

Request to Village of Bald Head Island Council for consideration of review of boat / motor ordinance

As of Sept. 9, 2022: This request is submitted on behalf of the 7 boat owners (names provided upon request) parked in the BHA boat park who are currently in violation of the ordinance (grandfathered until Dec. 2024), one boat owner with a boat in a Marina slip, and myself (not yet a boat owner).

Village Ordinance regarding size of boats/motors parked in BHA Boat Park

Issue

The Village ordinance restricting boat length to 16' and motor size of 25HP, signed in 1988 between Bald Head Island Limited and CAMA, is

- Antiquated because of changes in boat motor technology, and
- Offers limited choices for homeowners to purchase boats that meet the 16'/25HP restrictions for which homeowners can safely navigate the Bald Head Creek.

Intent of Village Ordinance for boats in BHA boat park

As deduced from the attached public records and original permit, obtained from the Village Manager:

- “Included in the CAMA Major Permit issued by the state Division of Coastal Management (DCM) were additional conditions, one of which, stipulating that the *permitee would make every reasonable attempt to prevent the unique estuarine tributary from being transformed into a marina/canal complex with lowered water quality. The concerns of DCM regarding water quality and the overall health of the unique estuarine system of Bald Head Creek* set in place the current policy by limiting the size of both motors and boats in the creek. *That is where the limitation of 16’ and 25 HP motors originated.” Email from July 3, 2018, from Daralyn Spivey to Chris McCall, Carrie Moffet and Kevin Coats (concerned citizen).*
- “This permit is issued in keeping with a general understanding that the permittee will make every reasonable attempt to prevent this unique estuarine tributary known as Bald Head Creek from being transformed into a marina/canal complex with lowered water quality and an attendant loss of fish and wildlife resources. *The commitment to manage for small open craft that are not fully equipped with toilet facilities or living quarters*, as set forth in the conceptual plan of 5/3/84, is an essential element of this understanding.” *Email from January 15, 2015, from Heather Coats, NC Division of Coastal Management, to Daralyn Spivey, Village clerk.*
- “Continued build out of the Bald Head Creek area must not result in a contravention of earlier commitments on marina development as confirmed in the permittee letter of 10/14/87, attached...” *Bullet #5 permit from NC Department of Natural Resources and Community Development permit #151-84.*

Assumptions made about ordinance intent from a review of associated public documents

Ordinance is meant to

1. Boat size / speed. **Keep the boats from travelling too fast**, thus upsetting the “estuarine environment” of the creek; hence the restriction in size of boats/motors.
2. Pollutants. **Minimize water pollutants**, which was prevalent with 1980’s and earlier 2-stroke motors, which spewed oil into the creek, thus upsetting the estuarine environment.
3. Number of boats. **Keep the number of boats in the creek to an acceptable minimum**; hence the restriction on the number of boats allowed in the boat park.
4. Toilets/living quarters. **Keep out larger boats that might have toilets or living quarters** on board, which is common in boats much larger than 16’.

Supporting reasons for requesting current ordinance be reevaluated

Technology changes

- Of most importance to all the reasons listed below to consider changing this ordinance, the most salient point is that boat motor technology has changed drastically over the past 34 years, when this permit was originally put in place in 1988.
 - At that time, 2-stroke motors (mixed oil and gas, like that used in a weed eater) were the norm; now 4-stroke motors (internal oil chamber, like a motor vehicle) are the standard. Older 2-stroke motors leak oil into the water along with the gas as it's burned.
 - The new 4-stroke boat motors are much more environmentally friendly because they do not release oil into the water.

* *Addresses assumption #2 (Pollutants)*

Supporting reasons for requesting current ordinance be reevaluated

Motor comparison

- If boat speed is a concern (never directly stated in the public records, as attached, or on the state permit), these facts are offered, which are available on the Boston Whaler website:
 - 25 HP motor on a 13' Super Sport at wide open throttle can reach 26.3 MPH
 - 40 HP motor on a 13' Super Sport at wide open throttle can reach 32.4 MPH
 - 60 HP motor on a 15' Montauk at wide open throttle can reach 34 MPH
- Using the 13' Boston Whaler Super Sport as an example
 - The boat within the current ordinance restrictions can reach speeds of 26.3 MPH. But that boat cannot safely hold more than 4 people (max weight of 990 lbs).
 - The 15' Boston Whaler, with a 60 HP motor, can reach speeds of 34 MPH and can hold up to 6 people comfortably (max weight of 1250 lbs).
 - While this list maximum speeds obtainable for the Boston Whalers, this does not mean owners will operate at those speeds – it's simply a maximum wide open throttle capacity.

