishing. No vessel engaged in fishing or any person fishing from the shore shall obstruct Menemsha Channel or impede its use. Vessels transiting the channel have the right-of-way over any person fishing from the shore.
- I. Navigational Aids- No vessel shall tie to any navigation aids.
- J. No person shall operate any vessel on the waterways of the Town of Chilmark or manipulate any water skis, sailboats, surfboards, personal watercraft, jet skis, or similar device thereon in a manner so that the lives or safety of the public might be endangered.
- K. The operator of any vessel involved in a boating accident shall report any incident to the Harbormaster, and where damage exceeds \$100.00 or results in death, missing persons or requires medical treatment beyond first-aid to the:
 - Division of Marine and Recreation Vehicles
 - 100 Cambridge Street
 - Boston, MA 02202
 and to the U.S.C.G. Station Menemsha if damage exceeds \$200.00.
- L. The provisions of M.G.L. Chapter 90B, sections 1 through 19, inclusive, as amended, are hereby adopted as additional waterway regulations for the Town of Chilmark.
- M. The provisions of 323CMR4.00 THE OPERATION OF PERSONAL WATERCRAFT, as amended, are hereby adopted as additional waterway regulations for the Town of Chilmark.
- N. No anchorage is allowed in the harbor or navigational channels.
- O. No overnight anchorage is allowed in Menemsha or Nashaquitsa Ponds while living aboard.
- P. The float dock at Quitsa Pond landing is principally for loading and unloading from moored boats. No dinghies shall be tied to the face of that float, but may be tied temporarily to the back of the float. Violators may be fined in accordance with the Fee and Fine Schedule. All users must also follow any and all directions or rules posted on the dock.
- Q. All mooring permit holders, slip lessees and those on either mooring or slip waiting lists are responsible for providing and maintaining their current contact information (winter and summer) with the Harbormaster's office.
- R. The Board of Selectmen, with the advice of the Harbormaster, has the right to review and respond to hardship cases on written application and at a posted meeting. A "hardship case" is a failure to comply with these regulations, including the applicable deadlines, for a reason that is not self-imposed. (Example: illness, tragedy or accident).

IV. GENERAL MOORING REGULATIONS

- A. No Mooring shall be placed in Chilmark waters unless permitted by the Harbormaster and in compliance with these regulations. Before placing a permitted Mooring in the water each year, the Mooring tackle must be inspected by the Harbor Department.

- B. An identification sticker in duplicate shall be issued by the Harbormaster to each Mooring Permit Holder after receipt of the annual registration fee and a completed and approved Mooring Application. One sticker must be attached to the outside hull of the boat, aft on the port side and the other to the Mooring ball or to a plastic bottle secured to the Mooring ball. Failure to display the sticker will result in a fine as listed in the Fee and Fine Schedule, and may subject the owner to revocation of his/her Mooring Permit if not corrected. It is the sole responsibility of the Permit Holder to affix the stickers to any permitted Mooring.
- C. A Mooring Permit for the placement of a Mooring at a location established and approved by the Harbormaster must be obtained from the Harbormaster before any ground tackle is installed. Moorings established or placed without such authorization will be subject to immediate removal by the Harbormaster at the owner's expense.
- D. All Moorings shall be permitted by the Harbormaster annually. Any Mooring Application renewal not received by 5 PM, January 15* is deemed denied, except as provided in Section III(R) (hardship cases). No more than one Mooring Permit will hereafter be issued to any household. Mooring permit holders with more than one permit as of 2005, which permits are used exclusively for personal, non-commercial purposes, may retain their permits.
- E. All information requested on the Mooring Application shall be provided or the application will be rejected.
- F. The Mooring fee for Chilmark residents and non-residents is as specified on the Fee and Fine Schedule.
- G. No private Mooring may be rented, sold or transferred except a transfer to a spouse or surviving spouse if the boat is in the spouse's name.
- H. Moorings must be used to be retained. Any Mooring Permit Holder who does not occupy his/her Mooring with the boat registered to such Mooring for more than one Mooring year will forfeit his/her Mooring, unless he/she has notified the Harbormaster in writing, and received written permission for one year's grace period.
- I. Existing Commercial Mooring and Marina Permit Holders shall, on June 1st of each year, provide to the Harbormaster an alphabetical list of current renters of Moorings and slips. This list shall include the boat name, type, year, length, registration, or documentation numbers, town where excise tax is paid, name, address and phone numbers of renter. The Harbormaster shall forward a copy of this list to the Chilmark Board of Assessors the next business day.
- J. No vessel shall occupy a Mooring for which it is not permitted without the advance permission of the Harbormaster. The Harbormaster has the authority to remove any vessel violating the provisions of these regulations. Such removal shall be at the owner's risk and expense. At no time should any vessel be tied to a Mooring inconsistent with the Mooring tackle regulations and the rules of good seamanship.
- K. No Mooring, after being set, shall be moved or in any way changed without the prior written approval of the Harbormaster.
- L. No Mooring shall be set within the navigation channels, nor shall any part of the vessel moored obstruct said channels. Any vessel not in compliance shall be subject to a fine, in accordance with the Fee and Fine Schedule, and removal by the Harbormaster at the owner's risk and expense.
- M. Mooring Permit Holders shall not increase the size of a boat on their Mooring without advance approval from the Harbormaster.
- N. No Mooring Permit Holder owner shall permit the temporary use of his/her Mooring by another without advance notice to the Harbormaster.
- O. Each Mooring shall be removed on or before November 1st of each year. After November 1st, the Harbormaster shall fine the Mooring Permit Holder, in accordance with the Fee and Fine Schedule, and may remove the Mooring at the Mooring Permit Holder's risk and expense. Repeated failure to remove a Mooring may subject the Mooring Permit Holder to loss of the Mooring Permit.

