

**Fishing Creek Farm Homeowners  
Association Adopted March \_\_, 2021**

**Waterfront Facilities Rules, Policies and Procedures**

By declaration of the Board of Directors of the Fishing Creek Farm Homeowners Association (the "HOA"), the following rules, policies and procedures, are hereby adopted by the HOA, as of March \_\_, 2021<sup>1</sup> as the rules, policies and procedures for the Marina Facilities and Marina Committee.

**1. Guidelines for the Waterfront Committee**

1.A. These rules, procedures, and regulations (the "Rules") supersede and replace all previous rules, procedures, or regulations for the operation of the community waterfront facilities.

1.B. Responsibilities of the Marina Committee and the Board of Directors of the HOA: The Marina Committee is responsible for: implementation of these Rules; day-to-day management and oversight of the Marina Facilities; slip assignments; decisions involving an aggregate amount per year that cost of less than \$2,500 and other delegated duties as specified in these Rules (e.g. Paragraph 5.d). The Marina Committee shall make recommendations or refer for action to the Board of Directors concerning: repairs and capital improvements to the Marina Facilities that cost in excess of \$2,500; Permanent Slip assignments; impositions of fees, terminations or other sanctions. Board decisions on such recommendations or referrals shall be in accordance with the governing documents for the Board.

1.C. The Committee shall be a working committee consisting of five (5) or more resident committee members of the community. HOA members in good standing, including all slip holders, may be members of the Committee. A majority of the Committee shall nominate a Chairperson, and may nominate a co-

---

<sup>1</sup> The original Waterfront Facilities Rules were adopted in May 1, 1995. They were subsequently amended in May 2000 to revise the slip lease assignment process, again in February 2001 to accommodate jet dock leases, and finally on February 7, 2006, to accommodate the expanded pier. Further amendments were adopted on February 8, 2015.

chairperson, subject to the approval of the Board of Directors. The Committee may appoint its own officers, as it deems necessary. A quorum for conducting business at any Committee meetings shall be 30% of the members, including proxies.

1.D. If a member of the community objects to an action of the Committee in the carrying out of the guidelines under which it operates, or a decision by the Board of Directors on referral by the Marina Committee, including slip assignments, such member may lodge a formal protest, in writing, with the Chairperson of the Committee. Such protests will be promptly considered by the Committee and the protesting member will be given an opportunity to present the situation in person or in writing to the Committee for resolution.

1.E. If the protest is not resolved to the satisfaction of the member who lodged it, such member may redirect the protest to the President who will present it to the Board of Directors for resolution. Both the protesting member and the Chairperson of the Committee will be given an opportunity to present their positions in person to the Board of Directors. The decision of the Board will be final.

1.F. These rules shall apply to Marina Facilities and the boat ramp and platform areas of the Support Facilities, although the HOA shall remain exclusively responsible for maintenance and ownership of all components of Support Facilities.

1.G. The assessment of use fees related to slip assignments shall be determined by the Committee and approved by the Board. Assessments and fees shall be addressed separately from these Rules.

## **2. Definitions**

2.A. The "HOA" shall be the Fishing Creek Farm Homeowners Association.

2.B. "Slip," as used in these Rules, shall mean a designated location to berth, store, or moor a boat, watercraft or lift among the Marina Facilities, including the spaces on or alongside the bulkheads, at the piers, the mooring pilings, or at any buoy, marker, raft or float owned by the HOA. Any reference to a "slip assignment" shall mean

any decision by the Marina Committee or Board of Directors of the HOA with respect to a slip.

2.C. "Term," except as otherwise noted in these Rules or otherwise specified by the Committee, shall mean the term of any assignment made by the Committee of a slip, as applicable, within the Marina Facilities. "Annual Term" with respect to Permanent Slip assignments shall mean April 1<sup>st</sup> of each year to March 31<sup>st</sup> of the following year, unless earlier terminated, re-assigned or voluntarily relinquished in accordance with these Rules.

