

# **HARBOR ISLAND OWNERS ASSOCIATION ARCHITECTURAL CONTROL COMMITTEE RULES & REGULATIONS**

An application to the Architectural Control Committee (ACC) must be submitted if you plan to commence new construction; remodel or renovate the exterior of a home; or to landscape.

The ACC meets on the second and fourth Friday of each month at 8:30 a.m. in the HIOA Office Conference Room, unless otherwise notified. All submissions are required to be in the HIOA Office two business days in advance to be placed on the agenda. Incomplete submissions will not be accepted. Proper planning is essential as submissions will only be reviewed and approved at the meetings. Do not commence your work until you have obtained ACC approval, or you will be fined. All criteria must be met before approval is granted. All communications must be made through the HIOA Office and must be made in writing, via e-mail, fax or mail.

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**HARBOR ISLAND OWNERS ASSOCIATION  
ARCHITECTURAL CONTROL COMMITTEE  
GUIDELINES AND RULES**

**INTRODUCTION**

**ARCHITECTURAL CONTROL COMMITTEE:** The Architectural Control Committee (ACC) is established under recorded covenants for Harbor Island, and all applicable sections under that document will apply, as well as any amendments made thereto. The ACC consists of three (3) voting members who are appointed by the Harbor Island Owners Association (HIOA) Board of Directors and serve at the Board's pleasure. Any ACC member may be removed for cause, in writing, and a replacement will be appointed by the Board. This Committee shall be informally known as the Architectural Control Committee (ACC).

**PURPOSE:** To establish and preserve a harmonious and aesthetically pleasing design for Harbor Island, and to protect and promote the value of the Island, lots and dwellings. All improvements located therein or thereon, shall be subject to the restrictions set forth in this document. Every grantee of any interest in Harbor Island, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this document.

**PERMITTED IMPROVEMENT:** No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any part of the Island, except such improvements as are approved by the ACC. The ACC may reject a proposal purely for aesthetic considerations without citing specific objections if, in the sole judgment of the ACC, the project is not consistent with the intent and objectives of ACC standards. The tenets of nature preservation, design compatibility, property enhancement, covenant requirements and the ACC Rules will be the criteria upon which decisions are made.

**MEETINGS:** The meetings are now held on the second and fourth Friday of each month at 8:30 a.m. in the Conference Room of the HIOA Office Building. Two business day's notice is required to have plans placed on the agenda. Owners and/or contractors are encouraged to attend. Please inform the Office in advance if someone will attend.

**NEW CONSTRUCTION**

**BEGINNING CONSTRUCTION WITHOUT ACC APPROVAL:** Beginning any construction or improvements requiring ACC approval without receiving such approval in writing, will subject the owner to a fine and possible removal of the construction or improvement at the owner's expense.

**LENGTH OF TIME FOR CONSTRUCTION OR REMODEL:** All improvements, including landscaping, must be completed within twelve (12) months after construction has commenced. Exceptions to this time limit may be allowed in cases of hardship to the owner or builder due to strikes, national emergencies, fires, floods, lightning or other casualties. In the event such completion is not accomplished within the stated time frame, the ACC shall be entitled to collect on or enforce the proper completion of any improvements, and the owner may be subjected to penalties, including monetary fines. If new construction has not commenced within one year of ACC approval, it will have to undergo a re-review. Remodels or renovations must be completed within six months of approval.

**FAILURE TO COMPLY:** Failure to comply with these guidelines will cause construction to stop until corrections are made. Lost time will not be added to the twelve (12) month completion time.

**TEMPORARY STRUCTURES:** No temporary house, shack, tent, trailer or outbuilding shall be permitted on any lot, except for construction trailers approved by the ACC.

**PERMITS AND APPROVALS:** Approval by the ACC indicates approval by HIOA and the ACC only. It is the responsibility of the owner or contractor to obtain the necessary permits, approvals, inspections, etc. from the appropriate agency, including but not limited to, the State of South Carolina, Beaufort County, Coastal Council, DHEC and others, and to comply with the regulations of any controlling agency.

**PERFORMANCE/DAMAGE DEPOSIT:** Prior to beginning any construction, the owner and contractor shall be required to submit a deposit in the following amount:

- A. Standard Stick-Built Homes: \$4,500.00 by owner
- B. Standard Stick-Built Homes: \$4,500.00 by contractor
- C. Modular Constructed Homes: \$8,000.00 by owner
- D. Modular Constructed Homes: \$8,000.00 by contractor

This deposit shall be kept in an interest bearing escrow account and refunded after construction is completed if no damage has occurred and all work has been completed to the satisfaction of the ACC (i.e. passing final inspection), less a \$25.00 processing fee. If damage has occurred, this deposit shall be used to repair such damage up to the full amount of the deposit, and it shall be the owner's responsibility to pay for any repairs in excess of the deposit amount. Such repairs shall be immediate and shall render the damaged property in a condition as good as or better than that prior to the damage. HIOA will refund any remaining deposit to the party from which the funds were received. It shall be the owner's responsibility to settle any disputes directly with their contractor. The deposit shall be returned within 15 days of the final inspection.

