

For Discussion – 1.27.2021
Introduction – 2.10.2021-Bibb, duPont
Adopted – 3.10.2021
Enacted – 3.31.2021

ORDINANCE NO. 520

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS; CHAPTER 101 BOATS AND BOATING, TO AMEND §101-3 AUTHORITY TO BOARD AND §101-5 VIOLATIONS AND PENALTIES AND TO ADD ARTICLE II USE OF TOWN BOAT SLIPS, CONSISTING OF §101-6 DEFINITIONS, §101-7 BOAT SLIP WAITLIST, §101-8 BOAT SLIP REQUIREMENTS AND USE AND §101-9 BOAT SLIP ENFORCEMENT; PROVIDED THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY, AND GENERALLY RELATED TO BOATS AND BOATING IN THE TOWN OF ST. MICHAELS.

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

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

WHEREAS, the Town and Waterways Management Advisory Board (the “Waterways Board”) has received numerous complaints regarding usage of Town boat slips and the length of the waitlist therefor; and

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

WHEREAS, the Waterways Board and Town staff have proposed that the Commissioners amend § 101-3 Authority to Board and §101-5 Violations and Penalties and add a new Article II Use of Town Boat Slips, consisting of § 101-6 Definitions, § 101-7 Boat Slip Waitlist, § 101-8 Boat Slip Requirements and § 101-9 Boat Slip Enforcement 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 Chapter 101 of the Code of the Town of St Michaels be amended as set forth herein; and

WHEREAS, the Commissioners of St. Michaels introduced Ordinance No. 520 on February 10, 2021, and received public comment regarding the same; 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.

SECTION 1. 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:

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CHAPTER 101. BOATS AND BOATING

Article I. Use of Public Wharves

§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 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 or causing 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 shall constitute a lien on the vessel and must be paid in full before the Town will authorize the vessel's release.

§101-5 Violations and penalties.

Violations of this article are declared to be municipal infractions. The penalty for violation of this article shall be ~~\$50~~ **\$100.00** 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

§101-6 Definitions.

Town Boat Slips – Harbor – Boat slips owned by the Town of St. Michaels at various locations in the St. Michaels Harbor.

Town Boat Slips – Back Creek – Boat slips owned by the Town of St. Michaels at the foot of W. Chew Avenue, also known as Waterman's Dock.

§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 non-refundable fee of \$150.00 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 non-refundable \$20.00 renewal fee must be received by January 15th 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 (5) days, a certified letter will be sent to the applicant's mailing address on file. The applicant has seven (7) days from the date the**

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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.

(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 thirty (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 thirty (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 thirty (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 (1) 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 (1) or more additional one (1) 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.

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- (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 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 (1) 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 transferrable or willed Waterman's slips in the Town Harbor, excluding slips along Honeymoon Bridge, shall not exceed fifteen (15) slips.**
- G. Preference is given to commercial Watermen with an active Maryland Commercial Fisheries License for the 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 thirty (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 sixty (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.**

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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 (1) 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 thirty (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 (1) Town Boat Slip – Harbor and one (1) 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.

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

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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 \$100.00 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 (3) 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 (7) days. Failure to remove the boat after the seven (7) day notification period is declared to be a municipal infraction. The penalty for violation of this subsection shall be \$100.00 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.

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the Town Code is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type and deleted text is crossed out with a single strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of St. Michaels that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

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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 10th day of March, 2021 via a virtual meeting.

BIBB	<u> yea </u>
BREIMHURST	<u> yea </u>
DUPONT	<u> yea </u>
HARROD	<u> yea </u>
WINDON	<u> yea </u>

I HEREBY CERTIFY that the above Ordinance No. 520 was passed by a yea and nay vote of the Commissioners of St. Michaels on this 10th day of March, 2021.

ATTEST


Jean R. Weisman,
Town Clerk / Manager

(Seal)

THE COMMISSIONERS OF ST. MICHAELS

By:


Joyce Harrod, President

I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the 11th day of March, 2021, at 8:30 o'clock a.m. to this 30th day of March, 2021, 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 520, 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.


Jean R. Weisman,
Town Clerk / Manager