

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 5U

Council Meeting Date: June 16, 2026

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: Richard Weaver, Chief Administrative Officer
Christina Johnson, Port Manager

SUMMARY EXPLANATION:

Resolution authorizing execution of an Excursion Boat Berth Rental Agreement between City of Biloxi and Biloxi Cruise Company, LLC for pier space at Biloxi Small Craft Harbor

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit A: Excursion Boat Berth Rental Agreement

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	Councilmember	Yes	No	AFR	ABST	Councilmember	Yes	No	AFR	ABST
	Gray	___	___	___	___	Tisdale	___	___	___	___
	Marshall	___	___	___	___	Glavan	___	___	___	___
	Nail	___	___	___	___	Shoemaker	___	___	___	___
	Creel	___	___	___	___					

ACTION TAKEN:

Resolution No.

RESOLUTION AUTHORIZING EXECUTION OF AN EXCURSION BOAT BERTH RENTAL AGREEMENT BETWEEN CITY OF BILOXI AND BILOXI CRUISE COMPANY, LLC FOR PIER SPACE AT BILOXI SMALL CRAFT HARBOR

WHEREAS, the Biloxi Small Craft Harbor is an area set aside for commercial purposes and economic development purposes, as contemplated by Section 57-7-1, Mississippi Code of 1972, as amended;

WHEREAS, the piers, boat slips, and moorings of the Biloxi Small Craft Harbor are municipal property located within that commercial development;

WHEREAS, Biloxi Cruise Company, LLC (“BCC”) is in the business of conducting excursion cruises;

WHEREAS, in connection with the operation of an excursion boat, BCC is in need of pier space to dock its forty (40) foot vessel;

WHEREAS, the Biloxi Small Craft Harbor has dock space available to dock a 40.6 foot vessel, which is not needed at this time for municipal purposes, and said statute authorizes the City to rent such property upon the terms and conditions that the City shall prescribe;

WHEREAS, under the terms and conditions of the Excursion Boat Berth Rental Agreement (the “Agreement”), attached hereto as Exhibit “A,” BCC will pay Three Hundred Sixty-One and 93/100 (\$361.93) per month, including all fees and taxes, with scheduled increases of two and one half percent (2.5%) at each renewal period, for the pier space numbered SC A-01 in the Biloxi Small Craft Harbor

WHEREAS, the Agreement between the City and BCC will run for one (1) year, from July 1, 2026 to June 30, 2027, with three (3) one (1) year renewal terms available;

WHEREAS, the sum of Three Hundred Sixty-One and 93/100 (\$361.93) per month is a fair value to receive, given the business proposed for operation from the premises is marine tourism related, and is in accordance with Section 10.5-2-1(7) of the Code of Ordinances, City of Biloxi, Mississippi, of 1992; and

WHEREAS, it is the recommendation of Richard Weaver, Chief Administrative Officer, that the City enter the Agreement with BCC.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION ONE: The findings, conclusions and statements of fact contained in the preamble of this resolution are hereby ratified, approved and adopted.

SECTION TWO: The Mayor, on behalf of the City of Biloxi, is authorized to execute the Excursion Boat Berth Rental Agreement, attached hereto as Exhibit "A," with Biloxi Cruise Company, LLC, for the lease of a boat slip in Biloxi Small Craft Harbor.

SECTION THREE: This resolution will take effect upon adoption.



EXCURSION BOAT BERTH RENTAL AGREEMENT

Berth Number SC A-01	Date of Lease July 1, 2026	Home Phone: (228) 348-2667	
		Cell Phone: (228) 348-2664	
		Work Phone:	
Lessee Biloxi Cruise Company, LLC	Contact Name Michael S. Moore	Address 14751 Longwood Circle D'Iberville, Mississippi 39540	
Employer _____	Address / Telephone No. _____		
Name of Boat Sailfish	Registration/Documentation Number 267244	Expiration Date 4/30/2027	Length/Draft/Beam 40.6 X 10
	Shore Power 1/50 AMP	<input checked="" type="checkbox"/> Power	<input type="checkbox"/> Sail
		<input type="checkbox"/> Gasoline	<input checked="" type="checkbox"/> Diesel
		<input type="checkbox"/> Inboard	<input type="checkbox"/> Outboard
Insurance Company Gallagher Charter Lakes	Policy Number GIV0000181	Expiration Date 1/1/2027	
Proof of Residency Mississippi	Driver's License Number 801802119		

THIS BERTH RENTAL AGREEMENT is entered July 1, 2026, by and between the above-named Lessee/Boat Owner and Biloxi Ports and Harbors, a municipal agency of the City of Biloxi, Mississippi (hereinafter, the "Lessor").

Section 1: Berth Rental Fees.

(a) Lessor covenants that for and in consideration of the Rental Payments (as hereinafter defined) to be paid by Lessee and the performance and observance by Lessee of the covenants, conditions, and stipulations herein given by Lessee, does lease Berth Number **SC A-01** in the Biloxi Small Craft Harbor. This Berth Rental Agreement is for commercial lessee.

