

# **HERRON ISLAND RULES**

**May 12, 2007**

## **TABLE OF CONTENTS**

<b>PREAMBLE</b>	1
<b>I. PURPOSE</b>	2
<b>II. RULES</b>	3
(A) Mainland Property	3
(B) Ferry and Ferry Docks	3
(C) Island Roadways	4
(D) Community Building	5
(E) Parks, Beaches, and Other Common Areas	6
(F) Fire Prevention	8
(G) Conduct of People and Pets	9
(H) Public Disturbance and Public Nuisance Noise	9
(I) Water and Sanitation	10
(J) Firearms; Wildlife	10
(K) Limitations on Business Use of Property	10
<b>III. ENFORCEMENT AND PENALTIES</b>	12
(A) Overview	12
(B) Definitions	12
(C) Complaint Process	12
(D) Pre-Hearing Procedure	13
(E) Rules Committee's Hearing Procedure	15
(F) Appeals of Rules Committee Decisions to the HMC Board	17
(G) HMC Rules Committee	17
(H) Expedited Procedures	18
(I) Schedule of Fines	19
(J) Damages to HMC Property	19
Policies and Rules Pertaining to Ferry User' HMC Form 4	20
Complaint Form	21

Herron Island Rules adopted May 12, 2007  
supersedes all previous revisions.

## PREAMBLE

Herron Island is a unique place. The Island is privately owned, with no public access, and is managed by HMC Management, a non-profit organization referred to in this document as “HMC.” Our ferry, the Charlie Wells, provides transportation to and from the Island for property owners, renters, guests, HMC employees, and utility and emergency vehicles. Most of the Island's area consists of lots owned by individual property owners. The remainder consists of common areas such as parks, roads, parking areas and a few individual lots, all of which are owned by HMC. A Board of Directors, with the help of the Island Manager, controls and manages the assets and business affairs of HMC for the benefit of its members.

Herron Island is a special place in other ways as well. The water, the beaches, the woods and wetlands, the open spaces, and the views of the mountains and Case Inlet make it a place of great natural beauty. The deer are a delight to residents and visitors alike. Birds and marine life can be observed in their natural habitat. Fishing, boating, sailing, water skiing, and other water sports are enjoyed by many. Most of the property owners were first attracted to the island by these qualities and the quiet, peaceful environment. These are characteristics which we all wish and intend to preserve and maintain.

Your HMC Board has adopted the Rules that follow in order to maintain our quality of life, serve the common good of the island community, and guide the conduct of all island residents and visitors. *Please take a moment to familiarize yourselves with them, and comply with them during your stay on the island.*

## **I. PURPOSE**

The purpose of the Rules and procedures is as follows:

- serve the common good of the Herron Island community;
- guide the conduct of members, renters, guests, and HMC employees;
- provide sanctions for violations; and
- provide a process for lodging complaints, enforcing the Rules, and appealing actions taken in their enforcement.

The Board's intention is to establish only Rules that:

- are necessary and appropriate in regard to the use, care, operation, maintenance, and preservation of HMC common areas and facilities; and
- necessary for the health and safety of members, renters, guests, and HMC employees; and
- necessary to preserve the rights of members in the use and enjoyment of their property and/or island facilities, and to prevent infringement of these rights by others.

Article 16 of the HMC Bylaws gives the Board the responsibility and the authority to adopt and amend such Rules as they deem best. These Rules will be consistent with Washington State and United States laws, with Pierce County regulations and ordinances, and with the HMC Bylaws and Articles of Incorporation. The Pierce County Sheriff's Department maintains the same authority and responsibility for law enforcement on the island as it does throughout the rest of the County, responds to calls for assistance and visits the island periodically.

**Definitions:** Definitions for terms such as "member," "guest," "common area," etc., used in the Rules will be found in Article 1 of the HMC Bylaws. Please refer to that document if you are not sure about how to interpret these terms.

**Classes of Violations:** Violations of these Rules are classified as Class A, B, or C. The class of each violation is indicated where applicable in parentheses following the rule statement. Penalties for each class of violation are specified in Section III, "Enforcement and Penalties."

## **II. RULES**

**A. Mainland Property:** The provisions of this section apply to the HMC property located adjacent to the mainland ferry dock south of the ferry access road and used primarily for parking. Parking in that property is at the vehicle owner's own risk. Please lock your vehicles, and do not leave valuable items in them.

**A-1.** Parking on the Mainland Property is limited to vehicles belonging to HMC members, renters, guests, or employees, and to government, commercial, or utility vehicles visiting the island in connection with legitimate island business.

**A-2.** Vehicles left on the Mainland Property for longer than 72 hours are subject to towing at owner's expense. If you need to leave your vehicle parked for a longer period, you must obtain approval in advance and in writing from the Board or Island Manager. (Class C)

**A-3.** Cars, trucks, RV's, and motor homes parked on the Mainland Property and belonging to members, renters, or HMC employees must display a current HMC decal, affixed on the lower left-hand corner of the windshield. Guests must keep the stub of the guest pass on the dashboard of their vehicle. (Class C)

**A-4.** Construction material and personal property may not be stored on the Mainland Property except as expressly approved in advance and in writing by the Board or Island Manager. (Class C)

**A-5.** Garbage, rubbish, or debris of any kind may not be left on the Mainland Property. Cleanup for any garbage, rubbish or debris left on HMC property will be assessed against the person/s responsible for leaving the garbage, rubbish, or debris. (Class C)

**B. Ferry and Ferry Docks:** The ferry and ferry docks are owned by HMC and are operated for the private use and benefit of members, guests, renters, and HMC employees.

