

 IGY VIEUX PORT DE CANNES

QUAI d'HONNEUR

**PROCEDURE FOR THE ALLOCATION OF BERTHS
for
COMMERCIAL EVENTS**

Version 5.6.1 from 14th of September 2022

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1. FOREWORD

The Vieux Port de Cannes is a public port managed by Cannes City Council and operated by MARINA DU VIEUX PORT DE CANNES.

During major events in Cannes, and notwithstanding the specifications of the concession, the berthing of vessels is authorised for certain onboard activities related to the said events.

The purpose of this document is to specify the requirements and the procedure for the allocation of ship's berth in the Vieux Port de Cannes in the sector known as the "Quai d'Honneur".

This document was jointly written and approved by:

- The City of Cannes, represented by the Port Authority
- The Marina du Vieux Port de Cannes, represented by the Director of the Vieux Port de Cannes.

It can only be modified under the same conditions.

The parties

The allocation of berths is subject to the submission of an administrative file.

The following parties intervene in the process to request and allocate berths and to oversee the stay in the port.

a) The representative of the vessel

The representative of the vessel may be:

- its owner (an individual or an organisation),
- its captain, in the employment of the owner of the vessel,
- a duly qualified intermediary (yacht broker, maritime agent or equivalent),
- the charterer of the vessel or its duly authorised representative (an individual or an organisation).

b) The port concessionary (MARINA DU VIEUX PORT DE CANNES)

As the operator of the port, the MARINA DU VIEUX PORT DE CANNES manages the contractual relations with the representative of the vessel.

c) The port manager (City of Cannes)

The City of Cannes, represented by the Port Authority and its agents, verifies:

- the compliance of the declarations of the representative of the vessel,
- the compliance of the application of this procedure by the MARINA DU VIEUX PORT DE CANNES and approves the berthing plan.

2. PREPARATION AND RECEPTION OF THE APPLICATION

2.1. Blank files

Blank application files are available:

- on the web site: www.igymarinas.com section EVENTS & LEGAL
- on request by e-mail sent to:
congress.cannes@igymarinas.com

This procedure is also available under the same conditions.

2.2. Preparation

The application file must be written in capital letters whenever possible. All attachments (photocopies) must be usable. The originals of all the appended documents must be produced on request. The requested addresses must be complete (company, name, first name, town, post code, State, country, etc.) and must allow the person/company to be contacted. The same applies to telephone numbers.

2.3. Transmission

The exact opening date for the reception of the files is published on the web site: www.igymarinas.com

Once the file has been completed, it must be sent to:

Marina du Vieux-Port de Cannes
Bureaux du Port – 1^{er} étage
Promenade de la Pantiero
06400 Cannes

and the following must be written on the envelope:
“QUAI d’HONNEUR - [+ name of the event]”

It can be delivered by:

- special delivery (UPS, DHL, Chronopost, etc.),
- registered letter mail with acknowledgement of receipt,
- hand delivered, to the port offices reception. In the latter case, a receipt is deposit is given to the bearer.

From 1st January 2020, it will also be possible to send the complete file by e-mail to congres.cannes@igymarinas.com in PDF format with all the necessary documents in a single file (several attachments will not be accepted). The Vieux Port de Cannes will send an acknowledgement of receipt within 72 hours. This receipt will be the only proof that the file has been sent. For applications sent by this method, only payments by bank transfer will be accepted.

The Vieux Port will keep up to date a list of the received application file, with the precise dates and times of receipt.

2.4. Verification

The Vieux Port de Cannes checks that the file is complete and compliant (see §3) within ten working days of receipt. No documents received in the five working days preceding each allocation commission meeting will be considered. If a file is received on the last possible day, and it is incomplete or non-compliant, the examination of the file will be deferred until the next commission meeting.

