

WHANGAMATA MARINA SOCIETY (INC)

BERTH LICENCE RULES

1.0 Operating Expenses

1.1 "Operating Expenses" means (to the extent to which the same are not separately payable from time to time by any occupant of any part of the Marina under the terms of such occupancy or use thereof) all costs incurred by the Society in the operation and maintenance of the Marina, including but not limited to the following expenses:

- (a) All rates, charges, duties, levies and fees of any local authority or government body, authority or department, including (without limitation) levies payable by the Society under the Injury Prevention Rehabilitation and Compensation Act 2001 or any Act in substitution therefor in respect of the Marina.
- (b) Insurance premiums, valuation fees and other charges payable by the Society for the insurance of such items and against such risks as the Society shall in its sole discretion from time to time determine.
- (c) Compliance costs relating to any resource or similar consent or permit.
- (d) Charges for utilities and other services or requirements whatsoever supplied to or used by the Marina.
- (e) All running costs and costs of repairs and maintenance to, and replacement of all utilities, services and equipment on the Marina, including the cost of service contracts in respect of such utilities, services and equipment and depreciation at normal rates on all machinery and equipment acquired by the Society for such purpose.
- (f) Costs of maintenance, repairs, painting, dredging (including dredging of berths, fairways or access channels), repiling, renovation and replacements of and to the Marina.
- (g) Costs and expenses associated with the repair and maintenance of common public facilities, parking areas, fencing, direction and information signs and drains, and the care and maintenance of lawns and planted areas including the replacement of plants, shrubs and trees.
- (h) All costs and expenses (including, but not limited to taxes, levies and assessments of every kind) incurred in the operation of Marina equipment, vessels, vehicles and other facilities and including all costs and expenses of insuring, repairing, maintaining and replacing equipment, vehicles and other facilities relating to or serving the Marina plus where appropriate an amount necessary for the amortisation of the Society's initial capital investment in such equipment, vessels, vehicles and other facilities over the expected life thereof.
- (i) The cost of cleaning the Marina area including the common public facilities, parking areas, landscaped areas and the cost of garbage collection and disposal and any charges or remuneration paid to contractors for any such purpose.
- (j) All costs (including wages, remuneration and professional or other fees) of administration, operation, supervision, supply, caretaking, night watchmen, security personnel or contractors, parking attendants, cleaning, gardening and provisions of any other services to the Marina which the Society may actually and reasonably incur.
- (k) Such other costs and expenses including Statutory Supervisor's fees and charges and professional fees as may from time to time be incurred by the Society in relation to the ownership, management and maintenance of the Marina.
- (l) All rent, licence or other fees from time to time payable by the Society under the Head Licence.
- (m) A sum not exceeding 15% of the aggregate of the items referred to in the subparagraphs (a) to (l) inclusive, to form a contingency reserve.
- (n) Such sum as the Society shall annually determine to be placed in a reserve fund to cover prospective works to the Marina of a substantial but infrequent or irregular nature provided that nothing in this clause shall preclude the Society from calling for additional payments in respect of such items from Licensees if in the opinion of the Society the reserve fund is insufficient for such purposes or it is inappropriate to use the reserve fund for such purposes.

1.2 The Licensee's Proportion (L.P.) shall be calculated as follows:

$$\text{L.P.} = \frac{A}{B} \times C$$

Where:-

- A = The value of the Berth, as fixed by the Society from time to time.
 B = The value as fixed by the Society at the beginning of the financial year of all berths in the Marina in respect of which Licences have been granted.
 C = Operating Expenses as defined in clause 1.1 (a) – (n). (both inclusive)

1.3 Not less than 7 days prior to each annual general meeting the Society shall notify the Licensee of the estimated Licensee's Proportion for the next financial year.

1.4 As soon as practicable after the end of each financial year, the Society will supply the Licensee with a statement giving reasonable particulars of the actual Operating Expenses and Refurbishment Charges for that year and estimated amounts for the next year.

2.0 Commercial Vessels

- (a) The Berth shall not be used to moor commercial fishing vessels, charter vessels for non-recreational purposes, boats for hire or instruction, work boats, commercial freight carriers or for any other commercial or industrial purpose without the Society's prior written consent.
- (b) Should the Society so consent then it may at its sole discretion levy an additional charge being 15% of the Annual Fee.

3.0 Maximum Dimensions

3.1 The Licensee shall at no time allow any part of a vessel moored in the Berth to extend onto or over any walkway forming part of the Marina or to extend beyond any poles delineating the outer end of the Berth.

