

City of Marathon Marina

800 35th Street (Ocean)
Marathon, Florida 33050
305-289-8877

MARINA POLICIES, REGULATIONS, AND AGREEMENT

AGREEMENT made and entered into this date between the City of Marathon d/b/a City of Marathon Marina, 800 35th Street (Ocean), Marathon, Florida 33050, (the "City") and the person, whose name and address is shown as Owner's name below (the "Licensee").

(Please print all information)

| | |
|----------------------------------|---|
| Owners Name | Boat Name |
| Owners Forwarding Address | Other Assigned Operators |
| Home Port | Home or Cell Phone Number |
| Owners Phone Number | Document or Registration # |
| Boat Manufacturer | Insurance Co. (please provide copy) |
| Length Beam | Type (power or sail) |
| | Draft Engine Power |

Number of person(s) residing aboard _____

Holding Tank _____ Composting Head _____

Dockage Rates

Slip# _____

Intended Length of Stay _____

Daily \$1.00X _____ ft.=

\$ _____ per day

Weekly \$6.00X _____ ft.=

\$ _____ per week

Monthly \$10.00X _____ ft.=

\$ _____ per month

Additional Services (see explanation on rate sheet)

\$ _____

Florida (& Monroe County) Sales Tax 7.5%

\$ _____

Usage Fees (see explanation rate sheet)

\$ _____

There shall be only one (1) vessel per slip, which is the vessel that is registered and under contract with the City. Licensee shall not sublet space or services. Rent for space is DUE AND PAYABLE IN ADVANCE.

Licensee's Initials _____

8-14-02

I have read and agree to abide by the rules and regulations stated on the following pages. Dockage is on a month-to-month basis. I will provide City with proof of insurance and registration and/or documentation.

Signature: _____

Date _____

City of Marathon Marina

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MARINA POLICIES AND REGULATIONS

1. The Rules of the Road and Navigation Laws of the United States apply to all vessels in approaching, or leaving the marina.
2. Only pleasure vessels maintained in a seaworthy condition (defined as a vessel that complies with all applicable federal, state or local government agency regulations concerning equipment, operation, registration and safety) shall be allowed.
3. There will be no discharge of human or pet sewage from any vessel using a berthing spot while in the marina. All through hull seacocks connecting type III holding tank systems are to be sealed in a closed position during the entire time while docked. Holding tanks will be pumped free of charge on an overnight visit or once weekly (4 times a month) while registered and licensed at the dock. All additional pump-outs will be subject to current fees.
4. The Marina reserves the right to issue a license or refuse to issue a license to any person for any reason and reserves the right to assign dock space. All efforts consistent with good business practices and the desire of the Licensee will be considered in assigning dock space.
5. Continuing infractions of the rules and regulations contained herein as established and adopted by the City Council, shall, at the option of the Marina, cancel this license agreement and the Licensee shall remove his or her vessel from the premises.
6. Insurance: Licensee agrees to keep his or her vessel insured with marine liability insurance. Minimum marine liability coverage is \$XXXXXXXX.
7. Licensee's responsibilities in the event of a tropical storm or hurricane. The marina facilities are not safe locations for vessels during tropical storms or hurricanes, and the City believes significant damage to vessels and to the marinas will likely occur in a major storm if a vessel remains at the marina. Licensee agrees that it is his sole responsibility to be aware of the threat or approach of a tropical storm or hurricane. In the event of an impending tropical storm or the issuance of a hurricane watch or warning, the Licensee may choose to leave his vessel in the marina slip provided for under this license agreement. Licensee agrees, however, to follow all reasonable directions of the Marina Manager or his designee as to the kind of cleats, ropes, fenders and other measures that must be used on vessels as a condition of use of the marina as provided under section 327.59, Florida Statutes. Licensee specifically and knowingly assumes the risk and agrees to be solely liable and responsible for any damages caused to Licensee's vessel to the marina slips, docks, and piers, to other vessels, and to any other property damaged by the Licensee's vessel, or a result of the vessel's presence.