2.4.1. Incomplete or non-compliant files

Files are deemed to be incomplete or non-compliant in the following cases:

- One or more fields not filled in;
- The vessel's papers are not definitive;
- One or more signatures are missing;
- One or more documents are missing, unusable or suspect;
- Veracity of one and more declared information or the authenticity of the signatures is doubtful;
- The ship status Certificate attesting that the vessel belongs to the commercial or pleasure category is not up to date or provisional when the file is received (certificates must be definitive, no provisional documents will be accepted);
- Unpaid administrative fees;
- Special cases not included in the above list.

If there is a doubt about the information to be provided for completing the file, the requesting party can contact the Congress department of the Port de Cannes to ask for clarification.

If the file is deemed to be incomplete or non-compliant, it is invalidated and the returned to the requesting party with the reasons for the refusal. Only at this point, the party that deposited the file alone can contact the Congress/Event department of the Port de Cannes to ask questions about the invalidation of the submitted file. All verbal communications must be confirmed in a summary e-mail.

If the file is incomplete or non-compliant, a new file must be submitted, accompanied by another payment of €200, which will be cashed.

2.4.2. Complete files

If the file is complete, a "complete file" receipt (see page 1 of the application file) is sent to the representative of the vessel within five working days, and the file is submitted for examination by the allocation committee, according to the criteria described in chapter 4.

Issuing a "complete file" receipt does not exclude the subsequent verification of the validity or the authenticity of the various documents and declarations in the file.

The Port de Cannes accepts the first 75 complete files. After the first 75, the files are received, but not examined, and they are simply registered in the list of received files (a simple receipt - annex 2 - is issued in order to take account of the date of the request if the list is reopened, while still respecting the dates and times when the files are received).

2.5. Communication and Non-disclosure

Each file is covered by a non-disclosure clause, and no information can be disclosed to another person who is not concerned by the file.

The files are kept in the offices of the Port de Cannes and cannot be consulted by anyone who is not part of the MARINA DU VIEUX PORT DE CANNES organisation.

3. COMPLIANCE REQUIREMENTS

The allocation of berth is conditional upon compliance with each requirements described below.

3.1. Authenticity

The names and signatures of the persons designated or authorised in the file must be authentic.

When in doubt, the Port de Cannes reserves the right to check the authenticity of the documents and signatures in the file and to ask for any documents that it considers to be necessary in order to check the authenticity of the documents provided and the declared information.

Any proven false declarations will automatically ban the vessel from being presented for one year, as well as the person responsible for making the false declaration to the Port de Cannes.

3.2. Tax

The shipowner or its duly authorised representative must sign a declaration certifying the fiscal compliance of the vessel, its supplies and the services provided onboard .

3.3. Technical compliance of the vessel

The shipowner or its duly authorised representative must sign a declaration certifying the technical compliance of the vessel with regards to its certification by the flag State.

This declaration must be accompanied:

- by a valid copy of the registration by the flag state (certificate of registry);
- by an annually endorsed Class certificate issued if applicable depending of the tonnage
- by the Ship status certificate (commercial statement of compliance) if applicable depending of the Flag

For unusual flags, the shipowner or its duly authorised representative must be able to provide the applicable Flag regulations of the said flag on demand.

3.4. Safety of the vessel when moored

The captain of the vessel must sign a statement declaring that, throughout its stay in the Port de Cannes, the captain and a duly qualified and trained crew will be present onboard the vessel and, at all times, capable of:

- manoeuvring or leaving the berth,
- taking the necessary measures in case of emergency (fire, flooding, etc.) and especially in case of passengers evacuation.
- maintaining the safety of the passengers,
- complying with the port police regulations.

This statement must be accompanied by a copy of the vessel's insurance policy (P&I) including the event coverage. It also includes a statement of the maximum number of passengers authorised onboard, which the captain agrees to comply with.

3.5. Environmental compliance of the vessel and practices

In accordance with the regulations in force, and in order to maintain the water in the port perfectly clean:

- Discharges of any liquids inside harbour is prohibited.
- Black and grey water must be collected during the berth stay and will be controlled at any time.

