

Chapter 40

BOATS

ARTICLE I Operation

- § 40-1. Speed and horsepower.
- § 40-2. Pollution prohibited.
- § 40-3. Moorings.
- § 40-4. Abandonment.
- § 40-5. Water skiing.
- § 40-6. Divers and diving.
- § 40-7. Enforcement.
- § 40-8. Violations and penalties.
- § 40-9. Jurisdiction.
- § 40-10. Severability.

ARTICLE II Houseboats and Houseboat Marinas

- § 40-11. Definitions.
- § 40-12. Docking and mooring of houseboats restricted to licensed slips.
- § 40-13. Use and occupancy of houseboats.
- § 40-14. Houseboat marina operation permit.
- § 40-15. Application for houseboat marina permit; standards.
- § 40-16. Houseboat marina permit revocation.
- § 40-17. Administration.
- § 40-18. Violations and penalties.

[HISTORY: Adopted by the Town of Barnstable as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1, Art. I.
Beaches and waterways — See Ch. 32.

Marinas — See Ch. 405.
Mooring — See Ch. 406.

ARTICLE I Operation

[Adopted 3-8-1967; approved 6-5-1967 (Art. XIV of Ch. III of the General Ordinances as updated through 7-7-2003)]

§ 40-1. Speed and horsepower.

- A. Speed shall not exceed six miles per hour, and no wash shall be created in posted areas nor within 150 feet of bathers, divers, small vessels propelled by means other than machinery, and vessels not underway.
- B. Speed shall not exceed six miles per hour, and no wash shall be created on any pond not a great pond and on the following great ponds: Garrett's Pond, Micah's Pond, Joshua's Pond, Neck Pond, and Parker's Pond. Speed shall not exceed 35 miles per hour on Lake Wequaquet.

- C. Horsepower of internal combustion engines shall not exceed 10 horsepower on the following ponds: Hamblin’s Pond; Middle Pond; Mystic Lake, Long Pond, Centerville, Lovell’s Pond, Shubael’s Pond, Long Pond, Marstons Mills.

§ 40-2. Pollution prohibited.

The discharge or disposal of oil, dead fish, garbage, waste, rubbish or debris on the waters, shores or foreshores is prohibited.

§ 40-3. Moorings.

- A. The location, type and adequacy of every mooring must be approved annually by the Harbormaster or an Assistant Harbormaster before placement. Any mooring may be inspected, removed or relocated whenever, in their judgment, the safety of other vessels or maximum use of the area requires such action. The expense of such inspection, removal or relocation, and any liability incurred therefor, shall be the responsibility of the owner.
- B. Each mooring buoy shall be painted white with a visible blue band and shall be identified by the owner’s and/or the vessel’s name thereon.
- C. The Harbormaster shall have the authority to sell at public auction on behalf of the Town any mooring which has been removed under Subsection A above if said mooring has not been claimed by its owner within 12 months. **[Added 4-7-1971; approved 6-22-1971]**
- D. There shall be a charge for picking up abandoned and illegal moorings as follows: **[Added 11-5-1977; approved 1-12-1978]**

Under 100 lbs.	\$10.00
100 to 200 lbs.	\$15.00
Over 200 lbs.	\$20.00

§ 40-4. Abandonment.

- A. No vessel, mooring or other object shall be abandoned, sunk or otherwise placed where it may constitute a danger to navigation. Any vessel, mooring or object so placed, and any vessel improperly secured, swamped, sunk, washed ashore or found in a restricted area, may be removed or relocated by direction of the Harbormaster or an Assistant Harbormaster if corrective action is not taken after 72 hours notice to the owner, or if the owner is not known, after notice has been posted for the same period at the Town Hall or on or near such vessel, mooring or object. The expense of such removal or relocation and any liability incurred therefor, shall be the responsibility of the owner.
- B. Nothing in the above shall be deemed to restrict earlier action by the Harbormaster or an Assistant Harbormaster, with or without notice to the owner if, in their judgment, such action is necessary to protect life or property.

§ 40-5. Water skiing.