- P. Moorings shall be maintained in a safe condition. Chain, shackle or other tackle that has worn by one-third its original diameter shall be replaced. The Harbormaster or his designee may inspect Moorings at any time to determine compliance. Failure to maintain a safe Mooring hereunder shall be cause for revocation of the Mooring Permit by the Harbormaster.
- Q. In an emergency, or a situation requiring immediate attention, the Harbormaster or his designee, may take temporary action deemed necessary regarding the Mooring of any vessel. R. No rafting of boats on a private Mooring is allowed.
- R. No overnight live aboards are allowed on any Mooring other than transient Town owned Moorings inside or outside the harbor.
- S. No Mooring Permits will be issued in any name other than an individual.

V. MOORING TACKLE REGULATIONS

- A. General. Subject to the discretion of the Harbormaster, the recommended minimum requirements for mooring tackle are as follows:
 Length of boat Mushroom Cement Block or Equiv.
 0-16 ft. 75# 24"x24"x08"***
 17-25 ft. 125# 30"x30"x08"***
 26-32 ft. 250# 30" x 30" x 12"***
 33-50 ft. 500# 48"x48"x15"***
 50 feet and over ** Subject to ruling by the Harbormaster.
- B. Chain Size
 Length of boat Recommended Minimum Diameter
 0-16 ft. 3/8"
 17-25 ft. 1/2"
 26-32 ft. 5/8"
 33-50 ft. 3/4"
 50 ft. & over 7/8" + Subject to ruling by the Harbormaster.
- C. Pennant Diameter
 Boat Length Nylon or equivalent
 0-16 ft. 1/2"
 17-25 ft. 5/8"
 26-32 ft. 3/4"
 33-50 ft. 7/8"
 50 ft. or over Subject to ruling by the Harbormaster.
- D. Scope and Pennants
 The length of the chain from the flotation buoy to the ground shall be equal to maximum height of high water plus two (2) feet. The pennant shall be 2/3rds the length of the boat.
- E. Buoys
 The use of spars for mooring flotation is prohibited. Only composite flotation balls shall be used. In all types of buoys chain must be passed through the buoy connecting the Mooring pennant to the Mooring chain. Pennant buoys are not allowed in crowded areas. All flotation buoys shall be plainly and clearly visible above the surface of the water at all times.

VI. DESCRIPTION AND SPECIAL RULES FOR DOCKS IN MENEMSHA BASIN

- A. Dutcher Dock
 Description: 120 feet along bulkhead (North of the Gas Pumps).
 Purpose: To provide dockage for Transient Boats of 50' or less LOA & to provide space for commercial fishermen off-season to unload or to repair gear. Space so used by commercial fishermen may be used for no more than 24 hours at a time.
- B. Transient Boat Dock
 Description: 16 slips and one float at the North end of the harbor.