Licensee's Initials _____

including any damages caused by, or as a result of, actions taken by the City to protect the marina during a tropical storm or hurricane. Licensee further agrees not to demand from, nor to sue, the City for any damages whatsoever as a result of any vessel being allowed to berth at the marina, including the Licensee's vessel during such storms.

8. Noise must be kept to a minimum at all times to not disturb other Licensees, especially after 10 p.m. weekdays and midnight on weekends. Licensees and visitors must use discretion in the operation of engines and other power equipment so as not to constitute a nuisance or disturbance.
9. On weekly and monthly dockage, there are no refunds if you leave early. The monthly rate is for a minimum of 1 month and automatically renewable unless the Marina office is notified one (1) week in advance. Payment is due on the first of each month and a penalty will be assessed after 10 days.
10. Docks and premises are to be kept free and clear of gear, tackle, hoses, bikes, equipment, laundry, garbage, and all other obstructions at all times. Motor vehicles of any sort are NOT allowed on the docks.
11. Decks of all vessels shall be kept free and clear of debris at all times and present a neat appearance.
12. Licensee must notify the Marina office, in writing, when visitors are permitted to use their vessel. The Licensee/vessel owner is responsible for all of their guests; and shall immediately inform them of and have them read and understand a copy of the Marina's Rules and Regulations.
13. If a vessel will be unattended for more than twenty-four (24) hours, the Marina office must be notified and the vessel must be secured for possible severe weather. An emergency number and local agent assigned responsibility must be left with the Marina office in the event an evacuation is necessary for the purposes of contacting someone to move the vessel.
14. BBQ grills (propane or other), and/or open fires are not permitted on boats or docks at the Marina, not to include galley stoves, marina stoves or BBQ grills which are in a designated area. Swimming, recreational diving, lobstering, or fishing is not permitted from docks or vessels in the Marina.
15. Trash receptacle at end of dinghy dock is to be used for normal household type garbage only. Do not put flammable material, bait, or large objects in receptacle. Please use the dumpster. Please remember to recycle, cans, glass and plastic. Recycle containers are placed by the dumpster.
16. Licensee agrees that only reasonable and customary use will be made of the docks and facilities covered hereby, and that no unnecessary wear and tear, disturbance, nuisance, rubbish or garbage will be permitted on the dock or premises. Licensee is responsible for removing from the premises and disposition of all batteries, propane tanks, flammables, and hazardous materials as required by law. Batteries and used oil may be brought to the marina office during regular business hours. Vessels must comply with all health and pollution standards of the State of Florida and the United States. Holding tanks and or head overboard discharges must be locked shut. RAW SEWAGE, OIL, SPIRITS, FLAMMABLES, OR OILY BILGES SHALL NOT BE DISCHARGED INTO MARINA WATERS. In the event

