

HERRON ISLAND RULES
June 2013
As amended July 2022

**HERRON ISLAND
RULES**

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INTRODUCTION

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, Tenants, Guests, HMC employees, service, 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 (Board), the Island Manager under the direction of the board, 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 view 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 visit to and/or stay on the island.*

I. AUTHORITY AND INTENT OF THE HMC MANAGEMENT (HMC) RULES

A. Authority

Article 16 of the HMC Bylaws gives the Board and the Membership the responsibility and the authority to adopt and amend reasonable rules to insure compliance with or supplement the Bylaws and to regulate the use, occupancy, and maintenance of the Common Areas for the common good of the Owners. These Rules are to be interpreted consistently with Pierce County, Washington State, Federal, and all other applicable laws, and with the HMC Bylaws and Articles of Incorporation. When adopted or amended, Rules and Policies are binding upon all Owners, Residents, and Guests.

The Pierce County Sheriff and Fire Departments maintain the same jurisdiction, authority, and responsibility for law and fire enforcement on Herron Island as they do throughout the rest of Pierce County. This includes responses to calls for assistance and periodic visits to Herron Island. Additionally, the Pierce County Planning & Land Services Department and the Tacoma- Pierce County Health Department also have authority over land use, construction, water purity, and septic issues.

B. Intent

The Board's intention is to establish only Rules that are necessary and appropriate:

1. in regard to the use, care, operation, maintenance, and preservation of HMC Common Areas and facilities;
2. for the health, safety, and welfare of Members, Tenants, Guests, and HMC employees;
3. 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;
4. to serve the common good of the Herron Island community;
5. to guide the conduct of Members, Tenants, Guests, Contractors, and HMC employees;
6. to provide a process for lodging complaints, enforcing the rules, and appealing actions taken in their enforcement; and
7. to provide sanctions for violations.

II. DEFINITIONS USED IN THESE RULES

As used in these Rules, certain capitalized terms and phrases shall have the meanings assigned in this Section.

To the extent that they are not inconsistent with the terms and phrases defined below, and to the extent they are not otherwise defined herein or clear by the context in which they are used in these Rules, the terms and phrases as set forth in the Second Amended and Restated Bylaws of HMC Management, F/K/A Herron Maintenance Co., recorded May 20, 2005, under Auditor's File No. 200505200134 in Pierce County, Washington, as amended (the "HMC Bylaws") shall be incorporated herein by this reference.

Active Use of Boats: Daily use of your boat. Examples of Active Use: A spin around the island; boating over to the mainland or out into an inlet.

Association or HMC (Bylaw 1.6.6.): HMC Management, a non-profit corporation formed under the laws of the State of Washington composed of all of the Owners acting as a group in accordance with the Governing Documents, and any successor non-profit corporation or unincorporated association.

Board or Board of Directors (Bylaw 1.6.7): The Board of Directors of HMC Management.

Common Areas (Bylaw 1.6.11): All real property owned or leased by HMC, all facilities owned and/or operated by HMC, including without limitation the ferry boat, and any additional real property hereafter acquired by HMC for the benefit of the Owners. Common Areas include but are not limited to the Mainland Property, ferry docks, Herron Island roads, the Community Building, North Beach Park, Goodpastor Park, South Community Beach, and the trail leading to the South Community Beach.

Common Areas Structure (Bylaw 1.6.12): Any building or improvement located on the Common Areas.

Complainant: The person who files a written Complaint against another person for the alleged violation of a Rule or provision of the Bylaws.

Contractor: A person or Company (Service Provider) authorized by HMC Management or a Member in Good Standing to perform work on the island on behalf of HMC Management or the Member in Good Standing.

Dolphin: A group of pilings used as a fender.

Guest (Bylaw 1.6.19): A person who has been authorized by a Member in Good Standing or a Tenant of a Member in Good Standing to visit the Island and use Common Areas, as evidenced by a valid Guest pass.

Holiday: Memorial Day, Fourth of July, and Labor Day.

Island Manager (Bylaw 1.6.28): The person employed or retained by the Board under a written agreement between that person and HMC to perform those management and administrative functions and duties delegated to that person with respect to HMC and the Community.

Mainland Property (Bylaw 1.6.25): The pier and parking lot owned and/or leased by HMC on the Key Peninsula at Herron, Pierce County, State of Washington, situated in Section 28, Township 21 North, Range 1 West, WM.

Member (Bylaw 1.6.29): Synonymous with the term “Owner.”

Off-Road Vehicle (ORV): Reference: RCW 46.04.365. A non-street-registered vehicle when used for recreational purposes on non-highway roads, trails, or a variety of other natural terrain. For the purpose of these Rules, "Off-road vehicle" or "ORV" includes, but is not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, golf carts, and dune buggies.

Owner (Bylaw 1.6.33): The person or persons who hold Record title to any Lot in fee, but excluding in all cases any person holding an interest merely as security for the performance of an obligation. In the case of a Lot which has been sold under a Recorded real estate contract, the term excludes the fee owner or owners and includes the contract purchaser or purchasers. The use of the term “Owner” in the singular throughout the Bylaws and these Rules in the context of the ownership of a single Lot or Assessable Unit specifically includes the plural where applicable.

Respondent: A person against whom a written Complaint is filed.

Rules (Bylaw 1.6.42): The rules and regulations adopted by the Board or by a Majority of Owners as provided in Article 16 of the Articles of Incorporation.

Sand Spit: The end of the northeast tip of the island.

Small Boats: Boats that can be lifted and carried by one or two people, such as kayaks, canoes, and small sailboats and rowboats, that can easily be stored on land, rather than on a dock.

Tenant (Bylaw 1.6.44): A tenant, lessee, renter, or other non-Owner occupant of a Lot who does not co-occupy the Lot with an Owner.

Valid Guest Pass: A small form obtained from the HMC Office, completed and signed by a Member, Tenant, roommate, or co-habitant in good standing whose name does not appear on the delinquent list, and which includes the Membership number. Trades and service persons on official HMC business must have a Guest pass signed by a Board member or the Island Manager.