Purpose: To provide Transient Boat dockage for vessels 50' or less.

C. Commercial Fishing Bulkhead

Description: Bulkhead South of Fuel Dock.

Purpose: To accommodate commercial fishing boats only.

1. No docking in loading zones ("yellow sections") between the two fish markets, except while actually engaged in unloading between the hours of 6am to 9pm, or Transient Boats filling water tanks between 9am and 3pm only, or as arranged by the Harbormaster.
2. Commercial fishing vessels may tie up to the commercial bulkhead south of the fuel dock without charge, provided they are owned by "Commercial Fisherman" as defined by the Board of Selectmen.
3. Commercial fishing equipment shall be kept off the dock except for no more than two fish storage boxes per commercial boat during periods of limited permissible fishing when there is no fish buyer in the harbor.
4. Boats must be actively fishing and leave the harbor regularly.

D. East Side of Filled Dock

Description: 14 slips along East side of Filled Dock.

Purpose: To accommodate vessels of Chilmark homeowners or Year Round Residents.

Beginning in 2006, Boats occupying these slips must be less than 45 feet LOA unless the particular boat occupied said slip prior to 2006.

E. Commercial Dock

Description: 7 slips on the dock along east side of the Causeway to Filled Dock.

Purpose: To accommodate commercial fishing and lobster boats of Year Round Residents.

F. Small Boat Floating Dock

Description: 17 slips to the East of the Causeway to the Filled Dock.

Purpose: To accommodate other boats owned by Year Round Residents.

G. Commercial Channel Dock

Description: 150 feet along the West side of the Filled Dock and the North end of the Filled Dock.

Purpose: To accommodate the loading/unloading and maintenance of commercial fishing vessels and gear, repair of gear and temporary tie-ups. Space may be used at the discretion of the Harbormaster for Boats up to 75' LOA if not needed for fishermen or fish buyers.

H. Channel Dock

Description: 190 feet on the west side of the Causeway with along side tie-ups.

Purpose: To accommodate other local boats up to 30 feet LOA owned by Chilmark homeowners or Year Round Residents.

I. Charter Dock Area

Description: 4 Slips in the Southeast corner of Menemsha Basin.

Purpose: To provide dockage for Charter Fisherman who reside in the Town.

J. South East Small Boat Dockage

Description: Dockage for small boats behind the Charter Dock.

Purpose: To provide additional small boat dockage for Year Round Residents

K. Floating Docks alongside Transient Boat Dock

Description: Floating docks accessed from the end of the Transient Boat Dock

Purpose: To provide dockage for transient boat dinghies and for boats less than 18' in length that are owned, registered and operated by a dependant of a Year Round resident who is 18 years old or younger.

VII. GENERAL REGULATIONS FOR MENEMSHA BASIN

- A. The Harbormaster assigns all slips as appropriate to the vessel. Annual slip leases and rent must be returned to the Harbormaster by 5 PM on January 15* to obtain or renew a slip lease.