- of a violation, the Marina reserves the right to terminate this agreement immediately and seek removal of vessel.
17. The Marina reserves the right to correct any and all nuisances or emergency conditions, at owner's expense on unattended boats, after first trying to rectify the problem through the owner.
 18. All pets must be leashed or contained when off the vessel in accordance with Chapter 3 of the City Code. Loud, disruptive, or nuisance pets will not be allowed. Pets must be walked in the designated area (N.E. corner of property) and all waste must be picked up and placed in the receptacle provided for this purpose.
 19. All City, State and Federal laws will be enforced at the Marina and on Marina property. Smoking is not permitted in Marina buildings.
 20. The use of Marina electrical outlets for the operation of power tools, battery chargers, welders, etc., are prohibited except by permission from the Marina.
 21. The Marina does not guarantee the continuity of electrical service where provided, nor does it accept any responsibility/liability for any damage caused by the use of the electrical service. Use of torches, open flames, inflammable or toxic cleaners/removers of those containing ammonia, sodium hypochlorite chlorite or chlorinated solvents, or any hazardous equipment and/or material are strictly prohibited.
 22. A Licensee may work on their own vessel providing such work, in the judgment of the Marina, does not interfere with the rights, privileges and safety of other persons, Licensees or property. The Marina must be informed of all vessel repairs and any maintenance that could impact the Marina. Major repairs on boats at the docks will not be permitted. Licensee is required to notify the Marina when Licensee expects workmen to be onboard and the nature of work to be performed. The Marina requires any contractor for hire, craftsman or any other person performing any work whatsoever on Licensee's vessel while in or on the premises of the Marina to first provide Marina all evidence of operational licensing and any other documentation required by Marina policies, including, but not necessarily limited to, certification of workman's compensation and liability insurance coverage, in order to protect the health, safety, welfare and property of all concerned parties. Failure to meet these conditions will require Licensee to remove their vessel from the premises.
 23. **IN CASES OF EMERGENCY**, as determined by Marina, the Licensee agrees that the Marina shall retain the right to move Licensee's vessel, as possible and practical to a safer area to protect the vessel, property or general welfare of others, in the event that Licensee's vessel is unattended. Any cost incurred by Marina shall be billed at current prevailing rates. Licensee agrees to indemnify and hold harmless from any and all liability, loss or damage caused by or to the subject vessel by the Marina. In general, the Licensee shall be solely responsible in any and all emergency measures.
 24. If Licensee becomes delinquent on rental payments, Licensee agrees to allow the Marina the right to take over the property of the Licensee and to secure the property to the space occupied, or to store property in any other location deemed appropriate by the Marina. Space made vacant by the removal of property of the Licensee may then be rented to another at the sole discretion of the Marina.

25. The Licensee warrants that neither the Licensee nor their vessel, nor any guest or occupant of Licensee's vessel, will engage in any activities that are deemed illegal by any applicable Municipal, County, State, or Federal law. Further, the Licensee warrants that they will comply with all rules and regulations of the Marina.
26. The Licensee acknowledges that they have inspected the berthing space lease herein and are satisfied that the berthing space is adequate for safe mooring of their vessel. The Licensee further, acknowledges and understands that this AGREEMENT is not a bailment of the Licensee's vessel but a license for the berthing space only and Marina's liability is limited to the maintenance and upkeep of the waterfront area. The Licensee assumes full and complete responsibility for attending to their vessel in the event of dangerous weather conditions and/or other conditions requiring supervision and attention to their vessel. The Marina assumes no responsibility for the supervision of the Licensee's vessels or tending lines.
27. It is expressly agreed that Marina shall not be liable for loss or damage to any property left or stored by Licensee or any other person in or upon the vessel or boat on Marina premises and Licensee expressly waives against any such claims. The Licensee for themselves, their assigns', successor's and interests, legal representatives, their estate, as the case may be, hereby release and agrees to indemnify and hold harmless the Marina, its assigns', successor's and interests, legal representatives for any liability for personal injury, loss of life and/or property damage of any kind whatsoever:
- a) Arising out of the ordinary negligence of the Marina or its employees and agents in connection with the Marina's premises or the use of the storage space;
 - b) In connection with the Licensee's vessel or boat, motor and accessories while it is on the premises of the marina;
- For loss or damage the Licensee's vessel or boat, motor and accessories or contents there due to fire, theft, vandalism, collision, Marina equipment failure, windstorm, rain, hurricanes, ordinary other negligence on the part of the Marina's or its employees and agents, or other casualty loss.
28. **TERMINATION OF AGREEMENT/BREACH/REMEDIES:** Either party may terminate this agreement with or without cause upon 15 day's prior written notice. Expiration or termination of this agreement shall constitute termination of all other agreements between the Licensee and the Marina pertaining to the use of facilities at the City-owned Marina. Upon termination of this agreement, Licensee shall at once vacate the assigned mooring or docking facility and the Marina (the "Premises") and remove the vessel(s) and all of the Licensee's other property from the Premises. Should the Licensee fail to vacate the Premises and remove his or her vessel upon termination, Licensee agrees that the City may, at its sole option, remove the vessel and place it in storage. Licensee agrees to pay all charges for towing, removal, and storage.
- In addition, the City may utilize any and all remedies provided by law, and as provided herein, to remove the Licensee and/or the vessel(s) from the Premises.
- Licensee agrees that the mooring or dockage provided by the City is a "necessary" within the meaning of the Federal Maritime Lien Act, and that the City, in addition to relying upon the credit of the Licensee, shall retain a maritime lien against the vessel, its appurtenances and contents, for all unpaid dockage fees, delinquency charges, and for any damage caused to

any dock, piling, or any other property of the City. For undocumented vessels, pursuant to Section 328.17, Florida Statutes, in the event of non-payment of storage for a period of six months, the City is authorized to sell the Licensee's vessel(s) at a nonjudicial sale.