**Authority of the crew:** The ferry crew has complete authority in enforcing all posted rules and such other measures as are necessary to ensure safe and efficient operation of the ferry and docks. This is a legal requirement; it is implemented for your own safety and the safety of your fellow passengers and crew. You can find a copy of HMC's "Policies and Rules Pertaining to Ferry Users" at the end of this document. You can also obtain a copy from the HMC office. Please familiarize yourselves with those policies and rules. The crew and the Island Manager (to whom the crew reports) have the authority to file a complaint against violators. (Class A)

### **Unscheduled ferry runs:**

#### **B-1.** Illness or Accident

- (a) In case of sudden illness or accident, the ferry will make emergency runs from the Island at any time at no charge. In an emergency, call 911; the 911 operator will then page the ferry crew and Fire District 16.

(b) The return trip to the Island following the emergency is not an emergency run. Therefore, you will be charged the regular fee if you return on a scheduled run or the special ferry run fee established by the Board if you require a special run.

**B-2.** Non-emergency/special run: Any member, renter, guest, or HMC employee may arrange a non-emergency unscheduled ferry run by request to the ferry captain, subject to crew availability. The member requesting such a run will be charged a special fee as established by the Board. A round-trip run will be considered two separate runs and will be charged accordingly.

**B-3.** Traffic Delays: If you encounter a road closure which would cause you to miss the last ferry, you may call the ferry cell phone to arrange a special pickup at the regular charge. The ferry cell phone number is (253) 691-1457.

### **C. Island Roadways**

**C-1.** All persons operating motorized vehicles on the private roads of Herron Island must do so in compliance with all of the requirements of the State of Washington Rules of the Road (Chapter 46.61 RCW) that are applicable to the operation of motorized vehicles on public highways. Failure to operate a motorized vehicle in compliance with the state's Rules of the Road will also be a violation of Island Rules. (Class B)

**C-2.** All vehicles must be operated within a maximum speed limit of 15 mph on island roads at all times. Members are responsible for informing their guests of the importance of this limit for the safety of pedestrians and other vehicle operators, for dust control, and for the protection of deer and other animals. (Class B)

**C-3.** Drivers of motor vehicles must yield the right of way to pedestrians, bicycle riders, and deer and other animals. (Class B)

**C-4.** Golf carts, off road vehicles and non-highway vehicles:

(a) Definitions:

- "Golf cart" means a three- or four-wheel vehicle, whether battery or combustion-powered, designed primarily for use on a golf course to transport persons and golf clubs.
- "Off road vehicle" (ORV) means any non-highway vehicle.
- "Non-highway vehicle" means any motorized vehicle primarily designed for recreational or other travel on trails and non-highway roads or for recreational or other cross-country travel on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland, and other natural terrain. Such vehicles include but are not limited to, off-road vehicles, two, three, or four-wheel vehicles, motorcycles, four-wheel drive vehicles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) Regulations:

- Vehicles defined in this Paragraph C-4 may be operated on Herron Island roads, but must prominently display a current, numbered HMC permit sticker, obtained at the HMC office. (Class B)
- Vehicles defined in this Paragraph C-4 and operated between the hours of 10:00 PM and 8:00 AM must comply with the noise restrictions contained in Rule Section H, PUBLIC DISTURBANCE AND PUBLIC NUISANCE NOISE. Operation from one-half hour after sunset to one-half hour before sunrise is prohibited unless the vehicle is equipped with at least one operating headlamp sufficient to illuminate a person or object 100 feet ahead and with one operating red tail lamp visible from the rear from a distance of 200 feet. (Class B)

**C-5.** Cars, trucks, RV's, and motor homes belonging to members, renters, or HMC employees must display a current HMC decal, affixed on the lower left-hand corner of the windshield. Guests must keep the stub of the guest pass on the dashboard of their vehicle. (Class C)

**C-6.** Vehicle parking is prohibited on island roads or rights-of-way. Vehicles parked and blocking island roads or rights-of-way are subject to towing and removal from the island at owner's expense. (Class C)

**C-7.** Members are responsible for maintaining ditches and culverts adjoining their property to keep them free of vegetation and debris in order to prevent erosion and flooding. Ditches may not be covered over nor culverts installed until and unless plans have been approved by the Island Manager or the Roads Department Chairperson. Work done by property owners to keep roadside ditches and culverts clean does not require a permit.

Any owner having a legitimate reason to do work, other than cleaning ditches and culverts, on any HMC-owned road right-of-way, whether part of the maintained roadway or not, must first obtain an Encroachment Permit (HMC Form 11) from HMC. (Class C)

**C-8.** Signs may not be placed on island roads or rights-of-way except as authorized in advance and in writing by HMC. All unauthorized signs will be removed by HMC. (Class C)

**D. Community Building:** The provisions of this section apply to the Community Building located at the northwest corner of Goodpastor Park, which is used for HMC meetings, group activities and events, and which houses the Fire Station and the HMC office.

**D-1.** The building provides housing for a fire engine, an ambulance, and associated equipment, which are owned and operated by Pierce County Fire District No. 16 and are used for island fire protection and medical aid. Only fire district personnel and qualified fire fighting volunteers operating under the direction of fire district personnel are authorized to operate the engines and equipment. However, these emergency aid vehicles may be moved in and out of the building by persons designated by Fire District No. 16, in order to accommodate HMC meetings, group activities, and events.