(b) Monthly Rental Fees shall be due and payable in advance on or before the 10th of each month and shall be calculated as follows:

Base Berth Rental Fee	\$293.25
Power Utility Fee	\$30.00
Environmental Fee	\$15.00
Subtotal	\$338.25
7% sales tax	\$23.68
TOTAL MONTHLY RENTAL FEE	\$361.93

(c) At the start of each new term, the Base Rent (as defined below) will be increased shall be increased by two and one-half percent (2.5%).

(d) A rent and security deposit equal to two (2) month's total Rental Fee shall also be paid in advance, to be refunded upon termination of this Berth Rental Agreement if the Lessee/Boat Owner's Berth Rental Fee has been paid in full and if the Port Manager in his/her sole discretion determines that the Lessee/Boat Owner has not damaged the berth or the port premises, unless terminated by Lessee/Boat Owner within the first ninety (90) days, in which case the deposit shall not be refunded.

(e) A delinquent fee of \$25.00 shall be charged and added to berth rental fees twenty (20) days in arrears.

(f) If Lessee/Boat Owner fails to pay an outstanding balance for 45 days, the Port Manager may remove the boat from the harbor without further notice and may charge double the above amount listed for the Berth Rental Fee beginning on the 46th day after such failure to pay and for each month thereafter, which new amount shall become the Berth Rental Fee under this Berth Rental Agreement for this Lessee/Boat Owner. All reasonable costs incurred for attorneys' fees and court costs by Lessor for collection of delinquent berth fees, damages, removal of the boat from the harbor, and any and all other costs, fees, and expenses shall be charged to, and paid by, the Lessee/Boat Owner as set forth herein. Lessor/Lessor reserves the right to change Berth Rental Fees at any time, upon ten days' notice to Lessee/Boat Owner, and any change shall become effective upon the next monthly billing cycle after the notice is given.

Section 2: Kiosk

Lessor agrees that Lessee/Boat Owner may place one (1) electronic kiosk in the lobby of the Port Administration Building, provided that such kiosk is approved by the Port Manager. In the event the kiosk disrupts the Lessor's business in any way, Lessee/Boat Owner must remove the kiosk within three (3) days of receiving notice from the Port Manager. No additional advertising or items of any kind will be permitted in the lobby.

Section 3: Term.

The Term of this Agreement shall be one (1) year commencing July 1, 2026, and will automatically renew, unless otherwise terminated, for three (3) successive one (1) year terms. Tenant must not be in default at the time of renewal. At the start of each new term, the Base Rent (as defined above) will be increased shall be increased by two and one-half percent (2.5%).

Section 4: Business.

Lessee/Boat Owner is in the business of conducting excursion boat cruises in and around of the Mississippi Sound for a fee (the "Business"). Lessor agrees that Lessee/Boat Owner shall be permitted to operate the Business from the Biloxi Small Craft Harbor under the following terms and conditions:

(a) Lessee/Boat Owner will not commence operation of the Business the Biloxi Small Craft Harbor until any required Coast Guard certifications have been obtained;

(b) Lessee/Boat Owner shall be permitted one (1) sign at the Pier Space advertising the Business. Any signage must be approved by the Port Manager. Lessee/Boat Owner will pay for all costs associated with signage. All signage must be removed by Lessee/Boat Owner at termination of this Berth Rental Agreement. Failure to remove signage may result in the Lessee/Boat Owner's loss of security deposit.

(c) Any concessions operated on board the Vessel shall be in accordance with all applicable health standards and licenses as required by law, and that concessions are to be sold only on the Vessel during boat cruises and shall not be sold from or on the Pier Space (provided that concessions may be sold on the Vessel while at the dock to persons who have boarded the vessel for a cruise);

(d) Operation of the Vessel or Vessels shall be in compliance with all applicable safety regulations; the Vessel or Vessels and crew members shall be licensed and certified in accordance with

Coast Guard regulations; and all safety equipment shall be maintained and inspected as required by applicable law;

(e) That games of chance, gambling, or other activity constituting "gaming" as defined in the Mississippi Gaming Control Act, Miss. Code Ann. 75-76-1 et. seq. shall be not be conducted as part of the Business, or conducted at any time on the Vessel, whether stationary or underway; and

(f) That overnight stays are prohibited, nor shall the Vessel operate as a hotel.

Section 5: Survival of Provisions upon Transfer/Sale of Vessel or Termination.

(a) In the event Lessee sells or otherwise transfers the subject vessel to a third party, all provisions of this Berth Rental Agreement shall remain in full force and effect against Lessee/Boat Owner until the vessel is either removed from the Biloxi Small Craft Harbor, or the third party enters a Berth Rental Agreement, assuming responsibility for the vessel to the satisfaction of Lessor.

(b) In the event Lessee terminates this Berth Rental Agreement, all provisions of this Berth Rental Agreement shall remain in full force and effect against Lessee/Boat Owner until the vessel is removed from the Biloxi Small Craft Harbor.

Section 6: Failure to Pay; Termination.

(a) Either party may terminate this Berth Rental Agreement at any time. Any prepaid Rental Payments shall be prorated and refunded to the Lessee.

