

MARINA MARTINIQUE

RULES & REGULATIONS

**MARINA MARTINIQUE HOME OWNERS
ASSOCIATION
(M.M.H.O.A.)**

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INTRODUCTION

These rules are issued in accordance with the stipulations in the Constitution of the Association, to be known as the Marina Martinique Home Owners Association (HOA). In terms of Clause 3.3 of the Constitution, a person assuming ownership shall *ipso facto* become a member of the HOA and when transferring ownership, shall also cease to be a member of the HOA.

DEFINITION OF TERMS

“ <i>Member</i> ”	Registered owner of property within the boundaries of the HOA.
“ <i>Marina Manager</i> ”	A person appointed by the HOA to be overall coordinator of the Marina Management.
“ <i>ARCHOM Inspector</i> ”	A person who supervises on behalf of the HOA all building operations within the Marina.
“ <i>ARCHOM</i> ”	An architectural supervisory committee appointed by the Trustees.
“ <i>Carenage</i> ”	A public area for commercial purposes inside the Marina comprising Erf 918.
“ <i>Residential area</i> ”	An enclosed area of the Marina for use by residents.
“ <i>Security area</i> ”	Comprising the entire Marina.
“ <i>Hotel</i> ”	Erf 926, erf 1021 and erf 1109, with hotel rights inside the Marina.

A. PROVISION OF SERVICES

The Marina will be managed by the HOA which will, in accordance with its Constitution, appoint the necessary personnel required to run the Marina effectively.

1. In the case of sewerage, the Marina will link up with the Jeffreys Bay Sewerage Works and a basic service charge, as determined by the local authority, will be payable.
2. In the case of water and electricity, the HOA will purchase this from the local authority and will be the sole distributor within the Marina.
3. Refuse removal is rendered by the HOA, on a twice-weekly basis, currently Mondays and Fridays, excluding public holidays.

B. FINES AND RELEVANT DISCIPLINARY MEASURES

As far as these are concerned, reference is made particularly to paragraphs 8.2 to 8.8 of the Constitution (refer to Addendum I attached hereto). It must be stressed that these measures are not directed at restricting the rights of the individual but at maintaining etiquette and order within this private development and adherence to the rules and regulations laid down.

C. OCCUPATION

The registered owner, in the case of a single residential plot, and the controlling body, in the case of medium or high density erf or hotel erf, remain at all times the responsible parties for the behaviour and actions of family members, visitors, tenants or occupants.

- a. The maximum number of persons permitted per home unit is two per bedroom, plus two additional persons. Thus, in the case of a three-bedroom unit, the number of occupants may not exceed eight persons.
- b. All responsible parties are to ensure that all home units, gardens, vehicles and watercraft are kept in an acceptable condition.
- c. Vehicles may under no circumstances be parked on common areas of planted grass. In the case of single residential units, a limitation of three vehicles per erf is imposed, whereas for medium and high density units, the number of vehicles permitted is equal to 1.5 times the number of living units. No major repairs are to be carried out on vehicles in the residential area and motor wrecks are definitely not allowed.
- d. No business may be transacted from a single residential or medium or high density erf, without written permission from the Marina Manager, ratified by the Board of Trustees.
- e. Owners of erven on the canal front are not restricted with regard to the number of boats moored against their erf, provided that the combined lengths of boats (lengthwise) does not exceed two thirds of the length of the canal fronts.
- f. Individual owners may construct their own moorings with written permission from the Marina Manager according to acceptable standards and plans laid down by the Board of Trustees.
- g. It must be stressed that people swimming in the canals do so at their own risk. Water craft have the right of way. Swimming after dark is strictly prohibited.
- h. The new dog policy is based on the guidelines of the Provincial Gazette of 28/02/2007 and approved by the AGM on the 23/12/2011. Dogs are not allowed to roam freely and must be on a leash in the Marina boundaries. Owners of dogs are responsible for cleaning up after their animals. When not on a leash, dogs must be confined to within the boundaries of their properties.