* Addresses assumption #1 (Boat size/speed)

Supporting reasons for requesting current ordinance be reevaluated

Safety

- A 16'/25HP combination is unnecessarily restrictive and is not safe. It primarily allows for someone to use an aluminum Jon boat with a 25HP motor. Heavier and safer boats are not well-suited for such a small boat motor.
- A survey of the boats currently parked in the boat park will demonstrate that many are in fact Boston Whalers or Skiffs, which are very safe, and need larger motors to effectively power them.

**Does not directly address assumptions, but this is implied from reading permit*

Supporting reasons for requesting current ordinance be reevaluated

Limited opportunities for use

- The majority of homeowners don't live here full time, which means their boat use is limited to weekends and vacations, which in and of itself, restricts the amount of time a homeowner can use their boat in the creek.
- Boats can only be launched and retrieved from boat ramp during high tide
- These facts are more limiting than the boat length/motor size restrictions in terms of limiting boat use in the creek, as is desired in the original permit.

**Addresses assumption #3 (Number of boats)*

Supporting reasons for requesting current ordinance be reevaluated

Unfair bias against a small number of homeowners who must park in the boat park

- There are at least 15 docks up and down the creek, in addition to the Middle Island dock, none of which seem to be restricted by boat length/motor size.
- The Timber Creek boat ramp does not fall under the Village ordinance, and has a 16' length restriction, but no motor size limit.
- Commercial fisherman and the general public use the Bald Head Creek (a public waterway) and cannot be held to these boat length/motor size restrictions.

**Addresses assumption # 3 (Number of boats)*

Supporting reasons for requesting current ordinance be reevaluated

No toilets / living quarters with boats less than 20'

- Smaller boats generally do not have toilets or living quarters on board. This could be expressively restricted in the parking lease, to achieve the intent of the original permit.

**Addresses assumption #4 (Toilets/living quarters)*

Suggested course of action for Village

Request the Village of Bald Head Island reevaluate the 16'/25 HP restrictions, due to changes in boat motor technology, safety limitations of current restrictions, and limitation of current restrictions for choices in boats.

- **Consider restricting the use of older 2-stroke motors** that leak oil into the marsh, to achieve the intent of the original ordinance, to protect the estuarine environment. Older motors that leak oil into the environment are what destroys the environment, not larger motors.
- **Consider boats up to 17' in length**, dependent on the safe combination of the boats/motors that is determined by the boat owner.
- **Remove motor size stipulations from the ordinance**, as these are inherently dictated by a boat's size.
 - Recognize different types of golf carts are capable of safely launching different boats at the boat ramp, and that responsibility falls on the homeowner to manage, not the municipality or state, as with any other public boat ramp.

Suggested course of action for Bald Head Association

- **For Bald Head Association's consideration of inclusion in the boat park lease.**
 - Continue to only provide a limited number of boat spaces in the BHA boat yard, per the original permit.
 - Consider including language in the boat park lease for lessees that states no toilets or living quarters will be allowed on boats parked in the boat park.
 - Consider including language in the boat park lease for lessees that protects the environment (no-wake zone, no speeding, water-ski, or other activities that would be a detriment to creek)

Questions for the Village of Bald Head Island

- What needs to be done to formally consider this request for change?
- Is the Department of Coastal Management a willing participant?
- What are the next steps?
- How long, if actioned, would this process take to achieve an outcome?
- What else can I provide to assist in this process?

**This presentation / ask of council is not meant to suggest changes to those boats currently grandfathered in boat park until Dec. 2024, but to review the overall ordinance for its effectiveness and fairness to island homeowners who have boats on BHI.*