(b) Should this Berth Rental Agreement be terminated for any reason, Lessee/Boat owner shall remove the vessel within twenty-four (24) hours after termination and, failing to do so, Lessee/Boat Owner hereby agrees that Lessor may impose a daily rental equivalent to \$5.00 per foot of berthing space per day.

(c) In the event that the Berth Rental Fee and any other charges are not paid on or before the date such fee or charges become due and payable, the Lessee/Boat Owner shall be subject to having his/her/its vessel seized and sold according to the lien imposed by general maritime law and/or § 85-7-9, Mississippi Code 1972, et. seq. Further, Lessee/Boat Owner is hereby advised pursuant to the above-referenced laws that "such lien shall be paramount to all other debts due and owing by such water craft or the owner thereof or other lien thereon, except as provided by § 85-7-7, Mississippi Code of 1972." Further, Lessee/Boat Owner shall pay Lessor its reasonable attorneys' fees deemed to be at least 25% of the total sum due and owing. Further, Lessee/Boat Owner agrees that in the event that Lessee/Boat Owner becomes delinquent in the payment of any sums owed Lessor, that Lessor may use any reasonable method available including, but not limited to, chaining the vessel to the dock, removing the vessel to a secure storage facility or blocking the vessel in its berth, to impose its lien against the vessel itself. Lessee/Boat Owner specifically agrees and understands that some damage may occur to the vessel, and the Lessee/Boat Owner agrees that Lessor shall not be responsible for such damages. Further, Lessor shall have those legal rights provided in Section 7: below for the purpose of ensuring the payment of all deposits, monthly rentals, daily rentals, fees, other charges and/or damages arising out of this Berth Rental Agreement. Failure to pay Berth Rental Fees on or before the date due and payable shall, without demand or notice, terminate this Lease, and Lessee/Boat Owner shall forfeit his/her/its deposit and shall be subject to all remedies stated herein.

Section 7: Lien; Remedies.

Lessee/Boat Owner hereby agrees, in addition to the remedies listed above, that Lessor shall have a lien on the above-named boat in favor of Lessor for all rents, fees, other charges and/or damages associated with this Lease Agreement. In addition to the statutory lien described herein, Lessee/Boat Owner agrees Lessor shall have an express lien on any and all other property of the Lessee/Boat Owner located in or upon the leased premises, for all rents, fees, other charges and/or damages associated with the lease which is the subject matter of this Agreement. Lessor shall be entitled to enforce its liens as prescribed by law and as provided herein.

Section 8: Due Care; Indemnity.

Lessee/Boat Owner covenants to exercise due care in the occupation of the leased berthing slip and to vacate the same in good condition, reasonable wear and tear excepted. Lessee/Boat Owner shall indemnify Lessor, its agents, employees, members and the City of Biloxi, Mississippi, against all claims, actions, proceedings, damages and liabilities, including attorneys' fees, costs, and other expenses arising from or connected with Lessee/Boat Owner's and/or his/her/its employees, agents, contractors and/or guests possession and use of the aforesaid berthing space and common areas of the harbor and marina, including, but not limited to those caused by or resulting from vandalism, theft, fire, weather, tides or wave action. Lessee/Boat Owner does further agree to be responsible for and pay any and all damages to other craft and property caused by the above vessel, Lessee/Boat Owner or licensees, invitees or guests of the Lessee/Boat Owner.

Section 9: Insurance.

Lessee/Boat Owner, throughout the term of this Agreement shall maintain and keep in full force and effect, the following insurance which may be provided under blanket policies covering other properties as well as Lessee/Boat Owner's operations, the City and the Biloxi Small Craft Harbor, and shall be maintained with an insurance company with an AM. Best Company rating of at least A-:

- (a) \$500,000.00 protection and indemnity including captain, crew and passengers;
- (b) adequate pollution coverage in case of a spill;
- (c) adequate hull coverage for value of the Vessel; and
- (d) state statutory workers compensation and USL and H to extent required.

As to all policies of insurance, the City, including its affiliates, officers, members and employees shall be named as an additional insured. Lessee/Boat Owner's insurance shall be primary with respect to any claims covered by the indemnity provision set forth above. All policies of insurance shall have a standard waiver of subrogation as to the City.

Section 10: Inspection.

Lessee/Boat Owner acknowledges that he, she or it has inspected the berthing slip identified herein and is satisfied that the berthing space is adequate for the safe berthing of Lessee/Boat Owner's vessel. Lessee/Boat Owner accepts the leased premises in its present condition, as is, where is, and assumes all vices and defects of the leased premises. Lessor assumes no responsibility for mooring lines or moving vessels from the berths assigned. Lessee/Boat Owner does hereby agree to hold harmless and indemnify Lessor from any and all liability and against all damages, fees, claims and cost of defense of claims by the Lessee/Boat Owner and his/her/its licensees, guests and invitees arising out of the use, destruction, condition or deterioration of the leased premises or other Lessor property not a part of the leased premises, and from any personal injury suffered by the Lessee/Boat Owner, or any agents/servants, employees, operators, licensees, invitees guests, or repairmen of the Lessee/Boat Owner, sustained upon the leased premises or other Lessor property. Lessor makes no warranties, express or implied, as to the condition of the slip, harbor or marina (including, but not limited to, walkways, ramps, gear, parking areas and related items) or the suitability of the slip and the harbor/marina for Lessee/Boat Owner's intended purposes.

