

**From:** Gregg J. Corbo [mailto:gregg@kpc.com]  
**Sent:** Tuesday, April 17, 2012 10:28 AM  
**To:** tleach@town.harwich.ma.us  
**Subject:** Mooring Service Agents

Dear Tom:

I am writing in response to your inquiry as to whether a licensed Mooring Service Agent can provide services outside the agent's designated mooring field. Specifically, you have informed me that Harwich Port Boat Yard previously served as Mooring Service Agent for the Wychmere Outer Harbor mooring field. At the expiration of its term, the Town made the license available through a public bidding process and the Mooring Service Agent license for the Wychmere Outer Harbor mooring field was awarded to Karl Niehoff. Harwich Port retained the license to serve as Mooring Service Agent for the Wychmere Inner Harbor mooring field, and now claims that it has retained the authority to serve as Mooring Service Agent for its customers using moorings in the Wychmere Outer Harbor mooring field. Harwich Port has not been appointed as a secondary Mooring Service Agent for the Wychmere Outer Harbor mooring field.

In my opinion, Harwich Port cannot perform the services of a Mooring Service Agent in an area where another has been formally appointed as Mooring Service Agent unless it is appointed by the Harbormaster as an alternate Mooring Service Agent. It is my further opinion that Harwich Port does not become a de facto Mooring Service Agent simply because customers who have purchased or rented mooring hardware from Harwich Port maintain moorings in the Wychmere Outer Harbor.

Pursuant to the Harbor Management Plan, the Harbor is divided into six mooring servicing fields for purposes of coordinating mooring services and inspections for the Town. See, Section 2.0 Definition of "Mooring Servicing Fields". For each mooring field, the Town may appoint a primary Mooring Service Agent and alternates to perform such services. See, Section 2.0 Definition of "Mooring Servicing Fields". Pursuant to Section 3.10 of the Harbor Management Plan, "[w]here a mooring servicing agent has been assigned to be responsible for a particular geographic area, that agent shall be responsible for the hauling of the mooring, the inspection of all mooring hardware, and the correct placement of the mooring within the agent's servicing area." All permit holders are required to use a Harwich Mooring Service Agent for such purposes when placing a mooring in an area where a Mooring Service Agent has been assigned. Section 3.10 further provides that "[a]n alternate Harwich mooring servicing agent may be used upon coordination with the primary mooring servicing agent and the Harbormaster to perform services for the hauling of the mooring, the inspection of all mooring hardware and the correct placement of the mooring, within the primary mooring servicing agent's area."

In my opinion, when a Mooring Servicing Agent has been appointed to serve a particular mooring field, that agent shall be solely responsible for the hauling of all moorings, the inspection of all mooring hardware, and the correct placement of all moorings within that agent's servicing area, unless an alternate has been appointed by the Harbormaster. In my further opinion, if a party has not been appointed as the primary Mooring Servicing Agent or as an alternate for a particular mooring field, that party cannot perform the services of a Mooring Servicing Agent in an area assigned to another party. The mere facts that a party has previously served as Mooring Service Agent for a particular mooring field, that it serves as Mooring Service Agent for a different field, or that it rents equipment to customers in a particular field, in my opinion, does not mean that that party has any right to perform the services of Mooring Service Agent in a field appointed to another, unless that party is expressly designated as an alternate by the Harbormaster.

Please do not hesitate to contact me if you have any questions in this regard.

Very truly yours,

Gregg J. Corbo, Esq.  
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