

Introduction – Sept 28, 2022
Public Hearing – Nov 9, 2022
Adopted - Nov 9, 2022
Effective – Nov 30, 2022

ORDINANCE NO. 538

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS; CHAPTER 101 BOATS AND BOATING, TO AMEND ARTICLE I §101-1 DEFINITIONS, §101-2 MOORING AT PUBLIC WHARVES, §101-3 AUTHORITY TO BOARD, §101-5 VIOLATIONS AND PENALTIES, ARTICLE II §101-6 DEFINITIONS, §101-8 BOAT SLIP REQUIREMENTS AND USE, AND §101-9 BOAT SLIP ENFORCEMENT.

WHEREAS, the Commissioners of St. Michaels (the “Commissioners”), a Municipal Corporation, have been delegated certain powers pursuant to the Maryland Annotated Code, Local Government Code, Division II, and Land Use Article, Division II to govern the use of Town owned boat slips within its municipal boundaries; and

WHEREAS, the Commissioners have the power to amend the Chapter 101 Boats and Boating of the St. Michaels Town Code; and

WHEREAS, the Town and Waterways Management Advisory Board (Waterways Board) have reviewed the code and determined certain amendments are needed; and

WHEREAS, The Waterways Board has reviewed issues and possible solutions in regards to slip usage in several public meetings; and

WHEREAS, the Waterways Board and Town staff wish to amend Article I and Article II for clarification purposes and for better enforcement; and

WHEREAS, after taking into consideration the comments made at the meetings, the Waterways Board has recommended to the Commissioners that Chapters 101 of the Code of the Town of St Michaels be amended as shown herein and slips 1 & 2 along Harbor Road become paying slips for watermen; and

WHEREAS, The Commissioners of St. Michaels introduced Ordinance No. 538 on September 28, 2022, and listened to public comment; and

WHEREAS, for the reasons stated herein, the Commissioners deem it in the interest of the public health, welfare and safety of the citizens of the Town, and for good government of the Town, to enact the following Ordinance.

NOW, THEREFORE BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF ST. MICHAELS that Chapter 101 Boats and Boating of the Code of the Town of St. Michaels is hereby amended as follows,

New language to be added in **highlighted Bold**, Deleted language to be ~~strikethrough~~:

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Chapter 101. Boats and Boating

Amend Article I. Use of Public Wharves as follows:

Article I Use of Public Wharves

§ 101-1 Definitions.

For the purposes of this article, the words and phrases set forth in this section shall be defined as follows:

COMMERCIAL FISHERMAN WATERMAN

Any person possessing a commercial license issued by the State of Maryland to catch clams, crabs, fish or oysters.

MOOR

To secure or make fast a vessel with cables, lines, ropes, hooks and/or anchors.

PUBLIC PIER OR WHARF

Any pier or wharf owned by a municipal corporation and intended for the use by the public in general, without payment of dockage rental fees.

VESSEL

Includes boats of all types, regardless of how propelled, and shall include seaplanes when not airborne.

§ 101-2 Mooring at public wharves.

No person, with the exception of commercial fishermen watermen, shall moor a vessel at the public wharf located at the end of Mulberry Street for longer than four hours. Commercial fishermen watermen may moor at the South one-half of the wharf and may raft out from the vessel moored at dockside. The loading dock and slips 1 & 2 located on Harbor Road is reserved for the use of commercial fishermen watermen. No person shall moor a vessel at the public wharf at Hollis Park for longer than four hours, and there shall be no docking between the hours of 10:00 p.m. and 7:00 a.m. No vessel shall raft out from the vessel moored at dockside at Hollis Park.

§ 101-3 Authority to board.

Police officers of the Town of St. Michaels shall have the authority to board any boat docked in a Town slip on a public wharf in violation of this article for the purpose of causing any such violation to cease or identifying the owner of said vessel and may cause such vessel to be moved or towed to another location. In addition to any fines issued, moving or towing of the vessel shall be done at the vessel owner's sole cost and expense.

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Such costs and expenses shall constitute a lien on the vessel and must be paid in full before the Town will authorize the vessel's release.

§ 101-4 Owner in violation.

In addition to the violation of this article by the operator of a vessel, the owner of any vessel who permits his or her vessel to be moored in violation of this article shall be in violation of this article. For the purposes of this article, the operator shall be deemed to be the owner unless evidence to the contrary is introduced into evidence.

§ 101-5 Violations and penalties.

Violations of this article are declared to be municipal infractions. The penalty for violation of this article shall be \$400 **250.00** for each offense, and each two-hour period following the initial violation shall be considered a separate offense and subject to a separate citation and fine. Fines shall be doubled if not paid within 30 days of issuance of a citation hereunder

Article II. Use of Town Boat Slips as follows:

Article II Use of Town Boat Slips

§ 101-6 Definitions.