Section 11: Liability for Damages.

Lessee/Boat Owner hereby agrees that, in the event the Lessee/Boat Owner and/or operator of his/her/its vessel damages a berth, pier, catwalk, or other boat, while entering or leaving a berth, maneuvering within the harbor or marina area, or causes such damage due to inclement weather, Lessee/Boat Owner shall be liable for any and all costs of repair or replacement as may be applicable.

Section 12: No Dumping in Harbor; Required Wastewater Pump Ticket; Liability.

Lessee/Boat Owner hereby agrees to ensure that no oil, fuel, gasoline, garbage, refuse or waste is pumped, spilled or washed into the harbor or marina area. In the event the vessel is or has been occupied continuously for a full month, Lessee/Boat Owner is required to empty their holding tanks on at least a monthly basis at the designated dump station at the harbor or marina and receive a dump ticket, a copy of

which is required to be delivered to the Port Manager's office within one (1) day of receipt and no later than ten days after the end of the prior month. Failure to comply with any provision of this Section 12: shall constitute a violation of this Berth Rental Agreement, and Lessor may, in its sole discretion, immediately terminate this Berth Rental Agreement. Lessee/Boat Owner shall remain liable for any and all damages, costs and fines associated with any environmental clean-up caused by the above-named boat.

Section 13: All Vessels Must Be Operational.

All vessels docked in the marina must be operational and able to get underway under their own power at all times; be consistently maintained in a clean, attractive and ship-shape fashion; be seaworthy and able to maneuver under their own steerage; have on board, in the lowest part of the bilge, an operational and automatic bilge pump at all times; have their thru-hull fittings inspected and tested every month to ensure their ongoing integrity. Lessee/Boat Owner shall keep the premises clean and free of rubbish, carts, and dollies, and in a sanitary condition. Lessor shall provide, and Lessee/Boat Owner shall use, containers/receptacles for garbage, refuse, waste, or used oil, which shall not be dumped into the Harbor. Failure to maintain the premises in a clean and sanitary condition and dumping of garbage, refuse, waste, or oil/fuel in the harbor or marina shall constitute a violation of this Berth Rental Agreement, for which Lessor, in its sole discretion, may immediately terminate this Berth Rental Agreement.

Section 14: Boat Owner Responsible for Sunk or Waterlogged Boat.

In the event the above-named boat should sink or become waterlogged, it shall be responsibility of the Lessee/Boat Owner of such boat to have it raised immediately. Lessor is not responsible for the raising of any boat which has sunk, and Lessee/Boat Owner shall be charged with the responsibility, financial and/or otherwise, for its raising, including, but not limited to, local, state and federal fines and costs for pollution control and cleanup. If, after ten (10) days notice or attempted reasonable notice as stated herein, the boat has not been raised, Lessor reserves the right to undertake the raising, and any and all costs associated with such raising shall be charged to the Lessee/Boat Owner and become a lien against the vessel. Expenses include, but are not limited to, removal and storage of the vessel in the event of its emergency removal and expenses from any damages, pollution fines or clean-up costs that may occur as a result of the raising of said vessel. The Lessee/Boat Owner agrees to hold Lessor harmless from, and to indemnify Lessor for, any damages, costs, fines and any and all other expenses associated with such raising and to hold Lessor harmless from and indemnify lessor for any damages, pollution fines, or clean-up costs which may occur as a result of the raising of said vessel. If Lessor personnel have to place a pump on Lessee/Boat Owner's vessel for any reason, a reasonable fee of not less than \$100.00 will be assessed on the following month's statement for each occurrence.

Section 15: No Assignment or Sub-Lease.

This Agreement is for the above-numbered berth only. Berth assignments pursuant to this Agreement are at the sole discretion of the Port Manager. The berth is to be used at the sole risk of the Lessee/Boat Owner and only to berth the above-named boat. Berths shall not be loaned, subleased or transferred at any time, without the consent of Lessor. In the event the vessel is sold or transferred to a new owner, in accordance with the provisions of Section 5: above, this Berth Rental Agreement shall not terminate until the vessel is either removed from the Biloxi Small Craft Harbor, or the new owner enters a Berth Rental Agreement, assuming responsibility for the vessel to the satisfaction of Lessor.

Section 16: Emergencies.