**D-2.** The building is available for use for HMC meetings, for Herron Island Boosters events, for other community events, and for private group activities. The use, scheduling, and hours must be approved by the Board except as delegated by the Board to the HMC office staff. Private

groups, when sponsored by a member, may use the building upon approval of use and schedule, payment of the established rental fee and damage deposit, and acceptance of responsibility for cleanup and any damage to the facility. The damage deposit will be refunded if subsequent inspection by HMC reveals no damage to the building or its contents.

**D-3.** The Herron Island Boosters may use the building without charge of a rental fee.

**D-4.** Smoking is not permitted in the building. Smokers are requested to properly dispose of spent smoking material and matches. (Class C)

**E. Parks, Beaches, Small Boat Docks and Other Common Areas:** The provisions of this section apply to the island parks and the common areas that are dedicated to recreational use and enjoyment by members, renters, and guests. These areas include the North Beach Park, Goodpastor Park and associated wetlands, undeveloped South Community Beach, and the Nature Park and any other HMC property that should be so designated in the future.

The North Beach Park, located on the northeast corner of the island, includes small boat dock and launching ramp, a picnic shelter with associated tables, benches and barbecue sites, a designated swimming area, a single designated fire pit, an area for horseshoe pitching, and portable toilet facilities.

Goodpastor Park is located near the center of the island and includes a children's play area, basketball facility, ball field, and areas for volleyball.

The Nature Park is undeveloped and is located south of the Community Center.

The South Community Beach is located at the south end of the island. It is an undeveloped area which connects by trail to the road at the southwest corner of the island. On this beach, members, renters, and guests may picnic, beach comb, swim, fish, dig clams, and catch crabs.

**The sand spit and the lagoon at the northwest end of the South Beach are private property.**

**E-1.** Parks are closed from 11:00 p.m. to dawn. Loud noises and/or unruly behavior are prohibited at all times. (Class B)

**E-2.** Motor vehicles may not be operated on park beaches, trails, lawns, or playfields, with the exception of lawn mowers or construction equipment as authorized by HMC. Motor vehicles are prohibited in all park areas except those designated for parking. (Class C)

**E-3.** Long term parking of vehicles (exceeding 24 hours) is prohibited. (Class B)

**E-4.** Overnight parking of boat trailers is prohibited at North Beach Park, Goodpastor Park, or any other community area. (**Exception:** No boat trailers may be parked at North Beach area during Herron Island observed holiday weekends for Memorial Day, Independence Day or Labor Day.) Boat trailers must be returned to a member's property for overnight storage. (Class B)

**E-5.** Overnight camping and RV parking is prohibited in all parks and common areas. (Class C)

**E-6.** Beach gravel or sand may not be removed from park areas. It is illegal under the Washington Shoreline Management Act to remove sand or gravel from any beach. (Class B)

**E-7.** Common areas and facilities must be maintained in a clean and orderly manner. Litter must be placed in designated containers or carried away when leaving. (Class B)

**E-8.** Except as otherwise provided in this section, personal property (property not belonging to HMC) may not be stored or left unattended in common areas. (Class B)

**E-9.** No structures may be erected or signs posted in common areas without prior authorization by the Board or Island Manager. (Class C)

**E-10.** Swimming in the dock or boat launching area is prohibited. Swimming is allowed only in the designated area. (Class C) Swimming is at your own risk.

The Herron Island small boat dock, launch and beach areas are private for the exclusive use and benefit of Members and their guests. The privilege of using the small boat dock, launch and beach area is conditional upon compliance with the terms of these rules and any instructions posted by HMC.

**E-11.** Boats exceeding 32 ft in length are ONLY permitted to use the load/unload zone and are limited to a maximum of 1 hour. (Class B)

**E-12.** One boat per membership, including guest, will be allowed use of the North Beach Small Boat Dock at any one time. (Class B)

**E-13.** All member boats must have a valid HMC decal prominently posted near the operator's station or the bow. Member boat trailers must also display a valid decal in a prominent location near the trailer's tongue. Any guest boat using the small boat dock must have a valid guest pass posted so it is visible from the dock. (Class C)

**E-14.** Docking schedule is as follows:  
Designated load and unload zone: 1 hour maximum.  
Short term docking: 24 hours maximum. (Class B)  
Dock use is at your own risk.

**E-15.** Boats 32 ft in length **or less** can load and unload at any area on the small boat dock; however, **the designated load/unload zone has a 1 hour maximum use limit.** Compliance with this rule promotes the greatest possible use by all members and insures back-up emergency vessel docking, if needed. (Class B)

**E-16.** Water and/or jet skiing is prohibited in the vicinity of the boat launch, dock and swim areas at the North Beach Park. These activities may use the beach area extending southward from the sand bar. (Class B)

**E-17.** All vessels and personal watercraft must maintain low speeds not exceeding 5 mph (no wake) until beyond any no-wake buoy markers or 300 ft beyond the small boat dock, launch or beach areas. (Class B)

**E-18.** To prevent damage due to tide changes, vessels may not be tied up to the pilings. Fenders are required on vessels while docked. (Class C)

**E-19.** Small boats may not be left unattended on the beach area at North Beach Park, but may be stored in the designated area at the south end of the bulkhead. During the winter season only (November 1st through March 30th) mooring will be allowed in the area between the north spit and the boat launch. (Class B)

**E-20.** Boat mooring or anchor lines may not cross the beach area at the North Beach Park; however, such lines may be used in the area extending southward from the sandbar. (Class C)

**F. Fire Prevention:** Island property is particularly susceptible to damage from uncontrolled fires because of our extensive wooded areas and limited fire protection facilities. HMC has the authority to declare a stricter burn ban than the county, given the special conditions and inaccessibility of the island. It is, therefore, extremely important that proper precautions be taken with any open fire, including but not limited to the following:

**F-1.** Know and observe all requirements and restrictions on open fires imposed by Pierce County Fire District No. 16. If in doubt, check with fire district headquarters at Key Center; (253) 884-2222, **again keeping in mind that the island may be under a burn ban independent of the county.**

(a) Completely extinguish all open fires before leaving the immediate area.

