



YARMOUTH AREA INDUSTRIAL COMMISSION

Operating as the **PORT OF YARMOUTH**

POLICY GUIDE ON PORT(S) USAGE

Approved by Y.A.I.C. board effective October 16, 2017

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## YARMOUTH AREA INDUSTRIAL COMMISSION

### Operating as the **PORT OF YARMOUTH**

**PREAMBLE:** The Port of Yarmouth has a long history of servicing the “local” fishing industry. Yet it is only one of many busy ports situated along the coastline of Southwestern N.S., its capacity to host vessels on a permanent basis is limited by its physical size and harbour characteristics. It supports a variety of fishing vessels that trade in a variety of commercial marine species. It’s important to understand the nature and characteristic of the asset as well as the objectives and interests of the community and its ownership, in order to be able to operate the Port in a manner that is seen to be fair and equitable to all users or potential users.

The Port is owned and operated by the Yarmouth Area Industrial Commission (Y.A.I.C.). The Yarmouth Area Industrial Commission is jointly owned in three equal proportions by the Town of Yarmouth, Municipality of Yarmouth and the Municipality of Argyle.

This document sets out to establish sound, mutually agreed upon, operational principles that will guide Port Management and the Users towards a fair, efficient and equitable management system for this valuable but constrained community asset.

**OPERATIONAL NOTE:** This policy guide on Port Usage is intended to apply to operators and vessels using the Port to conduct fishery related activity. There may be from time to time other non-fishery related users, such as, Coast Guard, mini-cruise, dredging operators, etc., who wish to call on the Port to conduct business. Port management is responsible for encouraging this non-fishery related activity at the Port and for managing the berthage and deck space in a way that accommodates these non-fishery users to the extent possible while respecting and keeping in mind the priority activities of the fishery based fleet and operators.

**MANDATE NOTE:** *The Port of Yarmouth is owned and operated by and on behalf of the Town of Yarmouth, Municipality of Yarmouth, Municipality of Argyle. The mandate of the Port is to be consistent with the interests of these three municipal government bodies; in that light, the Port’s operational priority is aligned with the priorities of these units which is to best serve the interests of the constituents that live and work within their jurisdictions.*

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**THE ASSET:**

**Old Government/Marginal Wharf** (see Appendix I for description of physical attributes and amenities)

**Lobster Rock Wharf** (see Appendix II for detailed description of physical attributes and amenities)

**THE OBJECTIVE:**

**Primary :** To provide a safe, accessible sea to land interface with wharfage and berthing infra-structure for the marine industry to moor vessels, service their vessels, and land catches, as well as conduct other marine based business and activities.

**Secondary:** To maintain and operate this infra-structure in a good state of repair, to provide fairness to access, and to support the financial operating costs on a self-sustaining basis.

**THE USERS:**

**Primary:** Local fishing industry participants, including but not limited to lobster, groundfish, herring, scallop.

**Secondary:** Non fishery related marine traffic including transportation of bulk goods, industrial products, off-shore supply vessels and the “mini” cruise ship industry.

**PORT REVENUES:**

**Primary revenue sources:** Berthage  
Business licences

**Secondary Revenue sources:** User fees

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**DEFINITIONS:**

**“Berthage”** – rate charged to the vessel for use of “mooring” space for the purpose of tying to port infra-structure based on a 24 hour basis (1 **Day**). Berthage = length of vessel multiplied by \$xx.xx/unit of length.

**“Berthage contract”** – legally binding, written agreement, executed by the Port (Y.A.I.C.) and the legal vessel(s) owner, outlining the terms and conditions, financial terms, and privileges and responsibilities of both parties, around the use, management and operation of the Port infra-structure for the purpose of berthing vessel(s) and conducting business.

**“Berthage space”** – the physical location on the water lot adjacent to the Port infra-structure where Port management has permitted or given instruction to vessel operators to moor their vessels.

**“Business Licence”** – an annual fee charged by the Port for the privilege of being able to conduct trade in goods and services to the marine industry directly on and around the wharf infra-structure (other than the actual act of mooring the vessel – berthage).

**“Capital costs”** – includes expenditures for major structural repairs and improvements where the physical footprint of the port(s) themselves are modified or changed or extended; major capital repairs or improvements where the useful life of the asset in question is extended beyond 1 year.

**“Day”** – A “Day” consists of the period from midnight to the following midnight. All “berthage” charges are for the one day or part day thereof.

**“Home Port”** – is the term applied to a vessel that uses the Port of Yarmouth as its “permanent” base of operations. (See Schedule ‘A’ for a list of vessels with “Home Port” designation at the time of adoption of this policy.)