Valid HMC Sticker: A vehicle, trailer, boat or other current HMC-issued sticker that can be read through the owner’s windshield or on the owner’s trailer, boat, or other vehicle. (If it is not readable it is not valid). The sticker must be current and affixed to the inside of the windshield, driver’s side, lower corner.

Violation (Bylaw 1.6.46): Any default by an Owner, Tenant, or other Resident under the Governing Documents, and any failure of an Owner, Tenant or other Resident to comply with any requirement or restriction of the Governing Documents or a decision of the Board adopted pursuant to the Governing Documents, including a decision made after any hearing required or permitted under the Governing Documents.

III. RULES

A. Mainland Property

The provisions of this subsection apply to the HMC property located adjacent to the mainland ferry dock south of the ferry access road that is used primarily for parking. Parking on that property is at the vehicle owner's own risk.

Parking on the Mainland Property is limited to vehicles belonging to HMC Members, Tenants, Guests, or employees, and to government, commercial, utility, or other vehicles whose drivers and passengers are visiting the island in connection with legitimate island business. Please lock your vehicles, and do not leave valuable items in them. Be aware that this parking lot sometimes floods during high tides!

Violation of any Rule in this subsection is a Class C violation.

- A-1** Vehicles may not be parked on the Mainland Property for longer than 72 hours without prior written approval from the Board or the Island Manager. Vehicles left on the Mainland Property for longer than 72 hours without prior written approval are subject to being towed at the vehicle owner's expense. Approval for parking for longer than 72 hours will not be granted on Holidays or over Holiday weekends.
- A-2** Cars, trucks, RVs, or motor homes parked on the Mainland Property and belonging to Members, Tenants, or HMC employees must display a valid HMC sticker, affixed on the lower driver's side corner of the windshield. Cars, trucks, RVs, or motor homes parked on the Mainland Property and belonging to Guests must display the stub of the Guest pass on the dashboard of their vehicle.
- A-3** Construction material and personal property may not be stored on the Mainland Property without prior written approval from the Board or the Island Manager. Such approval will not be granted on Holidays or over Holiday weekends..
- A-4** Garbage or debris of any kind may not be left on the Mainland Property, including inside the portable toilet(s). In addition to any fine that may be imposed, the actual cost to clean up any garbage or debris left on the Mainland Property will be assessed against the person(s) responsible for leaving the garbage or debris.

B. Ferry, Ferry Docks, and Ferry Users

The ferry and ferry docks are owned by HMC and are operated for the private use and benefit of Members and their Tenants and Guests, utility and service Contractors, and HMC employees. *At all times, the safety of passengers and crew is of paramount importance.*

HMC Management has adopted a Ferry Access Policy, which discusses vehicles, walk-ons, boarding, valid HMC vehicle stickers, Guest Passes, and denial of ferry privileges; this Policy can be found on the HMC Management website at www.herronisland.org. Ferry rates, schedules, low-tide ferry cancellations, holiday restrictions, and additional information can also be found on the HMC website, as well as in the Beachcomber; and in handouts available from the ferry crew or HMC Office.

If you encounter a verifiable road closure on the Key Peninsula Highway or Herron Road that would cause you to miss the last ferry of the day, you may call the ferry cell phone at (253) 691-1457 to arrange a special pickup at the regular charge.

Authority of the crew: The ferry crew has complete authority in enforcing all HMC Rules, Coast Guard regulations, other maritime and/or admiralty laws, and such other measures as are necessary to ensure safe and efficient operation of the ferry and docks. (46 CFR 185).

The crew and the Island Manager (to whom the crew reports) have the authority to take immediate action against an alleged violator, including removing the alleged violator from the ferry, calling law enforcement, filing a request for the issuance of a Temporary Restraining Order, or filing a formal Complaint.¹

Violation of any Rule in this subsection is a Class A violation.

- B-1** Ferry users must explicitly follow all instructions and directions given by crew members.
- B-2** Ferry users must not argue with and/or obstruct the crew in the performance of their duties. The Captain's decision and direction in any matter involving the ferry is final.
- B-3** Ferry users are not permitted to be on foot on the car deck while the ferry is loading and unloading. Unloading commences when a crew member begins to take down the safety line (rope) and barrier nets as the ferry approaches the dock. Loading is deemed to be complete when the ramp gate is closed.
- B-4** Once a vehicle is positioned on deck, the driver of that vehicle shall apply the parking brake fully and immediately shut off the engine. The driver shall not start the engine again until instructed to do so by a crew member.

¹ Members who wish to file a complaint against a crew member should do so directly to the Island Manager when the circumstances of the complaint are directly related to the crew member's conduct on the job.

- B-5** Drivers shall not use cell phones, laptops, or other electronic devices while driving onto or off the ferry.²
- B-6** Ferry users shall not smoke or consume alcoholic beverages while driving or walking onto or off the docks and ferry, or while on board the ferry.
- B-7** While driving on and off the ferry, drivers shall not carry a child, pet, groceries, or any other distraction on his or her lap or otherwise do anything that would cause the driver to be distracted from giving his or her complete attention to the crew's instructions or allow conduct within his or her vehicle that would cause the driver to be so distracted.
- B-8** No one except crew members or the Island Manager shall enter the wheelhouse or engine room of the ferry unless they are on an authorized mission or business purpose with the Captain's prior permission.
- B-9** Foot passengers:
- a. under the age of 13 must be under adult supervision at all times when on board, boarding, or leaving the ferry. If requested, a crew member may agree to provide this supervision.
 - b. aged 13 through 17 who are not accompanied by an adult must stay in the passenger cabin at all times until a crew member advises them that they may leave the cabin.
 - c. under the age of 18 who are accompanied by an adult are allowed on the ferry deck under the same conditions as adults only when the accompanying adult is present on the deck with the under 18 passenger(s).
 - d. who are on the deck shall remain behind the yellow safety line that is in place across the deck end(s). Note: the stern safety line (rope) is not always up because of oversized vehicles.
- B-10** Ferry users may not sit on the bulwarks (deck side rails), lean over rails, especially near the dolphins, or reach out to touch dolphins or pilings while the ferry is moving.

