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PUBLIC BENEFITS OF PROFESSIONAL RECREATIONAL BOATING FACILITIES

This document is a summary of the many public benefits provided by professional recreational boating facilities, and an introduction into how these services relate to the use and allocation of moorings. Every business is different; every municipality has its waterways management quirks. Yet, there are many commonalities regarding the benefits provided by professional recreational boating facilities.

Statewide law regulates and protects pre-existing recreational boating facilities because the public benefits substantially from having healthy, full-service boating facilities and such facilities are increasingly difficult to establish and maintain. This means that major changes to local waterways management systems should not put pre-existing recreational boating facilities at risk, or the public loses out.

Some towns sometimes contemplate “taking over” the for-profit facilities, such as taking over management of mooring fields, in the mistaken view that the public would somehow gain greater access to the waterways if moorings and slips are publicly managed instead of privately. Instead, the boating public would just end up paying more and so would the general, non-boating public newly sharing in the liability costs previously borne by private businesses.

Many people might like to enjoy boating without paying for the full cost of their recreation, but the general public shouldn't be expected to pay for individual boaters' benefits – boaters should fairly pay their share of the recreational boating services they enjoy. This is why most municipalities in Massachusetts permit for-profit marinas and boatyards to offer customers and patrons services and facilities, at each users expense, rather than having the general taxpayers support town-owned or town-managed waterways services and facilities.

As the demand for moorings and slips increases, the supply has stayed steady, causing controversy over how for-profit facilities manage the “hot commodities” of slips and moorings. Emphasizing the public benefits offered by for-profit facilities is crucial to maintaining respect and support for the recreational boating trades.

1. Services provided by boating facilities

- Moorings Maintenance and Inspections: Often, moorings managed by professional boating facilities are maintained and inspected to the standards set by the town Harbormasters and town regulations at no cost to the towns, only to the user. In some towns, it is often only the moorings within boatyard moorings fields that actually get inspected as frequently as required by local law.
- Liability Relief for Municipality, Coverage for Claims by Boaters: Marine liability insurance is expensive and a single incident of a breakaway vessel can cause a fortune in damage. Absent clear authority for a mooring field to be managed by a private company, responsible for placement and maintenance of moorings, it is the municipality which may be targeted for compensatory damages.
 - Administrative Services: Boat yards and marinas often process mooring applications and registration paperwork on behalf of the towns at no charge to the Town including office work, supplies and mailing expenses. Boat yards and marinas also often compile and provide a list of all mooring customers to the local assessor's office including mailing and summer addresses for the collection of excise taxes. In some towns, customers return the annual mooring permit application forms to the marinas and boatyards with their check payable to the Town and the boatyard tracks compliance. Once the forms and checks are collected, boatyards may be given mooring tags and mooring stickers for distribution management. In these cases, the boatyard's service department attaches the moorings and the stickers are affixed to the transoms of boats on the moorings (and sometimes on slips).
 - Twice-Annual Moorings Positioning and Hauling: Moorings are often professionally positioned into the waters each spring and hauled out each winter, leaving no winter sticks. During the off-season, mooring balls are cleaned and painted with anti-fouling paint. Registration numbers are then repainted on each ball for identification purposes. When moorings in the mooring fields assigned to boatyards are placed each spring, the boatyards take responsibility for both maximizing the available space and assuring safe placement of each mooring in relation to the size and type of boats to be placed thereon and nearby. The absence of this coordinated "field management" would result in hazardous individual moorings placements and, most likely, a far less space-efficient result.
 - Winter Mooring Storage: Professional facilities may store individual moorings units.
 - Moorings Rentals or Sales: Facilities often provide rental or sale of the physical components of a moorings ball assembly, chain, line, shackles, mushroom anchor. Chains are usually up for replacement every 3 years. Mooring balls often need to be replaced every 5 years due to rusting hardware. It is more cost effective to replace the entire ball assembly. Mushroom anchor tops need to be replaced every 7 years.