**ARCHITECTURAL APPROVAL:** To preserve the architectural and aesthetic appearance of the Island, no construction or improvements of any nature whatsoever shall be commenced, including but not limited to the construction or installation of sidewalks, driveways, mailboxes, decks, patios, courtyards, swimming pools, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages or other outbuildings; nor shall any exterior addition or change or alteration be made, including but not limited to painting or staining of any exterior surface, unless and until one (1) copy of plans and specifications and related data showing the nature, color, type, shape, height, materials and location of the same have been submitted to and approved in writing by the ACC. Approval shall be based on the harmony of external design, location, quality of design, workmanship, materials and appearance in relation to surrounding structures and topography.

One copy of such plans, specifications and related material shall be retained in the records of the ACC. The ACC shall determine whether the plans are acceptable. Notwithstanding the foregoing, the owner may make interior improvements and alterations within their dwelling. In connection with approval rights and to prevent excessive drainage or surface water run-off, the ACC shall have the right to establish a maximum percentage of a lot which may be covered by dwellings, buildings, structures or other improvements, which standards shall be promulgated on the basis of topography, percolation rate of the soil, soil types and conditions, vegetation cover and other environmental factors. Following approval of any plans and specifications by the ACC, representatives of the ACC shall have the right during reasonable hours to enter upon and inspect any lot, dwelling or other improvements with respect to construction which is underway to determine whether or not the plans and specifications as approved are being complied with. In the event that the ACC shall determine that such plans and specifications are not being complied with, the ACC shall be entitled to enjoin further construction and to require the removal or correction of any work that does not fully comply with the approved plans and specifications. In the event that the ACC fails to approve or disapprove in writing any plans and specifications within fifteen (15) days after such

complete plans have been submitted, such plans and specifications shall be deemed to have been expressly approved. Upon approval of plans and specifications, no further approval under these rules shall be required, unless such construction has not substantially commenced within one (1) year of the approval of such plans and specifications, or unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the ACC upon any ground which is consistent with the objectives and purposes of these rules, including purely aesthetic considerations; so long as such grounds are not arbitrary or capricious.

Pre-construction photos of the lots will be taken, with emphasis on HIOA's 15-foot roadside easement. This easement must be returned to the pre-construction condition or better, as well as any damage caused to adjacent properties.

**SITE PREPARATION:** No trees having a diameter of more than eight (8) inches shall be cut or removed from any area without the express written consent of the ACC. A plan for construction on any lot shall indicate trees over eight (8) inches in diameter to be removed and the trees to be planted or other planned landscaping.

Any cutting, trimming or removal of plants, shrubs or trees along the canals and lagoons must have the prior approval of the ACC; and any such cutting, trimming or removal must be accomplished under the supervision of a representative of the ACC. This is intended to protect nesting areas of wildlife and any violation will subject the owner to severe penalties including monetary fines. Please refer to the sections regarding rookeries located under Setbacks and Landscaping.

A Port-A-John or its equivalent must be provided at each building site for the use of construction crews and personnel. This item must be a minimum of 15 feet off of the road. It needs to be placed away from occupied residences to the greatest extent it can be, and preferably near the rear of the lot. This should not be placed in HIOA's 15-foot roadside easement. During construction, the owner shall require his contractor maintain the lot and surrounding areas in a reasonably clean and uncluttered condition and to the extent possible, all excess construction material, trash and debris shall be kept within refuse containers or transported off premises on a daily basis. Dumpsters must be covered at the end of each work day. Upon completion of construction, all equipment, tools, construction materials and debris shall be removed from the lot.

Silt fencing must be installed around the lot. One side may be left open for material delivery, preferably on the driveway side at commencement of work. The fencing must be maintained on a daily basis.

Provision must be made for installation and maintenance of crusher-run or its equivalent beginning at the roadway, for the full width of the driveway, as shown on the plans and extending into the lot for a minimum of twelve (12) feet to protect road edges from damage by construction traffic. Pre-construction photos will be taken for use in comparing the edge of the road at the end of construction with its original state.

## **SPECIFICATIONS**

**SETBACKS:** All buildings, structures or other improvements on or with respect to any lot or dwelling shall only be located within the setback lines specified on the plats ("footprints"), unless otherwise restricted below. To assure that dwellings and other structures will be located so that the maximum view and privacy will be available to each dwelling or structure, dwellings or structures will be located with regard to the topography of each lot, utilizing aesthetic and environmental consideration, as well as the precise site and location of any other dwellings or structures on the Island. No building or structure shall be located on any lot nearer than twenty (20) feet from the front lot line or twenty (20) feet from the rear lot line; or ten (10) feet from any side lot line. The front lot line shall be that which borders on a public thruway. Corner lots front on two public thruways and need to conform to two front setbacks as enforced by Beaufort County.