Annual permit fees for dogs : R150.00 per dog for 1st two and R1000 for
3rd dog or more

Fines for stray dogs : 1st verbal warning and 1st written - free
2nd written – R100
3rd written – R500

Should a homeowner, their family, friends, tenants, not adhere to the rules, the HOA will revoke the permits, with the subsequent removal of their animals at their expense and cost. Individual owners are responsible for ensuring that no animal or marine life is disturbed.

D. TRAFFIC REGULATIONS

1. The general speed limit for all class of vehicles, quads, motorcycles, scooters, etc, whether private or contractors, is strictly 30 km/p/h.
2. Pedestrians are to be taken into special consideration since certain roadways are also walkways.

3. Only persons of 16 years and older with a valid learner's/driver's licence may drive quads, motorcycles, scooters, etc. and shall wear a crash helmet.
4. Speed fines for exceeding speed limits are currently R500 per incident.

E. POLLUTION AND DUMPING OF REFUSE

1. Due to the exclusive nature of the Marina and the sensitivity of the water to pollution, it is incumbent upon the individual to prevent pollution. It is therefore to be regarded as the duty of each individual to monitor the behaviour of others and to bring any misdemeanors to the attention of the Marina Manager.
2. Inorganic chemicals and fertilizers, pesticides are prohibited and if necessary should only be used under strictly controlled conditions.

F. SECURITY REGULATIONS

1. The main purpose of security regulations is to ensure safety, prevention of crime and to control access and maintain general order. Security staff have free access to all public areas and may not be hindered in the carrying out of their responsibilities.
2. Vehicle discs allowing free access and which will be changed from time to time will be issued to all owners. Three discs are issued per single residential unit when the necessary details of the relevant vehicles are given. The discs must be displayed on the front windscreen at all times. Currently one plastic disc is supplied to owners to operate the security gates.
3. Currently there are two entrances, namely the northern entrance and southern entrance. In order to ensure better control, mail/accounts are to be collected at the southern entrance.
4. Visitors who wish to make enquiries about the Marina itself will be met by an estate agent. In both cases a temporary permit will be issued.
5. No open house for the purpose of selling any property in the Marina will be allowed.
6. Tenants/letting agents/registered guesthouses : Owners must give notice in advance of the names of their tenants as well as the registration number of their vehicles. A temporary permit will also be issued to their tenants. It must be stressed that the registered owner will at all times be responsible for the behaviour of their tenants and adherence to the rules of the HOA.
7. Medium and high density property owners : In the case of permanent residents, a disc will be issued for permanent display on their vehicles as well as two plastic discs for use at the security gates. In all other instances the controlling bodies of the residential complexes must give details of guests as in the case of tenants above. The controlling bodies will decide how many vehicles are permissible.
8. Domestic workers and gardeners : A special permit will be issued for their contract period, again with prior written consent. They must be informed by their employers regarding the use of toilets, littering and pollution, using roads and paths, chemical fertilizers, pesticides and herbicides.

G. FISHING REGULATIONS

The HOA do not stock the canals with fish. Therefore, you are requested that angling be done in a responsible manner. Any misdemeanor must be reported to the Marina Manager.

Any person angling in the Marina must be licensed to do so as required by law. The following rules are to be followed exactly :

1. No fishing from any bridge over the canals.
2. No one shall cause fishing line to be an obstruction in any canal.
3. No one shall leave fishing line in the canal unattended. Unattended lines may be removed by management.
4. No owner, visitor or tenant shall fish from the canal wall unless it is from his own property or the property from which he has obtained the owner's consent.
5. No feeding ground will be tolerated.
6. No fishing will be allowed from any boat or vessel.
7. Netting of fish is prohibited, whether nets or dragnets.
8. Cleaning of fish inside the Marina is prohibited.