2.D. The "Support Facilities" shall be the land owned, and maintained by the HOA which is used for the support of the riparian facilities of the HOA. The Support Facilities shall include any boat ramp and platform, parking areas in proximity of the marina, storage or other area on land owned, controlled or maintained by the HOA.

2.E. The "Committee" shall be the Fishing Creek Farm Homeowners Association Marina Committee.

2.F. The "Chairperson" shall be the chair of the Marina Committee, as approved by the Board of Directors of the HOA.

2.G. The "Committee Member" shall be any lot owner, or resident under a valid residential lease for a residence, in Fishing Creek Farm, which member must be in good standing, as determined by the Board in its sole discretion. Any residential lease must be for the occupancy of the entire lot and residence, and any right to use the HOA facilities shall terminate upon the termination of the residential lease.

2.H. The "Board" shall be the Board of Directors of the HOA.

2.I. The "Holder" shall be any member who has been assigned a slip assignment for the use of Marina Facilities.

2.J. "Permanent Slip" shall mean the right to use an assigned slip or other facilities for the entire Annual Term. Permanent Slip holders do not possess any ownership interest in the assigned slip or any rights to use any Marina Facilities other than for the Annual Term and as prescribed in the lease assignment.

2.K. "Seasonal Slip" shall mean the right to use an assigned slip or other facilities for the Term as prescribed in

a Seasonal Slip lease assignment. Seasonal Slips include small boat dockage.

2.L. "Marina Facilities" shall mean the slips, storage areas, docks for personal water craft, fixed and floating boat lifts, piers, moorings and mooring buoys, or any other asset and other personal and real property associated with the Fishing Creek Farm community marina. An illustration of Marina Facilities is found as Appendix A to these Rules.

2.M. "Jet Dock" refers to a unique floating small vessel docking structure marketed under the patented "Jet Docking" system. There are no acceptable substitutes.

2.N. "Boat lift" refers to both a floating boat lift that is moored in a slip, and a fixed boat lift that is physically attached to the respective slip's pilings or supported by its own pilings. Only specific Board-designated fixed boat lifts are authorized.

2.O. The term "in writing" includes electronic transmissions, such as e-mail or any other electronic transmission method approved by the Board.

2.P. The term "original slip lease date" means the date of a current slip holder's initial slip lease, provided that the slip holder has continuously been a slip holder since the initial slip lease.

### **3. General Rules Regarding Dockage Assignments**

3.A. Slips are limited to members, either owners or renters, in good standing of the HOA. Bona fide guests of members may be assigned slips by the Committee on a transient basis only if such assignment does not preclude any resident member from enjoyment of any rights to use of the Marina Facilities at the time of the assignment. A transient assignment for members or nonmembers may not exceed seven (7) days. The short-term use of spaces designated as transient may be assigned to members for a longer period than seven (7) days, upon approval of the Marina Committee.

3.A.1. The provisions of this section apply to personal watercraft.

3.B. The Annual Term of assignments shall be from April 1st of each year to March 31st of the following year, unless earlier terminated or reassigned under these Rules. Seasonal

Slip assignments shall be from April 15 to November 15 of the same year. Seasonal Slips will only be offered if all Permanent Slips are fully occupied. Members who are assigned seasonal dockage are required to vacate such assignments upon twenty-four (24) hours notice by the Waterfront Committee.

3.C. Permanent Slip assignments shall be made each year for that Term by the Committee based on a member's prior year slip assignment and relative standing on the slip and/ or jet dock wait lists. Any HOA member can request placement on the respective wait lists at any time. The request must be in writing and sent to the Chairperson of the Committee. The Committee Chairperson will acknowledge, in writing, receipt of the member's request. This acknowledgement does not commit the assignment or availability of space and is intended only to acknowledge receipt of the request.

3.D. The Committee shall have the right to reassign slip assignments at any time subject to the provisions hereof.

3.E. The actual slip assigned need not be the same size or accommodation as the slip previous assigned, provided the boat is safely accommodated as determined in the sole and absolute discretion of the Committee. Dockage will be assigned on the basis of the minimum space necessary for the safe operation of each particular boat. No member has a right to continuous occupancy of any particular slip or dockage location.

