



# *Makani Kai Marina*

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## **Exhibit E – Slip Rental Rules**

Adopted 8/4/2020

### **General**

1. Makani Kai Marina (MKM) Unit Owners (lessor) are directly responsible for the slip renters' (lessees) compliance with the Makani Kai Marina House Rules and this Exhibit E thereto. The Makani Kai Marina Association of Apartment Owners (the Association), by extension of guest rules, allows slip renters the privilege of limited access to common element and limited common element waterways and property. Slip renters may use the necessary common and limited common element to go to and from their assigned slip, **but are not permitted in other areas of the property.** Slip renters may use the restrooms at the MKM Recreation Center, but are not permitted to use any of the other facilities (Swimming Pool, Recreation Center kitchen, meeting area and picnic area or other MKM grounds). This privilege of access may be revoked by the Board for failure to comply with the MKM House Rules, including this Exhibit E thereto. The MKM Unit Owner or his/her property manager must ensure that the slip renter has a current copy of the MKM House Rules, including this Exhibit E thereto.
2. A current, signed slip lease agreement and registration form, as prescribed by the Board, must be on a file with the MKM office. These forms should be updated annually to maintain current contact and vehicle information. Slip lease agreements are permitted only between the unit owner or property manager/agent (lessor), and the registered owner of the vessel that is moored in the slip (lessee). Subleasing the slip to a third party is not authorized.
3. Prior to occupying a slip, slip renters must provide the MKM office and the slip owner evidence of a current liability insurance policy naming the Association as **ADDITIONALLY INSURED in the minimum amount of \$500,000.00, updated annually. In addition, it is recommended that vessel owners who leave the island for a significant period should assign a local representative, or the slip owner with power of attorney for the purposes of addressing issues which may arise with the vessel while absent, and file a copy of this document with the MKM management office.**

4. Maintenance and minor repair of vessels may be done in the marina, provided that other vessels and Association property are protected at all times. No major repairs will be allowed without prior written consent of the Board of Directors. Minor maintenance is considered light sanding, varnishing, and/or minor painting; changing of engine fluids; fiberglass and upholstery repair; and repairs to standing rigging, among other similar regular maintenance and repair task. When painting or varnishing, the docks must be covered to ensure no paint is spilled on the concrete. Use of power tools, power washers and construction noise in the marina are not allowed on Sundays. Use of these tools/equipment in the marina are allowed Monday through Friday between 8:00am. and 6:00pm., and 9:00am. to 6:00pm. on Saturday.
5. The Board of Directors reserve the right to remove any vessel from the marina which is not in compliance with the Rules and Regulations. The slip owner will bear all removal costs and is also subject to fines.
6. Refueling may be conducted in the marina. Refueling is defined as the transfer of fuel from a container to a vessel, or from one container to another container. To mitigate the chances of accidental spills and environmental impact, no fuel container or transfer vessel used for fuel transfer purposes may be sized in excess of 6-gallons. A maximum of two containers may be brought on to the docks at any one time. Containers used for transfer must be D.O.T. approved when used to transport fuel onto the property and to a boat in the marina. Accidental fuel spills must be reported to the resident Manager immediately for assessment and mitigation. Vessel owner is responsible for clean-up, and payment of any fines imposed by MKM and/or state, local, and Federal jurisdictions.
7. Slip renters and their guests are only allowed on the MKM property from 5:00am till 9:00pm. Any exceptions must be approved by the resident manager 24 hours in advance during the week and 48 hours in advance during weekends and holidays prior to coming on the property.
8. Slip renter's pets (limited to two dogs or two cats or one dog and one cat) must be registered with the Resident Manager at the MKM office.
9. Slip renter's pets are to be on a leash at all times while on the property, and pets may only be walked in the immediate vicinity of the marina. Owners and handlers must immediately clean up any mess made by their pets on the property and dispose of it in the dumpsters and not the green waste or Recreation Center trash cans. Pets may not be secured on the common element and left unsupervised. Pets off the leash **or leashed but** displaying aggressive behavior should be reported to the Resident Manager. Slip renters' guests may not bring pets onto the property.
10. The Association shall not be responsible for loss or damage to personal property which is left by slip renters or their guests.

11. Nothing may be posted on any of the Association bulletin boards without authorization from the MKM office. Notices must be dated and removed **after 30 days**, or authorized for a longer period by the Manager. The size of the notices shall be prescribed by the Manager. Commercial advertising is not permitted on the bulletin boards or interphone directory, unless authorized by the Manager.