H. REGULATIONS FOR CRAFT IN THE CANALS

The General Manager has full jurisdiction over the water area of the Marina, including the movement of craft and mooring facilities. It must be noted that these facilities are used at own risk and that the user will be held accountable for damage to the clay-sealing layer, canal walls, mooring facilities or other craft. The General Manager and staff shall, as standard procedure, keep record of all craft that are permitted access to the Marina.

1. Definitions

In these regulations a word carries its usual meaning as given in the Seashore Act (No. 21 of 1935) and unless deliberately changed or altered by the context, the following words are defined as follows :

- 1.1 “**Port**” as a boating term, the left hand side when looking forward.
- 1.2 “**Starboard**” as a boating term, the right hand side when looking forward.
- 1.3 “**Vessel**” a craft punt, hydro bike or raft propelled by oars, poles, sails or mechanical power, and which is used to transport people.
- 1.4 “**Empowered official**” anyone thus empowered by the HOA.
- 1.5 “**Power driven**” propelled by mechanical means.
- 1.6 “**HOA**” the management body of the Marina, and this includes any employee of the HOA that exercises authority or carries out the duty delegated to such person by the HOA.
- 1.7 “**Sailing vessel**” any boat propelled by wind when under sail.
- 1.8 “**Water ski-ing**” the towing of a person on a water-ski, surfboard, water sleigh or any such object including a parasail.
- 1.9 “**Designated area**” big area of water in the Marina known as the lake, excluding the canals.

2. Compliance with the Regulations

No one may keep a boat on the Marina that does not comply with the regulations and no one may operate a boat in any manner inconsistent with the stipulations of the regulations.

3. Registration of Craft

Register *at the offices during office hours and at security after hours.*

Currently the registration fee is R50.00 per annum per craft and R20.00 per annum in respect of rowing boats, canoes, pedal boats, hydro bikes, etc. Proof of ownership must be furnished.
Discs will be issued and are to be displayed prominently on both sides of the craft.

4. Registration Certificate : A registration certificate of a boat expires when :

- 4.1** the owner ceases to own the boat
- 4.2** the holder of the certificate ceases to be responsible for the management, supervision or control of the boat
- 4.3** the structure or engine is changed.

5. Rules for Navigation on the Canals

Peace and tranquility are of the utmost importance on the canals and it is expected of all operators of craft to do so with the greatest circumspection. The following rules are to be followed exactly :

- 5.1** Idle speed is to be maintained in order to produce a minimum wake !!!
- 5.2** Craft must keep to starboard (right) and pass oncoming vessel port (left) to port (left). (Opposite to road traffic.)
- 5.3** Slow or static craft are to be passed on their port (left hand) side. (Opposite to road traffic.)
- 5.4** Power-driven craft must be extra careful in areas where swimmers may be encountered.
- 5.5** Persons under 18 years of age may not operate a power-driven craft with a total output of more than 20 hp without adult supervision.
- 5.6** No one shall operate a jet-ski anywhere in the Marina.
- 5.7** No water skiing, wake boarding, air chairs or similar towed device will be permitted in the designated area or elsewhere on the canals, where the wake speed will be strictly adhered to.
- 5.8** Sailing at night is prohibited. Sailing is only allowed in designated area. Sailing hours extend from first to last light. However, when craft are given permission by a representative of the HOA to sail before dawn or after sunset, navigation lights must be used. Only small sailing vessel permitted.
- 5.9** All boats must be lit up at night i.e. navigational lights.
- 5.10** Powered boats are permitted to tow rubber tubes, snakes and belly boards ***within the designated area only***, at a reasonable speed.
- 5.11** Those boats towing any device shall be registered and driven by a resident who is at least 21 years of age.
- 5.12** Use of the demarcated area at a speed faster than idle speed is limited to the following periods daily :

Morning	:	09:00 to 12:00
Afternoon	:	14:00 to 17:00

The HOA, its trustees and management do not assume any responsibility for accidents or loss that may occur as a result of the relaxation of the rules.

6. Protection of the Clay Sealing Layer on the bottom of the Canals

The fact that the canals are at an average height of three meters above sea level necessitated the sealing of the bottom of the canals to prevent leakage.