If your property is adjacent to any of the Island's protected rookeries (lagoons), please be advised of the following: These rookeries are protected by the United States Department of the Interior, Fish and Wildlife

Service, Migratory Bird Treaty Act. In order to protect the integrity of the colonies, it is necessary to maintain an undisturbed, vegetated buffer around these sites. A minimum 20-foot buffer is recommended. This buffer is barely adequate to provide the visual buffer needed to enable successful reproduction. Any reduction in the vegetation would increase disturbance to the colony and result in increased mortality of chicks and eggs. These colonies support nesting of over 2,000 pairs of herons and egrets and are the largest colony of snowy egrets in the entire state. Adherence to this practice is crucial for the survival of the wading bird species that like you have chosen Harbor Island to nest upon.

**BUILDING RESTRICTIONS:** It is the intent of the ACC that no more than two (2) homes with the same or similar outside elevations will be permitted adjacent to one another with the exception of private, planned developments. Please note that these private, planned developments are nevertheless subject to ACC regulations.

**HEIGHT:** Dwellings shall be not more than forty (40) feet above predevelopment grade. All roofs must have a minimum 6/12 roof pitch on the main body of the house. Lower pitching may be approved for porches.

**FLOOR SIZE:** The total enclosed dwelling area for a one (1) story single family residence shall be a minimum of one-thousand-six-hundred (1,600) square feet; and for a two-story residence, a minimum of one-thousand-eight-hundred (1,800) square feet, with a minimum of nine-hundred (900) square feet on the first floor. These changes shall apply to lots with ownership transfers after June 26, 1999. If a property was purchased prior to this date and continues to be owned by the same party, the minimum square footage will be 1,250 square feet for a single story and 1,500 square feet for a two-story dwelling. The ACC shall have the authority to grant a variance from these minimums if the lot has a physical characteristic that would prohibit a dwelling of these minimums to be constructed on the lot. These physical characteristics would be lot size, setbacks imposed on the lot by an official body, encroachment by wetlands, or other similar restrictions. The term "enclosed dwelling area" as used in these minimum size requirements shall mean total enclosed area within the dwelling and does not include garages, boat sheds, terraces, decks, patios, porches and like areas.

**EXTERIOR APPEARANCE:** All exterior colors and materials shall be approved by the ACC. It is the intent that the overall color selection be approved by the ACC or a color approved by the ACC and fitting the surrounding environmental conditions. Specifically, no garish or glaring colors will be approved by the ACC. Exterior spray painting is prohibited. Material selection recommendations for dwellings are stucco finish and/or stained or painted, treated wood siding. "Hardi-plank" is acceptable. The main structure of the dwelling may not be painted or unpainted concrete block. Support columns, pylons, etc. may be painted concrete block. Pilings larger than eight inches in diameter that can be seen from the exterior must be painted. The use of vinyl, T1-11 grooved wood siding or aluminum siding will not be approved; however, vinyl or aluminum may be used on fascia, soffits and porch/deck ceilings, subject to material and color approval by the ACC. Tin roof material will not be approved. Factory formed and finished Galvalume is an acceptable roofing material subject to color selection. All handrails, pickets and spindles must be painted or stained a solid color (the weathered-look is not acceptable). They cannot be left natural. Electrical meters shall not be visible from the street.

**WINDOWS:** The ACC has the right to review and approve the location, style and type of windows to be used, particularly the treatment of trim, shutters or other architectural design features.

**SCREENED PORCHES, COURTYARDS, SERVICE AREAS, BARBECUES, ETC.:** The ACC has the right to review and approve the location, orientation, style, materials, colors, heights and accessibility of these items.

**EXTERIOR LIGHTING:** Specifically, no security pole lighting on individual lots will be allowed. All lighting for individual lots shall be installed in such a way as to prevent glare extending beyond the individual lot. Any light, whether exterior or interior, which extends to beaches will absolutely not be allowed due to disturbance of sea turtle nesting, per Beau fort County ordinance. The ACC has the right to review the type of fixture, wattage and location to ensure the safety and enjoyment of the individual lot, as well as the overall community.

**WALKWAYS:** All walkways, boardwalks, crossovers and the like shall be approved by the ACC. OCRM approval for beach boardwalks is required before ACC approval may be obtained.

**DRIVEWAYS:** There shall be only a single driveway with a maximum width of sixteen (16) feet for each lot. This driveway may be flanged at the street to a maximum of eight (8) feet on either side so as to make the street side entrance no wider than thirty-two (32) feet. The driveway must be located as indicated on the approved site plan. Driveway materials must be approved by the ACC.