**“Gear”** – pots, buoys, anchors, rope, any and all types of equipment and stores normally used by vessel operators in the conduct of their fishing activities.

**“Local”** – means the geographic area generally known as Yarmouth Harbour.

**“Mooring”** – the physical act of securing a vessel to port infra-structure.

**“Non-home Port”** – is a term applied to vessels who only call at the Port of Yarmouth occasionally and or on a very infrequent basis.

**“Operating Costs”** – includes the day to day cost of operations such as utilities, minor repairs, some major repairs, insurances, snow clearing, property and other taxes.

**“Port Infra-structure”** – includes all fixed physical property that makes up the Port of Yarmouth properties including the Old Government wharf, Marginal wharf, Lobster Rock wharf, the haul-out area at Lobster Rock parking lot, the parking lots associated with the wharves, the wharfinger’s office, the old coast guard building located at the southern end of the Marginal wharf parking area, and any structures and components attached to and forming part of these infra-structure items. Components include but are not limited to: ladders, winch systems, light standards, electrical outlets, guard rails, sign posts. Port –infra-structure also includes the floating jetty and gangway system located in the inner harbour at Lobster Rock wharf.

**“Tenure”** – refers to an individual who has a long (in excess of 5 years) history of continuous activity at the Port(s) with no record of reckless behavior, disrespect to other vessels and operators, and no history of credit unworthiness; and may or may not own their own vessel.

**“User fees”** – refers to charges imposed by the Port on users who avail of the assets and services that are accessible via the general port infra-structure. Example of the application of a “user fee” would be for the consumption or use of potable water, electricity, haul out, etc.

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**Berthage**

**OPERATING PRINCIPLES:**

**“Best Utilization of Space”** – Port management has a duty to optimize revenue generation activities through effective berthage space utilization. While it is understood that a “Home Port” vessel has earned certain “Mooring Privileges” under the “Right to Moor” principle; Port management is free to “sell” berthage space to other vessel operators where ever such space is available provided it does not conflict with any of the “Home Port” vessel’s “Mooring Privileges”.

**“First Come First Served”** – many existing users have an established history of calling the Port of Yarmouth their “Home Port”, which can be demonstrated by their historical usage patterns. There are however, occasional requests to moor at the Port from new entrants to the industry, or from vessels migrating from other ports. These cannot always be accommodated due to the limiting factors caused by physical space availability. The Port of Yarmouth has traditionally used a **“First Come First Served”** approach to admitting new entrants as space comes available, this principle will continue to apply, subject to the terms and conditions as outlined in the Policy.

**“Land-based Parking”** – while there is space in and around the port area for vehicle parking for Port users, it is not the responsibility of the Port to ensure adequate parking space is available for all potential users at all times. Port users park their vehicles on a first come first served basis, with no priority rights or undertakings by the Port to make spaces available.

There is no charge for vehicle parking for vehicle owners who are parked for the purposes of employment on or involved with the vessels tied at the Port.

Port management reserves the right to have vehicles towed from the port parking lots, at owner’s expense, if Port management has reason to believe the vehicle is abandoned, causing an unsafe situation, or is impeding the normal course of business for other Port users.

Vehicles left at the Port properties are entirely at owner’s risk and the Port does not assume any responsibility for vehicles (or items) left unattended on Port property.

Vehicles are not to be parked in front of the Lobster Rock haul-out area.

Vehicles are not to be parked in an area on Old Government wharf that obstructs the operations of the ice plant.

Vehicles may not be left parked on the wharf decks except for short periods for purposes of deliveries, vessel maintenance and other short term vessel related business.

**“Maintenance of Mooring Privilege”** – it is the responsibility of the legal owner of the vessel to keep current all amounts owing to the Port for mooring and any other goods or services acquired through the Port. Any balance due to the Port that remains unpaid for longer than 6 months will be cause for the vessel to lose its **“Mooring Privilege”** at the discretion of Port Management. If privileges are not revoked because of payments that are delinquent under this provision, this will not prejudice the Port from forcing removal action at any future date, as long as amounts remain past due. Each situation will be looked at and evaluated on a case by case basis.

Certain financial circumstances can be cause for immediate revocation of **“Mooring Privileges”**, these include but are not necessarily limited to bankruptcy, receivership, insolvency, liens, repossessions, seizure, prior history of repetitive delinquency or non-payment. It will be Port management’s discretion to allow the vessel to remain moored at the same location, have the vessel moved to another mooring location or have the vessel leave the Port entirely. Amounts accruing for berthage and any other unpaid charges while under any of these actions will be to the account of the authority who has jurisdiction or legal standing with the particular action, as the case may be.