For this reason a layer of clay, 225mm thick, has been laid at the bottom of the canals and covered with sand, 100mm thick. A cross section of the canals in Phase I show that the canal can be divided into four quarters. The first quarter on both sides comprises a sloping plane that is at its shallowest against the canal wall 900mm deep and at its deepest 2200mm. The middle two quarters, representing half of the canal, is the level bottom which has a depth again of 2200mm. The Phase II canals have a maximum of 1100mm depth. ***It is therefore essential that damage to the canal sealant is avoided.***

- 6.1 Under no circumstances may anchors be used in the canals.
- 6.2 No object of any kind may be driven into the bottom of the canals, whether oars or poles.

7. Conditions for Visitors wishing to use Canals

- 7.1 Application forms to this effect may be obtained from the office of the HOA. Conditions for acceptance are laid out in the section : Rules for Navigation on the Canals, section 4 of these rules.
- 7.2 The General Manager may use his/her discretion in deciding whether or not an application merits access to the Marina.
- 7.3 If the application is successful, the craft must be registered at the south security entrance and a disc will be issued on payment of a registration fee, currently R50.00 and R20.00 for rowing boats, canoes, pedal boats, hydro bikes, etc. Discs shall be prominently displayed on both sides of the craft.
- 7.4 Disregard of the regulations may lead to the immediate revoking of a user's registration.

All rules governing residents shall also apply to visitors.

8. Disciplinary Measures

Disciplinary measures : Disregard of the standing orders or the rules and regulations of the HOA may lead to heavy fines and/or suspension of registration.

9. Pollution of Canals

In spite of the fact that water in the canals is regularly circulated, the Marina is considered a closed body of water and the purifying action of waves and currents does not take place. Pollution is to be avoided at all costs out of both ecological and aesthetic considerations. Severe measures will be taken against offenders in this regard.

- 9.1 Inboard motors may be serviced on the water in the case where the vessel cannot be removed, provided that the engine compartments are kept free of oil and fuel at all times during and after the job.
- 9.2 Outboard motors may under no circumstance be serviced in the water and this also applies to major repairs.
- 9.3 Refueling may under no circumstances take place in the water.
- 9.4 Sanding of boats or washing with soap or detergents are strictly forbidden. Chemicals used in the repair of boats must not be handled anywhere near the water's edge.

10. Use of Toilet Facilities on Board

No ships heads (boat toilets) may be used in the canals.

11. Bilge Pumps

These may only be used when a vessel is in danger of sinking.

12. Appearance of Craft

All craft are to be kept in an acceptable condition.

13. Emergency Procedure during a Fire on Board

13.1 All powered craft are to be fitted with fire extinguishers.

13.2 Private owners are compelled to provide water points at private moorings.

13.3 If possible, security should be contacted in case of fire. They will react.

13.4 If fuel is spilled during an emergency, the General Manager ought to be contacted immediately to co-ordinate the necessary action and precautions to be taken.

14. Restrictions on certain Activities in the Canals

14.1 No one shall use any craft in the Marina for commercial purposes (restaurant, place of entertainment, shop, etc.

14.2 No one shall overload any vessel (as per transom plate or one adult per full meter of boat.

14.3 No one shall operate any vessel without the minimum safety equipment for use in an emergency.

14.4 No one shall operate a commercial fishing boat or a houseboat.

14.5 No one shall windsurf on the canals. This is only permitted on the lake.

15. Organised Events

Regattas, windsurfing competitions, angling competitions, etc. may be organized with the written permission of the HOA, which reserves the right to :

15.1 temporarily suspend some of the conditions of the regulations;

15.2 provide specific rules to govern the organized event;

15.3 determine the necessary safety measures.

16. Mooring of Boats

When a boat is not in use it shall be securely moored in a position designated by the HOA as not to endanger other boats in the Marina. An empowered official may impound any boat found abandoned, drifting or moored in an unauthorized position. The official may use any means he sees fit to remove or store the boat and the owner shall bear the resultant costs.