As used in this article, the following terms shall have the meanings indicated:

TOWN BOAT SLIPS — BACK CREEK

Boat slips owned by the Town of St. Michaels at the foot of West Chew Avenue, also known as Waterman's Dock. **These slips shall be used only by commercial watermen with boats having an approved Town slip holder agreement.**

TOWN BOAT SLIPS — HARBOR

Boat slips owned by the Town of St. Michaels at various locations in the St. Michaels Harbor. **These slips shall be used only by boats with an approved Town slip holder agreement.**

§ 101-7 Boat slip waitlist.

A. With the exception of commercial watermen with an active Maryland commercial fisheries license, as of April 1, 2021, each applicant must pay a one-time nonrefundable fee of \$150 in order to be put on (or remain on) the waitlist for a Town boat slip.

B. Waitlist applicants must renew their waitlist application each year to remain on and maintain their position on the waitlist. The renewal application along with a nonrefundable \$20 renewal fee must be received by January 15 of each year. Failure to submit appropriate documents will result in removal from the waitlist.

C. When a Town boat slip becomes available, the Town will notify the applicant by phone. If the applicant does not respond within five days, a certified letter will be sent to the applicant's mailing address on file. The applicant has seven days from the date the letter is mailed to respond. Failure to respond with intent to lease the Town boat slip will result in forfeiture of the Town boat slip and removal from waitlist.

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(1) If the applicant's boat does not fit in an available Town boat slip with proof, the applicant may remain on waitlist in their current position.

(2) If the applicant does not currently have a boat, one must be obtained or proof of purchase with an estimated delivery date must be provided to the Town within 30 days; otherwise, the applicant will forfeit the Town boat slip and be removed from the waitlist.

§ 101-8 Boat slip requirements and usage.

A. The slip holder has 30 days from the verbal or written intent to rent a Town boat slip to provide proof of current Maryland registration and title, fees and a completed slip agreement. Failure to submit all required items within 30 days will result in forfeiture of the Town boat slip and removal from the waitlist.

(1) The Town will accept no slip holder agreements or fees until all requirements are met.

(2) If the slip holder owns more than one boat which will be used in the Town boat slip, they must provide a current Maryland registration and title for each boat.

(3) In addition to the slip rental rate, with the completion of each slip agreement, the slip holder will be issued a decal identifying the boat for the assigned Town boat slip. The decal will need to be placed on the boat next to the Maryland registration decal and any fishing license decals.

B. The slip holder, for themselves, their heirs, successors and assigns, waives any and all claims against the Town and its officials and employees for any loss or damage to any boat occupying the Town boat slip and any and all liability for death or personal injury to the slip holder's person or property and for the death, personal injury or property damage of any other person(s) caused or alleged to be caused or contributed to by the Town boat slip or use thereof.

C. The lease term may be extended for one or more additional one-year periods, providing that all conditions of the lease, as written or as amended by the Town are met; provided, however, no lease shall be extended or renewed unless the balance of the rental fee owed by the slip holder to the Town is paid in full.

D. The slip holder shall not rent, sell, transfer, sub-lease, loan or in any manner convey the lease or the use of the Town boat slip, or otherwise permit any boat or object other than the boat named on the slip agreement to occupy the Town boat slip.

(1) Commercial watermen with an active Maryland commercial fisheries license who are a current slip holder in the St. Michaels Town Harbor, upon their death, permanent disability or retirement, may direct that the lease of their Town boat slip may be willed or transferred to **an immediate family member (son/daughter or husband/wife)** ~~another commercial waterman~~ who also maintains an active Maryland commercial fisheries license.

E. The Town shall lease the Town boat slips — Back Creek to watermen with an active Maryland commercial fisheries license to berth their vessels and offload catch. Should a Town boat slip be vacated by a waterman, with no demand from other watermen for said slip, and remain vacant for one year, the slip may be rented to a recreational boater with a valid Maryland boat registration.

F. A commercial waterman shall have the ability to renew Town boat slip lease agreements from year to year so long as they maintain an active Maryland commercial fisheries license, follow all regulations governing slip leases in the Town, and operate a commercial waterman's vessel, as may be verified by the Maryland Department of Natural Resources. The number of transferable or

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willed waterman's slips in the Town Harbor, ~~excluding slips along Honeymoon Bridge~~, shall not exceed 15 **slips including slips 1 and 2 located at the loading dock off Harbor Road.**

~~G. Preference is given to commercial watermen with an active Maryland Commercial fisheries license for Town boat slips that lie along Honeymoon Bridge.~~

H. The slip holder is required to notify the Town if the boat will not be in the Town Boat Slip for a period of 30 days or longer.

I. The slip holder shall immediately notify the Town in the event the slip holder acquires a different boat to occupy the Town boat slip. If the slip holder sells the boat during the terms of the lease agreement without acquiring another boat, they will be permitted to retain the Town boat slip until the end of the agreement or 60 days, whichever occurs first.

