

April 2023



FISHING CREEK FARM HOMEOWNERS ASSOCIATION

Declaration of Covenants, Conditions, and Restrictions

Summary of Proposed Revisions to FCF Covenants

COVENANTS MODERNIZATION PROJECT

- FCF Board established Covenants Committee in December 2020.
- Covenants Committee Members:
 - Dan Attridge, current Board Secretary
 - Roy Collins, former Board President
 - Chris Harkins, former Board President
 - Julien Hecht, former Board President
 - Niels Holch, former Board Vice President
 - Jacques Smith, current Board Vice President



COVENANTS COMMITTEE PROCESS

- Committee work started in December 2020.
- More than 12 meetings, Zoom calls, and telephone conferences were held.
- Multiple consultations and legal review sessions with Association's outside counsel.
- Proposed amendments received unanimous support from members of both the Covenants Committee and Board of Directors.
- Proposed amendments presented at 2022 Annual Meeting and at three (3) Town Hall sessions.



PROBLEMS WITH CURRENT FCF COVENANTS

- The Covenants are out of date with the provisions and requirements of the Maryland Homeowners Association Act, which has been amended several times since it was enacted in 1987.
- The Covenants are out of date with more modern technologies and construction practices for materials used in exterior siding, decks, and roofs.
- The original Covenants were drafted by the developer of Fishing Creek Farm (Mark Vogel) and were oriented towards his development requirements as the FCF community was in its early years.
- The FCF Covenants were originally developed in the late 1980's, are now nearly 35 years old, and have never been amended.



SECTION-BY-SECTION SUMMARY OF PROPOSED REVISIONS TO FCF COVENANTS



WHEREAS CLAUSES

- Amended to eliminate references to the original developer (called the “Declarant”) and to clarify that this updated document is an amendment to the original Declaration.

ARTICLE I: DEFINITIONS

- No substantive change, except to eliminate the definition of “Declarant.”



ARTICLE II: PROPERTY RIGHTS

- Updated language clarifies that the Board has the right, with appropriate due process, to suspend voting and recreational use rights of any Owner with unpaid assessments, or who violates the terms of the Declaration or the rules and regulations of the Association.
- Language was modernized to assert the sole authority and jurisdiction of the FCF Homeowners Association over the subdivision and to eliminate the rights of the developer.

ARTICLE III: MEMBERSHIP & VOTING RIGHTS

- Old language providing the developer with voting rights was eliminated.



ARTICLE IV: COVENANT FOR MAINTENANCE ASSESSMENTS

- No substantive changes in Sections 1, 2, 4, 6, 8, and 10.
- In **Section 3**, language was changed to allow the Board to make annual payments (vs. monthly) into the FCF reserve fund. The permitted use of reserve funds was clarified to include major repairs and initial capital investments. Language will be added to require competitive bidding by the Board for large contracts or projects. Additionally, a special meeting of homeowners will be required for any expenditure of 25% or more of the balance in a replacement reserve fund.
- In **Section 5**, language was added to clarify that special assessments for capital improvements may involve installment payments over a multi-year time period.
- In **Section 7**, assessments may be collected on a monthly, quarterly, biannual, or annual basis.
- **Section 9** states that the Board can charge a late fee and interest on assessments paid after the due date. If an assessment is being paid on an installment basis, a failure to pay any installment by the due date may result in the Board accelerating any remaining installments that are due.



ARTICLE V: ARCHITECTURAL CONTROL

- This section clarifies that only “material” changes or alterations are subject to Architecture Committee and Board approval.
- An application is deemed to be approved if the AC and/or the Board fails to respond in writing with 60 days. The Board or the AC can extend this review process an additional 30 days. A “deemed approved” application is only approved to the extent the design and location are consistent with the terms of this Declaration.
- There is no longer a fee for submitting an application to the AC.