(Class A)

(b) Observe all burn bans imposed by the county or by HMC. (Class A)

(c) Obtain the necessary fire permits from the fire district when required.

(Class A)

(d) Comply with all additional restrictions imposed by the Board during critical fire danger conditions. (Class A)

(e) Fireworks are prohibited on Herron Island. *Exception:* Legal fireworks are permitted at the controlled, designated area at the North Beach Park on the Fourth of July only.

(Class B)

(f) Open fires are prohibited in island parks and other common areas unless specifically authorized in advance by the Board or the Island Manager or when confined to the single designated site on the beach at the North Beach Park. All open fires are subject to all restrictions imposed by Pierce County Fire District No. 16 and any additional restrictions imposed by the Board. (Class B)

**F-2.** Tall dry grass on the roadside is a serious fire hazard; a cigarette improperly disposed of in the grass can easily start a fire. It is the responsibility of property owners to keep such grass clean and trimmed. In the event grass is not maintained, HMC may perform the maintenance and charge the owner for the work.

**G. Conduct of People and Pets:** Members are responsible for the conduct of their families, renters, guests and pets while on the island or other HMC property. The laws of the State of Washington and the regulations and ordinances of Pierce County apply on the island as they would elsewhere. Any person or pet who poses a threat to the health, safety or well-being of any other person on the island or to the property of HMC may be expelled or banned from the island by action of the Board.

**G-1.** Vandalism of property or facilities on Herron Island will not be tolerated. Perpetrators will be prosecuted to the full extent of the law. In addition, members will be subject to a fine for vandalism committed by minors, themselves, family, or guests. (Class A)

**G-2.** While state law allows HMC members to attend open Board meetings as observers, and the Board has traditionally encouraged comments and questions from members at Board meetings, disruption of an official HMC meeting or HMC office operations to the point of preventing business from being conducted will not be tolerated. (Class A)

**G-3.** A long-standing custom since the beginning of HMC has been to allow any member, renter, or guest to walk along any part of the island's beach area. However, other uses of the private beaches or hillsides such as digging clams, picking oysters, picnicking, etc., are strictly forbidden without the specific permission of the owners of the properties. (Class A)

**G-4.** Owners must either arrange garbage pick-up service or remove their trash and garbage when they leave the island. Do not deposit your trash and garbage in HMC garbage receptacles, in HMC common areas or right-of-way, or in the property of others. Do not burn trash or garbage on the island. (Class B)

**G-5.** Dog owners must control their pets so that they cause no harm and are not a nuisance to wildlife and people. When on private property, dogs must be controlled by their owners so as not to harm or harass wildlife. Dogs must be on a leash and must not be permitted to run loose on HMC island roadways or common areas. (Class B)

**G-6.** Trespassing on private property is prohibited. Please respect private property. (Class C)

**H. Public Disturbance and Public Nuisance Noise:** Please be considerate of your neighbors on the island. Noise pollution destroys the peace and serenity of our surroundings, depresses our quality of life and the value of our properties, and disrupts the fabric of our community.

Section 8.72 in Pierce County's Code regulates excessive intermittent noises that interfere with the use, value, and enjoyment of property, and which pose a hazard to the public health, safety and welfare. The ordinance prohibits, among other noises, frequent, repetitive, or continuous sounds made by any animal or machinery, vehicles, sound amplifiers, which "unreasonably disturb or interfere with the peace, comfort, and repose of property owners or possessors."

Section 8.72.100 also states that "It is unlawful for any person to cause or allow to be emitted a Public Nuisance Noise. A Public Nuisance Noise is any noise which unreasonably annoys, injures, interferes with, or endangers the comfort, repose, health or safety of three or more

persons residing within separate residences in the same community or neighborhood, although the extent of the damage may be unequal.”

The county recognizes that additional local noise restrictions may also apply; accordingly, the following HMC Rules have been adopted:

**H-1.** Noise of any nature that can be heard beyond a member’s lot will not be permitted between the hours of 10:00 p.m. and 8:00 a.m. Examples include: loud voices, loud music, barking dogs, noise from construction equipment and construction activity, and noise from vehicles, chain saws, lawn mowers, and other yard and garden equipment. Board sanctioned activities are exempt. (Class B)

**H-2.** Public disturbance noise and public nuisance noise as defined by Pierce County will not be allowed between the hours of 8:00 am and 10:00 pm. Exceptions: noise from construction equipment in connection with construction activity, chain saws, lawn mowers, and other yard and garden equipment. (Class B)

**I. Water and Sanitation:** The Island's water supply is a limited resource. Conservation measures must be practiced; please avoid unnecessary use of water. Additionally, repair leaks on your water lines as soon as they are detected, and promptly report leaks on the HMC main supply lines.

**I-1.** Each member in good standing will be provided with a water service connection at the boundary of his/her property subject to the payment of the specified hook-up fee.

