
CITY OF PORT LAVACA

MEETING: DECEMBER 11, 2023 **AGENDA ITEM** _____

DATE: 12.04.2023

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: JODY WEAVER, INTERIM CITY MANAGER

SUBJECT: PROPOSED NAUTICAL LANDINGS MARINA LEASE AGREEMENT FOR DOCKING SPACE

Background:

At the September 25, 2023 Workshop, Council discussed the recommendation of the Port Commission to no longer allow Live-aboard tenants at the Nautical Landings Marina. The general consensus at the workshop was for staff to work with the Port Commission to make improvements to the standard lease agreement for a Marina Boat slip and bring that back to Council for approval at which time the issue of Live-aboards would be addressed.

Attached please find a copy of the Nautical Landings Marina Lease for Docking Space with proposed edits for improvement in yellow highlight.

Item 14 was approved by the Port Commission at their November meeting, which defines a Live-aboard vessel as one where anyone (owner, guests and other users authorized by Lessee) stays on-board for more than ten (10) nights within a calendar month. And clarifies that the number of guest/authorized users of the Lessee shall be limited to two (2) persons per each signatory on the lease.

The 10 nights was suggested as a way to allow occasional and week-end overnight stays for vessel owners. This is similar to the language Rockport uses. Corpus Christi is also similar, but allows 15 days er month.

Recommendation:

The Port Commission recommends Council approval of the Nautical Landings Lease Agreement for Docking Space as presented.

NAUTICAL LANDINGS MARINA LEASE FOR DOCKING SPACE

This lease agreement is made and entered into this ___ day of _____, 20___ at Port Lavaca, TX, by and between the Port Commission Nautical Landings Marina, acting by and through its duly authorized agent, as **Lessor** (hereinafter sometimes referred to as **Marina**) and

(Name) _____ (Address) _____
(City) _____ (State) _____ (Phone) _____

and the craft described below who are jointly referred to hereinafter as **Lessee**:

Marina hereby leases to Lessee, and Lessee hereby leases from Marina, docking space for a boat described as (Name of Vessel) _____.

Hereinafter referred to as the **Craft** on a:

Annual lease beginning January 1st, _____ or move in date and extending until December 31st, _____.

Annual leases must be renewed every year with updated registration and insurance.

Payment Method:

_____ **Month to month basis** for a term beginning **January 1st**, _____ at a rate of _____ per month, payable monthly, in advance, without demand, on the first day of each month at the office of the Finance Director, City of Port Lavaca, at City Hall, 202 N. Virginia, Port Lavaca, Texas 77979.

_____ **Yearly basis** for a term beginning **January 1st**, _____ and ending **December 31**, _____ at a yearly fee of _____, without demand at the office of the Finance Director, City of Port Lavaca, at City Hall, 202 N. Virginia, Port Lavaca, Texas 77979.

PREPAID DOCKAGE FEES ARE NOT REFUNDABLE.

NAUTICAL LANDINGS MARINA RULES AND REGULATIONS

1. Proper slip size shall be determined by the OVERALL length of the Craft (including all over-hangs) plus two feet.
2. Applicants are required to pay an applicable fee and grant permission to the City of Port Lavaca to perform a criminal background check on the applicant.
3. Applicants are required to provide references and contact numbers of previous marinas where the applicants has docked vessels, beginning with the most recent.
4. It is specifically agreed that this lease covers the right to tie said Craft at the Marina but Does Not grant the Lessee the right to any specific slip. Marina shall designate which slip is to be used by Lessee, and Marina may change the slip to be used at any time.
5. Notice must be given at the office of Marina, prior to removal of said Craft permanently from slip or for a period longer than 30 days. In the event that said Craft changes ownership, Marina must be notified on the day of said change of ownership and the new owner must sign a new Marina lease.
6. LESSEE AGREES THAT ALL CHARGES UNDER THE TERMS OF THIS CONTRACT SHALL GIVE LESSOR AN EXPRESS LIEN UPON LESSEE'S CRAFT AND LESSEE HEREBY GRANTS TO LESSOR A SECURITY INTEREST IN SAID CRAFT TO SECURE SAME, NO CRAFT SHALL BE REMOVED FROM THE MARINA UNTIL ALL CHARGES ARE FULLY PAID AND THE MARINA IS GRANTED THE RIGHT TO SECURE SUCH CRAFT FROM REMOVAL UNTIL ALL CHARGES ARE PAID IN FULL. Marina reserves the right to remove said Craft, until all delinquent charges have been paid in full. Lessee agrees that should the above conditions arise, Marina will in no way be held liable for any cost incurred by Marina in the removal and/or moorage of said Craft.
7. Lessee does hereby authorize Marina, at its option ten (10) days after such default, to give written notice of such default, to declare the lease terminated without legal process and without prejudice to the legal rights of Lessee, to enter the premises where the Craft may be and take possession of the Craft and all equipment as security for any which may be due, including repairs for sale and repossession expenses, and effect sale, public or private, returning remaining balance, if any to Lessee.
8. Lessee agrees to pay attorney's fees and other costs incurred by Marina for collection of any unpaid account due Marina by Lessee.

