

THANET DISTRICT COUNCIL RAMSGATE ROYAL HARBOUR MARINA TERMS & CONDITIONS

Ramsgate Royal Harbour Marina is owned and operated by Thanet District Council.

1. Definitions

"The Council" shall mean Thanet District Council.
"The Marina" shall include any area of the Council's estate on land or on water (including the boat park and any area on or beneath the surface of the water) and any other facility provided by the Council for use as harbour facilities.
The Owner" shall include a lawful owner, charterer, master or agency or any other person for the time being lawfully in charge (other than the Council) of a vessel berthed within the Marina.
"The Harbour Master" shall include Port Control and all persons acting with the authority of the Council and fulfilling the role of Harbour Master.

2. Entirety

These Terms & Conditions should be read in their entirety.

3. Arrival

It is the Owner's responsibility to notify the Council of his arrival at the Marina forthwith and to provide the Council with adequate identification and details of any vessel or other items of property belonging to the Owner brought into the Marina.

4. Acceptance

Entry into the Marina indicates recognition and acceptance of these Terms and Conditions which govern use of the Marina and set out the obligations that the Owner must observe when using the Marina.
Upon acceptance of the Owner's application for a berth within the Marina, the Council will grant the Owner a licence, upon these Terms and Conditions, to use such berth as is from time to time allocated to the Owner by the Council. Without prejudice to the requirement on the owner to apply for a berth, the current Royal Harbour Marina Schedule of Fees and Charges will apply with immediate effect in respect of the Owner's use of the Marina.

5. Non-Exclusive Use

Nothing in these Terms and Conditions shall entitle the Owner to the exclusive use of a particular berth and no estate, right or interest therein shall be implied or deemed to be granted hereunder. Under no circumstances does any form of Landlord and Tenant relationship arise under these Terms and Conditions in relation to the use of any berth within the Marina.

6. Assignment

A licence granted to the Owner for the use of a specified berth within the Marina ("the berth") is personal to the Owner and shall relate to a named vessel ("the vessel"). The Owner shall not lend sublet, assign or transfer the berth to any other person nor shall the Owner use the berth for any other vessel unless the Owner has the Council's prior written consent.

7. Council use of Berth

The Council reserves the right to use or let out the berth whenever the vessel is absent and without refunding the berth licence fee. The Owner undertakes to give the Council at least 24 hours prior notice of intention to return to the Marina, failing which the Council accepts no liability should there not be a suitable alternative berth available upon the Owner's return, this being without prejudice to the Owner's obligation to pay the berth licence fee.

8. Live On-Board Restrictions

Except with the prior written consent of the Council by the Harbour Master, no person shall use or permit the use of the vessel in the Marina as the only or main place of abode of any person and, without prejudice to the foregoing, no person shall use or permit the use of the vessel as accommodation for more than 21 consecutive days nor for more than one 180 days in total in any calendar year.

9. Notify Changes

The Owner shall keep the Council informed in writing of any change in the name of the vessel or change of the address, telephone number or other details of the Owner.

10. Vacating

The Owner is required to give 28 days written notice to the Council before vacating the berth. Failure to do so may incur additional charges (see "Recalculation of Charges Upon Notice" at paragraph 35).

11. Vessel Sale

Within seven days of any sale or transfer of the vessel, the Owner shall notify the Council of the name and address of the purchaser or transferee as the case may be and provide a copy of the Bill of Sale or Transfer to the Council. The Owner shall notify the purchaser or transferee that the permission to use the berth is not assignable and shall ensure that the terms of sale state that a new application to the Council needs to be made for use of the berth. Until such time as such application has been accepted by the Council, the Owner shall continue to be liable under these Terms and Conditions.

12. Payment

The Owner shall pay any valid invoice submitted in respect of the berth or any other goods and services provided by The Council upon receipt of the invoice unless other terms have been expressly agreed in writing. Payment shall be deemed to be made when cleared into the Council's account.

13. Interest

The Council reserves the right to charge interest at 2% above NatWest base rate on invoices remaining outstanding over 30 days after the date of the invoice

14. Unpaid Accounts

Any accounts remaining unpaid at the end of 60 days after the same shall be due may be referred to the Council's Debt Recovery Section and the costs of any proceedings or bailiff charges will be added to the outstanding debt and recovered accordingly.

15. Lien

The Council shall have a lien upon the vessel until all sums payable by the Owner to the Council in respect of the vessel have been paid and the Council expressly reserves the right to claim a possessory lien upon the vessel in respect of any money claim.

16. Termination

The Council shall have the right (without prejudice to any other rights in respect of breaches of these Terms and Conditions by the Owner) to terminate the licence granted to the Owner in the following manner in the event of any breach by the Owner of any of these Terms and Conditions or of any failure by the Owner to make any payment due to The Council.