In the event of any emergency (including, but not limited to a hurricane, hurricane watch or hurricane warning, or a threat of hazardous weather, and/or notification by Emergency Management officials), or in the event of violation of the terms of this Berth Rental Agreement, including, but not limited to, failure to timely pay rent, damages, cost, or fines, the Lessee/Boat Owner agrees to immediately remove the vessel from the harbor or marina. Failure to remove said vessel will result in liability of the Lessee/Boat Owner for damage caused by the Lessee/Boat Owner to other Lessee/Boat Owners and Lessor or other property owners. It shall be mandatory for all Lessee/Boat Owners to remove their vessel from the harbor or marina within 72 hours of a Hurricane Watch being called for the Biloxi area. Lessor may, in its sole

discretion, require that any or all vessels be moved from the harbor or marina. Except in the case of a hurricane entering the Gulf of Mexico, notice to remove shall be sent to the address, or made to the telephone number, indicated above, and shall be given for a time reasonable under the circumstances and notice shall be considered to have been given if made in person, in writing, or by telephone, or if a reasonable attempt is made to furnish such notice although the owner is not actually reached. Following such reasonable notice (or a reasonable attempt to give such notice), should the Lessee/Boat Owner fail or refuse to move or remove his/her/its vessel from the marina within a reasonable time, the Lessee/Boat Owner does, by his/her/its execution hereof, give permission and full authority to Lessor, its Director, Manager, agents, and employees to remove or cause to be removed the vessel from the harbor or marina and agrees to pay any reasonable costs, charges, and expenses incurred by Lessor for such removal; and the Lessee/Boat Owner indemnifies and agrees to hold Lessor, its Director, agents, or employees and the City of Biloxi harmless of and from any liability or responsibility whatsoever for damages resulting from the removal or sale by Lessor as herein set forth. Determination of the existence of an emergency, determination of the manner in which notice shall be given, and the final determination regarding the removal of vessels by Lessor, on behalf of the Lessee/Boat Owner, shall be in the sole discretion of Lessor and/or its Director, Manager or authorized agent. **UNDERTAKING TO MOVE OR EVACUATE VESSELS SHALL NOT BE DEEMED AN ASSUMPTION OF RESPONSIBILITY FOR THE SAFETY, SECURITY AND CARE OF BOAT BY LESSOR, NOR SHALL LESSOR BE DEEMED A BAILEE OF THE BOAT OWNER.**

Section 17: Damage to Vessels.

It is understood and agreed by the Lessee/Boat Owner that Lessor is not and will not be responsible for any loss or damage to vessels, or the rigging, furnishing, fixtures and equipment thereon, caused by theft, vandalism, public disorder, fire, weather, collisions, floating or underwater hazards, abnormal tides, electrolysis, tie-up, or boat defects. Lessor shall have no liability for interruption of utilities or disconnection of the above-named boat from a utility line.

Section 18: Rules and Regulations.

Lessee/Boat Owner, by his/her/its execution hereof, agrees to abide by this Agreement and by all Rules and Regulations of Lessor applicable to the harbor and marina presently in force, a copy of which is hereto attached and made a part hereof, and as the same may, from time to time, be altered or amended by Lessor. Any breach or infraction of this Agreement or any of the Rules and Regulations applicable to the harbor and marina shall entitle Lessor, in its sole discretion, to terminate this lease upon ten (10) days notice in writing to the Lessee/Boat Owner and to remove the above-named boat from the harbor or marina as stated herein.

Section 19: Temporary Removal and Relocation.

Lessor may from time to time require use of the berth for boat shows, tournaments or other uses. In such event, Lessor shall have the right to require relocation Lessee's vessel. Lessor shall provide Lessee compensation for reasonable costs and expenses, as determined by Lessor, in its sole discretion, which are directly related to Lessee's temporary relocation. Relocation expenses include, but are not limited to, a credit equal to the Rental Payment under this Agreement for the time period of relocation, including sales tax, to be credited against the next month's rent.

Section 20: Notice of Intent to Vacate.

Lessee/Boat Owner agrees to give written notice of his/her/its intent to vacate; failure to do so will result in Lessee being responsible for payment of all monthly rent and fees on said berth until such time as written notice is received by Lessor. The removal of Lessee's vessel from the slip shall not constitute notice to Lessor of the Lessee's intent to vacate, nor does it relieve the Lessee from obligation to pay according to the terms hereof.

Section 21: Notice of Vacancies.

Lessee/Boat Owner will notify Lessor in writing of any extended Slip vacancy (one week or more) ("Extended Vacancy"). A minimum of 48 hours' notice must be given to Lessor prior to any removal for an

Extended Vacancy and/or return from Extended Vacancy by Lessee/Boat Owner and/or its agents or representatives. Lessor shall have the right to sublease the berth during any times when the berth is not occupied by the boat to a third party during the original Lessee/Boat Owner's absence, without reduction in the berth rental fee or notice from Lessor, and all monies collected therefrom inure to Lessor.

Section 22: Violations; Breach; Default.