J. Only boats registered in the State of Maryland shall be permitted to occupy a Town boat slip. The slip holder shall immediately notify the Town of any changes in the boat's registration. If the boat should cease to be legally registered in the State of Maryland, the slip holder shall immediately forfeit and surrender all rights to the Town boat slip and the lease agreement shall be void.

K. Any property which the slip holder shall leave in the premises after the term of this agreement or any renewal thereof shall be deemed abandoned to the Town. Slip holders shall reimburse the Town for costs incurred by the Town in the removal and disposal of said property.

L. The slip holder shall not use the Town boat slip for the conduct of any boat chartering or boat rental business.

M. No person shall live aboard any boat stored or occupying a Town boat slip.

(1) Living aboard a boat shall include staying or sleeping upon a boat for one or more nights.

(2) A person shall be presumed to have lived upon the boat if they are aboard the boat at any time between the hours of 11:30 p.m. and 5:00 a.m. unless that person is aboard the boat for the purpose of protecting the boat from (temporary) imminent danger.

N. The boat must be kept afloat, in good repair and operational while in the Town boat slip.

(1) The boat must leave the Town boat slip under its own power at least twice a year. The Town or its assignees reserve the right to ask the owner to demonstrate the designated boat is operational.

(2) In the event a boat sinks and remains for a period of 30 days, the Town reserves the right to remove or cause to be removed the same at the expense of the slip holder in accordance with the State Boat Act.

O. The slip holder shall not leave parts, equipment, supplies or trash on the bulkhead area.

P. The slip holder shall be limited to leasing one Town boat slip — Harbor and one Town boat slip — Back Creek to enable access to separate tributaries, the Miles River and the Choptank River.

Q. The slip holder shall not alter the Town boat slip or the land to which it abuts without written permission from the Town.

R. The slip holder will compensate the Town for any damage caused to pilings, bulk heading or facilities of the Town by the slip holder, his agents, guests, or employees. Sufficiency of the compensation shall be determined by the Town in its sole and absolute discretion.

S. The slip rental rate may be amended by the Town from time to time, not more than one time per year.

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T. The slip holder shall abide by all rules and regulations set by the Town and abide by any lawful order or orders issued by any agent or agents of the Town regarding the use and occupancy of the Town boat slip.

§ 101-9 Boat slip enforcement.

A. Police officers of the Town of St. Michaels shall have the authority to board any boat docked in a Town slip in violation of this article for the purpose of causing any such violation to cease or identifying the owner of said vessel and may cause such vessel to be moved or towed to another location. In addition to any fines issued, moving or towing of the vessel shall be done at the vessel owner's sole cost and expense. Such costs and expenses must be paid in full before the Town will authorize the vessel's release.

B. The Town Police and Code Enforcement Officer(s) may conduct reviews of the Town slips at any time. Failure to adhere to § 101-8 of this article is declared to be a municipal infraction. The penalty for violation of § 101-8 shall be \$100 **250.00** for each offense, and each day that a violation continues after notification of the initial violation shall be considered a separate offense and subject to a separate citation and fine.

(1) Unless otherwise stated, three citations will result in immediate termination of the slip agreement and forfeiture of slip and fees.

(2) Upon notice of termination of the slip agreement, the slip holder must remove the boat from the Town boat slip or cause the same to be removed within seven days. Failure to remove the boat after the seven-day notification period is declared to be a municipal infraction. The penalty for violation of this subsection shall be \$100 **250.00** for each offense, and each day that a violation continues shall be considered a separate offense and subject to a separate citation and fine. The Town also reserves the right to have the Maryland Department of Natural Resources declare the boat as abandoned and remove and dispose of the same in accordance with the State Boat Act

AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect twenty (20) days from the date of its enactment, having been read at two (2) meetings of The Commissioners of St. Michaels and having been passed by a yea and nay vote of The Commissioners of St. Michaels

HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of the Commissioners of St. Michaels held on this 9th day of November, 2022 via a virtual meeting.

MERCIER yea

BREIMHURST yea

DUPONT yea

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HARROD

__yea__

WHITTINGTON

__yea__

I HEREBY CERTIFY that the above Ordinance No. 538 was passed by a ye and nay vote of The Commissioners of St. Michaels on this 9th day of November, 2022.

ATTEST

THE COMMISSIONERS OF ST. MICHAELS

Suzanna Warnick (Seal)

By: David Breimhurst (Seal)

Rob Straebel, SUZANNA WARNICK
Town Administrator CLERK

David Breimhurst, President

I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the 10th day of November, 2022, at 8:30 o'clock a.m. to the on this 29th day of November 2022, at 4:30 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the aforesaid Ordinance No 538, the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read on the website of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Robert Straebel / s.k.w. (Seal)

Rob Straebel,
Town Administrator