**PARKING:** Each dwelling is required to provide two (2) parking spaces. While it is preferable that these two (2) parking spaces be located beneath the main structure, at least one (1) of the two (2) spaces must be beneath the main structure. All parking must be screened from view to the greatest degree possible. Lattice must be painted. At no time will overnight parking of trailered boats, campers, recreational vehicles and such be allowed on the street. Inoperable vehicles shall be removed after thirty (30) days at the owner's expense. No lot shall be utilized exclusively for parking even if it is landscaped. Boat trailers and small utility trailers shall be permitted, provided that they are parked only on private property or in designated areas (if any). All boats and trailers, including, but not limited to personal watercraft (jet ski/wave runner) must be stored under the house if possible, or be screened from view to the greatest extent possible, as approved by the ACC. Recreational vehicles of a reasonable size shall be permitted on private property upon written permission from HIOA only for short periods of time for provisioning and/or cleaning purposes and under no circumstances are they to be used as living and/or sleeping space.

**LATTICEWORK AND SCREENING:** Latticework or the equivalent must be installed beneath all homes to prevent viewing the area beneath the homes from the street; around all trash receptacles, which must be sealed and appropriately screened from view as approved by the ACC, and around all heating and/or air conditioning units. All latticework must be painted.

**LANDSCAPING:** In an effort to preserve and protect the quality of Harbor Island, all dwellings will be required to be landscaped. Plant materials are vital to the appearance of each individual dwelling and to the overall character of the Island. As the environment creates special growing conditions, native and naturalized plants are encouraged. Each dwelling is to have foundation planting, at a minimum. The ACC shall review the landscape plans for appropriateness of material, size, number, location and detailing. It is intended that there be no impediment to pedestrian traffic along common areas within the Island or to any fire hydrants.

If your property is adjacent to any of the Island's four protected rookeries which are the lagoons that have wading bird nesting areas (the lagoon that borders the BRC property to the north; the lagoon north of Mickey's Alley; the lagoon north of Tradewind Ln.; the lagoon north of Windjammer Ct.), please be advised of the following: These rookeries are protected by the United States Department of the Interior, Fish and Wildlife Service, Migratory Bird Treaty Act. In order to protect the integrity of the colonies, it is necessary to maintain an undisturbed, vegetated buffer around these sites. A minimum 20-foot buffer is recommended. This buffer is barely adequate to provide the visual buffer needed to enable successful reproduction. Any reduction in the vegetation would increase disturbance to the colony and result in increased mortality of chicks and eggs. These colonies support nesting of over 2,000 pairs of herons and egrets and are the largest colony of snowy egrets in the entire state. Adherence to this practice is crucial for the survival of the wading bird species that like you have chosen Harbor Island to nest upon. All clippings and yard waste are the owner's responsibility and must be removed. On unimproved lots, you are asked to under-brush or bush hog your lot for aesthetic, health or safety reasons. The Open Land Trust look can provide an example. There are view easements that must be considered.

**FENCES:** All fences must be approved by the ACC and none shall be more than three and one-half (3.5) feet in height. No chain link fences will be approved.

**DRAINAGE:** Drainage for each individual lot is intended to be directed to the front of the lot and/or the rear of the lot. Any side lot orientation of drainage must be directed to the front and/or rear of the lot by down spouts or other directional means. No run-off from an individual lot may be directed across or onto an adjacent lot.

**MAILBOXES AND HOUSE NUMBERS:** All mailboxes shall be consistent in location and color as approved by the ACC; the use of garish nametags, numbers on dwellings, etc. are prohibited; all dwelling units must have a current street address number in clear view. This number must be the latest number issued by the Post Office and Beaufort County 911 (i.e. the address, not the lot number).

**POOLS (Private):** Any pool built on a lot must be totally contained within the setback areas as previously described, i.e. no closer than ten (10) feet from each side lot line and/or no closer than twenty (20) feet from the front and/or rear lot line. Pools must be fenced. This fence must contain a self-latching gate and be built of materials and of a type as approved by the ACC and must be three and one-half (3.5) feet in height. Owners of such pools accept complete and total responsibility and liability for any incidents, problems, accidents, injuries and the like arising from such pools. HIOA accepts no liability, nor responsibility for any kind of damages caused as a result of such pools being installed. Pools require the same approval process as any other structure.

**MODULAR CONSTRUCTION:** Construction of dwellings utilizing pre-built sections ("modules") may be approved by the ACC on a case-by-case basis. Due to the special nature of this type of construction, the following supplemental rules shall apply:

Two (2) sets of detailed site plans, including measurements, must be submitted to the ACC. The ACC will utilize these plans and on-site inspections to determine whether the lot is suitable for modular construction, taking into account the necessary clear area around the building site required for cranes and other construction equipment. These plans must include all vegetation to be removed from the lot. Under no circumstances may adjacent lots be utilized for equipment placement, vegetation clearance or the like.

Under no circumstances may modules be stored or "staged" on Harbor Island. Proper planning and coordination must be used so that modules entering Harbor Island may be immediately placed in final position and the vehicle(s) delivering them must immediately depart the Island.