ARTICLE V (CONTINUED)

- Section 2, Paragraph 3 adds language from the Maryland Homeowners Association Act prohibiting family childcare centers and home-based businesses from operating within Fishing Creek Farm, unless approved by a majority of Lot owners. (In simplified terms, a “home-based business” is one that has customer or client traffic coming and going to a residence in the neighborhood).
- Paragraph 3a re-affirms the use of a dwelling for office purposes, as long as the use does not generate excessive commercial or business activity to and from the premises.
- Paragraph 3c re-affirms the requirement that no portion of a dwelling or accessory building can be rented or leased except as part of the entire Lot.
- Paragraph 3d proposes that a dwelling cannot be rented for more than 3 times a year. Each of these rentals cannot be for less than a week. [*Note: to be discussed further.*]



ARTICLE V (CONTINUED)

- Paragraph 3e confirms that fences may not be constructed on waterfront lots. Waterfront lots are defined as either (1) lots with riparian rights, or (2) lots adjacent to Common Areas on the water. Where permitted, the term “fence” has been broadened to include composite wood, PVC, aluminum, or wrought iron. An invisible fence, and a fence around a swimming pool are permitted.
- Paragraph 4 clarifies the responsibilities of each Owner to keep his or her Lot (and all improvements) in good order and repair and free of debris.
- Paragraph 7 requires Owners to be responsible for cleaning up after their pets in the Common Areas and on the Lots of their neighbors. The limitation of two pets per home is eliminated.
- Paragraph 8d permits realtors, builders, contractors, and security alarm companies to have signs in the neighborhood, as long as they comply with written design standards developed by the Board.



ARTICLE V (CONTINUED)

- Paragraph 9 permits sheds and other outbuildings, subject to AC approval and standards and guidelines developed by the Board. Temporary party tents are permitted too.
- Paragraph 10 permits non-commercial trucks within the neighborhood (in a driveway and outside of a garage) as long as their curb weight is 8,000 lbs. or less.
- Paragraphs 11-17 contain only non-substantive changes.
- Paragraph 18 requires new construction to be completed within 24 months of approval by the Board. The Board can extend this deadline upon request.
- Paragraphs 19-24 contain only non-substantive changes.



ARTICLE V (CONTINUED)

- Paragraph 25 eliminates the specific requirements in the Original Declaration regarding permitted materials. In its place will be a Design and Development Guidelines document developed by the AC and approved by the Board. A second document, named Application and Review Procedures, will also be developed by the AC and approved by the Board.
- Paragraphs 26-31 contain only non-substantive changes.

ARTICLE VI: EXTERIOR MAINTENANCE

- New Section 4 permits, but does not obligate, the Board to preserve water and land views by trimming back trees and shrubbery in Common Areas, especially to address invasive species. This is in all events subject to all appropriate governmental approvals.

ARTICLE VII: ENVIRONMENTAL PROTECTION

- No substantive changes.



ARTICLE VIII: ENFORCEMENT

- Section 1 provides additional authority to the Board to sanction Owners for violations of Association rules and failure to pay assessments, as long as due process is followed. Sanctions may include fines or the suspension of voting rights or the suspension of use of recreational facilities. Fines would only be imposed for minor infractions, pursuant to a Board-approved schedule of fines.
- Sections 2-4 contain non-substantive changes.
- Section 5 modernizes the notice requirements, including the ability to use electronic communications, when permitted by the Maryland Homeowners Association Act.



NEXT STEPS

- Copies of the proposed Covenants are available for review on the Fishing Creek Farm Website (<https://www.fishingcreekfarm.org>).
- Click on the Documents tab after you log in. The proposed Covenants are available in clean and strikeout versions. The strikeout version compares the proposed language with the current Covenants. The clean and strikeout versions are dated February 18, 2022.
- The Board and Covenants Committee has prepared a second document, dated March 26, 2023, with recommended changes to the February 18 draft, as a result of the Town Hall sessions held in 2022.
- The Board will be hosting additional Town Hall sessions in April 2023 for community members to provide additional feedback. A vote will be held in the future to approve these changes to the Covenants. At least 61 Lots need to affirmatively approve these changes for them to become effective.



QUESTIONS & COMMENTS