**“Mooring no-no’s”** – to help in preventing conflict and damage:

- No vessel will attach its mooring lines to any of the ladder infra-structure and leave them attached for extended periods unattended such as overnight or for extended hours during the day.
- Vessels wishing to tie to the outside face of either Lobster Rock or Old Government will first co-ordinate with Port management.
- Vessels will not tie up in an area that blocks designated unloading stations.
- Vessels will not tie up on the northeast end of Lobster Rock wharf thereby obstructing passage to the inner harbour where the CCG floating dock is located.
- Vessels will not block the entrance to the haul out repair area on the north side of Old Government wharf (behind the ice plant.)

Costs for damage caused by vessel operators to Port Infra-structure as a result of improper or reckless mooring configurations may be charged back to the legal vessel owner by Port management.

**“Mooring Placement”** – traditionally the marine industry has policed itself and worked co-operatively in figuring out mooring arrangements for vessels at Port, however, Port management retains the right to reconfigure mooring arrangements on the basis of safety, to assign mooring arrangements for new entrants and to mediate, and ultimately rule if necessary, in mooring disputes. (See attached mooring lay-out for both Ports in Appendices I and II.)

All vessels, regardless of Port of origin, are to contact the Port manager before tying at the Haul-out area at Lobster Rock wharf or alongside the northern face of the Old Government wharf (behind the ice plant) so that Port management is aware of what activities are taking place on Port property and to manage usage of these areas in the event of conflicts.

**“Non-home Port”** vessels, **except in the case of a health and/or safety emergency**, are to contact Port management before tying to any of the Port infra-structure to seek permission to tie up and for instructions on where tie up is permitted.



**“Qualifying vessel to waiting list”** – to be accepted on the waiting list and ultimately as a permanent user of the Port (Home Port user) certain criteria must be established:

- Bona fide vessel registered with Transport Canada –Marine division
- Clean credit record if there is a history of Port usage in the past associated with the vessel
- No outstanding amounts owing to the Port of Yarmouth from any past dealings of any nature
- Vessel is physically able to navigate the Port area safely in Port management’s view
- Legal ownership and contact particulars are provided to Port management
- The vessel Captain has not developed a history of reckless operation of vessels under his control, has not developed a history of accidents or caused damage to other vessels and gear and has not developed a history of reckless, unsafe or disrespectful behaviour.
- Willingness of the legal vessel owner to enter into a “Berthage” contract with the Port (Y.A.I.C.)

**“Right to Moor”** – once a vessel has gained access to moor on a permanent basis, it has earned the privilege to have uninterrupted **“Mooring”**, free from risk of being displaced by newcomers as long as certain conditions are maintained:

- Registry with Transport Canada is maintained
- Vessel’s credit is in good standing with the Port of Yarmouth
- Vessel conducts itself in a safe and respectful manner in the harbour area and towards other Port users
- Vessel does not abandon its mooring space at the Port for a period of 7 consecutive days or longer without making arrangements to hold space with Port Management
- Vessel’s legal owner is not in any state of financial distress; including but not limited to bankruptcy, insolvency, receivership
- Vessel’s legal owner is not in breach of any provisions of the “Berthage” Contract
- The vessel does not pose any safety or navigational hazards.

**“Survival of the Right to Moor”** – the **“Right to Moor”** is a privilege that attaches to the berthage space, this will assign to the legal owner of the vessel at time of adoption of this policy. Should a vessel subsequently be sold or otherwise disposed of, the legal owner of this berthage space will continue to hold this space so long as it has another vessel, which meets the qualifications as outlined under **“Qualifying vessel to waiting list”**, to fill the space.

If the seller, under this **“Right to Moor”** provision does not have another vessel to fill the space immediately upon disposal of the original vessel, Port Management will refer to the **“Waiting List”** to fill that newly vacated space.

A **“berthage space”** cannot be resold by the space holder.

**Berthage space** can be traded between **Home Port** users, it is the responsibility of the users involved in the trade to notify Port management of the change in vessel mooring placement.

**“User Pay”** – the Port needs to be able to sustain its financial responsibilities through the sale of its services to its users. All users must pay berthage and other fees for goods and services that are made available and used at the Port. **“User fees”** (and **“Berthage”** rates) will be reviewed, updated as required, and published by the Port of Yarmouth whenever changes are made to the tariff schedule. (see rates in effect at the date this policy is adopted in Appendix III.)

**“Waiting List”** – based on the **First Come First Served** principle, potential users that make a request to gain access to the Port on “Permanent” basis, in other words, make this Port their “Home Port”, must make their request to the Port management; they must provide some basic information, such as Vessel name and number, Captain name, legal ownership details and best contact information (phone numbers and e-mail addresses).