The list of service providers approved by the port is available on request, in accordance with the waste reception and treatment plan of the Port de Cannes.

The "declaration of waste water during the event" is mandatory and must be provided during the event.

3.6. Commercial activity

The activity of the renter/charterer must be in direct connection with the event and is subject to be controlled by documentation evidence if necessary.

The representative of the vessel must sign a statement that he has been informed and/or has informed the user of his vessel of the provisions of Book Four of the French Commercial Code of Law, and of the provisions of article 1382 of the French Civil Code of Law relative to "commercial scrounging".

This statement requires from the charterer:

- a. An official accreditation from the organiser of the event, the number or reference must be included in the berth application file (refer to the of accreditation conditions by the event's management).
- b. The validity of this accreditation will be controlled.
- c. Meeting the requirement of showing individual access badges for the event by all persons who come onboard (excepting the crew members, brokers and personnel in charge of the vessel's logistics), during the opening hours of the event.

In all instances, the sale of catering or accommodation services onboard is forbidden.

The Port de Cannes acknowledges that the organiser of the event can check that these different points are respected and can install barriers along the quayside in order to facilitate such checks.

The organiser of the event shall refrain from interfering with other vessels that are not taking part in the event.

If the name of the charterer is different from that of the trademark on display (see pages 1 and 2 of the berth application file), the link between the two must be explained.

If the onboard activity is likely to result in legal action, in particular due to commercial scrounging, the Port de Cannes reserves the right to forward any documents contained in the berth application file to the judicial authorities.

3.7. Mooring and application fees

In accordance with the last point of paragraph 1 of article 1 of the general terms and conditions of application of the fees for the use of public facilities, *“the agency or authorised intermediary acting on the behalf of a third party is responsible for the payment for the use of the facilities in its capacity as the requester.”*

Consequently, the individual or legal entity that have submitted the application for a berth to the Port de Cannes is liable for all the fees and costs related to the use of the said berth.

The application file shall include a means of payment for the berthing fees for the entire event, plus a payment of €200 for administrative fees. Payments can only be made by cheque made out to Marina du Vieux Port de Cannes or by bank transfer.

If the payment is made by a representative of the vessel different from the end customer (charterer), it must be accompanied by a copy of the end customer's transfer (explicit name) to this representative of the vessel, proving that the end customer has paid the amount for the rental of the vessel (yacht rental contract). No settlements by bank cards (receipts) will be accepted as proof of this payment. If this proof is not forthcoming, the examination of the application file will be deferred until the next allocation commission.

3.8. Rental contract

The representative of the vessel shall produce a copy of the charter contract. This contract shall have the following characteristics:

- a direct contract between the owner and the charterer, with their original signatures,
- the name of the charterer that is identical to the name on pages 1 and 2 of the berth application and on the transfer order (§ 3.5),
- the names of the broker and the central agency (with signatures),
- the date of the event for which the application is made,
- the amount of the charter and the terms of payment,
- the date when the contract was signed,
- the name and characteristics of the vessel.

If the representative of the owner is authorized to sign the charter contracts, a copy of this authorization shall be enclosed.

If the representative of the charterer is also authorized by the charterer to sign the charter contracts, a copy of this authorization shall be enclosed.

For “owner onboard” berth requests, and in the absence of a charter contract, a sworn statement signed by the owner, is required true certifying that the berth will be used for strictly private purposes. In this case, the use of any trademarks or signs on the vessel is forbidden.

3.9. Professional qualification

The intermediaries with authority to delegate and/or signature of the charter contract shall provide the following professional qualification:

- Brokers, maritime agents, yacht brokers:
 - the nature of company or establishment,
 - an extract from the register of companies or equivalent document.
- The captain:
 - original letter from the ship owner attesting that the Captain is an employee onboard the vessel.

3.10. Debts

If the ship owner or its representative or its charterer owes any debts with Marina du Vieux Port de Cannes, this debt must be paid before submitting the application file.