12. No Slip renters shall make or permit to be made any excessive noise in the marina, limited common areas, or common areas by himself, his family, visitors, or guests, which could annoy or interfere with the rights, comforts, and convenience of the residents of Makani Kai Marina. The operation of wind generators, which are disruptive to the quiet enjoyment of one's home by residents and others, are prohibited at MKM. Shore power is available to all slip renters to accommodate for the limited need for electricity when docked. Wind generators are best suited for use when a vessel is away from shore power.

### **Parking & Parking Stalls.**

1. Slip Renters may park in the marked stalls provided on the Makai (ocean) side of the marina T-road, or in the stalls marked Guest Parking. Curbs marked with Yellow are designated for loading and offloading only, not long term parking. **No vehicle may be parked in the Red "No Parking Zones" and no longer than 15 minutes in the Yellow Loading Zones.** The MKM Management may direct that vehicles illegally parked on common elements or in the common areas or in another unit's marked stall be summarily removed at the owner's expense and the owner may be charged with trespassing. The owner of the vehicle will be held responsible for towing and incidental costs. MKM Management is under no obligation to give notice of removal in the event of violation of parking regulations within Makani Kai Marina.

2. Slip Renters parking in designated stalls or other appropriate locations shall only be allowed from 5:00am till 9:00pm. If pre-authorized by the Resident Manager, a slip renter vehicle may be parked at Makani Kai Marina for up to 72 hours to accommodate allowable stay aboards or overnight excursions away from the marina.

3. Due to limited number of parking stalls. Slip Renters and their guests collectively are only permitted ONE vehicle on MKM property. Additional vehicles must park outside the property. For safety and security, slip renters shall display the issued MKM parking hang tag in a visible manner in the front windshield of their vehicle when parked on MKM property. No boat trailers are to be parked on MKM roadways. Again, please refer to Item 1 above referencing the towing of unauthorized and illegally parked vehicles. All vehicles operated on or parked on MKM property must have a current registration, safety inspection, and insurance. Within 30 days of executing a slip rental agreement each slip renter shall register their vehicle

with the Resident Manager at the Makani Kai Marina office. The office will register the vehicle and maintain a file of vehicle parking registration in the office. Changes in vehicle to be used by slip renter to access MKM must be reported to the Resident Manager within 7 days of change occurring.

4. No excessively noisy vehicle, or noisy contraption on a vehicle, shall be operated in any part of Makani Kai Marina. Additionally, any motorized vehicle such as a moped, scooter or powered Razor, or other powered vehicle may not be operated in any part of MKM for recreational purposes.

## Security

1. All slip renters have an obligation to make the security to Makani Kai Marina a primary consideration at all times. Be alert to suspicious or unknown people, vehicles, and situations; this includes unusual sources of smoke, fire, or water. Do not hesitate to investigate and notify the MKM Resident Manager, Fire Department, or the Police if warranted. Do not attempt to directly confront a suspicious stranger yourself, promptly report them to the Resident Manager or the Police.

2. Slip renters are encouraged to always lock their vehicles and never store valuables inside. Boat owners should check their vessels often and properly secure valuables.

3. Slip renter vehicles enter and exit Makani Kai Marina through the gate at Waialele Road. Each slip renter will be allowed to be issued one plastic gate card or key fob by the slip owner or owner's agent which opens the entrance gate. Slip renters are responsible for the control, distribution, and use of this card or fob. Lost or stolen cards and fobs should be immediately reported to the MKM office for deactivation.

4. The vehicle entrance gate opens slowly; drivers must wait for it to completely open before entering. Tailgating is not permitted; **only one vehicle is allowed to enter or exit per gate cycle.** The vehicle exit gate does not require a gate card; it is automatically activated when a vehicle stops and waits at the "Stop" sign in front of the gate. The gate opens to the inside; drivers must wait for it to completely open before proceeding out. If the gate starts to close before the vehicle has entered the swing path of the gate, the driver will have to reverse the vehicle to re-open the exit gate.

5. Once opened, both the entrance and exit gates will automatically start closing after a short delay. After the gate has completely opened, vehicles should move through smartly to get clear of the gate. Stopping the vehicle part-way through the gate or entering the swing gate after it has started to close could result in damage to the gate and to the vehicle. The Association is not responsible for resulting vehicle damage and owners are responsible for gate damage caused by themselves, their family, guests, service personnel, tenant, or slip renter.

6. The MKM office will not open the entrance gate to let in visitors, service personnel or delivery companies in the absence of the slip renter. These entries are to be made only during MKM office hours 8:00am to 3:30pm, Monday thru Friday.