Due to excessive size and weight of vehicles necessary for this type of construction, it will be necessary for the contractor to give HIOA sufficient advance notice of the arrival of such vehicle(s) so that an HIOA escort, furnished by HIOA and paid for by the owner or contractor, at a rate not to exceed twenty dollars (\$20.00) per hour, may accompany each such vehicle at all times when on Harbor Island to ensure that damage to common areas, including but not limited to pavement/road edges, vegetation, signs, private property, etc. does not occur. The owner or contractor shall be required to submit a damage deposit in the amount of eight thousand dollars (\$8,000.00) to HIOA prior to beginning construction.

Due to the special nature of such construction, extra care and planning should be exercised so as to be able to complete all construction during the normal working hours as set forth by HIOA.

It should be clearly understood that HIOA does not endorse such modular construction and that each application for such construction method will be acted upon by the ACC on an individual, case-by-case basis. As in all other construction, HIOA accepts no responsibility or liability for the structural integrity of any structure, including modular construction. The owner or contractor assumes full and complete liability and responsibility for any and all damages to any property whatsoever resulting from construction.

## **MAINTENANCE**

**MAINTENANCE:** In keeping with the intent of these rules to protect and preserve the character of Harbor Island, maintenance will be required on dwellings, other improvements and landscaped or open areas. Dwellings and other structures are to be kept in a reasonable state of repair to the exterior. Stucco, staining

or painting must be carried out to protect the committee-approved original plans and specifications. Any alterations or color changes from the original plans and specifications must be approved by the ACC. Landscaping must be regularly maintained, including but not limited to, grass cutting, shrub and tree pruning, removal of debris, etc. No yard debris may be discarded in the lagoons or marshes. Underbrushing or bush hogging may be required. Failure to properly maintain a property, including structures and landscaping, will subject the owner to penalties, which may include monetary fines.

## **INSPECTIONS**

**INSPECTIONS:** The owner or contractor is responsible for contacting the HIOA Office, in writing, via email, fax, or mail to request the scheduling of the following inspections in a timely manner. There will be a \$50.00 penalty for re-inspection if the elements required for the inspection are not ready. This fee will be deducted from the performance/damage deposit.

**PHOTOGRAPHS:** Please note that pre-construction photos will be taken of each lot and roadsides.

**SITE INSPECTION:** The site inspection must occur before any construction of the foundation. This inspection will include surveyor-staked corners of the property, driveway and foundation; installation of crusher-run or equivalent on driveway; installation of silt fencing; vegetation removed the installation of a Port-a-John and Dumpster, and any other preparations to begin construction.

**FOUNDATION (PILING)/ELEVATION INSPECTION:** This inspection must occur after the pilings and/or support structures are in place, but before any other construction is done. This inspection is to ensure that the support structures are within the allowed setbacks. A Foundation Survey showing exact location of foundation with setbacks indicated must be submitted to the HIOA office prior to this inspection. The inspector must give approval prior to the beginning of framing. An elevation certificate must also be furnished to the ACC.

**CLOSED-IN INSPECTION:** This inspection will be performed when the dwelling is closed-in, with decks and steps in place. The height roof, windows and doors will be inspected.

**FINAL INSPECTION:** The final inspection will occur when all work, including landscaping, is totally complete. An As-Built Survey is required. If approved by the inspector and no damage has occurred, the performance/damage deposit will be refunded within 15 days. This deposit will be used to repair any damages caused by construction. Any damages beyond the deposit amount are the sole responsibility of the owner. HIOA's 15-foot easement along the road must be returned to pre-construction condition or better.

**OCCUPANCY:** Dwellings may not be temporarily or permanently occupied until Beaufort County has issued a Certificate of Occupancy (CO). A copy of the C.O. must be provided to the ACC prior to occupation.

## **APPLICATION PROCEDURES**

**APPLICATION PROCEDURES:** An application (separate document) needs to be completed and submitted with the complete plan package prior to seeking ACC approval.

## **ENFORCEMENT POLICY**

The Board of Directors commends the ACC for its work and for the contribution it has made to the appearance and aesthetics of the Island. The Board fully supports the work of the ACC.

According to the current rules, the Board is ultimately responsible for establishing and enforcing any penalties or actions recommended by the ACC related to violations of the Rules, although the ACC may

itself take certain actions to correct violations during the course of construction. The Arbitration Committee will mediate between a homeowner and the ACC in the case of a dispute and render a decision.

The Board intends to enforce the ACC Guidelines and Rules; however, we must recognize that we are a community and those owners and applicants are our neighbors, with whom we must coexist. No willful or blatant transgression of the ACC rules and regulations will be allowed. If an owner knowingly ignores, violates or refuses to abide by the ACC rules, corrective actions will be imposed and maximum penalties will be assessed.

No major violations will be permitted, especially regarding, but not limited to:

- Violations of the required setbacks by the footprint of the structure and its overhangs and outlying buildings, pools, etc.
- Violations of allowed materials and colors.
- Anything involving safety or potential damage to other properties or people.
- Major unapproved construction, design and appearance changes, especially those not allowed by the rules.
- Unapproved placement of driveways.
- Height of building violations.
- Encroachment on other properties or on the rights of other property owners.
- Disturbance of rookeries and other bird nesting areas along the canals and lagoons.