² See also, RCW 46.61.667 - Using a Wireless Communication Device While Driving; RCW 46.61.668 - Sending, Reading or Writing a Text Message While Driving.

C. Herron Island Roads.

Except as indicated, violation of any Rule in this subsection is a Class B violation.

- C-1** Except as otherwise set forth in these Rules, all persons operating motorized vehicles that are required to be licensed for use on a public highway on Herron Island roads 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 these Rules.
- C-2** Drivers must have a valid driver's license for driving any type of motorized vehicle (*e.g.*, car, truck, golf cart, all terrain vehicle, motorbike) on the paved portion of Ferry Road and for driving onto and off the ferry on both the mainland and island. (Class B). Drivers shall not carry a child on their lap for any purpose while driving in these areas. (Class A).
- C-3** Drivers shall not operate their vehicles at a speed in excess of 15 mph on Herron Island roads. Members shall inform their Guests of this speed limit and its importance for the safety of pedestrians and other vehicle operators, for dust control, and for the protection of children, pets, and wildlife.
- C-4** Drivers of motor vehicles must yield the right of way to non-motorized vehicles (including bicycles), pedestrians, and animals (including deer and domestic pets).
- C-5** All motorized vehicles operated on Herron Island roads must prominently display a valid HMC sticker or a valid Guest pass on the dashboard or, in the case of motorcycles, on the front fender.
- C-6** All vehicles operated on Herron Island roads must comply with the noise restrictions contained elsewhere within these Rules.
- C-7** Vehicles shall not be parked on Herron Island roads or on HMC rights-of-way (Class C). Vehicles that are parked upon and/or blocking Herron Island roads or HMC rights-of-way are subject to towing and removal from the island at the vehicle owner's expense.
- C-8** Vehicles left on the island-side ferry parking area for longer than 24 hours without prior written approval from the Board or the Island Manager are subject to being towed at the vehicle owner's expense.

C-9 Ditches and Culverts

a. Owners shall maintain ditches and culverts between their property and the maintained roadway to keep them flowing freely and to prevent erosion and flooding (Class C). Work done by property Owners to keep roadside ditches and culverts clean does not require a permit or permission from HMC.

b. Ditches may not be covered over and culverts may not be installed without the prior written approval of the Board or the Island Manager after the submission of plans for the work.

C-10 Owners who desire to do work or have work done on Herron Island roads or within any HMC-owned road right-of-way, other than maintaining ditches and culverts per Rule C-9, and whether the work is done on part of the maintained roadway or not, must first obtain written approval from HMC, as evidenced by an Encroachment Permit (HMC Form 11), available from the HMC Office.

C-11 Owners shall keep grass and other groundcoverings on the roadside between their property and the maintained roadway clean and trimmed. If an Owner does not maintain this area clean and trimmed, HMC may perform the maintenance and charge the Owner for the work. (Class C)

Note: Failure to keep grass trimmed could create a fire hazard; a cigarette improperly disposed of in the grass can easily start a fire.

C-12 No one shall place a sign or signs on Herron Island roads or rights-of-way without prior written approval from the Board or Island Manager. (Class C). HMC may remove all unauthorized signs.

C-13 No one shall remove or trim trees on any portion of the HMC right-of-way without prior written approval from the Board or Island Manager. (Class A).

D. Community Building

The provisions of this subsection 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. *The Community Building is also the meeting site in case of island-wide disasters.*

Violation of any Rule in this subsection is a Class C violation.

- D-1** Only fire district personnel and qualified firefighting volunteers operating under the direction of fire district personnel are authorized to operate the engine and equipment. In order to accommodate HMC meetings, group activities, and events, however, the fire truck may be moved in and out of the building by persons designated by Fire District No. 16.

- D-2** Smoking is not permitted in the Community Building or within 25 feet of any entrance to the Community Building. Smokers who smoke outside the Community Building must properly extinguish and dispose of spent smoking material and matches.

E. Parks, Beaches, North Beach Boat Docks, and Other Common Areas

This section applies to all Island parks and Common Areas dedicated to the recreational use of and enjoyment by Members, Tenants, and Guests. These include such areas as the North Beach Park, Goodpastor Park and associated wetlands, the undeveloped South Beach, and the undeveloped Nature Park.

The North Beach Park is located on the northeast corner of the Island, and includes the North Beach Boat Docks (available during the summer months), a boat launching ramp, a designated swimming area, a picnic shelter with associated tables, benches and barbecue sites, a playground area, a single designated fire pit, an area for horseshoe pitching, and portable toilet facilities. On this beach, Members, Tenants, and Guests may picnic, beach comb, fish, dig clams, and catch crabs.

The North Beach Boat Docks, launch, and beach areas are private property owned and maintained by HMC for the exclusive use and benefit of Members and their Guests. The privilege of using the North Beach Boat Docks, launch, and beach area is conditional upon compliance with the terms of these Rules and any instructions posted by HMC.

Goodpastor Park is located near the center of the Island and has playground equipment, a basketball court, a baseball field, wetlands, and an open field sports area for games such as volleyball.

The Nature Park is undeveloped and is located south of the Community Building on West Yew Blvd.

The South Beach Park is an undeveloped area located at the south end of the Island, and connects by trail to South Herron Blvd. at the southwest corner of the Island. On this beach, Members, Tenants, 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.

ANY PERSON SWIMMING IN THE WATERS SURROUNDING HERRON ISLAND, USING THE NORTH BEACH BOAT DOCKS, OR USING ANY OF THE COMMON AREAS ON HERRON ISLAND DOES SO AT HIS OR HER OWN RISK.

Violation of any Rule in this subsection is a violation of the Class indicated within the Rule.

E-1 Motor vehicles may not be operated on park beaches, trails, lawns, or playfields, with the exception of lawn mowers or construction equipment as authorized in advance by HMC. Motor vehicles are prohibited in all park areas except those areas designated for parking. (Class A).