If the breach is capable of remedy or the Owner has failed to make any such payment, the Council may serve notice on the Owner specifying the breach or the failure to pay and requiring him to remedy the breach or pay the amount due within 14 days.

17. Power to Remove

If the Owner fails to remedy such breach or pay the amount due within 14 days or if the breach is not capable of remedy, the Council may serve notice requiring the Owner to remove the vessel from the Marina within 14 days. Such notice shall be served on the Owner by affixing it on the vessel or by posting it by recorded delivery to the Owner's last known address.

If the Owner shall fail to remove the vessel within 14 days (whether under this condition or otherwise), the Council shall be entitled:-

(i) to charge the Owner at the Visitors Rate as published in the current Royal Harbour Marina Schedule of Fees & Charges between the date of termination and removal of the vessel from the Marina, and

(ii) at the Owner's expense and risk (save in respect of loss or damage caused by the Council's negligence during such removal), to relocate the vessel within the Marina or remove the vessel from the berth and thereupon secure it elsewhere in some other storage area within the Marina and thereafter to charge the Owner with all costs arising out of such relocation or removal including alternative berthing, handling and storage fees.

18. The Council's Obligations Cease upon Termination

Any obligation of the Council towards the vessel ends upon the expiry or lawful termination of the licence.

19. Liability

The Council accepts no responsibility for loss of or damage to any other vessel or items of property belonging to the Owner left at the Marina without its express consent save as may be implied by law.

20. Power of Sale

Where payments are overdue in respect of the vessel, the provisions of the Torts (Interference with Goods) Act 1977 which confers power of sale upon bailees in the circumstances set out in that Act shall apply. Sale of the vessel shall not take place until statutory notice has been given to the Owner or the Council has taken reasonable steps to trace the Owner in accordance with the Act.

21. Abandoned Items

The provisions of section 41 of the Local Government (Miscellaneous Provisions) Act 1982 shall apply in relation to abandoned items.

Where the vessel or any other item of property belonging to the Owner are abandoned at the Marina and the Council has taken reasonable steps to trace the Owner and serve him with a notice requiring him to collect the vessel or other items of property within one month of the date of the notice and the Owner has failed to comply with the said notice, title shall vest in the Council who shall be entitled to dispose of or sell any such vessel or other property. Where the Council is satisfied after reasonable enquiry that it is impossible to serve the Owner with such a notice, title shall vest in the Council six months after the vessel or other items of property have been abandoned by the Owner.

22. Indemnity

The Owner shall indemnify the Council against all loss, damage, costs, claims or proceedings incurred by or instituted against the Council, its servants or agents which may be caused by the vessel or other items of property belonging to the Owner within the Marina or by the Owner's servants, agents, crew, guests or subcontractors, except to the extent that such loss, damage, costs, claims or proceedings may be caused by the negligence or wilful act of the Council, its authorised officers, servants or agents.

23. Insurance

The Owner shall maintain third party insurance in respect of himself and the vessel, his crew for the time being and his agents, visitors, guests and subcontractors in a sum of not less than £1,000,000 or such other sum as the Council may from time to time direct in respect of accident or damage and, in respect of the vessel, adequate salvage insurance. Such insurance shall be effected and maintained in an insurance office of repute and the Owner shall keep the Council provided with a copy of the current Certificate of Insurance throughout the licence period. The Council reserves the right to implement at the Owner's expense third party only insurance in the event of non-compliance with this condition.

24. Manner of Berthing

The Owner shall berth the vessel in such manner and position as the Council may require and the vessel shall be provided with all necessary warps and fenders by the Owner.

25. Manner of Manoeuvring

The Owner, when entering or leaving or manoeuvring the vessel in the Marina, shall do so at such speed and in such manner as not to endanger or inconvenience other vessels in the Marina.

26. Respect for Others

The Owner shall not use any noisy noxious or objectionable engines radios or other apparatus or machinery within the Marina so as to cause any nuisance or annoyance to the Council or to any other users of the Marina or to any other person residing in the vicinity of the Marina and the Owner undertakes for himself, his guests and any other person the vessel that they shall not behave in such a way as to offend as aforesaid. Halyards and other rigging shall be secured so as not to cause such nuisance or annoyance.

27. Fire Precautions

The Owner shall take all necessary precautions against the outbreak of fire in or upon the vessel and the Owner shall observe all statutory and local regulations and orders of the Council relative to fire prevention. The Owner shall provide and maintain at least one fire extinguisher of a governmentally approved or BSI standard type and size in or on the vessel fit for immediate use in case of fire.

28. Byelaws

The Owner shall in all things with respect to this Agreement and the use of the Marina abide by and perform the byelaws, rules and regulations in force in respect of the Marina.