3.F. To be valid, a slip assignment must be issued in writing by the Committee, for a particularly described boat solely owned by a member in good standing or jointly owned by members in good standing with other members in good standing. Transient slip assignments may only be issued for members, either owners or renters of the HOA in good standing and guests of members in good standing while visiting that member.

3.G. Unless specifically authorized by the Committee, the exchange of slip assignments, or the granting of permission for the use of assigned slips, by holders is prohibited.

3.H. A boat may be substituted for the use of previously assigned dockage, provided (i) the boat is owned by the same member, (ii) the member must be in good standing, (iii) the Chairperson is notified in writing of the substitution within three (3) days of the substitution, and (iv) the substitution shall not create what a reasonable person would consider to

be either an unsafe condition or a threat to the Marina Facilities or other holder's assets. If the Committee disapproves of the substitution, the member shall remove the boat within the time provided by the Committee. The decision by the Committee to not allow the substitution may be appealed to the Board only after the substituted boat has been removed in complete compliance with the Committee's instruction to remove the boat within the time provided by the Committee for the removal of the boat.

3.I. Occupants of assigned slips (whether they be owners or renters or bona fide guests) may be required to demonstrate proof of assignment to the slip they occupy and proof of ownership by a copy of the current documentation or state registration, for the year in which request is made, of the boat to occupy such dockage. Such requests for proof may be made at any reasonable time by any member of the Committee, any Director or officer of the HOA, or any member of the HOA assigned to security patrol functions by the Board at the time. Refusal to comply with such requests within a reasonable time will be cause for recommendation of termination of assignment of dockage or other action deemed as appropriate by the Board under the circumstances.

3.J. The Chairperson must be notified, in writing, within seventy two (72) hours of the sale, transfer, or loss of a boat assigned dockage. In the case of sale or transfer, such boat must be removed from the assigned dockage immediately. Until such removal, the new owner, if not a member of the HOA, may not be in or on any HOA property or facility unless in the company of the previous owner. The member assigned the dockage and selling the subject boat shall be responsible for, and will be deemed to have indemnified the HOA and any member thereof for any damage, injury, loss, cost or expense related to the sale, occupancy or removal of the subject boat.

3.K. At any time the slip shall be unoccupied for more than two (2) weeks, the Holder shall notify the Chairperson. Such notification shall include the reason for the vacancy and the expected length of the vacancy. The Chairperson shall, at his or her discretion, assign the slip for seasonal or transient use pending return of the Holder's boat. Failure to notify the Chairperson may result in loss of slip assignment.

3.L. In the event that the Holder of an assigned slip fails to occupy the slip for a continuous period of thirty (30) days, the Committee may terminate or reassign the dockage upon

consideration of the circumstances. The Committee may determine this provision does not apply in cases where the boat is on a temporary cruise, away from the slip for extended repairs, or subject to other extenuating circumstances.

3.M. Upon the sale of the boat occupying assigned dockage, the Holder shall have a period of forty-five (45) days to acquire a replacement boat for the assigned slip. If the boat is not replaced within forty-five (45) days, the assignment shall be terminated. If the Holder is not otherwise on a slip or jet dock waiting list, the holder may request to be placed on a waiting list if the assignment is terminated under the provisions of this paragraph.

3.N. There shall only be one valid member, holder or occupant (including families) per lot in Fishing Creek Farm. No lot owner, resident, member, holder or occupant may assign or sublet any right to use the HOA properties or facilities to any other party. Should the lot or residence be leased, with such lease conferring upon the lessee the right to make request for a slip assignment, then the landlord under such lease shall not have the right to apply for an additional slip assignment. Any such lease transfer of the right to make request shall automatically terminate any existing slip assignment. Such lessee must make separate request for the Waiting List and slip assignment.