9. Marina reserves the right to terminate this Marina lease without prior notice to owner of said Craft with reasonable cause and the right to remove said Craft from its moorage and from the premises owned or leased by Lessee. The owner of said craft agrees that Marina has the right to the above action and will in no way be held liable or responsible for any damage or loss to said craft or its contents due to the above action and removing of said craft from said premises.
10. Marina reserves the right to inspect vessels prior to signing a lease, upon arrival at the Marina, and while they are docked in the Marina. Lessee must keep boat operational while in the marina.
11. Lessee shall have no right to sublease, assign, or otherwise transfer this lease or any interest he or she has in said lease, LESSEE WILL NOTIFY Lessor for any extended slip vacancy (one week or more) and Lessee hereby grants permission to the Marina to use the slip during vacancy.
12. Lessee shall be entitled to reasonable use of the parking lot facilities belonging to Marina. Lessee may use limited electricity and water, furnished by Marina, for **customary** use in connection with Lessee's craft. Marina reserves the right to set the limits of such use and charge for any usage in excess of such limits, or to require Lessee to be separately metered and Lessee agrees to pay any installation costs incurred in connection therewith. Lessee understands this lease covers no other services.
13. Admittance to Marina is restricted to Marina customers, lessees and their guests. **Lessee is responsible for the actions of their guests.**
14. **Live-aboard vessels are NOT Permitted in the Marina. A vessel will be considered a live-aboard vessel when anyone stays on-board for more than ten (10) nights total within any calendar month. Anyone includes owners, guests and any other users authorized by Lessee. Guests and authorized users of the Lessee shall be limited to two (2) persons per each signatory on the lease.**
15. **Lessee must keep pets on a leash under their control at all times and is responsible for cleaning up after the pet.**
16. **Lessee agrees to maintain in force during the term of this Agreement a "watercraft liability" insurance policy of protection and indemnity that provides comprehensive public liability insurance coverage against any property damage or personal injury liability arising out of ownership, use, occupancy or maintenance of Tenant's boat/vessel, the Rental Slip and the Marina. The insurance policy shall be in the minimum amount of \$300,000 and shall name Lessor as an additional insured under the policy.**
17. MARINA SHALL NOT BE LIABLE FOR DAMAGE TO LESSEE'S CRAFT WHILE IT IS MOORED IN THE MARINA, including damage arising from conditions of nature or acts of third persons. LESSEE HEREBY CERTIFIES that Lessee had acquired and will keep in force for at least the term of this lease, insurance on his property and person and those of his agents and guests for harm due to injuries or damages which may be received at the Marina.
18. Lessee, having inspected the aforesaid boat slip and the pier at said slip, accepts same as suitable for his purposes and hereby expressly waives any defects therein and agrees to hold marina harmless from any loss, damage or injury to person or property resulting from improper construction or maintenance of said moorage and pier.
19. Lessee shall be responsible for the proper mooring or fastening of his craft, and marina shall bear no responsibility, therefore. Mooring is at the sole risk of Lessee.
20. Lessee agrees to store dinghies and all other personal property aboard his Craft, and not on the walkways or in harbor. Lessee will place his trash in receptacles provided for that purpose and will keep walkways clear from obstruction caused by his property. **Lessee must keep the leased slip and Craft neat and clean at all times.**
21. **Lessee and his/her guests shall be courteous at all times. Loud music or vulgar language shall not be tolerated.**
22. Lessee and his/her guests shall follow the rules of safe boating within the marina and shall operate boats so as not to create any disturbing wake.
23. **Lessee will keep the vessel seaworthy at all times. If the vessel flounders, or in any way becomes unseaworthy, Lessee must report the issue to the Harbormaster within 24 hours and has 10 days from discovery to correct the issue or remove the vessel from the Marina. If a vessel sinks in the Marina, the Lessee has 5 days to refloat and repair the issue or remove the vessel and acknowledges the City's right to remove the vessel and recover all costs including seizure and auction.**
24. Lessee understands that the Marina is a commercial endeavor of Marina and therefore, Lessee hereby agrees to refrain from any commercial action competitive with the interests of Marina-on-Marina premises.
25. Lessee agrees that no major repairs may be made to Craft in its moorage without prior approval from the Harbor Master. Such repairs shall be made only in a repair area outside of the marina property.
26. Lessee agrees upon signing of this lease, an amount equal to two months rent, to be applied toward the first and last rental months, shall be rendered. (This sum is the security deposit cited.)