The remedies herein are cumulative and use of one shall not be taken to exclude or waive the right to use any other remedy provided by local, state, or federal law.

29. **LICENSE AGREEMENT AND PROOF OF OWNERSHIP REQUIRED:** Any person wishing to use Marina facilities for a vessel must apply for and obtain a license agreement. Proof of ownership is required in order to obtain a license. Proof of ownership includes state registered title to the vessel, or other documentation as applicable.
30. **LICENSEE'S DUTY TO NOTIFY CITY OF VESSEL'S ABSENCE/CITY'S RIGHT TO RE-LICENSE UNOCCUPIED SLIPS:** The Licensee hereby agrees that if the Vessel is to absent from the Premises for a period of seventy-two (72) hours or more, the Licensee shall notify the Dockmaster's office in advance of the dates of departure and return and shall confirm the return date forty-eight (48) hours prior to return. The Licensee acknowledges the City's right, as part of the consideration to the City under the License Agreement, to re-license said slip on a temporary basis (to transient vessels) for compensation when the Vessel is to be absent for seventy-two (72) hours or more. Licensee further recognizes that it has no right to any set-off or credit for the dockage fees due the City under the License Agreement when the Licensee's slip or mooring is temporarily re-licensed to transient vessels during the absence of the Vessel as provided for herein.
31. **SECURITY DEPOSIT:** The Licensee agrees that on monthly dockage (not transient or seasonal) a non-interest bearing security deposit equal to one (1) month dockage fee shall be paid to, and retained by, the City during the term of the License Agreement as security for the faithful performance by the Licensee of all the terms and conditions of the License Agreement and except as provided for in the License Agreement, shall be returned to the Licensee at such time as the Licensee peacefully vacates the Premises in accordance with the terms of the License Agreement. Whether or not prior notice has been given to the Licensee concerning any default on the part of the Licensee, the City may utilize the security deposit for the satisfaction, or partial satisfaction, of: (a) dockage or mooring fees or other charges which have become delinquent at anytime said fees and charges more than fifteen (15) days past due; (b) the cost of repairs required as a result of any damage or loss to City property caused by the Licensee, the vessel, its crew, or its guests or passengers; (c) the cost of removing any personal property left any facility after Licensee vacates the Premises; (d) the cost of removing any equipment or fixtures installed by the Licensee which is not removed by the Licensee prior to his vacation of the Premises, and restoring the facility to its condition prior to the Licensee's use the Premises; and (e) any other reason provided for in the License Agreement. After utilization of all, or any portion of the security deposit, the City may give notice to the Licensee, who shall have ten (10) days in which to fully replenish the security deposit. Failure to replenish the security deposit within the time required herein shall cause the License Agreement to automatically terminate. In no event shall the City be required or obligated to return the security deposit, or any portion thereof, if the City institutes legal proceedings to remove the Licensee, his or her vessel, or other property from the Premises.