**I-2.** Pierce County sanitary code applies to all property on the island. Travel trailers and RV's must be completely self-contained or be connected to a previously approved and installed septic system. Approval to bring trailers and RV's to Herron Island, and use of them while on the island, is granted by a signed and currently valid 'Recreational Vehicle Certification,' HMC Form 13. Any trailer or RV not complying with the provisions contained in HMC Form 13 is in violation of this section. (Class A)

**J. Firearms; Wildlife**

**J-1.** Discharging of firearms and the use of bows and arrows are prohibited on the island. (Class A)

**J-2.** Hunting, harassing, molesting, or injuring wildlife or other animals is prohibited on the island as well as any HMC property. Exception is made for putting down injured animals or for animals posing an immediate threat. Notify the HMC office or the Board immediately if such action has been taken, so as not to alarm neighbors and the community. If an office employee or a member of the Board cannot be reached, leave a voice message on the office voicemail. (Class A)

**K. Limitations on Business Use of Property:** Private lots may only be used for single family residential purposes and for the common social, recreational or other reasonable uses normally

related to those purposes, as described in Article 11 of the HMC Bylaws. A resident or member residing in a home or a residential site (lot) may conduct business activity within that home or site, as described in Article 11.2 of the Bylaws, only if:

- (a) the business activity conforms to all zoning requirements for the lot and/or the activity;
- (b) the business activity does not involve persons who are not owners or residents coming onto the site in any number or manner which may be determined by the Board to create or constitute a burden on the properties or the other owners;
- (c) the business activity does not increase HMC's liability or casualty insurance obligation or premium; and
- (d) in the sole discretion of the Board, the business activity is consistent with the residential character of HMC and does not constitute a nuisance, annoyance, or hazardous or offensive use.

"Business" and "trade" will be construed to have their ordinary generally accepted meanings and will include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether:

- (a) the activity is engaged in full or part-time;
- (b) the activity is intended to or does generate a profit; or
- (c) a license is required to engage in the activity.

Failure to abide by the provisions of this section constitutes a Class B violation.

### **III. ENFORCEMENT AND PENALTIES**

#### **Outline:**

- A. Overview
- B. Definitions
- C. Complaint Process
- D. Pre-Hearing Procedure
- E. Rules Committee's Hearing Procedure
- F. Appeals of Rules Committee Decisions to the HMC Board
- G. HMC Rules Committee
- H. Expedited Procedures
- I. Schedule of Fines

**A. Overview:** Association members, employees, or agents may submit a complaint about a violation of the Association's rules to the Rules Committee. The Rules Committee will consider the complaint and evidence, and prepare findings. If the Rules Committee finds that a person has committed a violation, it may impose a fine. The responding party may appeal the Rules Committee's decision to the full Board. The Board alone hears expedited matters. In case of conflict or appearance of conflict, a member of the Rules Committee and/or Board must recuse him- or herself from hearing a contested matter.

**There is a deadline of thirty (30) calendar days after the date of the alleged violation for filing a complaint, although the Rules Committee may extend the deadline for good cause (see subsection (C)(2)(c) Deadline for Filing Complaint below).**

#### **B. Definitions:**

- (1) **Complainant:** The person who files a written complaint against another person for violation of a Rule or provision of the Bylaws.
- (2) **Respondent:** The person against whom a written complaint is filed.

#### **C. Complaint Process:**

- (1) **Informal Dispute Resolution Procedure:** Association agents, employees, members and other residents are encouraged to informally attempt resolution before submitting a written complaint. For example, consider inviting the other person over for a cup of coffee and "talk things over."
- (2) **Written Complaint:** A complaint form can be found on the Island's website, or can be obtained at the office. Association agents, employees, members, and members' tenants or guests may file a written complaint as follows:
  - (a) **Contents of Complaint.**
    - (i) date;
    - (ii) complainant's name;
    - (iii) respondent's name;

- (iv) statement of charges, describing acts or omissions with as much detail as possible, including time, date, location, nature of violation, persons involved, etc.;
- (v) description of any efforts to informally resolve the complaint, with the result;
- (vi) specific provisions of the Rules, Bylaws, or decision of the Board which the Complainant alleges that the Respondent has violated; and
- (vii) resolution requested from the Rules Committee.

(b) **How to File a Complaint:** You may mail, email, fax, or hand-deliver the written complaint to the HMC office.

(c) **Deadline for Filing a Complaint:** The deadline for filing a complaint is thirty calendar days after the date of the alleged violation. The Rules Committee may extend the deadline for good cause. For example, the Rules Committee may extend the deadline to thirty days after a Complainant knew or should have known about a violation, such as if another member dumps garbage during the winter months when the Complainant has not visited his or her property.

**(3) Actions HMC will take in Response to Complaint.**

(a) Assign a number to the complaint;

(b) note on the first page of the complaint that number and the time and date of receipt; and

(c) within 21 calendar days from the date of receipt, serve a copy of the complaint and a copy of this section of the Rules upon the Respondent either by personal service or by mail, as follows:

(i) if Respondent is an Owner: Service upon the Respondent at the Respondent's registered address.

(ii) if Respondent is a non-Owner resident, tenant, or guest: Service upon the Respondent at the lot address.

(iii) personal service: If service is accomplished by "personal service," an HMC representative will hand the materials to a person who is at least 18 years old at the lot address.

(iv) service by mail: if service is accomplished by mail it shall be made by United States mail, first class postage prepaid, and shall be deemed given when deposited in the mail addressed to that person pursuant to Section 12.1 of the HMC Bylaws.

(d) Service upon HMC will be made by serving the Manager, President or Secretary of the Association.

(e) No order adversely affecting the Respondent's rights may be made in any case unless the Respondent has been served as provided for in this subsection, except as described in subsection (H). Expedited Procedures.

**D. Pre-Hearing Procedure**

**(1) Arranging Hearing Date.** A Rules Committee member will contact the Complainant, Respondent, and Rules Committee Chair in an attempt to find a mutually acceptable date for a hearing.