E-2 Motor vehicles may not be parked within Herron Island Parks parking lots for longer than 24 consecutive hours. Motor vehicles left in Herron Island Parks parking lots for longer than 24 consecutive hours are subject to being towed at the vehicle owner's expense. Motor vehicles may not be parked overnight in Herron Island Parks parking lots on Holidays, over Holiday weekends, or overnight on the evening of July 4th. (Class B).

- E-3** Boat trailers may not be parked overnight within any HMC Common Area. Boat trailers may not be parked at any time within any HMC Common Area on Memorial Day weekend, Labor Day weekend, or on July 4th. (Class B).
- E-4** Overnight camping of any type is prohibited in all parks and Common Areas. This includes overnight camping in RVs, fifth-wheels, or in any other vehicles. (Class C).
- E-5** Beach gravel or sand may not be removed from Common Areas. (Class B) (Note: The Washington Shoreline Management Act also governs the removal of sand and gravel from any beach.)
- E-6** Members, Tenants, and Guests must maintain Common Areas in a clean and orderly manner and place litter in designated containers or take it away when leaving any Common Area. (Class B).
- E-7** Except as otherwise stated in these Rules, personal property (property not belonging to HMC) may not be stored or left unattended in parks or other Common Areas for more than twenty-four (24) consecutive hours. (Class B).
- E-8** Dumping of personal items is prohibited in all Common Areas. (Class B). This prohibition also applies to leaving items with a “free” sign on them.
- E-9** Dumping of trash of any kind into the HMC portable toilet facilities or onto any Common Area is prohibited. (Class B).
- E-10** No structures may be erected or signs posted in Common Areas without prior written authorization by the Island Manager or Board. (Class C).
- E-11** Swimming is prohibited in the vicinity of the North Beach Boat Docks and in the boat launching area. (Class C). Swimming at the North Beach Park and surrounding areas is allowed only in the area(s) designated by float lines. (Class C).
- E-12** Water skiing and jet skiing is prohibited in the vicinity of the North Beach Park boat launch and the North Beach Boat Docks, and within swim areas. (Class B). Note: Water skiers and jet skiers are encouraged to use the area extending southward from the Sand Spit.
- E-13** No watercraft may be used within the North Beach Park swim area(s) designated by float lines, except for personal “watercraft-style” flotation devices. (Class A).
- E-14** All Member boats must have a valid HMC sticker prominently posted near the operator’s station or the bow. (Class C). Member boat trailers must also display a valid HMC sticker in a prominent location near the trailer’s tongue. (Class C). Any Guest boat using the North Beach Boat Docks must display a valid Guest pass in a prominent location so it is visible from the dock. (Class C).

E-15 Vessels and personal watercraft shall not be operated at a speed in excess of 5 knots (roughly 5 mph) (no wake) unless they are being operated beyond any no-wake buoy markers or greater than 300 ft. beyond any HMC common areas, including the North Beach Boat Docks, boat launch, ferry docks, North Beach or South Beach areas. (Class B).

E-16 Vessels and personal watercraft may not be tied up to community pilings or dolphins (Class C).

E-17 North Beach Boat Docks.

a. Boats 32 ft. in length or less may load, unload, and/or moor at any dock at the North Beach Boat Docks. Boats exceeding 32 ft. in length may not use the North Beach Boat Docks except as set forth below. (Class B).

b. Boats of any length may use the designated load/unload zone for a period of no more than one (1) hour. (Class B).

c. Boats may only be docked at the North Beach Boat Docks (in any location) for a continuous period of no more than twenty-four (24) hours. (Class B). This Rule shall not apply during any period of time during which the ferry is out of service.

Example of Permissible Use: Daily use of your boat, including a spin around the island, or boating over to the mainland or out into an inlet.

Example of Impermissible Use: Tying one's boat at the North Beach Boat Docks and moving it from spot to spot, or placing a boat on the dock and leaving it there day after day.

d. Only one boat per Membership (including Guests of Members) may be moored at the North Beach Boat Docks at any one time. (Class B). This restriction does not include boats using the designated load/unload zone. Fires of any sort, including grills, barbecues, and fireworks, are prohibited at the North Beach Boat Docks. (Class A). When on the docks at the North Beach Boat Docks, use extreme caution when lighting cigarettes, cigars, pipes, etc.

e. Smokers shall not dispose of spent smoking materials (*e.g.*, cigarette butts) at the North Beach Boat Docks or in the water. (Class C). Smokers must remove their spent smoking material from the North Beach Boat Docks. (Class C).

E-18 Boat Moorage and Storage at North Beach Park (other than at the North Beach Boat Docks)

Storage of small boats on HMC property is at the boat owner's own risk. HMC is not responsible for any boats stored on HMC property.

- a. Between April 1st and September 30th, Members may only store actively used small boats on the beach along the eastern waterfront of the North Beach Park that lies between the south boundary of the Park and the location of the southernmost bench on the waterfront. Small boat storage is prohibited in other areas of the North Beach Park. (Class B). To provide more space for all boaters, boaters should store their small boat perpendicular to the shoreline.
- b. Between October 1st and March 31st, Members may not store small boats on the beach at the North Beach Park. (Class B).
- c. Throughout the year, boats may be moored using mooring or anchor lines along the waterfront in the area extending southward from the Sand Spit along the east side of North Beach Park. Such moorage is prohibited in other areas of North Beach Park. (Class B).
- d. During the period in which the North Beach Boat Docks floats are removed from the water and stored at the North Beach Park, boats may also be anchored along the waterfront in the area between the Sand Spit and the boat launch. Small boat storage on the North Beach Park lawn or in the North Beach Park parking lot is prohibited. (Class B).

F. Prevention of Fires and Smoke Pollution (AMENDED JULY 2022)

Island property is particularly susceptible to damage from uncontrolled fires because of our extensive wooded areas and limited fire protection facilities. Therefore, it is extremely important that proper precautions be taken with any fire on the Island, especially open fires, including but not limited to adherence to the following Rules.

Violation of any Rule in this subsection is a Class A violation.