32. **PROHIBITING REMOVAL OF VESSELS WITH UNPAID CHARGES:** Unless specifically authorized by the City, the Licensee shall not remove a vessel from the Marina until all unpaid charges have been paid.
33. **NO WARRANTIES:** Licensee fully understands and agrees that the City does not warrant the condition of the slips, docks, piers, gangways, ramps, buoys mooring gear or any other parts of the marina facilities or mooring facilities to be safe for docking, berthing or mooring vessels, or for accepting and discharging passengers, and assumes no responsibility as a wharfinger.
34. **COMPLIANCE WITH LAWS:** Licensee agrees that in its use of the Premises, it shall comply with all Federal and State laws and County and City Ordinances pertaining to Waterways, Marinas, Vessels and Boating.
35. **FAILURE OF UTILITIES:** Although water and electric are provided at no cost to some slips at City marina facilities, Licensee acknowledges that it has no vested rights under the License Agreement or the future or continued provision of water and electric utility services. Consequently, the parties agree that the City will in no event be liable for any interruption, termination or failure of utility services on the Premises.
36. **NO ASSIGNMENTS OR SUB-LICENSES:** Licensee shall not assign, sub-license, transfer, mortgage, or otherwise dispose or otherwise encumber the license or any rights granted herein.
37. **ENFORCEMENT COSTS/ATTORNEYS FEES:** Licensee shall pay and discharge all costs, expenses, and attorney's fees, which may be incurred by the City in enforcing the covenants of the License Agreement, including but not limited to collecting any sums due under this agreement, enforcing the termination provisions, and any maritime or other liens.
38. **REMEDIES CUMULATIVE:** The remedies herein created are cumulative and the use of one remedy shall not be taken to exclude or waive the right to use any other remedy.
39. **JOINT AND SEVERAL OBLIGATION:** In the event that the License is granted to more than one individual or other legal entity (or to any combination), then and in that event, each and every obligation or undertaking to be performed by Licensee under the License Agreement shall be the joint and several obligation of each such individual or other legal entity.
40. **EXAMINATION OF PREMISES:** Licensee agrees that it has examined and inspected the Premises to its satisfaction) prior to the execution of the License Agreement and is satisfied with the physical condition of the Premises, and further agrees that the Premises are in a safe condition and in good repair.
41. **DAMAGE OR DESTRUCTION TO PREMISES:** In the event the Premises, or any portion thereof, shall be destroyed or damaged by fire, wind, water, or other casualty so as to prevent the use of the Premises for the purposes and during the periods specified herein, or the Premises cannot be used because of strikes, acts of God, or other causes beyond the control of the City, then the License shall terminate and the Licensee waives any claim against the City for damages by reason of such termination. The City shall not be obligated to repair or rebuild the Premises, but may elect in its sole discretion to do so.
42. **SUBORDINATION TO GOVERNMENT AGREEMENTS:** Licensee acknowledges and agrees that the License Agreement is subject to and subordinate to any existing or future

agreements or any kind between the City and any other public agency of the United States Government, state, any county authority, or any official, board, commission or other body politic of the state or federal government, now or hereafter created, whether specifically mentioned here or not, pertaining to the development, construction, operation or maintenance of the Boot Key Harbor, marina mooring fields and basins, their adjoining seawalls, and dock areas, the City reserves the right to further develop, improve, maintain, modify and repair the seawalls and dock area, the roadways and connected walkways, at any time regardless of the views of the Licensee and without interference or hindrance by the Licensee.

43. **GOVERNING LAW:** A License Agreement for use of the facilities at the City Marina shall be deemed to have been made in and shall be construed in accordance with the laws of the State of Florida and, where applicable, the laws of the United States.
44. **VENUE:** The sole venue for an action on this Agreement shall be the appropriate court located in Monroe County, Florida.
45. **INTEGRATION CLAUSE:** All written agreements for use of the facilities at the City Marina constitute the sole, complete and only agreements between the parties hereto. Any prior agreements, oral understandings, promises, negotiations, representations, not expressly set forth in a written agreement, shall have no force or effect. Said written agreements shall not be subject to parole.
46. **SEVERABILITY CLAUSE:** The unenforceability, invalidity or illegality of any provision of the License Agreement shall not render the other provisions unenforceable, invalid or illegal.
47. **TERM:** A License Agreement is effective until the date indicated in the agreement, unless terminated sooner by the City or the Licensee, as provided for herein.
48. A Licensee who terminates this Agreement as provided herein, or in the Rules and Regulation of the Marina, may request on a pro-rata basis of any pre-paid charges, provided the Licensee owes no other outstanding charges to the Marina.