**(2) Notice of Respondent's Rights and Hearing.** At least fourteen days prior to the hearing, the Rules Committee shall serve a copy of "Notice of Respondent's Rights" and the hearing date on both the Respondent and Complainant, in the manner described in the preceding subsection.

**(3) Rescheduled Hearing.** If the Complainant or Respondent can show good cause why they cannot attend the hearing on the designated date, they must notify the HMC office or Chair of the Rules Committee at least 48 hours prior to the originally scheduled hearing, except in cases of unexpected emergency. The Rules Committee may in its discretion reschedule the hearing for good cause shown.

**(4) Assurance of Voluntary Compliance.**

(a) The Rules Committee in its discretion, in lieu of or in addition to holding a hearing, may accept a written assurance of voluntary compliance from any Respondent. Unless otherwise stated therein, giving an Assurance does not constitute an admission that a violation of any provision of the Rules or of any decision of the Board pursuant to the Governing Documents has taken place.

(b) The Assurance may include a stipulation for payment of fines, damages, costs, or attorney's fees by Respondent to the Complainant and/or to HMC.

(c) From time to time, a person who has made an Assurance of Voluntary Compliance must provide all information the Board reasonably requests to determine whether the Respondent is in compliance with the Assurance.

(d) The Rules Committee is not precluded from further action by its acceptance of an Assurance of Voluntary Compliance if the Respondent violates the terms of that Assurance or commits another violation.

**(5) Objections to and Rejection of Complaint.**

(a) Any objection to the complaint on the grounds that the Rules Committee has no jurisdiction over the acts or omissions alleged in the complaint, or that the complaint is so indefinite or uncertain that the Respondent cannot identify the violating behavior or prepare his or her defense, must be presented to the Rules Committee in writing within seven days of the date on which the complaint is served on the Respondent.

(b) The Respondent must also serve a copy of the objections on the Complainant within that time period

(c) If the Rules Committee determines, either as a result of an objection or on its own initiative, that the complaint is insufficient, the complaint will be rejected and returned to the Complainant with a letter stating the reason for the rejection.

**(6) Amended Complaint.** No later than 10 days before the date set for the hearing, the Complainant may file an amended or supplemental complaint with the Rules Committee chair, who shall serve a copy of the amended or supplemental complaint upon the Respondent in the manner required above, no later than 72 hours before the time set for hearing.

**(7) Default.** Failure of one party to appear at a scheduled hearing, where that party prior to the hearing has failed to show good cause why the hearing should be rescheduled, does not preclude the Rules Committee from proceeding with the hearing, receiving evidence from, and hearing arguments by the other party, and issuing a decision in the matter. Upon failure of the Complainant to appear, the Rules Committee may, in its discretion, reschedule or terminate the matter.

**(8) Discovery.** Either party is entitled to:

(a) Obtain by written request the names and addresses of the witnesses to the extent known to the other party within 72 hours of the request to the other party. Unless the

opposing party waives objection to the witness during the hearing, witnesses who were not disclosed may not testify.

(b) Inspect and make a copy of any statements, writings or investigative reports relative to the subject matter of the hearing. Nothing in this paragraph authorizes the inspection or copying of any writings or other thing which is privileged from disclosure by law or protected as attorney's work product. Any party claiming that his or her request of discovery has not been complied with must submit a written statement of the facts and circumstances to the Rules Committee. The Rules Committee will make a determination and issue a written order setting forth the materials or parts of the materials to which the petitioner is entitled and the sanctions to be imposed on non-compliance with the order.

## **E. Rules Committee's Hearing Procedure**

### **(1) Who must be present?**

- (a) The Rules Committee Chair, or in his or her absence, the Chair Pro Tem.
- (b) Three Rules Committee members, including the Chair or Pro Tem, constitute a Rules Committee quorum.
- (c) The Respondent must appear in person or by a duly authorized representative, if the Respondent submits to the Rules Committee Chair a signed statement authorizing the representative to appear on his or her behalf.

### **(2) How is the hearing conducted?**

- (a) The hearing will be informal.
- (b) The parties must remain civil at all times. Each party must wait until it is his or her turn to speak.
- (c) In case of conflict or appearance of conflict, a member of the Rules Committee must recuse him- or herself from hearing a contested matter. Either party may move for recusal of one or more members.
- (d) The Chair shall appoint one member of the Rules Committee to take notes and/or tape-record the hearing.
- (e) The Chair or Chair Pro Tem shall preside over the hearing and make any necessary rulings regarding evidence, witnesses, or other matters.
- (f) At the beginning of the hearing the Chair will explain the rules and procedures by which the hearing is to be conducted.
- (g) Starting with the Complainant, each party to the proceeding is entitled to:
  - (i) make an opening statement setting forth his or her version of the case. Opening statements are limited to ten minutes.
  - (ii) produce evidence, witnesses and testimony, subject to the provisions stated above. The other parties are entitled to cross-examine any witnesses and the opposing party.
- (h) Starting with the Respondent, each party to the proceeding is entitled to make a closing statement. Closing statements are limited to ten minutes. The Respondent is entitled to make a final statement in rebuttal following the Complainant's closing statement. The final statement is limited to five minutes.
- (i) During the hearing, any member of the Rules Committee may question any party or witness. The Rules Committee members may, on their own motion, call witnesses or secure tangible evidence. A party may, within a reasonable time prior to the hearing date, request the Rules Committee to call witnesses or secure tangible evidence. The request may be granted in the discretion of the Rules Committee.