3.O. The Committee shall prepare a lease form for assigned slip occupancy, including seasonal small boat slip assignments, which when signed by the members, authorizes all appropriate use of the Marina Facilities. The lease shall require holders and prospective holders to demonstrate proof of adequate insurance for the boat to be located at Marina Facilities and other requirements as specified by the Board and the Marina Committee. All slip holders must execute a lease form prior to entering upon or using the Marina Facilities or Permanent or Seasonal Slips. No Slip Assignment shall be valid unless made by the Chairperson or designated Committee member in writing.

3.P. These rules apply to boats subject to specific slip assignments, as well as any inflatable, raft, or floating object placed in or around the Marina Facilities or a specific slip assignment by or on behalf of a member. For the purposes of Permanent Slip assignments, the minimum size of boat to be assigned space in a slip shall be 19 feet. The minimum size for Seasonal Slip assignment shall be 16 feet, and the maximum

size of boat for Seasonal Slip assignment shall be 22 feet.

3.Q. Upon approval of the Board, the Committee may, from time to time, institute such parking rules and regulations as the Committee deems necessary and appropriate. Members should be encouraged to use only one space per family during the summertime months. Parking is generally restricted to members. Members are encouraged to have guests park at their respective residences. Whenever possible, members are encouraged to remove all vehicles from the HOA parking areas and to return vehicles to their residences.

#### **4. Assignment Procedures**

##### 4.A. Request for Dockage

4.A.1. Requests for Permanent Slip dockage shall be accepted by the Committee only from members of the HOA and only for boats owned solely by members in good standing, or jointly by members in good standing with other members in good standing. There shall only be one Permanent Slip assignment at any given time for each lot, unless all active members of the Permanent Slip waiting list have declined an available assignment.

4.A.2. Requests for Seasonal Slip dockage may be accepted by the Committee for members for boats solely owned by such member. Requests for transient dockage may be accepted by the Committee for members and for boats owned by bona fide guests of resident members. The Committee may accept requests for Seasonal Slip or transient dockage using the same priority as determined for the assignment of slips.

4.A.3. Each request for dockage shall be accompanied by proof of ownership of the boat involved (a copy of current documentation or state registration for the year in which request is made) except in the cases of requests for transient guest privileges not exceeding seven (7) days.

4.A.4. Each request shall include at least the name, address, home and work (if applicable) phone numbers and e-mail address of the member as well as a brief description of the intended vessel, including type (sail or power), overall length, beam and draft.



#### 4.B. Initial Assignments at the Beginning of Each Term.

4.B.1. The Board shall ensure that current copies of all relevant documents related to the waterfront facilities are posted on the HOA's web site.

4.B.2. The Committee will determine the exact location and size of each slip space available for assignment for the ensuing year and prepare a listing, arranged by categories of size, accessibility, and other considerations. The Committee shall designate at least one transient slip position for short term slip assignment to be used for the purpose of loading and unloading of supplies and passengers. The time allowed for mooring at the transient slip position(s) shall not exceed the time necessary to transfer supplies (excluding electricity) and passengers. The transient docking position(s) shall be vacated at all other times.

4.B.3. A boat need not be owned at the time of request for a slip assignment, but must be purchased within forty-five (45) days of assignment, or the assignment shall be offered to the next member on the Waiting List.

4.B.4. This section shall be used for determining the priority of boat slip assignments for the Marina Facilities.

4.B.4.a. The Committee shall maintain a listing of existing slip assignments and their respective locations in the Marina Facilities. The Committee shall also maintain Waiting Lists for Permanent Slip, Seasonal Slips and PWC slip assignment, as well as a list for existing slip holders seeking an upgraded or changed slip assignment, and which are to be routinely updated and published on the Fishing Creek Farm website (owner's section).

4.B.4.b.. The order of priority for all requests shall be adjusted in accordance with the procedures required in sections 3.M. & 4.C.

4.B.4.c. When making Permanent Slip assignments before the commencement of the Annual Term, the Committee shall decide, in its discretion, what locations are most appropriate taking into account carry-over slip holders assignment locations from the prior Annual

Term, and the current Waiting Lists. Slip assignments may result in changes to prior year slip assignments in the interest of ensuring the absolute minimum amount of space necessary for safe operation and maximizing the number of slips assigned to members.