- A. Water skiing is prohibited on any pond not a great pond and on the following great ponds: Garrett's Pond, the Hathaway Ponds, Micah's Pond, Joshua's Pond, Neck Pond and Parker's Pond. Water skiing is prohibited on East Bay, West Bay, Cotuit Bay and all tidal inlets and rivers.
- B. Water skiing as hereinafter permitted is subject to the provisions of § 8, Chapter 90B, of the General Laws of Massachusetts and to the further restriction that there shall be no water skiing within 150 feet of bathers, divers, piers, docks, floats, other boats or of the shore. For the purpose of this article, the words "water skiing" shall include the towing or manipulation of a surfboard or other similar device behind a motor boat.
- C. Water skiing is permitted on Great Ponds except those previously named.
- D. Water skiing is permitted on Cape Cod Bay, Nantucket Sound, Popponeset Bay and in the following bay and harbor areas described below:
 - (1) That portion of North Bay lying westerly of a line running from a pier on St. Mary's Island to the northern most tip of Little Island.
 - (2) That portion of Hyannisport Harbor lying easterly of a line running from the residence of Ralph A. Gibbs to the angle point in the Hyannisport breakwater.
 - (3) Hyannis Harbor, except in that portion thereof lying within 150 feet of either side of the center line of the buoyed entrance channel to said harbor from entrance channel buoy No. 6 to Dunbar's Point and Lewis Bay, except in an area that lies west of a line 150 feet parallel to and east of the center line of the buoyed entrance channel to Hyannis inner harbor. [**Amended 3-28-1973; approved 6-25-1973**]
 - (4) That portion of Barnstable Harbor lying northerly of a line running from Calves Pasture Point through the tripod at Maraspin's Creek entrance channel to the Town line at Yarmouth Creek.

§ 40-6. Divers and diving.

Any person or persons skin diving or scuba diving shall:

- A. Display a diver's flag consisting of a red field with a white diagonal stripe of a size not less than 12 inches square.
- B. Display such flag on a float or other similar device holding such flag upright at a height sufficient to be visible to passing boats.
- C. Stay within 150 feet of the aforesaid float and flag or tow the float and flag with him while he is submerged and surface thereunder, unless for special purposes permission is granted in writing by the Harbormaster to otherwise display flags for the protection of divers.

§ 40-7. Enforcement. [Amended 5-18-1976; approved 9-13-1976]

Unless otherwise specified, the provisions of this article shall be enforced by the Harbormaster, by Assistant Harbormasters and by police officers empowered to patrol the waters of the Town.

§ 40-8. Violations and penalties. [Amended 5-18-1976; approved 9-13-1976]

Whoever violates any of the provisions of this article and refuses or neglects to obey the lawful and reasonable orders of those empowered to enforce the same, or resists them in the discharge of their duties, shall be fined not less than \$25 nor more than \$200 for the first violation and not less than \$100 nor more than \$200 thereafter.

§ 40-9. Jurisdiction.

Nothing contained herein shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States government with respect to the enforcement of the navigation, shipping, anchorage and associated laws of the United States, or any lawful regulation of the Division of Waterways of the Department of Public Works, or the Division of Motorboats of the Registry of Motor Vehicles, or to conflict with any laws of the Commonwealth of Massachusetts.

§ 40-10. Severability.

In the event that any provision, section or clause of this article hereafter judicially found to be invalid, such decision, invalidity or voidance shall not effect the validity of the remaining portions of this article.

ARTICLE II**Houseboats and Houseboat Marinas**

[Adopted 11-1-1980; approved 2-27-1981 (Art. XXXVIII of Ch. III of the General Ordinances as updated through 7-7-2003)]

§ 40-11. Definitions.

For the purpose of this article, the words and phrases herein defined shall be construed in accordance with the definition set forth unless it is apparent from the context that a different meaning is intended.

HOUSEBOAT — A watercraft structure designed primarily to be occupied as living quarters.

HOUSEBOAT MARINA — Any area within any waters of the Town where one or more sites or locations are rented or offered for rent for the location of houseboats which are to be used for living quarters either permanently or on a temporary basis.