- (j) At the request of the Respondent, the Rules Committee may decide, in its discretion, to conduct the hearing in executive session (which means that witnesses will be brought in one by one, without the ability to hear one another's testimony, and persons not a party to the complaint will not be allowed to participate in the hearing).
- (k) Each party has the right to representation by counsel at his or her own expense.
- (l) Any party or the Rules Committee may tape-record or videotape the hearing, or cause the hearing to be transcribed at his, her or its own expense.
- (m) The Rules Committee may expel any person from any hearing for improper, disorderly or contemptuous conduct.

**(3) Rules of Evidence.** The following rules of evidence will apply to proceeding before the Rules Committee:

- (a) Any relevant evidence which is not privileged is admissible regardless of whether the evidence is hearsay or otherwise inadmissible in a court of law. The Chair may exclude irrelevant, immaterial or unduly repetitious evidence.
- (b) The Committee, in its discretion, may decide whether or not to accept and consider written statements from persons who are not present at the hearing.
- (c) During the hearing, the Chair may approve consideration of additional evidence before a decision is reached. Any additional evidence provided to the Committee by a party will be submitted to the other party. If the Committee requests additional evidence, such as member records, the evidence will be shared with the parties upon their request.

**(4) Decision and Order.**

- (a) No later than ten calendar days after the close of the hearing, the members of the Rules Committee who presided over the hearing shall meet in executive session to deliberate and reach a decision. A majority shall be controlling. The Rules Committee's decision shall:
  - (i) be in writing;
  - (ii) list the evidence considered;
  - (iii) list what the Committee agrees are the facts in the matter;
  - (iv) list any Rules or Bylaws the Committee has decided the Respondent has violated, if any;
  - (v) set forth any orders;
  - (vi) set forth any fees, consistent with these rules.
- (b) The Rules Committee's order will become effective when its decision, including any minority opinion, is served on the Respondent in the manner provided for in this section unless the Rules Committee provides otherwise in its order.
- (c) Any fine imposed by the Rules Committee:
  - (i) may not exceed the maximum amount set by the Board;
  - (ii) may include a daily fine if the Respondent does not comply with the order of the Rules Committee, including the payment of the fine, within the allotted time;
  - (iii) may include a provision that the non-prevailing party shall reimburse HMC's costs in connection with the proceeding; and
  - (iv) may include the cost for repair of damages to HMC property; and
  - (v) will be the personal obligation of the person against whom it is imposed; will constitute a lien upon the Lot owned or occupied by that person; and may be collected in the manner provided in Article 9 of the HMC Bylaws.

- (d) A copy of the decision and order shall be sent to the HMC President and shall be included in HMC's records. A copy of a decision against the Respondent shall be kept in the Respondent's member's file.

#### **F. Appeals of Rules Committee Decisions to the HMC Board**

- (1) Who may appeal:** The respondent (hereinafter referred to as the “Appellant”) may appeal a Rules Committee decision to the Board.
- (2) How to appeal:** The appellant must submit written notice of the appeal to the HMC Board and all other parties that:
- (a) includes the parties' names and the case number assigned to the matter at the Rules Committee's level; and
  - (b) explains what errors the appellant believes the Rules Committee made in reaching its decision.
- (3) Time limit for appeal:** The appeal must be received by the Board and the other parties no later than fourteen days after the Respondent is served with the Rules Committee's decision.
- (4) Actions HMC will take in Response to Appeal.**
- (a) Note on the first page of the appeal the time and date of receipt;
  - (b) set a date for the appeal hearing; and
  - (c) serve the parties as described under the Rules Committee's hearing process, above.
- (5) Appeal to Board:** The appellant may present an argument to the Board, acting in an appellate capacity, regarding why he or she believes that the Rules Committee's decision was erroneous. The argument must be based solely on the facts presented to the Rules Committee, and the Rules Committee's presentation and reasoning in its decision. No new facts or testimony may be presented unless the Board agrees, upon a finding of good cause. Otherwise, the same procedures will be followed as outlined for the Rules Committee, with each party having equal opportunities to make opening and closing statements, move for recusal, and so forth.

#### **G. HMC Rules Committee**

- (1) Rules Committee Composition:** The Rules Committee consists of a minimum of three members in good standing designated by the HMC Board. The Rules Committee shall appoint a Chair and Secretary. If either the Chair or Secretary is unavailable for a meeting, the Rules Committee members shall elect a Chair Pro Tem and/or Secretary Pro Tem as needed.
- (2) What are the Duties of the Rules Committee?**
- (a) **Chair:** The chair shall report Committee actions at each regular monthly Board meeting; convene meetings; ensure that all timelines are met; ensure that there is agreement on Rules Committee decisions.
  - (b) **Authority of the Rules Committee**
    - (i) The Committee hears and decides all complaints concerning violations of the HMC Rules or of any decision of the Board made as provided in the HMC Bylaws.
    - (ii) Upon a finding of a violation, the Rules Committee:
      - (a) takes any action provided for in Paragraph 8.2.2 of the HMC Bylaws.
      - (b) levies and imposes a reasonable fine as provided in these rules, in an amount no greater than the maximum amount that the Board has established.

**H. Expedited Procedures: [The following matters go directly to the Board, and are not heard by the Rules Committee.]**

- (1) The Board shall hear and determine all matters involving the Island Manager's recommendation under Paragraph 8.2.3 of the HMC Bylaws to expel, ban or prohibit from the Island and any of the Common Areas and the Association's facilities, any owner, family member of an owner, tenant, or guest, or agent or employee, who poses a threat to the health, safety, well-being, or property of HMC and its Members.
  