## **Safety**

1. Parents or legal guardians are responsible for the appropriate supervision of minors (persons under the age of 18) at all times. Slip renters, their families or guests shall not engage in bicycling, skateboarding, or other similar activity at any time on the MKM grounds. Watercraft (motorized and non-motorized) shall not be operated within the MKM marina except to exit and enter the marina. For example, kayaks, inflatables, paddle boards, etc. shall not be used to play or randomly operate for fun within the marina because of possible hazards to navigation.

2. No activity shall be engaged in and no substance introduced into or manufactured within any area of, or vessel within MKM which might result in violation of the law or in the cancellation of insurance or increase the insurance rate on any building within the project.

3. Speed in excess of 10 mph will not be permitted within MKM. Appropriate action will be taken by the Manager or Board pursuant to the letter of the law. Tailgating (more than one vehicle through the Makani Kai Marina entrance gate per gate opening cycle), speeding, and other reckless driving habits are a violation of these rules.

4. Motorized vehicles are permitted on the roadways only, they are not to be used on the sidewalks or grassy areas.

5. The use of fireworks of any kind within the premises of Makani Kai Marina is strictly prohibited.

## **Marina**

1. No person shall use any type of chemical nor discharge any type of fluid or material within the marina to cause pollution, including discharge of holding tanks. Holding tanks may not be discharged within the marina, emptied in the restrooms or anywhere on the property, including stream, storm drains, and city and county sewer access points. Any person causing such a discharge will be responsible for the cost of cleanup. Slip owners are responsible for their slip renter.

2. Refueling boats in the marina is restricted to fuel containers which do not exceed 6 gallons, and under conditions stipulated previously (see "General" section, item 6.). The person conducting the refueling must take precautions to preclude spilling any fuel into the

marina. If an accidental fuel spill has occurred, notification of the Manager is required to mitigate the impact to the marina. Any and all discharge of fuel, not just that associated with fueling, must be reported to the Manager immediately (for example fuel tanks that leak into a bilge and are then pumped out when the bilge pump runs).

3. The entire marina up to 100 yards beyond the outer seawall is a No-Wake Zone. Vessels shall not exceed 5 knots or create a wake when maneuvering within the No Wake Zone.

4. Boats moored in the marina shall not be used as permanent living quarters. Slip renters may not stay aboard their vessels in the marina for a period exceeding 3 days (72 hours) total in any calendar month and not to exceed 30 days in any calendar year. For security purposes slip renters intending to stay aboard must notify the Manager of their intent to do so at least 24 hours in advance. Slip renters who have notified the Manager and are authorized to remain on property after the stated slip renter access hours must observe the community's right to quiet enjoyment. Between the hours of 10 pm and 8am the clubhouse restrooms are closed, therefore slip renters and their guests must use their boat's holding tank. Urinating or defecating in the marina or surrounding grounds shall lead to fines and possible eviction from the marina.

5. High current drawing electrical equipment such as air conditioners, water heaters, etc., as well as equipment that radiates radio emission such as RADAR are not allowed to be left continuously running on unattended vessels moored in the marina.

6. Boat slip rentals to other than individuals, i.e., organizations, partnerships, huis (family businesses), or corporations, must have prior approval of the Board.

7. Prior to concluding any slip agreement or allowing the vessel to occupy a slip, the Manager must determine the suitability of that slip to satisfy the needs of the prospective slip renter and their vessel. The determination will be made in accordance with the physical description of the slip as stated in the Makani Kai Marina Bylaws held on file with the Resident Manager. The description of the water area allotted to each boat slip as provided by the developer, approved by the Board, and posted in the office, is as follows. The boat slips are numbered consecutively from 101 to 181. All lengths are measured from the head of the common dock to the end of each finger plus additional footage determined by assessing the requirements for safe maneuvering in each basin and taking the most conservative figure for the base. Each boat slip is assigned to an apartment as set forth in the Horizontal Property Regime.