Shackles are replaced every 3 years. Moorings lines last one or two seasons and must be inspected regularly for exceptional wear and tear to avert disaster.

- Water Access: Facilities provide safe access to the water.
- Parking: Facilities with boat users that drive to the waterway often supply parking for mooring occupants and their guests. Many towns do not have adequate publicly owned land to support the parking needed for waterways use.
- Dinghy and Launch Services: Supply dinghies and/or dinghy floats for mooring occupants and their guests and supply launch services at some facilities. Often staffed 7-days-a-week launch with U.S. Coast Guard certified launch operator. Some supply dinghy-storage usage for off-hours transport to moorings. If moorings were not managed by existing professional facilities, many towns would not have adequate physical space on public land for dinghy docks or on-land storage.
- Bathrooms: Supply bathrooms for mooring occupants and their guests.
- Pump-out: Some facilities supply the labor for pumping out boats to assist public compliance and protect our environment, without charge to the boater in need of a pump-out.
- Monitor Moorings and Boats Thereon: Monitor moorings and the boats in the harbor on a daily basis for collective security, placement, traffic flow; Check individual moorings and boats generally twice weekly in season.
- Emergency Monitoring and Safe Haven: Check moorings and boats after severe weather and tend accordingly. Provide safe haven during hurricane and severe weather conditions including professionally securing of boats and related monitoring and assistance, with qualified staff. Provide emergency haul out services for hurricane and repair requirements. Provide constant monitoring of boats to insure environmental compliance and safe operation. Cooperate and assist town and other officials in any waterfront emergency including supplying of manpower and specialized equipment.
- Oil Spill Response System: Participate in an “oil spill response system” through the combined purchase of oil booms and related materials.
- Boat Repair Services: Full service yard for maintenance and emergency repair to any vessel approaching the yard.
- Boat Storage: (winter and other)
- Fuel Services: Provide fuel with approved, tested, monitored and environmentally safe systems.

- Boat Sales: Boat sales are one of the few marine services that can generate revenues as opposed to simply breaking even. Without boat sales, many of the services listed above and below would not be available to the public.
- Boat Rentals: For transient or newly interested boaters, or boaters who cannot otherwise access the waterways. It is a substantial asset to the public for some boating facilities to be able to offer transient boaters daily and, if available, weekly moorings to accommodate visitors to Massachusetts. Boatyards with overall mooring field management authority can “mix and match” to put a transient boater where a mooring is temporarily available. The absence of coordinated, on-site mooring management would make this public service impossible to provide.
- Payment of Local Real Estate Taxes.
- Payment and Generation of Employment Tax Revenues.
- Provision of Marine Services Employment Opportunities – There are at least 27,000 employees in the marine trades in Massachusetts (over 18,000 full time). The full time annual payroll exceeds \$508 million.
- Waterways facilities maintenance: Bulkhead and access-point maintenance, capital improvements and repairs
- Incident-to-boating interior facilities – Food service, showers, waiting areas
- On-site marine hardware – Rental, sale or usage for self-repairs on lesser repairs
- Leadership Service in Professional Trade Organizations – To keep recreational boating healthy as an industry, safe for the public and up to date on technological and safety advances, and to advise boaters and educate workers of developments

2. Additional Information

Transient Rental Boating allows boaters to rent a boat without having to purchase the vessel. Renting provides an alternative to boat ownership, allows boaters to enjoy the waterways for fishing, sailing and general recreational boating, and addresses needs necessarily resulting from limited moorings availability.

3. Revenue opportunity:

Some towns generate substantial funds for waterways programs by charging different fees for commercial and recreational moorings. When the professional boating facilities manage mooring fields, they are liable for the results, thus relieving the town of a potentially significant expense. Insurance is hard to obtain and expensive to maintain,

not to mention the litigation costs when errors are made or perceived to have been made when a boat breaks loose and is damaged or damages people or property.

4. Risks Assumed

Following are the risks assumed if moorings management responsibilities are not handled by professional recreational boating facilities.