3.11. Berth Stay

Berth requests for shorter stay than the event are not allowed but the vessel is still free to leave the event before it ends once accepted .

3.12. Signage/Advertising regulations

The ship's representative must undertake to respect the signage specifications appearing in part 3 of this berth application.

3.13. Welcoming Tents on shore

The installation of a tent on the quayside facing the vessel is authorized as a welcoming and identity checks area.

This tent shall never be used for purposes related to scrounging or catering. Tents must be installed in accordance with part 3 of the application file.

The tent supplier shall draw up and submit a certificate of proper assembly and visual inspection of each installed structure, including structures of less than 16m². This certificate must be sent to congres.cannes@igymarinas.com at least 12 hours before the opening of the event.

3.14. Evening events onboard

All evening party organised onboard a yacht must be the subject of a request for authorisation made on the website of the City of Cannes <https://vosdemarches.cannes.com> ("PROFESSIONAL SPACE" section, select "EVENT AUTHORIZATION REQUEST").

4. BERTH ALLOCATION

4.1. Definition

This chapter defines how berths are allocated to the participants in an event. Any allocation is subject to the registration of a "complete and compliant application file" notice, as described in §2.4.2.

Allocations are made according to criteria (§4.2) by an allocation commission (§4.3) according to a procedure (§4.4) and give rise to the signing of a report that is

published in part (§4.5).

The berth is allocated to the vessel-charterer or the vessel-charterer-charterer's representative (see § 7 and 8 for changes).

4.2. Allocation criteria

4.2.1 Classification:

The applications received will be classified according to 4 criteria which will be relevant for the berth allocation:

Criteria 1 The chronological order of date of receipt of complete applications (the oldest application received take priority): the reference indicator is the day only and not the time.

If two or more complete files are received on the same day, the additional criteria will be taken into consideration:

Criteria 2 The number of years of presence of the charterer (final customer of the event organiser) with a vessel in the "Vieux Port de Cannes" for the event in question since 2001. For owners onboard a pleasure boat, the criteria will be the number of years of presence of the same vessel in the "Vieux Port de Cannes" for the event in question since 2001. Seniority is calculated in relation to the name of the brand for which the application is presented. Redemptions or changes of company names do not benefit from the seniority of the original company;

Criterion 3 The overall length of the rented vessel (with parity of classification, the longest vessel takes priority);

Criterion 4 The date of payment of the charter contract deposit.

4.2.2 Berths reserved for clients without seniority

In order to ensure a balance between old and new clients, the port will guarantee a berth for 3 new clients/brands. These applications will be the top 3 in the ranking (according to the criteria in point 4.2.1) of clients/brands with zero years of seniority.

In case where no company has zero years of seniority, the port will assign these 3 berths to the 3 boats following the last one accepted in the ranking.

4.3. Allocation commission

4.3.1. Meeting schedule

- **Cannes Film Festival:**
 - First meeting: about 90 days before the start of the event
 - Second meeting: about 60 days before the start of the event
 - Third meeting: about 30 days before the start of the event
 - Fourth meeting: about 15 days before the start of the event

- **MIPIM:**

First meeting: about 120 days before the start of the event
 Second meeting: about 90 days before the start of the event
 Third meeting: about 60 days before the start of the event
 Fourth meeting: about 30 days before the start of the event

- **CANNES LIONS:**

First meeting: about 90 days before the start of the event
 Second meeting: about 60 days before the start of the event
 Third meeting: about 30 days before the start of the event

- **CANNESERIES, MIPTV, MIPCOM, TFWA:**

First meeting: about 60 days before the start of the event
 Second meeting: about 30 days before the start of the event

- **MAPIC, MIDEM, TRUSTECH & ILTM:**

First meeting: about 30 days before the start of the event

The precise calendar for the submission of application files and the committee schedule is published on the web site "www.igymarinas.com" subject to the receipt of the dates of the events communicated by the SEMEC. These dates may be subject to change by the respective event organizers.