27. All lessees must enroll in the "Auto Debit Program" for their monthly lease payment. (See Form Attached)
28. All lease payments are due and payable on the first day of each month. All lease payments outstanding over 10 days shall incur late charges at the rate of 10% per month until paid. When an account is over 30 days in arrears, Marina shall have the options of terminating Lessee's lease and of removing Lessee's Craft from its moorage space and securing it at a temporary wharf where it shall incur dockage or storage fees of \$10.00 per day in addition to the other charges set out in this contract.
29. If upon the expiration or termination of this lease Marina advises lessee (or Boat Owner) by notice delivered to the leased docking space, or mailed to Lessee at the notice, said vessel, equipment and other property from marina's premises, and Lessee fails to do so within ten (10) days of the date of such notice, said vessel, equipment and other property shall be deemed to have been abandoned by Lessee/Boat Owner.
30. It is further agreed and understood this agreement shall continue in effect until terminated by either party hereto upon thirty (30) days written notice, addressed to the other party, Marina's address being 202 N Virginia St, Port Lavaca, TX 77979. WITHOUT PROPER NOTICE, AT LESSOR'S OPTION, THE LESSEE WILL BE HELD RESPONSIBLE FOR THIRTY (30) DAYS RENT. PREPAID DOCKAGE FEES ARE NOT REFUNDABLE.
31. No equipment shall be attached to, or construction or alterations of any kind performed on the piers or piling, and no advertising signs shall be attached to any portion of the piers or piling or displayed aboard any Craft within the above slip without prior permission of Marina.
32. Lessee will promptly reimburse Marina for cost of repairs to piers, pilings and other facilities of marina necessitated by any act of Lessee or any person using the above-named slip or craft with Lessee's consent.
33. Lessee agrees not to deposit and refuse, sewage debris, petroleum waste or products in the water in or around the premises of Marina. In the event of an accidental spill, Lessee will be held responsible for clean-up. Marina reserves the right to remove vessel from its slip and immediate termination of the lease at Lessee's expense in the event of a spill.
34. Lessee agrees that this lease and lessee's use of the slip covered hereby shall be subject to all reasonable regulations of Marina as the same may be published and in effect from time to time during the term hereof, as fully as if the same were incorporated herein, and that breach of the same shall constitute a breach of covenant of the lease. PREPAID DOCKAGE FEES ARE NOT REFUNDABLE.
35. Neither Lessee or the Lessee's servants, employees, agents, visitors, or guests will engage in dangerous or hazardous activities nor contribute to the creation of dangerous or hazardous conditions in, or about the premises of marina.
36. This agreement shall be construed under and in accordance with the laws of the State of Texas. All obligations of the parties created in this agreement are performable in Calhoun County, Texas and venue shall be in such County.
37. Any consistent or willful violation of these rules and agreements shall result in exclusion from the Marina and forfeiture of slip rental fees.
38. Lessee agrees that any notice to be given by the Marina may be given by mailing the notice to Lessee at the address given in the first section of this contract, and Lessee agrees to notify Marina promptly of any new mailing address.
39. No waiver by Marina of any default or breach of any term, covenant, condition, agreement, provision, or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other term, covenant, condition, agreement, provision, or stipulation hereof.

THE ABOVE MARINA RULES AND REGULATIONS HAVE BEEN READ AND ACCEPTED BY THE UNDERSIGNED.

IN WITNESS WHEREOF, the undersigned Marina and Lessee execute this agreement this ____ day of _____, _____.

Paid: _____

MARINA

LESSEE

Check #: _____

JIM RUDELLAT, HARBOR MASTER

Please note: Lessee will be responsible for payment of Property Taxes on the "TAXABLE LEASEHOLD INTEREST IN THE LEASED BOAT SLIP". Lessee will receive a statement from and make payment to the Calhoun County Appraisal District, 426 W Main St, Port Lavaca, TX 77979. (361)552-8808.