4.B.4.d. The Committee shall consider current Waiting Lists when making Slip Assignments, and update the Waiting Lists after assignments to persons on the Waiting List or for other reasons specified in this Rules.

4.B.4.e. The Marina Facility slips are intended for the recreational use of the members in good standing of the HOA. The Committee shall may request that the Board terminate any slip assignment if a boat, raft, inflatable, boat lift or lines show signs of neglect and such condition is not cured within 24 hours of being notified by the Committee. Slip assignment for any boat that has not been utilized away from the slip for at least one day during each of the months of May, June, July, August and September of each season or Term shall also be subject to termination by the Board.

4.B.4.f. The tentative listing, after adjustments for member benefit and convenience, shall be submitted to the President and the Board for review, approval, and publication to the community. All approved assignments become effective on April 1st

4.B.5. This section shall be used for determining the priority of Personal Watercraft ("PWC") slip assignment for the Marina Facilities.

4.B.5.a. The PWC slip assignment determination shall follow the process for determining boat slip priorities with the following exceptions:

4.B.5.a.1. A separate PWC existing slip holder assignment list shall be maintained for HOA members who have PWC slip assignments.

#### 4.C. Waiting List Procedures.

4.C.1. The Waiting Lists are maintained and updated by the Committee after making its initial assignments will be maintained according to the following procedures:

(a) As a slip space becomes available through termination

of an assignment, or otherwise, the vacancy will be offered to the person with the lowest number on the appropriate Waiting List and whose status is not considered "inactive."

- (b) Priority shall be given to the members on the waiting list seeking an upgraded or changed slip assignment. The persons on Permanent, Seasonal or PWC Waiting Lists, as the case may be, are then considered for slip vacancies. Upon a slip vacancy, the Committee evaluates the slip, considers the priorities of the Waiting Lists and if the vacated slip space is adequate for first person on the appropriate Waiting List, it will be offered to that person. The offeree of a prospective slip has twenty four (24) hours from time of notification by the Committee to accept or reject an assignment of dockage, which may be extended by the Committee, in its sole discretion, for extenuating circumstances. If the first person on the Waiting List rejects or fails to accept within twenty four (24) hours, and such response time is not extended by the Committee, the vacant slip space will be offered to the person with the second lowest number on the Waiting List, who will also have the right to accept or reject, and so on until the slip space is assigned. If the vacated space is inadequate for the boat of the person on the Waiting List to which it is offered, the Committee may rearrange existing assignments to accommodate the applicant's boat. In no case, however, is the Committee required to rearrange existing assignments based on the boats on the waiting list.
- (c) An offeree of a prospective slip who rejects, or fails to accept, an offered slip space retains his or her relative standing on the Waiting List until and unless he or she rejects, or fails to accept, an offered vacancy a second time. In such event, the applicant shall move to the end of the Waiting List on the same day as the second rejection of, or failure to accept, a slip vacancy.
- (d) Any member who is not interested in being considered for a slip vacancy may request that the Committee place his or her request on "inactive" status. An "inactive" waiting list member may request to become active at any time, but the effective date of the conversion to active status shall be 30 days after the written request to become active. A member on "inactive" status retains his or her

relative standing on the Waiting List, although the member will not be offered a slip vacancy during the period that he or she has an "inactive" request.

4.D. Intentionally deleted.

4.E. Assignments of Seasonal Slip Dockage.

4.E.1. If unassigned slip space exists after all requests from members have been accommodated, or if spaces exist which are not acceptable to applicants on the Waiting List, the Committee may consider requests from members already assigned Permanent Slip space requesting Seasonal Slips for second or third boats. Holders of assignments for slip space for second or third boats must surrender such dockage space within 24 hours of being notified of a request to vacate by the Committee. For purposes of assigning dockage space to members on the Waiting List, all Seasonal Slip assignments will be considered vacant spaces.