- F-1** Everyone must comply with all requirements and restrictions on open fires imposed by the State of Washington and Pierce County. Note: This information can be obtained by calling the Fire District No. 16 headquarters at Key Center at (253) 884-2222, or from the following websites:

Key Peninsula Fire Department - www.keypeninsulafire.org

Pierce County Fire Marshal - www.co.pierce.wa.us/pc/abtus/ourorg/dem/fireprev.htm

Puget Sound Air Pollution Control Agency – www.pscapca.org

- F-2** Everyone must comply with all additional requirements and restrictions imposed by the Board during critical fire danger conditions. Note: Given the special conditions and inaccessibility of the island, the Board has the authority to declare, and later rescind, a burn ban that is more strict than one imposed by the State or County. In fact, the Island may be subject to a burn ban even if the rest of Pierce County does not have a burn ban in effect.

The Board may declare restriction levels based on color: Yellow (medium risk), Orange (high risk), and Red (very high risk). Restrictions on burning may include, but are not limited to, the following:

Medium Risk (Yellow)

- Wood fire pits allowed
- North Beach Fire Pit allowed
- Gas and propane barbeques, self-contained camping stoves, and fire pits allowed
- Fireworks permitted on the Fourth of July at North Beach
- Burning of Yard Debris restricted
- Charcoal Barbeques restricted
- Torches restricted

High Risk (Orange)

- Gas/propane barbeques, self-contained camping stoves, and fire pits allowed
- Wood fires, including fire pits, restricted
- Charcoal barbeques restricted
- Torches may be restricted
- Fireworks on the Fourth of July restricted
- All restrictions from Medium Risk (Yellow) list apply

Very High Risk (Red)

- No open flames of any type allowed
- No Fireworks on the Fourth of July if in effect
- All restrictions from Medium Risk (Yellow) and High Risk (Orange) apply

F-3 Any necessary fire permits must be obtained from Pierce County Fire District No. 16 prior to initiating an open fire.

F-4 All open fires must have a person present at all times, be within hose reach of a water source, and be completely extinguished (such as doused with water) before leaving the immediate area.

F-5 **FIREWORKS ARE PROHIBITED ON HERRON ISLAND.**

Exception: Legal fireworks are permitted at the designated area at the North Beach Park between dusk and midnight on the Fourth of July only.

F-6 Fires are prohibited on South Beach and at the South Beach Park. Open fires are prohibited in other Island parks and other Common Areas unless specifically authorized in advance by the Board or the Island Manager or when confined to the community fire pit at North Beach Park.

F-7 Fires shall not be maintained in any manner that creates a smoke nuisance for any person (i.e., “smoking out” one’s neighbor). If any person directly affected by smoke coming from a fire complains to the person responsible for starting or maintaining the fire, the responsible person must immediately extinguish the offending fire.

G. Conduct of People and Pets

Members are responsible for the conduct of their family members, Tenants, Guests, Contractors, and pets while on the island or other HMC property. All federal, state, and county laws apply on the Island as they would elsewhere in Pierce County and Washington State. Any person who poses a threat to the health, safety, or well-being of any other person, pet, wildlife, or property on the Island or to the property of HMC may be subject to civil lawsuit or criminal prosecution as applicable. In addition, any non-Member or pet that poses a threat to the health, safety, or well-being of any other person, pet, wildlife, or property on the Island or to the property of HMC may be expelled or banned from the Island by action of the Board.

A long-standing custom on Herron Island has been to allow any Member, Tenant, or Guest to walk along any part of the Island's beach area. 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 those properties. Any such use without Owner permission may constitute a trespass onto private property.

Trespassing onto private property is prohibited by State and County law; please respect private property. Owners may call law enforcement or file a civil lawsuit in response to trespassing violations or in response to vandalism, etc., of real or personal property. HMC does not enforce or intervene in matters involving trespass onto private property or vandalism of real or personal property except to the extent that such trespassing or vandalism involves or affects property owned by HMC. HMC does not enforce these types of matters between Owners.

Violation of any Rule in this subsection is a violation of the Class indicated within the Rule.

- G-1** No one shall destroy, vandalize, or otherwise damage any HMC property or facilities on Herron Island in any way. (Class A). Examples include but are not limited to unauthorized construction activities on HMC Lots or road right-of-way, unauthorized removal or trimming of trees on HMC property, graffiti and driving on the beach or in park areas other than those designated for parking. In addition to the remedial actions set forth in these Rules, HMC may prosecute alleged perpetrators to the full extent of the law. Rule K (Damages to HMC Property) may also apply.
- G-2** No one shall disrupt an official HMC meeting or HMC office operations in such a way that prevents business from being conducted in a safe or efficient manner. (Class A). Note: State law allows HMC Members to attend open Board meetings as observers, and the Board has traditionally encouraged courteous, polite comments and questions from Members at Board meetings.
- G-3** Owners must either arrange garbage pick-up service or remove their trash and garbage when they leave the Island. (Class B).
- G-4** No one shall deposit their household trash/garbage in HMC garbage receptacles or in HMC areas or right-of-ways. (Class B). No one shall burn trash or garbage on the Island. (Class B).

G-5 (AMENDED JULY 2022) Dog owners must maintain control of their pets on all property of the Island, in both private properties and Common Areas, so that the pets cause no harm and are not a nuisance to wildlife and people. Dogs must be leashed at all times in Common Areas when people or other animals are present. (Class B). Dog owners must “scoop their dog’s poop” and dispose of it with their own trash. (Class C).

H. Public Disturbance and Public Nuisance Noise

Noise pollution disrupts the peace and serenity of our surroundings, impacts our quality of life, and depresses the value of our properties. Please be considerate of your neighbors on the Island.

The Pierce County Code makes unlawful any excessive continuous or intermittent noises that interfere with the use, value, and enjoyment of property, and which pose a hazard to the public health, safety, and welfare. Pierce County Code § 8.72.090 defines Public Disturbance Noise and, in part, prohibits frequent, repetitive, or continuous sounds made by any animal or machinery, vehicles, and sound amplifiers that “unreasonably disturb or interfere with the peace, comfort, and repose of property Owners or possessors.” Pierce County Code § 8.72.100 defines Public Nuisance Noise, and prohibits “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.”