No one may moor or anchor a boat :

- by tying it to one of the canal bridges;
- in such a way as to obstruct a canal;

- in such a way as to interfere with any activity sanctioned by the HOA in section 14 above.

17. Banning of Activities in and around the Marina

An empowered official of the HOA may suspend or ban any activity he considers not to be in the interest of the Marina.

18. Intoxicating Beverages and Drugs

Any person negotiating the canals or lake :

- while under the influence of any intoxicating substance; or
- in a boat while the alcohol concentration in a blood sample taken from any part of his body is not less than 0.08/100ml; is guilty of an offence. No one may behave in such a way on the canals as to interfere with the comfort and/or health of other canal users.

19. Additional Powers and Duties of Empowered Officials

In addition to the powers and duties mentioned elsewhere in the regulations, an empowered official may :

- 19.1** board and inspect any craft to ascertain whether the craft meets the requirements of the regulations;
- 19.2** require the owner of any craft to produce its registration certificate;
- 19.3** confiscate any document mentioned in par. 20.2 produced to him which seems to be invalid, unlawfully altered, marred or used; and upon confiscation of such a document shall provide a receipt for it to the person involved;
- 19.4** require from the operator of any craft his/her name and address or any other information necessary for identification;
- 19.5** require any person to produce objects or articles required with regard to his craft stipulated in these regulations;
- 19.6** seize any such object produced to him which he may consider to be evidence of an offence committed or an evasion of a stipulation of the regulations;
- 19.7** require of any person in any boat or at any time at any other place, his/her name and address or any identification particulars, or any information that could identify the owner or operator of a boat;
- 19.8** included in the previous point, require of any boat operator to stop the boat and further:
 - 19.8.1** may board any boat to inspect its contents;
 - 19.8.2** may ascertain the power and length of the boat;
 - 19.8.3** may temporarily prohibit the operator from further operating the craft should the operator seem at that moment unfit to do so because of his physical or mental condition, and may arrange for the craft to be removed and kept in a safe place;
 - 19.8.4** require of any person to give his/her particulars of identification should he suspect the individual of contravention of the regulations or in a position to give evidence of such an offence;
 - 19.8.5** demand of any person contravening the regulations to remove their boat and accessories from the Marina.

20. Disciplinary Measures and Sanctions

Any person :

- 20.1** contravening these regulations;
- 20.2** refusing to obey the conditions of his registration certificate and to carry them out;
- 20.3** refusing to carry out the orders of an empowered official;
- 20.4** obstructing an empowered official in the carrying out of his duty or powers in terms of these regulations, or interfering with his duties;

is guilty of an offence, and on conviction faces :

- a maximum fine of one thousand rand;
- on repetition or continuation of the offence an additional fifty rand per day and
- a further amount equal to the costs borne by the HOA as a result of such a misdemeanor or neglect, after which the boat will be removed by management.

21. Suspension

The HOA may, if deemed necessary, suspend any of its obligations in terms of these stipulations and allow deviations, exceptions and exemptions there from on any conditions that it may consider.

I. HEALTH

The standard health regulations of the Municipality of Jeffreys Bay also apply to the Marina, which falls under the jurisdiction of the town health official.

- I.1** All complaints or problems must be directed in writing to the management agent who will either attend to it himself or pass it on to the health official.
- I.2** The actions by any resident or visitor that results in a health hazard are punishable in terms of the above stipulations.

J. ECOLOGY

The Marina is situated in an ecologically sensitive environment. It is therefore imperative that residents and visitors keep this in mind when using the Marina facilities. It is further important that residents keep track of the behaviour of others.

- J.1** The dunes to the east of the Marina are particularly sensitive and for this reason a fence has been erected carrying signs ordering protection of the dunes. Dune paths to the sea are provided and people are requested not to deviate from them.
- J.2** Other sensitive areas are fenced off to keep persons out.
- J.3** The vegetation on the dunes is also highly sensitive and may not be disturbed or damaged.