- (2) The Island Manager's motion to impose a Temporary Restraining Order (TRO) expelling, banning or prohibiting any owner, family member of an owner, tenant, or guest, or agent or employee, from the Island and any of the common areas and HMC's facilities or land may be heard by a quorum of the Board on not less than twenty-four hours personal, electronic notice or notice by telephone to all Board members. A motion for a TRO may be heard without prior notice to the Respondent only if (1) it clearly appears from specific facts stated in writing that immediate and irreparable injury, loss, or damage to the health, safety, well-being or property of HMC or its Members will result before the Respondent can be heard in opposition, and (2) the Island Manager certifies to the Board in writing the efforts, if any, which have been made to give the notice and the reasons supporting his or her claim that notice should not be required.
  
- (3) Every Temporary Restraining Order granted without notice must:
  - (a) be endorsed with the date and hour of issuance;
  - (b) be immediately filed in HMC's records;
  - (c) define the injury and state why it is irreparable;
  - (d) state why the order was granted without notice; and
  - (e) expire by its terms within such time as the Board fixes after entry, not to exceed fourteen days, unless within the time fixed by the Board the order, for good cause shown, is extended for a like period or unless Respondent against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension must be recorded in writing.
  
- (4) In case a Temporary Restraining Order is granted without notice, it must:
  - (a) set a hearing date not less than seven nor more than fourteen days after the date of issuance for the hearing on the complaint to permanently expel, ban or prohibit the Respondent;
  - (b) be served upon the Respondent in the manner provided in subsection (C)(3)(c) not less than seven calendar days before the date set for the hearing.
  - (c) On three days' notice to the Island Manager and the Board or on such shorter notice as the Board may allow, the Respondent may appear and move for:
    - (i) a later date for the hearing; and/or;
    - (ii) dissolution or modification of the Temporary Restraining Order. The Board must proceed to hear and determine such motion as expeditiously as the ends of justice require.

**I. Schedule of Fines:** Violations of the Rules are classified as Class A, B, and C. Fines for each class of violation are specified below.

The Board or the Rules Committee has the authority to reduce these fines when circumstances warrant. The fines will constitute assessments secured by a lien upon any lot belonging to or occupied by the person against whom they were assessed and will be collectable in the manner provided by HMC Bylaws.

Penalties for violations beyond a 3<sup>rd</sup> offense may be determined by action of the Board.

<b>Violations</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>
	<b>Offense</b>	<b>Offense</b>	<b>Offense</b>
<b>Class A</b>	\$1,000	\$2,000	\$5,000
<b>Class B</b>	\$500	\$1,000	\$2,000
<b>Class C</b>	\$100	\$200	\$300

**J. Damages to HMC Property:** In addition to any of the fines in Section I, the HMC Board or the Rules Committee may also impose an assessment secured by lien for restitution of any damages to HMC property.

## POLICIES AND RULES PERTAINING TO FERRY USERS

- All instructions and direction given by crewmembers must be followed explicitly.
- Due to legal and safety requirements, **arguing with and/or obstructing the crew in the performance of their duties will not be tolerated.** The Captain's decision in any matter involving the ferry is final. *Any complaints regarding crewmembers or ferry operations should be made in writing to the Island Manager.*
- No one is permitted to be on foot on the car deck while the ferry is loading and unloading. *Loading is deemed to be complete when the ramp gate is closed. Unloading commences when a crewmember begins to take down the safety line (rope) and barrier nets as the ferry approaches the dock.*
- Once a vehicle is positioned on deck, the parking brake shall be applied fully and the engine will be immediately shut off. The engine will not be started again until instructed to do so by a crewmember.
- Smoking and alcohol consumption are not permitted while on board the ferry. This includes persons inside vehicles.
- Other than certain exempted vehicles (i.e. emergency vehicles, certain others) vehicles will be **denied access** to the ferry unless the vehicle has a **valid HMC sticker** affixed in the designated area **or** the driver can produce a **valid guest pass**. (**ONE TIME ONLY EXCEPTION:** A member in good standing in a newly purchased vehicle that does not have a sticker affixed will be charged a guest fare and may request a receipt. It is up to the member to go to the office to obtain a sticker and request reimbursement.)
- If a member is driving a rental vehicle he/she needs to provide the rental papers to the deckhand in order to ride the ferry for membership rates.
- Foot passengers under the age of 13 must be under adult supervision at all times when onboard, boarding or leaving the ferry. With consent, a crewmember may agree to provide this supervision, if requested.
- Foot passengers aged 13 through 17 who are not accompanied by an adult must stay in the passenger cabin at all times until a crewmember advises them that they may leave the cabin.
- Passengers under the age of 18 who are accompanied by an adult are allowed on the ferry deck under the same conditions as adults, but only when the accompanying adult is present on the deck with the under-18 passenger(s).
- All passengers who are on foot on the deck shall remain behind the yellow safety line (rope) that is in place across the deck end(s). The stern line is not always up because of outsized vehicles.
- Sitting on the bulwarks (deck side rails), leaning over rails, especially near the dolphins, or reaching out and touching dolphins while boat is moving is not permitted at any time.
- At all times, safety of passengers and crew is of paramount importance.

*HMC Form 04, Revised 10-1-04 (HMC name change only)*



Specific provisions of the Rules, Bylaws, or decision of the Board which the Complainant alleges that the Respondent has violated: \_\_\_\_\_

---

---

---

---

---

---

---

---

---

---

Resolution requested from the Rules Committee: \_\_\_\_\_

---

---

---

---

---

---

---

---

---

---

---

---

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Revision 3, 5/07