Violation of any Rule in this subsection is a Class B violation.

H-1 No one shall emit or cause to be emitted any noise of any nature that can be heard beyond a Member’s Lot between the hours of 10:00 p.m. and 8:00 a.m Sunday through Thursday or between 11:00 p.m. and 8:00 a.m. on Friday and Saturday. Examples of such noises include: loud voices or music, barking dogs, noise from construction equipment and construction activity, and noise from vehicles, chain saws, lawn mowers, and other yard and garden equipment. *Exception:* Board sanctioned activities, such as annual Fourth of July activities at North Beach Park.

H-2 No one shall emit or cause to be emitted at any time any Public Disturbance Noise (PCC § 8.72.090) or Public Nuisance Noise (PCC § 8.72.100).

I. Water and Sanitation

The Island's water supply is a valuable and limited resource and our water system is itself a valuable Island asset. Conservation 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 Herron Island main supply lines.

Except as indicated, violation of any Rule in this subsection is a Class A violation.

- I-1** Everyone must comply with the Pierce County Code (PCC), including PCC § 8.36 (On-Site Sewage Disposal Systems), which applies to all property on the Island.
- I-2** Sanitary systems in travel trailers and RVs must be completely self-contained or be connected to a previously approved and operational septic system.
- I-3** Trailers and RVs may only be brought to and used on Herron Island with the written approval of HMC through the use of a valid signed "Recreational Vehicle Certification" (Form 13) obtained from HMC. Trailer and RV certificates shall be valid for one year from the date of their issuance and shall automatically expire at that time unless renewed with HMC. Trailers and RVs must comply with all provisions set forth in HMC Form 13.
- I-4** Washing of vehicles, RVs, and travel trailers may only be done on an Owner's private property and only using water through that Owner's water connection. HMC water sources may not be used for washing except for a quick rinse of a boat when taking it out of the water at the North Beach Boat Docks. (Class C).
- I-5** Owners shall notify the HMC Office prior to making any alteration to their water connection or water system on their Lot. The HMC Office may direct that the affected Owner complete a new certification using the Herron Island Water Cross Connection Checklist required by the Herron Island Cross Connection Control Program.
- I-6** No one shall connect to, remove, relocate, alter, tamper with, or otherwise disturb any water piping or components located on HMC property, including the HMC road right-of-way, without the written approval of HMC.
- I-7** No one shall willfully or recklessly destroy, disturb, break, deface, damage, or vandalize any portion of the Herron Island Water System or other property of the Herron Island Water Department or otherwise interfere in any manner with the proper operation of the Herron Island Water System. This includes such conduct related to any fire hydrant, water meter, valve, water pipe, other connections or appurtenances, water building or structure, or Herron Island Water Department grounds or improvements thereon. Examples of prohibited conduct include but are not limited to damaging service Connections or meters, cutting off locks without HMC permission, and spray painting graffiti on any portion of the Herron Island Water System. In addition to fines imposed by these Rules, any person found to have violated this Rule shall be liable to pay the actual cost of correcting damage or replacing equipment damaged as a result of such conduct.

- I-8** Under certain circumstances and for limited periods, HMC may prohibit non-essential uses of water (such as watering lawns or car washing). During these periods, water may be used only for permitted purposes and in a manner that does not violate the prohibition in effect. (Class C).
- I-9** If HMC has shut off water to a Lot and locked the supply due to delinquent payments for water, no one shall turn the water back on or cause the water to be turned back on by other parties without the express permission of the Island Manager or the Board. (Class B).
- I-10** No one shall interfere with the lawful duties of HMC or Herron Island Water Department Staff. Such conduct includes but is not limited to harassment, conveying threats, preventing meter readings, parking cars over meter boxes, filling meter boxes with debris of any kind, or other such acts. (Class B).
- I-11** No one shall, by any means, prevent direct access to any water meter, fire hydrant, or other part of the Herron Island Water System for the purposes of repair, reading, and inspection, whether or not any advance notice is given for such access.
- I-12** No one shall open or tamper with fire hydrants in any way, except as required in a bona fide emergency or as otherwise authorized by the Island Manager or the Board.
- I-13** Everyone shall abide by the Rules and Policies set forth by the Administrative and Operating Rules of the Herron Island Water Department, as may be adopted by and amended from time to time by the Board. (Class C). In addition to the penalties imposed by these Rules with regard to the Herron Island Water System and the Herron Island Water Department, additional administrative penalties may be imposed as set forth in the Administrative and Operating Rules of the Herron Island Water Department.

J. Firearms and Wildlife

Violation of any Rule in this subsection is a Class A violation.

J-1 The discharge or use of lethal weapons is prohibited on Herron Island except as otherwise permitted by law. Examples of such lethal weapons include but are not limited to firearms, crossbows, and bows and arrows.

J-2 No one shall brandish any weapon in a threatening manner except as otherwise permitted by law.

J-3 Hunting, harassing, injuring, or killing wildlife is prohibited everywhere on Herron Island. Title 77 RCW also controls the treatment of fish and wildlife.

Exceptions: Weapons may be used to put down injured animals or animals that pose an immediate threat to the safety of people or to put down an obviously sick or dying animal on private property.

J-4 Members shall not move dead wildlife from their property onto HMC property or to the HMC road right-of-way; disposal of dead wildlife on HMC property or in the HMC road right-of-way is prohibited. Dead wildlife shall be disposed of in accordance with WAC 246-203-121.

K. Miscellaneous; Damages to HMC Property

In addition to any of the fines set forth in these Rules, the HMC Board or the Rules Committee, following a hearing, may impose an additional Assessment secured by lien for restitution of any damages to HMC property.