- The towns take on the cost of processing moorings applications and permits including office expense, postage, payroll, benefits and related overhead.
- The towns absorb the cost, including benefits, of personnel to monitor boats
- The towns respond to hazards and emergencies
- The Harbormasters' offices are often overburdened even with the current assistance provided by the for-profit recreational facilities. Those towns in which serious changes are proposed would be smart to have cost-benefit analyses done to assure the public really benefits from contemplated changes. Most Harbormasters' departments would need to be significantly increased to accommodate the additional workload.
- The boating public's insurance costs would most likely increase, as more boats are moored in unattended and less secured mooring fields.
- The towns' exposure to liability proportionally increases with related impact on insurance costs.
- The towns would lose precious waterfront parking space and effectively not have proper access for mooring permit holders to access their moorings.
- Without the for-profit recreational boating facilities in place currently, there may be no place to put dinghies required for access to the moorings.
- The towns would not have adequate bathroom facilities currently supplied by the existing recreational facilities.
- The towns would lose tax revenues from for-profit businesses.
- Taking moorings management responsibilities away from existing facilities is likely to cause significant financial hardship to these facilities and loss of jobs for employees.

The business brought to some towns would be reduced if resorts were unable to offer boating as an amenity for guests. Area resorts would not be able to provide these services, which in turn would reduce guest activity and the intrinsic room and food and beverage revenue. The relative tax income to towns would be lost if boat concessions were unable to operate due to losing or limiting the moorings needed to meet their historic business needs.

- Loss of Public Access

Eliminating boat rentals would significantly impact the public access for the visitor and resident. Many guests currently enjoy these conveniences and in some instances this helps limit the need for additional moorings by offering an alternative to boat ownership with the benefit of local boat rentals.

5. Discriminatory to Use Single, Centralized Waiting List and Not Several Legally Categorized Ones

Some towns use a single, centralized waiting list for moorings controlled by a single entity (the Town). Others have multiple lists and varieties of list management systems. A few have no list at all. Yet, having a single list with a mandate that the first person on the list gets the next available mooring would actually be discriminatory, endanger public safety and violate existing businesses' legal rights.

A centralized waiting list in the face of decades-long waits unfairly provides access to the waterway only to the few people that had the fortune, foresight or mere fact of being alive to place their name on the list previously. For example, according to the Harwich Harbormaster's office as of July 17, 2003 a person placing their name on the Town's single list today would at best have access to a mooring in the year 2020 (17 years). This assumes no growth in the list, which is highly unlikely.

State law explicitly authorizes mooring permits to be granted not solely on a "first-come, first-served" basis, but also on the basis of the type and size of vessel seeking a permit at the location in question (310 CMR 9.07(2)(a), and the purpose of the vessel. State law also explicitly authorizes "moorings for which permits are issued to a recreational boating facility [to be] assigned to individual patrons or members of such facility." 310 CMR 9.07(2)(d). This means that people who want to keep a personal boat on a mooring field in a boatyard or marina have to expect to pay for the services they receive and cannot expect to place their boat on that mooring and pay nothing for all the boatyard offers them, or to expect other boaters or the general public to absorb their costs of enjoyment through general taxation expenditures.

The reason state law acknowledges recreational boating facilities' needs to offer moorings preferentially to patrons and members is that somebody has to pay for the creation, operation and maintenance of all the facilities and their services, of which the whole community at large benefits. If people who do not pay for their share are able to acquire moorings, somebody else must foot that bill or the facility will no longer exist.

A single centralized waiting list would discriminate against anyone who has discovered boating in the recent past years and thereafter into the future, and would endanger the safety and sound management of the waterways by preventing sensible maximization of limited mooring space (e.g. not placing an overly long vessel in a too-small mooring space available).

Possible Solutions

A careful, professional, holistic waterways planning approach is essential to assure fair and reasonable access for taxpayers across several categories of user groups. Boatyards, marinas, clubs, rental operations and publicly owned facilities all have an important role to play in maximizing safe public access to the limited waterways of Massachusetts.