Regarding violations of the provisions of this Berth Rental Agreement and its Rules, and Regulations: Lessee/Boat Owner agrees to remain continuously informed of and to abide by all present and future Rules and Regulations established for the operation of the Harbor/Marina. Copies of all present and future Rules and Regulations shall be obtained by the Lessee/Boat Owner at the Port Manager's office. Violations by Lessee/Boat Owner of any provision of the Berth Rental Agreement, or any Rule or Regulation established for the Harbor/Marina shall constitute a breach of this Berth Rental Agreement. For all breaches, except for breaches and defaults for failure to pay Berth Rental Fees or any other monetary charges, Lessor shall give Lessee/Boat Owner notice in writing, setting forth the nature of the breach committed by the Lessee/Boat Owner, after which Lessee/Boat Owner shall have ten (10) days from the date of said notice to remedy the breach set forth in said notice. Upon Lessee/Boat Owner's failure to remedy any non-monetary breach or default in a timely manner, the Lessee/Boat Owner shall be in default of this Berth Rental Agreement and Lessor may, at its option:

(a) Elect to terminate this Berth Rental Agreement reserving unto Lessor all rights against Lessee/Boat Owner for breach of this contract, and Lessor may collect or retain any sum due or paid hereunder until such time as a new Lease for the slip demised is effective, or

(b) Elect not to terminate this Berth Rental Agreement and/or collect or retain any sum due hereunder. The parties hereto expressly agree that Lessor will suffer damage as a result of Lessee's breach of contract and Lessor therefore is entitled to an administrative fee equal to 10% of the monthly rental. Failure to pay said fee on or before the date provided for curing said default shall constitute an additional default and Lessor shall have the option of cancelling this Berth Rental Agreement without further notice or formality. Nothing herein shall in any way operate as an extension of any of the terms of this Berth Rental Agreement nor constitute a waiver of any of Lessor's rights.

Section 23: Relationship of the Parties.

The Parties agree and acknowledge that Lessee/Boat Owner is an independent contractor and not an employee of City and that no term or provision of this Agreement shall be interpreted or construed in any manner whatsoever to create a partnership, joint venture, principal-agent, employer-employee or other business entity or relationship between City and Lessee/Boat Owner. Further, Lessee/Boat Owner agrees and acknowledges that they shall not have the power, directly or indirectly, to bind or otherwise obligate City to any undertaking whatsoever.

Section 24: Complete Agreement.

This Agreement constitutes the full and complete understanding and agreement of the Parties with respect to the operation of the Business at the Biloxi Small Craft Harbor and supersedes any prior understanding or agreement between the Parties relating thereto. No amendment, waiver or modification of any provision of this Agreement shall be binding unless made in writing and signed by the Parties.

Section 25: Authority.

The persons executing this Agreement on behalf of Lessee/Boat Owner and City represent and warrant that they have all necessary power and authority to do so.

Section 26: Governing Law.

The laws of the State of Mississippi shall govern the validity, construction, performance and effect of this Agreement, and Lessee/Boat Owner agrees and consents that the venue for any judicial proceeding involving or pertaining to this Agreement shall be in the Second Judicial District of Harrison County, Mississippi.

Section 27: Port Manager and Harbormasters Authority.

The Port Manager and all Harbormasters of Lessor have the authority to interpret and enforce the Rules and Regulations, and all persons and vessels entering the Biloxi Small Craft Harbor shall be subject to the directions of the Port Manager and the Harbormasters.

Section 28: No Residential Tenancy.

It is understood and agreed by the Lessee/Boat Owner that this Berth Rental Agreement does not constitute and shall not be construed as a residential tenancy.

WITNESS the signatures of the Lessee/Boat owner and Lessor on the date stated above.

LESSEE / BOAT OWNER

BILOXI PORTS AND HARBORS

By: _____

By: _____

Name: _____

Name: A.M. Gilich, Jr.

Title: Mayor

Title: _____

Ports and Harbors

Administrative Office: (228) 374-6600

Fax: (228) 435-7228



P. O. Box 1908
Biloxi, Mississippi 39533
Point Cadet Marina: (228) 436-9312
Biloxi Small Craft Harbor: (228) 436-4062
www.biloxi.ms.us

RULES AND REGULATIONS FOR VESSELS IN THE BILOXI SMALL CRAFT HARBOR / POINT CADET MARINA

1. Only boats in good and seaworthy condition may be berthed in the harbor or marina area. All boats shall be berthed and secured with proper care and equipment and such berthing and equipment shall be maintained at all times in a seaworthy condition. In the event that a boat is not maintained or secured in seaworthy condition, the City of Biloxi Port Division, a municipal agency of the City of Biloxi, Mississippi (hereinafter, the "Biloxi Port Division"), may supply such lines and fittings, or may care for the boat in such a manner, as to prevent damage to the boat, other boats, walkways or finger piers. Lessee/boat owner shall remain liable for any and all costs associated with such care. All boat defects, including problems caused by inadequate tie lines, leaks, inclement weather, rain, wind or tides, will be the responsibility of the lessee/boat owner or his/her/its agent.
2. Boats berthed at a Biloxi Port Division harbor or marina must be registered and numbered in accordance with all federal and state laws, rules and regulations regarding documented boats.
3. The Biloxi Port Division reserves the right to control and restrict all vehicular parking and all water and land approaches to the facility, including closing same for special events.
4. All visiting vessels or crafts must register with the Harbormaster for temporary berthing privileges or tie-ups in the marina basins.
5. Vehicles of vendors or visitors shall be parked in orderly fashion and within designated areas. Parking rules will be strictly enforced. No Lessee/Boat Owner has any right to any parking space.
6. The harbormaster on duty is an authorized employee of the Biloxi Port Division, and the enforcement of these rules and regulations is the duty of his/her position.
7. No profanity, obscene actions, drunkenness, or illegal drug use is allowed on the harbor premises.
8. Swimming and diving are not permitted in the waters of the harbor or marina.
9. No sign or markings shall be placed or made on docks, piers, parking areas or other structures without written authorization from the Biloxi Port Division.
10. "No Wake" speeds will be observed within the marina basin.
11. No anchoring shall be allowed in the marina basin.
12. No unauthorized dry storage of boats or equipment is allowed on the harbor premises.
13. Walkways and finger piers shall remain clean and unobstructed. Lessee/boat owner will not place dinghies, small craft, supplies, materials, accessories or debris on walkways or finger piers and will not construct thereon any dock box, locker, cabinet or similar structure.
14. No alteration shall be allowed to any berth, slip, stall, pier, electrical shore power, water service or any other improvement by any lessee/boat owner without written permission from the Biloxi Port Division.
15. No open flames shall be allowed on any boat within the marina basin.