Remedies for such violations may involve demolition and reconstruction, transfer or acquisition of selected property rights to or from an adjacent owner, replanting, fines, and other penalties.

However, there are some ambiguities in the rules and some things are not explicitly covered, such as beach walkways and sidewalks. At its discretion, the Board may be more lenient in these areas, especially if the violation is minor. If adjacent property owners are not affected or do not object, then a fine may deal with the violation. If there are objections from adjacent owners, then the violation may have to be remedied by reconstruction and perhaps other penalties.

The Guidelines and Rules require that any modifications to approved plans be resubmitted to the ACC for approval before such modifications can be put in place, and this will be enforced. However, if an unapproved modification is minor in nature and does not otherwise fall outside the rules, then a penalty may not be imposed, depending on the nature of the violation and the discretion of the board. A case in point might be that an applied color differs from the approved color, but is within the same color "family" and within the range of the approved color palette. In such a case, perhaps no penalty would be imposed.

Any appeals, disputes, petitions for exceptions, variances or waivers will first be addressed to the ACC, and hopefully resolved there. If resolution cannot be reached, or if the waiver, variance or exception is of major consequence, then the owner or the ACC may appeal to the HIOA Board for resolution. No waivers, variances or exceptions will be granted if such will likely result in negative impacts to or damage to neighboring properties or the island at large. If an appeal, exception, variance or waiver is granted, it will be treated as a one-time case and not be construed as precedent setting.

## **PENALTIES**

**PENALTIES FOR VIOLATIONS:** Failure to abide by these rules may result in monetary penalties and correction or removal of construction in violation at the expense of the owner.

**STANDARDIZED PENALTIES FOR ACC VIOLATIONS:**

**ACC Fine Schedule for non-compliance of requests**

- Day 1 – Initial request for owner to repair/replace and/or maintain property/yard. Given 30 days to respond with solutions, samples, drawings, etc, including estimated time of completion. First letter mailed
- Day 31 – If no response, Second Request of Property Owner. Second letter mailed
- Day 61 - If no response, Third Request outlining fines for non-compliance to begin on day 91. Third letter mailed certified, return receipt requested.
- Day 91 – If no response, Fourth Request of Property Owner with notice that fines will begin. Fourth letter mailed, fines begin \$100.00 per month.
- Day 121 – If no response, Fifth Request of Property Owner with notice that fines will increase the next month. Fifth letter mailed, fines are now \$300 per month.
- Day 151- If no response, Sixth Request of Property Owner. Sixth letter mailed, fines are now \$500 a month.
- Once unpaid fines have reached \$8000 and the property owner is still in non-compliance collection procedures will be started and a lien will be placed on the property.

**Major violations:**

- Height violation
- Major footprint violation
- Potential safety or damage to people or other properties
- Encroachment on other properties or on rights of other property owners
- Major unapproved construction, design and appearance changes, especially those not allowed by the rules
- Disturbance of rookeries and other bird nesting areas along canals and lagoons
- Unapproved placement of driveways
- Blatant, willful and consistent violations

**Remedies/Penalties:** Remedial reconstruction or replanting if possible, or demolition, plus monetary penalties from \$500 to \$4,500 depending on the severity of the violation and judgment of the ACC and board.

**Minor violations:**

- Exceeding twelve (12) month allowed period, following approval of plans, for construction and final inspection, without applying for a time extension for cause, \$100 per month.
- Minor unapproved construction, \$250, plus \$100 per month from the deadline for remedial action, e.g. removal

**Remedies/Penalties:** Remedial reconstruction or replanting, if practical in the judgment of the ACC and Board, and/or monetary penalties from \$100 to \$1,000, depending on the severity of the violation, judgment of the ACC and Board, and ability to remedy by reconstruction or replanting.

**SERVICE IN LIEU OF FINES:** All fines levied against members by the Board of Directors shall be paid by the date specified.

In the event that a member performs services for the Island within that time period, which have value to the Island, their fines may be mitigated by such service at the discretion of the Board.

This addendum was adopted on and made effective as of February 16, 2002, by the Board of Directors.

## **REVISION HISTORY**

The HIOA Board of Directors approved the original rules on January 25, 1992.

### **REVISION OF FEBRUARY 8, 1993:**

- A. Added a restatement of covenant setback requirements to ACC Rules as a convenience for reference. (4A)

### **REVISION OF MARCH 16, 1993:**

- A. Removed "earth tones" and established a color range acceptable to the ACC for guidance in selecting proposed colors. (6A)
- B. Added acceptance of T-111 material. (6A)
- C. Added acceptance of Galvalume roofing material subject to colors. (6A)
- D. Added requirement for ACC approval for removing any vegetation along the canals. (15)

### **REVISION OF JANUARY 1, 1994:**

- A. Established application fees for ACC. (03)
- B. Established penalties for ACC Rules violations. (End of document)
- C. Established requirement for piling placement inspection. (M)
- D. Clarified requirement for latticework around pilings. (16)

NOTE: The board of directors approved this revision on February 5, 1994.