**5. Rules Regarding PWC Dockage and Utilization**

5.A. The Jet Docks are limited to an area of the Marina Facilities as designated by the Marina Committee.

5.B. The number of Jet Docks as well as their size is limited to those approved by the Maryland Department of the Environment.

5.C. The Jet Docks shall be purchased, installed and maintained by the Marina Committee. In turn, each Jet Dock will be leased to an eligible HOA member as provided in section 4.B.5. The lease fee, annual operating fees and other terms shall be recommended by the Committee and approved by the Board.

5.D. Intentionally deleted.

**6. Rules Regarding Boat Lifts**

6.A Fixed Boat Lifts

6.A.1. The Board has designated a certain number of slips for the installation of fixed boat lifts.

6.A.2. The Board will designate the manufacturer(s) of authorized fixed boat lift. The Board, through its authorized representative and in its discretion, may negotiate a purchase and installation package of the

approved boat lifts.

6.A.3. The boat lift slip lease holder is responsible for the purchase, installation and all other related costs of the Board-designated boat lift.

6.A.4. The boat lift slip holder must also post a refundable deposit, as determined by the Board, for the restoration of the slip (including the removal and disposal of the boat lift and replacement/repair of pilings) in the event the boat lift slip holder fails to restore the slip to its original form when the slip holder's lease is terminated for any reason.

6.A.5. Upon termination of the boat lift slip lease, the lease holder must remove the fixed boat lift or sell it to the new occupant, if any, within 15 days of the lease termination date. In no event will the HOA refund the boat lift slip holder's lease termination refund, if any, until the matter of the boat lift is appropriately resolved.

#### 6.B. Floating Boat Lifts

6.B.1. Only Board-designated floating boat lifts are authorized.

6.B.2. The number of such floating boat lifts is limited to the number authorized by the appropriate permitting agency.

6.B.3. The floating boat lift slip holder is responsible for the purchase, installation and all other related costs, as well as maintaining the floating lift, and ensuring that it does not pose a hazard to Marina Facilities, persons or boats or vessels using Marina Facilities.

6.B.4. Upon termination of the slip lease, the lease holder must remove the floating boat lift or sell it to the new occupant, if any, within 15 days of the lease termination date. In no event will the HOA refund the boat lift slip holder's lease termination refund, if any, until the matter of the boat lift is appropriately resolved.

#### 6.C. Boat Lift Qualification:

6.C.1. For existing slip holders, the available boat lifts will be assigned to interested slip holders on the basis of the original date of the respective slip lease. If there are more interested slip holders, with the same

original slip lease date, than boat lift slips, a lottery will be used to allocate the available boat lift slips.

6.C.2. For members on the wait list, the available boat lift slips will be assigned to interested wait list members on the basis of their rank-ordered standing on the Wait Lists.

## **7. Rules Regarding Use of Waterfront Facilities**

7.A. All boats, rafts, boat lifts and accompanying lines must be maintained in a safe condition. Slip holders that are notified by the Committee of a unsafe condition must be cured within 24 hours of being notified. Failure to cure such unsafe condition shall make the slip holder subject to termination by the Board and removal from Marina Facilities, at the slip holder's cost. No amount of fuel, oil, lubricant, sewage or other waste shall be pumped, poured, ejected, or dumped into the water. A person may not unnecessarily block access to the pump-out facilities, and an HOA member may raft alongside an offending boat to use the pump-out facilities. Persons who are found to have unnecessarily block access to pump-out facilities shall be subject to potential fines recommended by the Committee and imposed by the Board. Users of the pump-out facilities must vacate immediately after using the facilities and/or loading and unloading. All liability for damage rests with the boat and owner violating these rules. The Waterfront Committee is responsible for placing signage that notifies users of the pump-out facilities that rafting is permitted when access is being blocked.

7.B. The HOA is not responsible for any loss or damage to any boat or other personal property at any HOA facility or property.