IV. RULES COMMITTEE, MEDIATION, ENFORCEMENT, AND PENALTIES

A. Overview

1. HMC Management, HMC Members, employees, Tenants, or agents may submit a Complaint to the Rules Committee alleging the violation of any HMC Bylaw, Rule, and/or Policy. Neither the Complainant nor Respondent can be anonymous on a filed Complaint.

2. The Rules Committee will consider the Complaint and evidence, may attempt mediation, and may hold a hearing and prepare findings.

3. If the Rules Committee finds that a person has committed a violation, it may impose a fine or negotiate a resolution.

4. Either party may appeal the Rules Committee's findings and decision to the full Board unless HMC is the Complainant.

5. The Board hears appeals, and also hears expedited matters that bypass the Rules Committee (see "Expedited Procedures" below).

6. Whether a matter is before the Rules Committee or the Board, if there is an actual conflict of interest, or even the appearance of a conflict of interest involving any Board or Committee member, the affected Rules Committee and/or Board member may participate in mediation with both parties' permission, but must recuse him or herself from hearing and deciding upon a contested matter.

7. Informal dispute resolution is encouraged. Although not required, parties are encouraged to informally attempt resolution before submitting a written Complaint. For example, a potential complainant could consider inviting the other person over for a cup of coffee to "talk things over" before filing a formal Complaint.

B. HMC Rules Committee

1. **Duties and authority.** As set forth in HMC's Articles of Incorporation and Bylaws.

2. **Composition.** The Rules Committee consists of a minimum of three Members in good standing who are designated by the HMC Board. The Rules Committee shall appoint a Chair and Secretary from among its members. 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.

3. **Duties**

a. The Chair shall report Rules Committee actions at each regular monthly Board meeting; convene meetings of the Rules Committee; ensure that all timelines are met with respect to adjudication of matters before the Rules Committee; and ensure Rules Committee decisions are properly made.

b. The Committee shall follow all procedures laid out in these Rules, and hear and decide all formal Complaints concerning violations of the HMC Rules or of any decision of the Board as provided in the HMC Bylaws.

c. Upon a finding of a violation, the Rules Committee shall:

i. Take actions provided for in Section 8.2 of the HMC Bylaws and in these Rules.

ii. Levy and impose a reasonable fine as provided in these Rules as it deems appropriate, in an amount no greater than the maximum amount established by these Rules.

d. The Committee shall periodically review these Rules and propose to the HMC Board any recommended changes to these Rules.

C. **Complaint Process**

1. **Written Complaint.**

a. **Complaints Authorized.** HMC agents, employees, Members, and Members' Tenants or Guests may file a written Complaint as set forth below. A Complaint form may be obtained from the HMC Office or from the HMC website.

b. **Contents of the Complaint.** At a minimum, a Complaint should include the following information:

i. Date of the Complaint;

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 (this is suggested, but not mandatory);

vi. Statement of the specific provisions of the Rules, Bylaws, or decision of the Board that the Complainant alleges the Respondent has violated; and

vii. Resolution requested from the Rules Committee.

c. **How to File a Complaint.** A written Complaint may be filed by transmitting it to the HMC Office via mail, email, fax, or hand-delivery.

d. **Deadline for Filing a Complaint.** Complainants must file any Complaint within thirty (30) calendar days after the date of the alleged violation. The Rules Committee may extend the deadline for good cause.

2. Actions the HMC Office will take when it receives the Complaint.

- a. Assign a number to the Complaint (*e.g.*, “2013-04”);
- b. Note on the first page of the Complaint the complaint number and the time and date of receipt; and
- c. Forward a copy of the Complaint to the Rules Committee.

3. Actions the Rules Committee will take when it receives the Complaint from the HMC Office.

- a. Within 30 calendar days from the date of receipt, serve a copy of the complaint and a referral to this section of the Rules upon the Respondent as follows:
 - i. If the alleged violator (Respondent) is an Owner or a non-Owner resident, Tenant, or Guest: HMC will serve the Owner by mailing a letter and the Complaint to the address that the Owner has registered with HMC.
 - ii. If the alleged violator is an HMC Board member or staff member, service upon HMC will be made by serving the Island Manager, President, or Secretary of the HMC Board at the HMC Office address.
- b. Send the Complainant a copy of what the Committee sends to the Respondent.

4. Other Provisions

- a. Service by mail 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 “Method of Giving Notice” Section of the HMC Bylaws.
- b. No order adversely affecting the Respondent’s rights may be made in any case unless the Respondent has been served as provided for in these Rules.
- c. Upon receipt of the Complaint and other materials, the Respondent may send the Rules Committee a response, and must serve the Complainant with a copy of anything it sends to the Rules Committee.

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. He or she will also ascertain whether the Respondent plans to file a response (if not already submitted), and whether either or both parties are interested in participating in informal mediation in an attempt to settle a matter.

2. Notice of Respondent's Rights and Hearing. At least fourteen (14) 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 may be required to 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. The Respondent may object to the complaint in writing on the grounds that the Rules Committee has no jurisdiction, the complaint is too vague, or that the Respondent is not in violation of the applicable Rule or Bylaw. This objection 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.

a. No later than ten (10) days prior to the hearing, the Complainant may file an amended or supplemental complaint with the Rules Committee.

b. The Complainant must also serve a copy of the amended or supplemental complaint on the Complainant at the same time.

c. The Respondent may respond to any amended or supplemented complaint received.

7. Pre-Hearing 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. You may simply request a copy of the Rules Committee's File, and specify whether you would prefer a photocopied or scanned copy.

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, if any, to be imposed on non-compliance with the order.

E. Hearing

(Rules Committee's Hearing Procedure/What to Expect)

1. Who must be present?

a. The Rules Committee Chair, or, in the Chair's absence, the Board-appointed Chair Pro Tem.

b. A Rules Committee quorum, made up of the Chair or Pro Tem Chair, and two Rules Committee members or pro tem members appointed by the Board.

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. If the Respondent fails to appear, he or she will lose the opportunity to present his or her case.

d. The Complainant does not have to appear, but he or she will lose the opportunity to present his or her case if he fails to appear. Moreover, the Rules Committee may, in its discretion, reschedule or terminate the matter.

e. Upon not less than seven days advanced notice, any party or witness may appear at the hearing through electronic means such as telephone, Skype, or other types of conferencing technology. The Rules Committee members themselves may also participate through these electronic means.