Port management will make an assessment based on the **“Qualifying Vessel to Waiting List”** criteria. Port management will determine when and where space is available for permanent mooring and provide direction to the vessel as space becomes available.

**“Tenured”** individuals will be given priority on the **Waiting List** in situations where they have become vessel owners again, or captain of a vessel that is qualified to be on the waiting list that they may not own.

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**Gear Placement**

**OPERATING PRINCIPLES:**

**“Home Port Priority”** – given our space restrictions, priority is given to “Home Port” vessels in terms of space allocations on the wharf decks for placement of gear.

**“Other potential users”** – other potential Port users for gear placement such as Non-home Port vessels, transient vessel operators, etc., may place their gear on the wharf decks **only** under the express consent of Port management. Port management, at its discretion, will decide if space is available and where gear placement may occur for this category of users. Port management may impose fees for this privilege.

**“Safety Priority”**– The placement of gear on the wharf decks is restricted by the space available to adequately assemble and store gear for loading or unloading and allowing for the safe movement of pedestrian and vehicular traffic around the wharf as well as in and around the gear. Port management reserves the right to direct gear owners/users to move or reconfigure placements, at their expense, in the interests of maintaining a safe work environment.

**“Space Assignments”** – at this Port there is a history of the “Home Port” fleet to work together amongst themselves to manage gear placement strategies and work out issues related to this exercise. The Port recognizes and respects this history of user management and co-operation. However, in the interests of safety, fairness and objectivity, and given that Port management is ultimately responsible for all aspects of Port operations, Port management retains the right, and the duty, to intervene and arbitrate on gear placement issues where the user group clearly cannot resolve the issue(s) through their own means.

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**Waste Handling and Disposal**

**OPERATING PRINCIPLES:**

**“Oils, fuels, lubes, and contaminated items”** – Used oils, fuels and other hydro-carbon based fluids and their contaminated containers may be deposited at the waste oil station located at the entrance to the Old Government Wharf. This station is provided as a service to the vessel operators at no cost. Port management reserves the right to charge clean-up and recovery costs back to the vessel where abuse of this privilege is identified in terms of spillage, recklessness, and general disregard for the responsible and safe disposal of oils, fuels, lubes and contaminated items.

**“Responsibility”** – The proper disposal of all waste is the responsibility of the vessel Captain.

**“Safe Work Area”** – It is the responsibility of the vessel Captain to ensure that the area on the wharf deck that is generally understood to be in the vicinity of his **Mooring** space and therefore can be considered his general wharf side work area, is kept free and clear of obstacles, debris and hazards.

**“Unattended Gear”** – It is the responsibility of the vessel Captain to not leave **Gear** unattended and lying around on the wharf decks for extended periods of time. If **Gear** is left unattended for more than 15 consecutive days or if in Port management’s opinion is creating an unsafe work situation, Port management may have the **Gear** removed and removal and disposal costs may be charged back to the vessel.

**“Waste receptacles”** – Garbage and sorting bins placed around the wharf decks are intended for the convenience of the Port users for the disposal of small items and consumables. They are not intended to be gathering places for items such as gear, rope, engine parts, furniture, etc. These items must be removed from the Port property and disposed of in accordance with Provincial and Municipal Waste Disposal Regulations.

Waste receptacles are not intended to be used by the general public or the local business community.

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**SCHEDULE A**

Vessels with "Home Port" status: (at effective date of this policy)

Old Government/Marginal Wharf

M.V. Atlantic Waters  
M.V. Always Sumthen  
M.V. Classy Lady  
M.V. Cathy & Girls  
M.V. Atlantic Treasures  
M.V. Double D 04  
M.V. Collateral Damage  
M.V. Mister Mariner  
M.V. Knotical X-Ta-Sea  
M.V. Rest – A - Shore  
M.V. Kilby & Aaron  
M.V. Disconnection  
M.V. Knot Givin In  
M.V. Lady Luxey  
M.V. Arnold Edward  
M.V. Obsession I  
M.V. Silver Harvester (seasonal)

Lobster Rock Wharf

M.V. Mi'kmaq Fisher Prize  
M.V. Miss Coral (2008)  
M.V. Gabby & Hunter  
M.V. Francis James Robinson  
  
M.V. Caillie Rae (seasonal)  
M.V. Fin'tose (seasonal)  
M.V. Fundy Commander (seasonal)  
M.V. Miss Annette (seasonal)  
  
M.V. Lady Janice II  
M. V. Lady Denise II  
M.V. Lady Yvette II  
M.V. Lady Melissa  
M.V. Sealife II  
M.V. Lady Comeau II