Depths at mean low water are presumed to be 5 feet in the inner harbor (slips 101 through 153) and 7 feet in the outer harbor (slips 154 through 181). No contractual agreement exists which binds MKM AOA and/ or its Board of Directors to ensure the maintenance of any set depth

of the marina, slips, or entrance channel at any given time. The water area descriptions are further defined as follows:

- a. Boat slips 101 through 111, and 115 through 136 (except slip 123; see d. below), the area is 34 feet long and 13 feet wide.
  - b. Boat slip 112; the area is 34 feet and 13 feet wide.
  - c. Boat slip 113; the area is 28 feet and 13 feet wide.
  - d. Boat slips 114; and 123; the area is 38 feet and 13 feet wide.
  - e. Boat slips 137, 138 and 139; the area is 38 feet long and 13 feet wide.
  - f. Boat slips 140 through 151; the area is 38 feet and 14 feet wide.
  - g. Boats slips 152 and 153; the area is 38 feet long and 14 feet wide.
  - h. Boat slips 154 through 169; the area is 44 feet long and 15 feet wide.
  - i. Boat slip 170; the area is 44 feet long and 22 feet wide.
  - j. Boat slip 171; the area is 50 feet long and 20 feet wide. (beam limitation due to the design of the bulkhead)
  - k. Boat slips 172 through 176; the area is 50 feet long and 17 feet wide.
  - l. Boat slip 177; the area is 38 feet long and 17 feet wide.
  - m. Boat slip 178; the area is 34 feet long and 17 feet wide.
  - n. Boat slip 179; the area is 35 feet long and 17 feet wide.
  - o. Boat slip 180; the area is 32 feet long and the use of the seawall but not to extend past an imaginary line drawn from the end of the dock to the point where the seawall turns.
  - p. Boat slip 181; the area shares a dock finger with 154 and is 44 long and includes the area to the adjacent seawall.
8. MKM management and staff may remove any improperly stowed equipment or paraphernalia from the marina area. Unidentifiable and unclaimed items may be considered abandoned and will be disposed of.
9. All vessels using the marina shall be maintained in seaworthy condition at all times. (“Seaworthy” means the vessel is able to safely process to sea under its own power in

accordance with the minimum requirements of the U.S. Coast Guard). The Manager or Board of Directors may further require improvement in the appearance of any vessel. Lack of compliance to either of these conditions may be cause for assessment of fines and/or legal action against the vessel's owner and/or the homeowner/lessor responsible.

10. MKM management shall have the discretion to properly secure any vessel found to be inadequately secured. MKM management and staff may board any vessel as needed to secure the vessel. Any costs incurred to properly secure a vessel will be borne by the responsible homeowner at a rate \$50 per hour. All vessels shall be secured in an orderly manner and in accordance with standards of seamanship.
11. Only standard fenders and rubstrips which attach to the vessel may be used in the slips. The use of tires, hoses, or other makeshift fenders is not permitted. No structures, fixtures, or other equipment may be affixed to docks and piers, or moorings without prior written approval of the Board. Dock fingers and gangways must be clean and clear of obstructions at all times. Lines and halyards shall be secured in such ways as to remain quiet during periods of high winds. Slip owners wishing to install a dock box (for themselves or at the request of their slip renter) must first submit a Project Request to the office for Board approval.
12. The slip renter is responsible to notify the slip owner/agent of any defect in the slip, dock, or associated utility services. The slip owner/agent is responsible to notify the MKM office.
13. When in use, dock electrical lines must not create a safety hazard for dock users. Electrical lines must be disconnected and stowed when the vessel is out of the slip.
14. The outer seawall storage and kayak rack are limited to use by MKM residents only
15. Barbecuing with open flames, wood, or charcoal is not permitted on any Makani Kai Marina dock. Only gas or electric grills may be used on boats while in the marina.
16. The end of the 'B' dock (previously referred to as the "T Pier") may be used as a temporary mooring from time to time at the discretion of MKM management or the Board.
17. **No charter or other commercial activity within the marina shall be conducted, including the boarding or de-boarding of paying passengers.**

### **Fishing & Rubbish**

1. Slip renters may fish from their boats in their assigned slips. Slip renters are prohibited from fishing elsewhere within the Makani Kai Marina community including Kea'ahala Stream. Fishing, crabbing and/or storing and hanging bait containers off the docks is prohibited.
2. Garbage, rubbish, and other trash shall be disposed of only in the receptacles provided.

Trash containing animal waste or fish parts shall not be placed in dumpsters but must be removed from the property by the slip renter.

3. Hazardous wastes must be disposed of according to state and federal laws. No hazardous wastes, toxins, or comparable dangerous substances are to be disposed of anywhere on MKM property. This includes, but is not limited to batteries, paints, oils, tires, etc. Slip renters are required to remove all hazardous waste from the property.
4. Bulk items that are not suitable for a dumpster and/or violate city & county disposal regulations are prohibited. Slip renters are required to remove all bulk waste from the property.
5. The green waste dumpsters are only to be utilized for the disposal of green waste (leaves, clippings, and branches) and are not to be used for any other purpose.
6. Any leftover project or maintenance supplies must be removed from the dock area and MKM property.