16. Operators of boats while maneuvering, entering or departing from the marina basin shall exercise caution and care to avoid damage or injury to property or persons. Negligent operators shall assume full responsibility for any property damage or personal injury.
17. Any person, other than owner or owner's authorized agent, wishing to board owner's boat when not accompanied by owner must present written or authentic permission from owner to Harbormaster on duty.
18. No person under the age of sixteen (16) may go, remain, or be upon the walkways, finger piers or boats, unless such person is accompanied by an adult.
19. Pets are permitted at the harbor or marina only if they are not a nuisance, as determined by the Port Manager in his sole and absolute discretion. Lessee/boat owners are responsible for the actions of their pets. Pet deposits must be properly cleaned and disposed of.
20. Lessee/boat owners are forbidden to do major construction and repairs to boats berthed in the harbor or marina basin. All minor interior or exterior boat repairs by lessee/boat owners shall be done between the hours of 6:00 a.m. and 9:00 p.m. daily unless the job is declared an emergency by the Harbormaster on duty. All construction repair scraps and trash shall be moved off harbor or marina premises by lessee/boat owners or their agents. Routine maintenance, including brush painting (but no spray painting), is allowed in leased slips. Provided, however, that such painting or sanding is conducted carefully so as not to permit any paint, solvents or sanding dust to drip or blow into the water, onto the docks or other vessels. No painting is allowed to outer hull below deck or bulwarks levels.
21. All garbage, oil sludge, refuse material, sewage and waste material of any kind shall be deposited in refuse containers provided for that purpose. No waste material of any kind shall be thrown from any boat into the marina basin, onto any docks, piers, bulkheads or roadways.
22. Garbage, carcasses and spoilable debris and trash from "catch cleaning" or "picking out" cannot remain overnight on berthed boats or harbor premises nor thrown in harbor basin. All such material must be removed from the harbor premises as soon as practical upon docking.
23. Lessee/boat owners will connect to harbor or marina power outlets only with serviceable, UL approved power cords specially designed for marine use and rated for the electrical service to which it is connected.
24. Lessee/boat owner must provide the Biloxi Port Division with proof of purchase of insurance, including liability and salvage coverage. The Biloxi Port Division assumes no responsibility for the safety of any boat docked at the harbor or marina and will not be liable for fire, theft or damage to any boat, its equipment or any and all other property on any boat, walkway or finger pier.
25. The Biloxi Port Division reserves the right to relocate any boat in the Port Manager's sole discretion.
26. The Biloxi Port Division shall have the right to move or relocate any boat berthed in the harbor or marina that is in violation of any rules and regulations and has failed to cure such violation following reasonable notice as provided in the Berth Agreement, or attempted reasonable notice, as provided in the Berth Rental Agreement. Lessee/boat owner shall remain liable for any and all costs associated with such move or relocation.
27. All vessels docked in the marina must:
 - a. be operational and able to get underway under their own power at all times.