PERMANENT SEWER — A sewer connected to the sewer system of the Town of Barnstable or to a private sewage disposal system approved by the Board of Health.

§ 40-12. Docking and mooring of houseboats restricted to licensed slips.

No person shall moor or dock a houseboat in the waters of the Town except at a pier, slip or dock for which a valid current marina license has been issued under § 59B of Chapter 91 of the General Laws.

§ 40-13. Use and occupancy of houseboats.

No person shall use or occupy or permit the use or occupancy of a houseboat for living quarters either permanently or on a temporary basis on the waters of the Town except in a houseboat marina operated pursuant to a permit issued by the Town Manager and unless such houseboat meets the following requirements:

- A. There is provided within the houseboat not less than 600 square feet of living area.
- B. The houseboat is designed and maintained so there is a single opening above the waterline for waste and sewage removal and such opening is tightly connected to a permanent sewer.
- C. The houseboat is designed and constructed so that it meets the requirements of the State Building Code, including specialized codes thereof, except insofar as the provisions thereof are not responsibly applicable.

§ 40-14. Houseboat marina operation permit.

No person shall operate a houseboat marina or rent or hold out for rent any site or space for the location of a houseboat to be used or occupied for living quarters either permanently or on a temporary basis without having a current permit for such marina from the Town Manager.

§ 40-15. Application for houseboat marina permit; standards.

- A. Any person desiring to operate a houseboat marina shall file an application for a permit to do so with the Town Manager and submit a fee in the amount to be fixed by the Town Manager for processing such application.¹ Such application must be accompanied by a plan showing the location of the proposed marina and the facilities contemplated therein. The Town Manager shall act of such application within 60 days after it is submitted.
- B. The Town Manager shall grant such permit if the following conditions are met:
 - (1) The applicant owns or has a lease of the land over which the marina is proposed to be operated.
 - (2) There is provided within such marina a minimum of 875 square feet of space for the exclusive use of each houseboat and its appurtenances to be located therein.

1. Editor's Note: See Ch. 401, Marinas.

- (3) Prior to the time any houseboats are located therein, a permanent float, dock or slip for the mooring or dockage of each houseboat from which such houseboat may be directly boarded is constructed.
 - (4) Each space intended for a houseboat must be provided with the following:
 - (a) A permanent water supply with an individual antibackflow valve;
 - (b) A sewer connection leading into a permanent sewer; and
 - (c) A permanent supply of electricity.
 - (5) The marina is in a zoning district of the Town where marinas are permitted.
 - (6) There is provided on land adjacent to the marina two parking spaces for each houseboat site within the proposed marina.
- C. The Town Manager may limit the term of such permit and may impose additional conditions on such permit deemed necessary by it to protect the public health, welfare and safety and to promote the general welfare.

§ 40-16. Houseboat marina permit revocation.

Any permit for a houseboat marina may be revoked by the Town Manager after written notice to the operator of such marina and an opportunity to be heard before the Town Manager. Such written notice shall be mailed to the operator of the marina at the address shown on the permit and shall state the date and time the Town Manager will consider the proposed revocation. The grounds for revocation shall be:

- A. The houseboat marina no longer meets the conditions under which the permit was granted.
- B. The houseboat marina has become a source of pollution of the waters of the Town.
- C. The facilities of the marina or the houseboats located therein have fallen into a state of disrepair.
- D. Individual houseboats are permitted or maintained within the marina which do not meet the requirements for houseboats established by this article.

§ 40-17. Administration.

The provisions of this article shall be administered by the Town Manager. The Board of Health, the Department of Public Works, the Building Commissioner and the Harbormaster shall assist the Town Manager in the administration and enforcement of this article, each within its or their appropriate jurisdiction. Any aggrieved person may appeal any decision of the Town Manager, except where another method of appeal is provided by law. The Town Manager shall make a decision on the appeal within 60 days, and such decision shall be final.

§ 40-18. Violations and penalties.

Any person, firm or corporation violating any applicable provisions of this article shall be fined not less than five nor more than \$200 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.