4.0 Vacate Berth

4.1 The Society may at any time require the Licensee to vacate the Berth either on a temporary or permanent basis and to take up another suitable berth within the Marina.

4.2 If the Society requires the Licensee to permanently vacate the Berth:

- (a) The Society shall take such steps as are reasonably practicable to provide a replacement berth similar in size, value and location to the previous berth.
- (b) The Society will not be liable to pay any compensation in respect of the change of berth.
- (c) This Licence shall be cancelled and a new Licence for the balance of the term of the cancelled Licence shall be issued for the replacement Berth.

4.3 The Society may use the Berth in case of emergency and may require the Licensee to vacate the Berth to enable the Society to carry out repairs or maintenance and in either such case the Society shall not be obliged to provide an alternative Berth.

5.0 Security of Vessel

5.1 The Licensee shall use only standard mooring lines specified by the Society from time to time for the purpose of mooring the Vessel at the Berth.

5.2 Except for the first set of mooring lines the Licensee shall pay the cost of providing, attaching, repairing and replacing the mooring lines from time to time in accordance with the instructions of the Society.

5.3 The Society may by notice to the Licensee require the Licensee to repair the fastenings on the Vessel so that they safely secure the Vessel in the Berth.

5.4 If the Licensee fails to comply with any such notice within the time specified the Society may remove the Vessel or repair such fastenings and the Licensee shall forthwith upon demand reimburse the Society for the cost of such work.

6.0 Removal of Vessel

6.1 Where the Society is entitled to remove the Vessel from the Berth because of default on the part of the Licensee or any sub-licensee or other person for whom the Licensee is responsible:

- (a) The Society may recover the cost of removal from the Licensee.
- (b) The Society shall not incur any liability under such circumstances.
- (c) Where the Society removes the Vessel in accordance with this Rule, it shall be entitled to a lien on the Vessel for the costs of removal and storage.
- (d) If the Licensee fails to claim the Vessel within a period of three months after the date of removal the Society may offer the Vessel for sale and sell the Vessel. The Society may utilise the proceeds of sale:
 - (i) in payment of all costs and expenses of and incidental to the sale; and
 - (ii) to recover the costs of removal and storage and
 - (iii) subject to the lawful claims of any other persons, pay the balance of the proceeds of sale to the owner of such vessel.
- (e) The Society may (but shall not be obliged to) appoint a custodian for the care of such Vessel pending any sale and the cost of doing so shall be treated as a cost incurred in the course of the sale.

7.0 Alterations to Berth

- 7.1 The Licensee shall not make any alterations or additions to the Berth or adjacent Marina structures without the prior consent of the Society.

8.0 Use of Services and Facilities

- 8.1 The Licensee may use the water, power and any other services or facilities provided by the Marina in common with any other licensees from time to time but on an occasional basis only.
- 8.2 If the Licensee requires permanent or regular use of such facilities the Licensee shall advise the Society accordingly. The Society shall have full discretion as to the provision to be made and shall be entitled to charge as it considers appropriate for such use.
- 8.3 The Society's decision as to what constitutes permanent or regular use shall be final.

9.0 Pollution

- 9.1 The Licensee will not pollute or permit the pollution of the Marina or the waters of the Marina.
- 9.2 In particular (but not by way of limitation of clause 9.1) the Licensee shall not discharge or dispose of any sewage, garbage, oil, fuel, bilge water or other material on the Marina or into its waters or into the water near the Marina.
- 9.3 If the Society provides containers suitable for the disposal of contaminants or pollutant materials the Licensee must use such containers. If the Society does not provide such containers the Licensee shall be responsible for safe removal of the material from the Marina. The Society is not under any obligation to provide such containers.

10.0 Living on board

- 10.1 The Licensee shall not without the prior written consent of the Society live on board any vessel at the Berth or permit anyone else to do so.
- 10.2 For the purpose of this clause the expression "live on board" means sleeping overnight on any vessel for 3 consecutive nights or more.

11.0 Animals

- 11.1 Animals in the charge of the Licensee or guests of the Licensee shall while on the Marina or on any vessel in the Marina be restrained by a sufficient chain, strap or lead.

12.0 Children

12.1 The Licensee shall not permit or allow children under the age of 12 years for whom the Licensee or guests of the Licensee are responsible to enter the Marina unless accompanied by an adult.