- B. Non-use of a slip for more than one boating season will result in the non-renewal of the lease. If a slip will not be used, lessee must apply for, and be given, written permission of the harbormaster, in advance, for a one year grace period. In this instance the harbormaster reserves the right to rent out the space
- C. If a slip holder sells his/her boat, the slip shall be allocated to the next person on the waiting list unless the slip holder replaces the boat within one year.
- D. No subletting of slips allowed.
- E. No living aboard boats on the Filled Dock, Commercial Dock, Floating Dock or Charter Dock, excluding Transient Boats.
- F. The slip holder must own or be the lessee of the boat in the slip.
- G. The Harbormaster must be notified if a boat will be out overnight so that the slip can be used for Transient Boat rental space.
- H. Only one slip may be leased to any household. Slip leases will only be issued in the name of a single individual. The slip may not be transferred except to a spouse or surviving spouse if the boat is also in the name of the spouse.
- I. Parking on the Filled Dock is limited to one car per leased slip and it must display a parking permit issued by the Harbormaster. Transient Boats are not entitled to a parking permit unless such a boat received a parking permit for transient visits prior to 2005.
- J. Boats must be appropriate in length and beam for the slip assignment held.
- K. When a person increases boat size beyond capability of the slip, an effort will be made to affect a switch in docking space, but there will be no guarantee this can be done and no changes will be made in slip size.
- L. When a person decreases boat size below what is reasonable for the slip, an effort will be made by the Harbormaster to make the best use of the available space.
- M. From Memorial Day to Labor Day, no yacht may occupy transient space unless the owner/operator is living on board or on board weekends so the boat can be moved and holding tank pumped.
- N. Transient Boat dockage in the harbor is limited in time to promote turnover and fair access to transient cruising boats. No one Transient Boat will be allowed to stay in a regular transient space for extended periods. In order to encourage use by as many Transient Boats as possible, during the months of July and August, no Transient Boat may remain in the harbor for more than fourteen (14) consecutive days on Dutcher Dock, the Transient Dock, the Filled Dock or on Town Moorings. When a transient Boat leaves the harbor after staying five (5) consecutive days or more (the maximum being fourteen (14) consecutive days), having stayed in an area listed above, that Transient Boat may not return until seven (7) days have passed. No Transient Boat may remain in the harbor for more than thirty (30) total days during this two (2) month period. The Harbormaster may make reasonable exceptions for bad weather or breakdowns.
- O. Grandfathered Vessels: As has been traditional on Dutcher Dock, two slips may be reserved for the season for long term Transient Boats: "Phalarope" and "Jest". No new long-term transient dockage shall be allowed on the Transient Dock. Slips must be used for some portion of each year to retain the privilege. After the initial 14 days, the daily rate for grandfathered boats shall include an additional charge as specified in the Fee and Fine Schedule.
- P. No overnight parking is allowed in the town parking area at Menemsha beach.
- Q. One boat to a slip (dinghies may also be kept in slip if wholly within confines of the slip).
- R. Space for disabled vessels towed in will be arranged as required by the Harbormaster.
- S. Boats shall be moved at the discretion of the Harbormaster to better accommodate other vessels as required.
- T. Lobster pots interfering with safe navigation, in Menemsha Harbor, or in a marked channel, will be removed by the Harbormaster,
- U. The Town of Chilmark shall not be liable for the theft, fire, damage, or injury to persons or vessels while using piers or wharves or commercial moorings under Town control.

- V. Violation of any of these regulations may result in the revocation of the current slip lease and/or loss of slip in subsequent years.
- W. Rafting of boats on Moorings or docks in Menemsha Basin is subject to the control of the Harbormaster to assure safety and freedom of passage.
- X. Dogs on transient boats must be on a leash whenever not on the boat.
- Y. No Town employees shall operate or board any boat to assist in docking even if requested to do so. Lines shall be handled by Town employees from the dock only. The Harbormaster may board a boat only for pollution inspections or in an emergency and shall not take command except in a serious emergency.
- Z. All boats in slips or on bulkheads must be in safe operating condition or being actively worked on to become operational within 7 days.
- AA. No open fires on boats or wooden docks and no cleaning of fish on the docks unless permitted by the Harbormaster.

VIII. ENFORCEMENT AND FINES

- A. Anyone violating any provision of these Waterways Regulations shall be subject to a penalty as set forth in the Fee and Fine Schedule. Each violation of each provision shall constitute a separate offense. For continuing violations, each day or portion thereof during which a violation continues shall constitute a separate offence.
- B. The provisions of the Chilmark Non-Criminal Disposition By-Law and M.G. L. Chapter 40, section 21D shall apply to violations of these regulations.
- C. These regulations may be enforced by the Harbormaster, any assistant Harbormaster, any Chilmark police officers or any other persons or agent appointed by the Board of Selectmen. The Harbormaster shall have the authority to interpret these regulations where uncertainty exists in order to carry out the purpose of the regulations stated in Section I and elsewhere herein. The Board of Selectmen will support the Harbormaster in such interpretation unless the interpretation is patently unreasonable.
- D. Any person aggrieved by the enforcement of these regulations may bring the matter to the Board of Selectmen.

IX. SEVERABILITY

The provisions of the Chilmark Waterways Rules and Regulations are severable, and if any provision hereof of the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions hereof or application thereof which can be given effect without such invalid provision or application.

* The Harbormaster will attempt to contact any prior year applicant who has not responded by January 1st by phone and/or by letter to ensure they have received their renewal notice and they are aware of the January 15th deadline. Failure to reach such applicant shall not relieve the applicant of meeting the deadline.

** Subject to ruling by the Harbormaster