7.C. Compensation for or repair of any damage done to any boat, structure, equipment, water or electrical system in any Marina Facility or property will in every case, without exception, be the responsibility of the person or persons causing such damage. Any boats which sink in any waters near or adjacent to any of the HOA facilities or properties will be promptly removed or refloated immediately by the owner upon the owner becoming aware of the condition or otherwise being notified by a member of the community, the HOA or the Committee. The Board may remove such boat at the HOA member's or owner's expense as a result of inaction by the boat owner or if the Board decides it is in the best interest of the HOA. Boat owners shall be responsible for any reporting of spills as required by law.

7.D. Guests, outside contractors, agents, laborers or anyone else authorized access to a boat will not be permitted in any HOA property unless accompanied by a member unless prior arrangements have been made with the Committee.

7.E. Except for Committee-authorized dock boxes, no one shall store supplies, materials, accessories or debris or any portion of in the piers or on any Marina Facility or construct or place thereon any lockers, chests, sheds, cabinets, steps, ramps or other structures without written approval of the Committee. No modifications may be made to the electrical or water systems without written approval of the Committee.

7.F. The Committee may assess additional fees to specific slip holders if the power usage exceeds the Committee's anticipated use/costs of such electrical power at the time of the slip assignment.

7.G. If the owner of a boat which is liable to suffer damage or cause damage to other boats or property is not present and cannot be located in time to prevent damage from occurring, such boat may be boarded by the Committee members, officers, Directors, security patrols, or Board appointees in order to take appropriate and necessary remedial action.

7.H. Commercial activity is not permitted in or at any HOA property or facility.

7.I. No one is permitted to live in a boat occupying assigned slip for a period of more than one (1) week without written permission from the Committee.

7.J. Members of the Committee and owners of boats assigned slip must share in the responsibility for any security patrols, trash removal, minor repairs and general upkeep of the Marina Facilities when requested to do so by the Committee. Failure to perform these assigned duties, with the exception of medical reasons, may result in loss of slip assignment(s) or special assessment, as determined by the Committee and approved by the Board, to cover the cost of replacing the voluntary effort.

7.K. Each member assigned slip, each member of the Committee, each Director and officer, and any designee of the Board will be provided keys or combinations to the locks on any gates of the waterfront facilities. No one, adult or child, shall be permitted within the fenced area after dark unless accompanied by an adult HOA member.

7.L. Bicycles, tricycles, mopeds, etc., are not allowed on the wooden portions of the Marina Facilities except when being walked by hand (no riding allowed) to a boat for immediate storage on the boat. Hand carts shall be allowed within the Marina Facilities for the transportation of supplies and materials to or from boats; provided, such hand carts must be immediately removed by the owners and stowed in an area designated by the Committee.

7.M. Pets shall be leashed at all times, must be attended at all times, and may not be allowed to disturb other members' use and enjoyment of the facilities.

7.N. No holder or other occupant shall cause a disturbance. All noise shall be kept to a minimum, and after 11:00 p.m. no noise shall be allowed which may be heard from any residence in Fishing Creek Farms. No radio, tape player, CD player, television, musical instrument, or similar devices shall be allowed to make noise that can be heard from any other boat or any resident.

7.O Halyards shall be secured so as to minimize "slapping" or other noises.

7.P. Prolonged running of engines is prohibited. Engine noises shall be minimized.

7.Q. Members shall practice safe boating at all times, no member shall operate a boat at a speed in excess of six (6) knots within Duvall Creek, and members shall not create wakes.

7.R. Evidence of liability insurance in form and amount acceptable to the Committee will be required prior to occupancy of any assigned space or receipt of a ramp permit.

## **8. Liability**

8.A. Any applicant, slip holder, Jet Dock holder, member, or any guest thereof, in consideration for, and by acceptance of, the privilege to enter upon or use the Marina Facilities, shall indemnify and hold harmless the HOA and all lot owners from any and all liabilities, costs, or expense. Members shall always be responsible for the actions of their guests.

8.B. As a condition of accepting the right to use the facilities and properties of the HOA, all slip and permit holders shall execute a use agreement which shall expressly indemnify



the HOA and lot owners. Refusal to accept the terms thereof shall be grounds for forfeiture of all rights to use the HOA facilities and shall be grounds for immediate termination of all assignments hereunder.