### **REVISION OF MARCH 16, 1995:**

- A. Stated rules for private pool construction for ease of reference by owners. (J)
- B. Stated owner's responsibility for obtaining any required permits. (L)
- C. Added Section O, Application Procedures and Requirements. (O)

### **REVISION OF APRIL 21, 1998:**

- A. Added price of guideline book, changed application fee to \$450.00 and added a performance/damage bond.
- B. Established schedule and requirements of inspections.

### **REVISION OF OCTOBER 31, 1998:**

- A. Added requirements for dimensions and square footage on plans.
- B. Added requirements for site plans to include property lines and all setbacks; house location.
- C. Stated prohibition of cutting vegetation along canals.
- D. Added limit of two (2) homes with similar outside elevations.
- E. Added roof overhangs/eaves must be within setbacks or footprint.
- F. Added description of Architectural Control Committee.
- G. Added general preliminary review to avoid rejections.
- H. Added statement that ACC can reject plans based purely on aesthetics.
- I. Added requirement for street numbers.

### **REVISION OF MAY 15, 1999:**

- A. Added provisions for modular construction. (M)
- B. Changed section letters to reflect above addition.

- C. Prohibited utilizing a lot exclusively for parking.
- D. Added provision to flange driveway to maximum width of 32'.
- E. Added requirement for Port-A-John at teach site.
- F. Emphasized maintenance requirements.

**REVISION OF JUNE 26, 1999:**

- A. Changed minimum square footage requirements.
- B. Clarified status of trailers on the Island under Parking.

**REVISION OF JULY 31, 2000:**

- A. Numbered pages and dated document on Page 1.
- B. Included and updated ACC Application.
- C. Included Statement of Contractor/Owner.
- D. Rearranged and renumbered some sections - no change to Rules.

**REVISION OF AUGUST 19, 2000:**

- A. Removed T-111 as an approved material. (Board of directors action)

**REVISION OF AUGUST 28, 2000:**

- A. Added Section 11, "Performance/Damage Bond" for clarity.
- B. Changed Item D in Section 8 to refer to new Section 11.
- C. Renumbered remainder of Sections to reflect change in A.

**REVISION OF AUGUST 31, 2000:**

- A. Changed the "Performance/Damage Bond" to "Performance/Damage Deposit."

**REVISION OF MAY 19, 2001:**

- A. Added HIOA Board Policy Statement Regarding Enforcement of the ACC Rules.

**REVISION OF AUGUST 22, 2001:**

- A. Added that a copy of the Certificate of Occupancy be provided to the ACC prior to occupation.
- B. Added that failure to comply with these guidelines will cause construction to stop until corrections are made. Lost time will not be added to twelve (12) month completion time.
- C. Changed the number of copies of plans to be submitted from three (3) to one (1).
- D. Changed "finishes" to "materials" in terms of color samples.

**REVISION OF FEBRUARY 16, 2002:**

- A. Added Addendum "Service in Lieu of Fines".

**REVISION OF JUNE 29, 2002:**

- A. On Page 3, Item 7A, wording was changed to read "Tin roof material will not be approved" and "however, vinyl or aluminum may be used on fascia, soffits and porch/deck ceilings, subject to material and color approval by the ACC" was added after "The use of vinyl, T 111 grooved wood siding or aluminum siding will not be approved".

**REVISION OF JULY 27, 2002:**

- A. On Page 4, Item G, the following was added "All boats and trailers, including, but not limited to personal watercraft (jet ski/wave runner) must be stored under the house if possible, or be screened from view to the greatest extent possible, as approved by the ACC".

**REVISION OF JANUARY, 2004:**

A cover sheet will be added in front of Page 1, which will include new construction, remodeling and maintenance.

On Page 1, at the top, change the title to "Guidelines and Rules."

On Page 1, No. 2, at the end of the paragraph add, "This Committee shall be informally known as the Architectural Control Committee or ACC."

On Page 1, No. 5A, add "steps" after "overhangs" in the last sentence. At the end of the paragraph, add "If your property is adjacent to any of the Island's protected rookeries (lagoons), please be advised of the following: These rookeries are protected by the United States Department of the Interior, Fish and Wildlife Service, Migratory Bird Treaty Act. In order to protect the integrity of the colonies, it is necessary to maintain an undisturbed, vegetated buffer around these sites. A 20-foot buffer is required. This buffer is barely adequate to provide the visual buffer needed to enable successful reproduction. Any reduction in the vegetation would increase disturbance to the colony and result in increased mortality of chicks and eggs. These colonies support nesting of over 2,000 pairs of herons and egrets and are the largest colony of snowy egrets in the entire state. Adherence to this practice is crucial for the survival of the wading bird species that, like you, have chosen Harbor Island to nest upon."