- b. be consistently maintained in a clean, attractive, and ship shape fashion.
 - c. be seaworthy and able to maneuver under their own steerage.
 - d. Have on board - in the lowest part of the bilge - an operational and automatic bilge pump at all times.
 - e. Have their thru-hull fittings inspected and tested every month to ensure their ongoing integrity.
28. For the purpose of ensuring the safety, seaworthiness, and functional condition of vessels docked in the Marina, the Marina staff may, at the sole discretion and direction of the Port Manager, board and inspect both topsides and below decks of any vessel at any time with or without owner permission.
29. All vessels shall get underway - under their own power and own steerage - and depart their slip at lease once per year.
30. **The discharge of raw sewage and any other water contaminated by oil, fuel, or other regulated materials is prohibited. Such acts are punishable by fines of up to \$5,000.00 per day.** All permanently installed sewage systems and holding tanks must meet current federal and state regulations, or must be locked off while the vessel is docked. Port-O-Lets are not permitted to be dumped in the Marina restrooms.
31. Holding tanks may not be pumped overboard. Boaters wishing to empty their holding tanks must use the pump-out services provided at the designated location in the Marina.
32. No fuel (gasoline or diesel) will be pumped aboard, transferred to, carried to, or poured into any vessel in the Marina except at the Fuel Dock using the approved dispensers located there.
33. All paid contractors (divers, mechanics, detailers, electricians, A/C repair, etc.) working on boats docked at the Marina must be licensed, properly insured, and must check in with the Marina office every time they enter the Marina's docks to perform work on any vessel docked in the Marina.
34. Boat owners may not provide access to private contractors who do not meet the requirements of item 33 above. However, unpaid friends, family members, or other unpaid individuals may perform work under the direct guidance and escort of the boat owner. These individuals do not need to check in at the Marina office when under the escort of the boat owner.
35. Boat Owners shall comply with guidelines of the Mississippi Clean Marina Program in order to protect the harbor resources from contamination and pollution, as follows:
- a. Sewerage Handling:
 - i. No raw sewage may be discharged. Pump out stations are provided in the harbor for use with Marine Sanitation Devices (MSD).
 - ii. "Y" valves must be tied down and will be inspected periodically to ensure that no sewage can be discharged and appropriate chemicals are in use.
 - iii. Clean, functioning restrooms are available 24 hours a day.
 - b. Fuel Control

- i. Fuel vendor will be responsible for pumping fuel into vessels.

c. Solid Waste

- i. Solid waste must be disposed of in the covered trash receptacles.
- ii. Fish wastes cannot be disposed within the Harbor.
- iii. Cleaning of fish on docks and floats is not permitted, unless fish wastes are contained (such as with a pan or plastic drop cloth) and disposed properly.
- iv. Rinse water drainage from fish cleaning areas must be free of solids and directed to a sand filter or sanitary sewer.

d. Vessel Cleaning and Repair

- i. Take proper precautions against spills, and use environmentally friendly materials. The following minor maintenance and cleaning activities may be conducted on board vessels while in the water:
 - 1. Routine engine tune-ups, oil changes, and other minor servicing and repair
 - 2. Routine care and cleaning of rigging and fittings, interior surfaces, and "bright work" providing these activities do not produce a wastewater.
 - 3. Painting/varnishing interior surfaces and bright work.
 - 4. Routine sanitary pump-outs and maintenance of sanitary wastewater facilities.
 - 5. Bilge pump repair.

All other maintenance activities must be conducted with the vessel out of the water at a proper repair facility specifically designed for the purpose, including hull scraping, sandblasting, or painting the hull exterior with cleaning agents other than fresh water or natural seawater, and any other activities involving the potential risk of an uncontained discharge of oil, chemicals, nutrients, or other contaminants into the water.

Minimize the use of soap and detergents within the Harbor. Use only phosphate-free and biodegradable cleaning products such as Simple Green and comparable products. The use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye is prohibited.

Liquid wastes (including but not limited to solvents, detergents, and rinse water) cannot be discharged onto the ground, allowed to enter storm drains, or disposed of in dumpsters or trashcans. Contaminated bilge water cannot enter the water.

Reuse or recycle waste oil in the containers provided in the harbor labeled as "Waste Oil Only."

- 36. Slip holders may not sublease their slips to anyone at any time.
- 37. Slip holders may not permit boats owned by others to occupy their slip without the expressed approval and knowledge of the Port Manager.

38. In the event a vessel is sold or otherwise transferred to a new owner, the slip is not transferable to the new owner.
39. Owner will notify the Biloxi Port Division in writing of any extended Slip vacancy (one week or more) ("Extended Vacancy"). A minimum of 48 hours' notice must be given to Biloxi Port Division prior to any removal for an Extended Vacancy and/or return from Extended Vacancy by lessee/boat owner and/or its agents or representatives. Biloxi Port Division shall have the right to sublease the berth during any times when the berth is not occupied by the boat to a third party during the original lessee/boat owner's absence, without reduction in the berth rental fee or notice from the Biloxi Port Division all monies collected there from inure to the Biloxi Port Division.
40. The Biloxi Port Division may from time to time require the use of the berth for boat shows, tournaments or other related uses. In such event, the Biloxi Port Division shall have the right to temporarily relocate lessee/boat owner's boat for such use.
41. The Harbormaster on duty has the authority to interpret and enforce these regulations, and all persons and vessels entering the Biloxi Small Craft Harbor or Point Cadet Marina shall be subject to his directions.

THE BILOXI PORT DIVISION RESERVES THE RIGHT TO TERMINATE ANY BERTH RENTAL AGREEMENT (LEASE AGREEMENT) UPON INFRACTION OF ANY OF THE FOREGOING RULES AND REGULATIONS AS SET FORTH.

THE BILOXI PORT DIVISION RESERVES THE RIGHT TO AMEND, ADD TO, OR CANCEL ANY OF THE ABOVE RULES AND REGULATIONS WITHOUT PRIOR NOTICE TO ANY LESSEE/BOAT OWNER.