8.C. Any occupancy of Marina Facilities shall be at the sole cost and expense of the occupants. No occupant shall take any action, or refrain from taking any action, which shall incur expenses for, or damages to, the Marina Facilities, the HOA, the lot owners, residents, or any other occupant.

8.D. All costs of disputes or corrective action required to be taken by the Committee, provided such actions have been approved by the Board, shall be born by the occupant or member using the Marina Facilities, or the occupant or member allowing others to use the Marina Facilities. If the HOA prevails, the cost and expense of any legal action required to be taken at the direction of the Board shall be at the cost and expense of the occupant or member against whom such action is taken. If the HOA prevails, or if any threatened legal action is discontinued, the cost or expense of defense in any legal action taken against the HOA, Board, the Committee, or any member thereof, shall be at the cost and expense of the occupant or member who causes such action to be taken against the HOA, Board or Committee.

8.E. Request for and acceptance of the use and/or occupancy of any Marina Facilities shall be deemed acceptance of the conditions of these rules and procedures.

## **9. Termination**

9.A. Upon termination, any boat or equipment must be removed immediately from the Marina Facilities. Any boat or equipment remaining at the Marina Facilities after seven (7) days shall be charged rent at the cost of \$500 per month, and shall be considered abandoned within the shortest amount of time allowed under law, and shall be removed as allowed by law.

9.B. No occupant, member, holder, or user of Marina Facilities shall have any right to occupy the assigned space, or use the HOA property or facilities beyond the stated term of the assignment.

9.C. The right to use or occupy any of the Marina Facilities shall be automatically terminated upon the sale of the member's lot within Fishing Creek Farms.

9.D. The Committee may recommend to the Board the

termination of any assignment of, or the right to use, the Marina Facilities for the violation of any of these rules and procedures, or for the failure to comply with the instructions of the Committee with respect to any of the HOA properties or facilities. Such termination shall become immediately effective upon approval by a majority vote of the Board of Directors. Recommendations for termination shall be considered by the Board of Directors only after the offending party has received (1) written notification of the rule violation or failure to comply with the instructions of the Committee, and (2) an opportunity for a hearing on the matter before the Board.

9.E. The Board may terminate any assignment of, or right to use, the Marina Facilities for the failure of the member to pay all assessments, fees, dues, costs or expenses as required under the HOA documents or these rules. Such assignment or right to use Marina Facilities shall be reinstated by the Board only upon the payment in full of all such sums. In the event that any assigned slip space has been reassigned before the failure to pay has been cured to the satisfaction of the Board, then, among other things, the defaulting party shall be placed on the bottom of the Waiting List.

9.F. As set forth in Paragraph 4.B.4.e., the slips or are intended for the recreational use of the members in good standing of the HOA. Boats, lifts and associated lines in assigned slips showing signs of neglect in the reasonable discretion of the Committee shall be subject to termination of the slip assignment by the Board if such neglect is not cured within 24 hours of the Committee providing notice of the neglected condition. The slips shall not be used for permanent storage. Accordingly, any slip holder whose boat is not utilized away from the slip at least one day during each of the months of May, June, July, August and September of each boating season, shall be subject to termination by the Board.

9.G. The Board shall have the absolute right to terminate any slip assignments at any time on thirty (30) day notice in order to facilitate construction, survey or planning activities for the Waterfront Facilities, or any addition to the Waterfront Facilities.

## **10. Use of Moorings**

10.A. Any member using a mooring buoy or otherwise anchoring a boat in or around the Marina Facilities, shall be subject to these Rules when they use the Marina Facilities in any way.

10.B. No member shall place a mooring, or anchor a boat, in such a way as to block the use and/or the access to any Marina Facility.

10.C. Any member using a mooring or anchoring a boat who fails to comply with these Rules shall be subject to (i) the revocation of all HOA privileges at the discretion of the Board, and/or (ii) any other remedy available.