On Page 2, Item C, at the end of the header add "OR REMODEL". At the end of the paragraph add "If construction has not commenced within one year of ACC approval, it will have to undergo a re-review. Remodels or renovations must be completed within six months of approval."

On Page 2, Item D, in the second sentence, change "should" to "must".

On Page 2, Item F2, in the first sentence, add "and lagoons" after "canals".

On Page 2, Item F3, after the first sentence add "This item must be a minimum of 15 feet off of the road. It needs to be placed away from occupied residences to the greatest extent it can be, and preferably near the rear of the lot." In the second sentence, after the word "lot" add "and surrounding areas" and after premises, add "daily." Add that Dumpsters must be covered at the end of each work day.

On Page 2, Item F4, at the end of the sentence add "at commencement of work. The fence must be maintained on a daily basis."

On Page 2, Item F5, the first sentence will read "Installation and maintenance of crusher-run ..."

On Page 3, No. 6, add a third paragraph that states "Pre-construction photos of the lot will be taken, with emphasis on HIOA's 15 foot easement. The easement must be returned to the pre-construction condition or better, as well as any damage caused to adjacent properties. A copy of the building permit will be required by the ACC."

On Page 3, No. 7A, the second sentence will read "It is the intent that the overall color selection be approved by the ACC ..." After the sixth sentence, the following will be added "Pilings larger than eight inches in diameter that can be seen from the exterior, must be painted." The last sentence shall read "All handrails, pickets and spindles must be painted or stained a solid color (the weathered-look is not acceptable)."

On Page 4, Item B, add "All roofs must have a minimum 6/12 roof pitch on the main body of the house. Lower pitching may be approved for porches." The last sentence in the paragraph "No flat roof design will be approved or allowed" will be deleted.

On Page 4, Item G, after the third sentence, the following will be added "Lattice must be painted."

On Page 5, Item H, a second paragraph will be added, "If your property is adjacent to any of the Island's protected rookeries which are the lagoons that have wading bird nesting areas (the lagoon that borders the BRC property to the north; the lagoon north of Mickey's Alley; the lagoon north of Tradewind Ln.; the lagoon north of Windjammer Ct.), please be advised of the following: These rookeries are protected by the United States Department of the Interior, Fish and Wildlife Service, Migratory Bird Treaty Act. In order to protect the integrity of the colonies, it is necessary to maintain an undisturbed, vegetated buffer around

these sites. A 20-foot buffer is recommended. This buffer is barely adequate to provide the visual buffer needed to enable successful reproduction. Any reduction in the vegetation would increase disturbance to the colony and result in increased mortality of chicks and eggs. These colonies support nesting of over 2,000 pairs of herons and egrets and are the largest colony of snowy egrets in the entire state. Adherence to this practice is crucial for the survival of the wading bird species that, like you, have chosen Harbor Island to nest upon. All dippings and yard waste are your responsibility and must be removed. On unimproved lots, you are asked to underbrush your lot for aesthetic and health reasons. The Open Land Trust look can provide an example. There are view easements that must be considered.”

On Page 5, Item J, a second sentence will be added stating “OCRM approval for beach boardwalks is required before ACC approval may be obtained.”

On Page 5, Item L, the following sentence will be added to the end of the paragraph “All latticework must be painted.”

On Page 6, No. 11, add “A \$25.00 processing fee will be deducted from the deposit.”

On Page 7, No. 11, the following will be added to the end of the first sentence “and all work has been completed to the satisfaction of the ACC (i.e. passing final inspection).”

On Page 7, No. 12, add “There will be a \$25.00 penalty for re-inspection if the elements required for the inspection are not ready. This fee will be deducted from the deposit. Requests for inspections must be in writing, by fax, e-mail or mail.

On Page 7, No. 12B, change the title to “Foundation/Elevation Inspection”. Add “A Foundation Survey and an Elevation Certificate must be furnished to the ACC” at the end of the paragraph.

On Page 7, No. 12C, at the end of the paragraph add “The height will be checked at this time”.

On Page 7, No. 12D, at the end of the paragraph, the following will be added “HIOA’s 15 foot easement along the road will be returned to pre-construction condition or better.”

On Page 7, No. 13B2, in the parenthesis before including, the following will be added “to consist of a certified survey with tree and topography,”

On Page 11, delete Nos. 2A and 2B, as they are duplicates of Nos. 1 and 2.

On Page 14, the Application has been redesigned and will incorporate the materials page. Please refer to the attached.

On Page 15, the Statement of Owner/Contractor is being omitted as it was deemed redundant.

#### **REVISION OF JANUARY, 2008:**

On page 11, ACC Fine Schedule for non-compliance of requests added

#### **REVISION OF FEBRUARY, 2008:**

On page 11, once fines have reached \$8000.00 and non-compliance, lien will be placed on property.

#### **REVISION OF AUGUST, 2008**

All documents shall read Architectural Control Committee or ACC; we will no longer use ARB. The term Guidelines and Rules shall be changed to Rules and Regulations.