29. Disclaimer – Vessels and Property

The Council shall not be liable whether in contract tort or otherwise for any loss, theft or any other damage of whatsoever nature caused to the vessel or any other item of property belonging to the Owner or to any other person claiming through the Owner except to the extent that such loss, theft or damage may be caused by the negligence or wilful act of the Council, its authorised officers, servants or agents.

30. Business Use

No part of the Marina or of the vessel while situated therein shall be used by the Owner for any commercial purposes except where the Owner is expressly authorised to do so by the Council.

31. Work on Vessel

No work shall be carried out at the berth other than routine maintenance or minor running repairs to the vessel. Works carried out shall not cause a nuisance or annoyance to other users of the Marina. All other works shall be carried out in the boat park or at a berth or place within the Marina designated by the Harbour Master for that purpose.

32. Contractors

Prior to commencing any work on the vessel, any contractors entering the Marina shall contact the Harbour Master, complete an application for a Permit to Work, provide proof of third party liability insurance cover to a minimum of £2,000,000 (or such sums as determined by the Council from time to time), have such application approved by the Harbour Master, and pay the appropriate fee. Where such work is to be carried out on the vessel, the Owner's written permission must be provided to the Harbour Master beforehand. Any major works, for example shot blasting or sand sweeping of the hull or superstructure, will require written consent which may be granted following receipt of a method statement and risk assessment. Contractors are bound by the byelaws and all other regulations relevant to the Marina and should show consideration for other Marina users. The Council reserves the right at its sole discretion to refuse to permit contractors to enter upon and work within the Marina.

33. Services

All services and facilities are provided at the Owner's risk and are subject to availability. Application should be made to the Harbour Master. The Council undertakes to use all reasonable endeavours to provide services as requested but accepts no responsibility for delays or cancellations or any subsequent losses or increased costs or inconvenience howsoever arising therefrom. The Council reserves the right to withhold, change or cancel services.

34. The Council's Right to Act on Safety Grounds

If in the Harbour Master's opinion such act be necessary for the safety of the vessel or for the safety of other users of the Marina or for their vessels or for the safety of the Marina plant or equipment, the Council shall have the right to moor, re-berth, move, board, enter or carry out any emergency work on the vessel and except to the extent that such mooring, re-berthing, movement, boarding, entering or emergency work arises from the negligence of the Council, its authorised officers, servants or agents, the Council's reasonable charges in relation thereto shall be paid by the Owner.

35. Recalculation of Charges Upon Notice

The fees and charges payable by the Owner may be increased or decreased or the basis for determination of the fees and charges payable may be varied from time to time by the Council. Upon the Owner giving not less than 28 days notice of departure in writing and having been a licence holder for at least the previous 12 months, the Council shall recalculate the fees and charges payable on a pro rata day by day basis or, if lower, the amount that would have been paid according to the Visitors Rate as published in the current Royal Harbour Marina Schedule of Fees and Charges. Additionally, if the Owner has been a licence holder for less than 12 months, the pro rata day by day element above will be recalculated upwards at the summer and winter rates, insofar as they apply, up to a maximum of the amount that would be payable if the original licence term ran to completion, unless application of the Visitor Rate shall be lower, in which case that may be used. Additionally, summer and winter rate licences shall be recalculated on a pro rata day by day basis subject to a minimum term of 120 days being payable, unless application of the Visitors Rate shall be lower. For vessels on the old under 7 metre rate, no pro rata reduction will be made other than to Visitor Rate if that is lower. Settlement discounts will be cancelled in the event of early termination. Additionally, western outer marina licences shall be recalculated on a pro rata day by day basis subject to a minimum term of 9 months being payable, unless application of the Visitors Rate shall be lower.

36. Disclaimer – Injury or Damage to Person or Property

All persons using the Marina or its facilities for whatever purposes and whether by invitation or otherwise do so at their own risk unless any injury or damage to person or property sustained within the Marina or facilities was caused by or resulted from the negligence or wilful act of the Council, its authorised officers, servants or agents.

37. Refuse / Waste

No refuse or waste oil shall be thrown overboard or left or disposed of in any way within the Marina other than in the receptacles provided by the Council or by removal from the Marina.

38. Tenders & Dinghies

Tenders, dinghies and rafts shall be stowed aboard the vessel unless a berth is separately provided and licensed to the Owner.

39. Motor Vehicles and Parking

Motor vehicles shall only be brought into the Marina with the express consent of the Harbour Master and shall be positioned or parked as may be directed by the Harbour Master and the Owner shall pay any charge that may be required.

40. No Item to be Left on Marina

No items of boats gear, fittings or equipment, supplies, stores or the like shall be left upon any part of the Marina.

41. Vessel Name to be Clearly Shown

The Owner shall ensure that at all times the name of the vessel is clearly shown thereon, including when left unattended in the boat park.

42. Alteration of Terms and Conditions

The Council reserves the right to alter these Terms and Conditions annually or by giving one month's prior written notice to the Owner.

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