4.3.2. Constitution of the allocation commission

City of Cannes: One representative of the Port Authority

MARINA DU VIEUX PORT DE CANNES: the Yachting Department Manager for the Port de Cannes, plus at least one representative of the Port de Cannes

4.4. Allocation

The allocation consists of placing the vessels according to the allocation criteria on the event's berthing plan (§4.2).

This berthing plan, elaborated by the Port de Cannes and approved by the Port Authority, is subject to their sole authority with regard to:

- a) nautical safety and security criteria,
- b) decision to allocate space in the port to the event,
- c) choice of the size of the admitted vessels according to the technical requirements of the berthing plan.

For each admission, the berthing plan is filled with vessels according to their classification.

Once berthing plan is completed, additional vessels are added to a waiting list.

If any new berths are free or become free (cancellations), these berths are allocated in the successive order of the waiting list. If this is not sufficient, application files that have been received, but not examined (i.e., beyond the fifth file on the waiting list) will be processed, in the order in which they were received, until the berthing plan is completed. Any incomplete or non-compliant files have five working days to be made complete or compliant. After five working days, the next file will be examined.

If a vessel on the waiting list cannot be berthed due to its size, the next vessel in the

waiting list will be examined, until all the available berths have been occupied. The unplaced vessel keeps its position in the waiting list until the possible release of a berth.

4.5. Commission report

The commission signs the report after the allocation commission meeting.

Where appropriate, this report may be completed with special requests, and in particular:

- document verifications,
- information to be transmitted to the charterers' representatives on the availability of berths, conditional by a change of the vessel size.

The list of accepted vessels is posted within 72 working hours after the commission meeting on the web site "www.igyamarinas.com".

Information on the allocations:

"Vessel - chartering company - represented trademark"

is sent to the organiser of the event after each commission meeting.

5. LATE ALLOCATIONS

Berths may be allocated during the 30 days prior to the event under the following conditions:

- berths becoming free due to the cancellation of a charter or a change of vessel,
- the late arrival of complete and compliant application files.

The allocations are made, without holding an allocation commission meeting, by the Port de Cannes, after the file has been approved by the Port Authority (City of Cannes):

- a) following the waiting list order, according to the vessel size,
- b) if the waiting list is empty, following arrival order of the late application files.

The persons who sit on the allocation commission are informed of any late allocations.

If no places are available, the late application files are added in chronological order to the waiting list, according to the size of the vessel and the chronological ranking.

When the charterer or its representative is informed that a berth is available, they must confirm their acceptance or refusal within 48 hours.

If they refuse, the vessel is considered as not having an allocated berth.

6. CANCELLATION

All cancellations must be sent to the Port de Cannes in writing (registered letter with acknowledgement of receipt) or e-mail to the address mentioned in : congres.cannes@igymarinas.com

Cancellation must be signed by a duly authorised person. Cancellation sent by e-mail is only allowed if sent from the e-mail address of the person requesting the berth.

It's only taken into consideration on the date of arrival at the Port de Cannes.

The cancellation notice received is final and cancels the allocation.

If a counter-order is received later, the file is added on the waiting list in the chronological ranking corresponding to the date of arrival of the counter-order.

No refunds will be made for cancellations made within 30 days preceding the beginning of the event for any reason whatsoever.

If the Port de Cannes receives the cancellation before the last commission of the event in question, the berth made available will be allocated to the first vessel on the waiting list.

If the Port de Cannes receives the cancellation after the last commission of the event in question, the berth made available will be allocated to the first vessel on the waiting list in the same category of the vessel that requested the cancellation.

7. CHANGE OF VESSEL

Vessel changes, justified by technical unavailability or sale, or by simple cancellation of the charter contract by the owner, are examined as follows.

Any changes of vessel by a charterer who has submitted a complete and compliant application must be subject to a written request made to the Port de Cannes (§2), accompanied by all the additional information of the application file for a berth for an event that is specific to the new vessel.