13.0 Swimming or Fishing

13.1 The Licensee and guests of the Licensee shall not fish, swim, dive or engage in any underwater activities within the Marina.

13.2 The provisions of clause 13.1 shall not prohibit the underwater inspection of vessels or minor repairs in accordance with such reasonable directions as are stipulated by the Society from time to time but the Licensee shall not clean the hull of any vessel in the Marina.

14.0 Control of Vessels

14.1 All vessels entering the Marina are subject to the over-riding general jurisdiction of the Marina management and the Licensee or other persons in charge of such vessels must at all times comply with the directions of Marina management.

14.2 The Licensee shall not within the Marina moor, anchor, sail or manoeuvre the vessel so as to create a danger, obstacle or inconvenience to other Marina users. Speed is to be limited to minimum safe maneuvering speed with a maximum of 5 knots and the vessel must be operated so that any wake does not cause nuisance or danger to other vessels or their occupants or to the structure of the Marina.

14.3 The vessel must be maintained in good, safe and seaworthy condition at all times.

14.4 Advertising or soliciting is not permitted on any pleasure craft within the Marina. No "FOR SALE" signs may be posted on any pleasure craft, or any pile or piers, nor shall any other signs be posted or erected without the written approval of Marina management.

14.5 Licensees may not use the Marina address, for the purposes of mail delivery without the written approval of Marina management.

14.6 Small tenders and rowboats are permitted to be moored or stored within the Berth provided they are kept clear of walkways and pier fingers. Dinghy racks of approved design and construction may be erected on fingers provided no obstruction is created.

15.0 Noise Nuisance

15.1 The Licensee shall ensure that all halyards, lines, ropes, rigging and sheets on any vessel using the Berth or otherwise berthed in the Marina and under the control of the Licensee are secured so that they do not create any unreasonable noise or other nuisance.

15.2 The Licensee shall ensure that all mechanical devices and entertainment systems on the Licensee's vessel are operated within guidelines that may be established by the Society from time to time or failing such guidelines at reasonable and respectable volume and so as not to cause nuisance or disturbance to other persons in the Marina.

16.0 Storage

16.1 The Licensee shall not permit or allow any property under the control of the Licensee or guests of the Licensee to be stored on the Marina (including walkways, piers, fingers or foreshore) without the prior written consent of the Society.

17.0 Alcohol

17.1 Neither the Licensee nor the guests of the Licensee shall consume alcoholic beverages within the Marina except when actually on board the Vessel or within licensed premises.

18.0 Safety Restrictions

18.1 The Licensee shall not store motor spirit, petroleum products, fuel, oil, liquefied petroleum gas, compressed natural gas, kerosene or goods of a similarly dangerous or flammable nature on any vessel within the Marina or on any Marina structure or in any area under the control of the Society including the Berth, without the prior written approval of the Society.

- 18.2** The Licensee shall not bring within the Marina any motor spirit, petroleum products, fuel, oil, liquefied petroleum gas, compressed natural gas, kerosene or goods of a similarly dangerous or flammable nature without the prior written approval of the Society.
- 18.3** Nothing in clauses 18.1 or 18.2 shall prevent the Licensee from carrying those materials in the Vessel's usual fuel tank and having small quantities of those materials on board in safe containers.
- 18.4** The Licensee shall not refuel the Vessel within the Marina other than at a dedicated fuel jetty or as otherwise permitted in writing by the Society.
- 18.5** The Licensee shall ensure that the Vessel has a current electrical warrant of fitness or any other regulatory requirement before being connected to the electricity supply of the Marina.

19.0 Insurance

- 19.1** The Licensee shall at all times keep the Vessel and all property owned or brought into the Marina by the Licensee or invitees of the Licensee fully insured whilst within the confines of, or near to the Marina against loss or damage by fire, explosion, storm, tempest, typhoon, earthquake, accidental damage, burglary, Act of God and all other usual maritime risks.
- 19.2** The Licensee will keep current at all times third party insurance to an amount specified from time to time by the Society.
- 19.3** The Licensee will not do anything or allow anything to be done which may render void or voidable any policy of insurance effected by the Society or result in an increased premium becoming payable by the Society.
- 19.4** The Licensee shall provide upon request evidence of compliance with this clause 19.

20.0 Hours of Operation

- 20.1** The Licensee shall be entitled to 24 hour access to the vessel on such terms and conditions as the Society from time to time determines.
- 20.2** The Society may make rules as to when and how public access (if any) is available to all or part of the Marina.