2. Failure to Appear at Scheduled Hearing: The Rules Committee, as part of its hearing record, will record why it chose which of its two options:

The Rules Committee may conduct a hearing even if one or more parties fail to appear at a scheduled hearing³. If one or more parties fail to appear at a scheduled hearing, the Rules Committee may either (1) conduct the hearing, receive evidence, hear evidence from the other party, and issue a decision in the matter, or (2) the Rules Committee may, in its discretion, reschedule the hearing or terminate the complaint.

³ Where that party, prior to the hearing, has failed to show good cause why the hearing should be rescheduled.

3. How is the hearing conducted?

- a. The hearing will be informal.
- b. All documents, including photographs and maps, must be presented to the hearing officers and other side prior to the beginning of the hearing.
- c. The parties must remain civil at all times. Each party must wait until it is his or her turn to speak.
- d. In case of a conflict of interest or the appearance of conflict of interest, a member of the Rules Committee must recuse him or herself from participating in the hearing and deciding a contested matter. Either party may move for recusal of one or more members by providing evidence of the reason it should be done.
- e. The Chair shall appoint one member of the Rules Committee to take notes and another to tape-record the hearing.
- f. Parties and audience members may record the proceedings as well.
- g. The Chair or Chair Pro Tem shall preside over the hearing and make any necessary rulings regarding evidence, witnesses, or other matters.
- h. At the beginning of the hearing the Chair will explain the rules and procedures by which the hearing is to be conducted.
- i. Following the Chair's instructions, and beginning with the Complaint, each party will address the Committee and make an opening statement setting forth his or her version of the case. Opening statements are limited to ten minutes.
- j. After each side makes opening statements, the parties may "put on their case." The Complainant goes first and may produce evidence, witnesses, and testimony. When the Complainant finishes with each witness, the other party(ies) is entitled to cross-examine any witnesses, including the opposing party(ies).
- k. 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.
- l. 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 or denied in the discretion of the Rules Committee.

m. Each party has the right to representation by counsel at his or her own expense.

n. 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.

o. The Rules Committee may expel any person from any hearing for improper, disorderly, or contemptuous conduct.

4. Rules of Evidence. The following rules of evidence will apply to proceeding before the Rules Committee:

a. Any relevant evidence that 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 the 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.

5. Decision and Order.

a. If an “Assurance of Voluntary Compliance” or other type of settlement agreement cannot be worked at by the end of the hearing, 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 and order shall:

i. Be in writing;

ii. List the evidence considered;

iii. List who was present at the hearing;

iv. List the Committee’s findings of facts;

v. List any Rules or Bylaws, or other that the Committee finds that the Respondent has violated, if any;

vi. Set forth any order, if any;

vii. Set forth any fees, consistent with these rules.

viii. The Rules Committee's decision and order will become effective when it, 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.

b. Any fine imposed by the Rules Committee:

i. May not exceed the maximum amount set by the Board;

ii. May be suspended in part or whole, as part of a Voluntary Assurance Agreement;

iii. 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;

iv. May include a provision that the non-prevailing party shall reimburse HMC's costs in connection with the proceeding;

v. May include the cost for the repair of damages caused to HMC property;

vi. Will be the Respondent's personal obligation;

vii. Will constitute a lien upon the Lot owned by that person; and

viii. May be collected in the manner provided in Article 9 of the HMC Bylaws.

c. 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: Either party may appeal a Rules Committee decision to the Board unless HMC is the Complainant.

2. How to appeal: The appellant must submit a written notice of the appeal to the HMC Board, and serve all other parties with the notice. The written Notice of Appeal must include:

a. The parties' names;

b. The case number; and

c. An explanation of what specific errors the appellant alleges that Rules Committee made in its written decision/order. The explanation must be based solely on the facts and arguments presented to the Rules Committee. No new facts or testimony may be presented in an appeal to the Board unless the Board agrees, pursuant to a motion, and upon a finding of good cause.

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 the HMC Office will take in Response to Appeal.

a. Note on the first page of the appeal the time and date of receipt;

b. Use the same case number as before, but add the letter "B" (for Board) to the case number;

c. Set a date for the appeal hearing; and

d. Serve the parties as described under the Rules Committee's hearing process, above.

5. Appellate Hearing Before HMC 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. 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. 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 HMC Bylaws to expel, ban or prohibit from the Island and any of the Common Areas and HMC'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 TRO granted without notice must:

a. Be in writing, and have an effective date signed by the HMC Board Chair or his or her delegate acting on behalf of the HMC Board;

b. Describe the injury or potential injury and state why it is irreparable;

c. State why the order was issued without notice;

d. Expire no more than 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;

e. Set a hearing date between seven and fourteen days after the TRO's effective date to determine whether to rescind the order, continue the order, or take other action as appropriate; and

f. Be served upon the Respondent in the manner described in the Rules Hearing subsection, above, by placing a copy of the TRO into the mail as described above.

4. The Respondent may request that the hearing date be rescheduled. He or she should do so in writing if he or she wants a record of the request.

5. The Respondent may provide any response he or she desires, such as witnesses, documents, a statement, and so forth.⁴

6. The TRO and record of the mailing of the notice will immediately be filed in HMC's records.

H. Schedule of Fines

Violations of the Rules are classified as A, B, and C. The maximum fines for each class of violation, per numbers of offense, are specified below.

The Board or the Rules Committee has the authority to impose fines that are less than the maximums shown below 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 3rd offense may be determined by action of the Board in its discretion.

MAXIMUM FINES per Class			
Violation	1 st Offense	2 nd Offense	3 rd Offense
<u>Class A</u>	\$1,000	\$2,000	\$5,000
<u>Class B</u>	\$500	\$1,000	\$2,000
<u>Class C</u>	\$100	\$200	\$300

⁴ See the Rules Hearing information on responding to a complaint.