A change is only possible under the following two conditions:

- the new vessel meets the compliance requirements in §3,
- the characteristics of the replacement vessel do not cause any change to the berthing plan.

In all cases, the rate applied will be the highest category.

Case N°1 - Vessels already admitted to the berthing plan

If the new vessel has the same size category as the previous one, it is admitted in place of the previous vessel.

If the new vessel is of a different category than the previous one, after having examined all its characteristics (length over all, beam, air draft and water draft, manoeuvrability, etc.), and if the replacement vessel does not cause any change to the berthing plan, then the replacement vessel may be accepted.

No change of vessel is allowed in case of an owner onboard for private use, except in case the new vessel is also his own property and under the conditions of size and classification described above.

Case N°2 - Vessels on a waiting list

The new vessel is taken in account with the same chronological rank of the original file as the initial in the list corresponding to the classification of the new vessel.

8. CHANGE OF CHARTERER OR CHARTERER'S REPRESENTATIVE

Due to the "intuitu personae" nature of the allocation of berths between the charterer or the charterer's representative and the Port de Cannes, a change of charterer, trademark or charterer's representative, at any stage of the berth allocation, is prohibited **except** in the duly justified cases of the buy-out, take-over or merger of the company chartering the vessel for the event (all necessary supported documents must be provided).

In the event of a substitution of charterer, charterer's representative or brand is observed, the vessel will be invoiced for illicit occupation of the berth, with a penalty amounting to 200% of the applicable rate. The shipowner or its duly authorised representative is liable for the payment of the sums due. Port fees collected by the original charterer will not be refunded.

The port police authority shall be informed of this substitution.

9. PAYMENT OF FEES - ACCOUNT CLOSURES

9.1. Payment of fees

Fees are collected within five working days of the acceptance of the application file by the allocation commission.

If the fees are not paid within five working days after the first and only reminder is sent to the party requesting the berth (with copy sent to the owner, the charterer and their representatives), or if no party or witness to the charter contract substitutes the party requesting the berth, the allocation will simply be cancelled outright.

9.2. Account closure

Payment for fluids and other port services shall **imperatively be made before** the departure of the vessel.

10. VESSEL EXCLUSION PROCEDURE

If:

1. communications are issued attempting to inform other parties that a company is the holder of one or more berths in the Port de Cannes, whereas the allocation commission did not notify this information.
2. any attempts are made to re-let a berth, allocated to the original customer/vessel pair, to a different client other than the one in the original file further to a cancellation or for any other reason,
3. the port notices during the event that the customer onboard does not match with the customer initially declared in the berth application,

a penalty of €5,000 will be charged to the individual or the organisation that submitted the initial berth application.

In case of recurrence, an ad hoc committee that includes a representative of the port, a representative of the Port Authority and a representative of the brokers and agencies will be organised. The purpose of this commission is to assess the possible exclusion for one year of any requests for reservations related to the QH procedure. This exclusion will apply to the individual or the organisation that submitted the initial application file.

Notice of the exclusion will be given by letter signed by the Port Director.

11. APPEAL

11.1. Procedure:

All requests for appeals must only be sent by the file custodian, by post mail or e-mail to:

Marina du Vieux Port de Cannes – Dossier QH
Bureaux du port – 1^{er} Etage
Promenade de la Pantiero
06414 CANNES
e-mail: congres.cannes@igymarinas.com

The request must be accompanied by all the information and documentary evidence required to examine the appeal.

Verbal requests or requests made by telephone will not be accepted.

The appeals commission will respond within 10 working days from the date of receipt of the appeal request.

11.2 Waiver of appeal:

The representative(s) of the vessel, as described in Foreword 1 "Parties § a" forego any right to appeal against:

- The choice of the berth allocated to the vessel in the berthing plan,
- The procedures covering traffic, parking and access control of pedestrians and vehicles to the spaces, docks, roadways and port quays.