K. GENERAL REGULATIONS

1. Public Accountability

- 1.1 It must be stressed that neither the HOA or any of its employees accept accountability for incidents that are connected with the use of the Marina or any related facilities. "All the facilities are used at property owners and visitors own risk, and although the HOA will do everything in its power to ensure the safety of users of the Marina, they accept no responsibility for loss of life or any injury sustained or any damage to property.
 - 1.2 As is the nature of the Marina, this open body of water is not fenced off, and the HOA accepts no responsibility for accidents that may occur.
 - 1.3 Every member of the HOA is in his/her capacity as owner of property or registered owner of a craft, personally responsible for the actions of his/her family members, visitors and guests and as such shall be held responsible for any damage to property or injuries that may occur.
2. The central irrigation system is the property of the HOA and only its employees may operate the system.
 3. No one may cut, climb over or tamper with the security fencing.
 4. In order to protect marine life in the Marina, fishing may be banned from time to time and restrictions may be imposed on fishing with regard to species and minimum size.
 5. No member of the HOA may make statements to the press regarding the Marina without the factuality of such statements being ratified by a management agent.

6. General Behaviour

No one while in the Marina may :

- use abusive language;
- behave indecently;
- be clothed indecently;
- deliberately act offensively or in a manner, which annoys or hinders other dwellers;
- be a public nuisance or disturb the peace.

7. Disciplinary Measures and Sanctions

- 7.1 The stipulations of these regulations concerning the use of vehicles, vessels, navigation and traffic rules are not applicable to vehicles or vessels used by members of the HOA, in the course of enforcing these regulations.
- 7.2 Anyone contriving these regulations or failing to comply with them is guilty of an offence and on conviction may face a fine of up to one thousand rand, and if already previously convicted on similar charges, a fine of up to four thousand rand and/or suspension of vehicle or vessel registration and essential services.

L. BUILDING ADDITIONS/ALTERATIONS/REPAINTING

Rules/regulations available at the M.M.H.O.A. office.

ADDENDUM

- “8.2** *For the enforcement of any of the rules made by the Trustees in terms hereof, the Trustees may :*
- 8.2.1** *give notice to the Member concerned requiring him to remedy such breach within such reasonable period as the Trustees may determine;*
 - 8.2.2** *take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the Member may be guilty, and debit the cost of so doing to the Member concerned, which amount shall be deemed to be a debt owing by the Member concerned to the Association; and/or*
 - 8.2.3** *impose a system of fines or other penalties. The amounts of such fines shall be reviewed and confirmed at each Annual General Meeting of the Association; and/or*
 - 8.2.4** *take such other action including proceedings in Court, as they may deem fit.*
- 8.3** *In the event of the Trustees instituting any legal proceedings against any Member or tenant within the Township for the enforcement of any of the rights of the Association in terms hereof, the Association shall be entitled to recover all legal costs so incurred from the Member or tenant concerned, calculated as between attorney and own client.*
- 8.4** *In the event of any breach of the rules by a Member or his staff, invitees, guests or lessees, such breach shall be deemed to have been committed by the Member himself, but without prejudice to the foregoing, the Trustees may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.*
- 8.5** *In the event of any Member disputing the fact that he has committed a breach of any of the rules, a committee of three Trustees appointed by the Chairman for the purpose shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that natural justice shall be observed) as the Chairman may direct.*
- 8.6** *Any fine imposed upon any Member shall be deemed to be a debt due by the Member to the Association and shall be recoverable by ordinary civil process.*
- 8.7** *Notwithstanding anything to the contrary herein contained, the Trustees may in the name of the Association enforce the provisions of any rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.*
- 8.8** *The Association may in general meeting itself make any rules which the Trustees may make and may in general meeting vary or modify any rules made by it or by the Trustees from time to time. The rules shall not be altered or amended in any way save with the written consent of the Jeffreys Bay Municipality.”*