



BODEGA HARBOUR HOMEOWNERS ASSOCIATION

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December 2, 2021

To: Bodega Harbour Homeowner

From: BHHA Management

Re: Enforcement Guidelines

Enclosed is the Enforcement Guidelines as approved by the Board of Directors for distribution to the membership for a 30 day comment period. Please review and provide feedback in accordance with the instructions enclosed.

The Board will review all comments received and consider ratification of these rules at an Open Session Board Meeting at a later date.

Sincerely,

BHHA Management

## **BODEGA HARBOUR HOMEOWNERS ASSOCIATION PROPOSED BHHA RULES, PROCEDURES & FINES**

The Board of Directors reviewed draft Community Rules Enforcement documents at the Board meeting on 8/21/2021. Thereafter a work group consisting of Board members Alexich, Estrada and Kilkenny, along with General Manager Taylor began the task of combining the draft enforcement proposal with the Community Rules, and several BHHA policy documents with the goal of having a single document incorporating the BHHA rules, enforcement process, and fines (for areas other than Landscaping and Design review). The product of that workgroup was reviewed by counsel and is now presented to the Board for review and approval.

### **What is being proposed?**

Several BHHA rules and policies have been combined into one set of “Association Rules”. This proposal consolidates, modifies, and supersedes the following rules or guidelines:

- The BHHA Community Rules Guidelines and Rules for Compliance with the BHHA Covenants, Conditions & Restrictions (CC&Rs) (Adopted 10/2019)
- The BHHA Amenity Use Policy. (Adopted 5-18-2010)
- Bodega Harbour Homeowners Association Golf Trespassing Policy and Fine Schedule. (Adopted 8-20-2016).

These separate policies are now incorporated into the proposed set of Association Rules and are no longer stand-alone policies. Enforcement Procedures and Fines have been added.

### **How is the proposal organized?**

Three sections cover the areas of: 1) Association Rules; 2) Enforcement Procedures; and 3) Fines and Penalties for the violation of rules.

### **What is covered?**

The policies discussed above are the central focus of the Association’s Rules, along with a process for enforcement, and fines for serious or repeated violations. Enforcement of BHHA Landscape and Construction Rules are not governed by this document but rather by separate *BHHA Design Guidelines and Construction Regulations* and the *BHHA Landscape Guidelines* which can be found on the BHHA Website, BHHA.org.

### **Are these new rules?**

This combined *set of rules* is new. The policy or “Rule” contents cover the same general topics as in existing policy documents, with changes to clarify or strengthen the Rules. Some of the prohibitions contained in the CC&Rs, but not previously incorporated into the Community Rules document are included in this recommended document (e.g., Trespass to Common Area, Signs). The *fine schedule* is broader than the previous fine schedule, and include fines for violations of existing BHHA rules or the Governing Documents. This draft proposal includes existing BHHA policy documents, or provisions in the Governing Documents. There may be added

December 1, 2021

requirements but all provisions are within existing BHHA requirements, or the Board of Director's authority to create rules to implement the Governing Documents.

### **What is different from the earlier policies?**

The following is a summary of the main changes or additions:

#### **SECTION I**

- "Trespass to Common Area", "Use of Amenities", and "Golf Course Trespass" are incorporated here and are no longer separate, stand-alone policies.
- There is a new provision on "Signs" (p. 3); "Noise and Nuisance" contains a broader discussion of this violation than in previous policy (p. 5).
- "Prohibition of Harassment" is a new policy required by federal and state law (p. 7).
- Neighborly communication continues to be the preferred approach to resolving disputes. If there is no resolution, a complaining owner may call Security if there is an active situation to observe and report. You can also call Security for trespass on Common Areas. (p. 7)

#### **SECTION II**

- Section II – Enforcement Procedures is new. This includes the Rule Violation Reporting Process (p. 7), and Investigation of Complaints (p. 8-11).
- An Owner, Guest or the Administration can report a violation of the Association Rules if observed. A *written complaint* is required for a formal complaint against an owner for violating the Association Rules. *Informal calls of complaint* to Security and the Administration will be looked into depending on resources. The Administration may pursue its own complaint against an owner for repeated Rule violations where the Administration or Security has observed the violation, even if no formal written complaint is submitted by an owner. (See p. 7)
- Serious, unresolved or repeated violations are subject to a Board hearing and potential fine. There is no fine if a matter is resolved before a Board hearing.
- A written complaint on an alleged violation, found by Administration to be valid, will result in a written *First Notice of Complaint* to the violator, even if the matter is quickly resolved. (p. 11). The date of this *First Notice of Complaint* will be used to determine if there is a repeat violation within a 6-month period. (pp. 9-10)
- Alleged violators will be given a *Second Notice of Complaint* if the matter is not resolved. If still not resolved, a Notice of Hearing will be sent to the offending owner. (p. 10)
- Repeat violations of the same Association Rule within 6 months will be handled on a fast track. A repeat violation will receive a "Second Notice of Complaint" and be given 30 days to resolve the violation.
- In circumstances involving severe situations or threats the Board or its agents may contact the appropriate civil authorities and undertake immediate corrective action and conduct a hearing as soon thereafter as possible. (p. 10)

- The Board of Directors' options for actions taken at an owner's hearing are more fully described – from levying a fine, to other actions and penalties available in the Governing Documents. (pp. 10-11)

### SECTION III

- Discipline, Fines & Penalties has combined separate fine schedules into one fine schedule, and includes new individual fines for separate Rule violations. There is *no fine* if an owner corrects a violation at the "First Notice of Complaint".
- There are new fine categories added that did not previously have fines identified, and previous fines have been increased (i.e., the daily fine for ongoing violations Nuisance and Nuisance Noise), especially for repeat violations of the same Rule within 6 months.
- ATTACHMENTS are included in the text of the proposed policy, and at the end, including a Flow Chart showing the complaint, investigation, and hearing steps, a Fine Schedule, a Complaint Form ("Request for Review"), a Guest Notice for providing to guests when the owner is not at the home, and a BHHA Map.

### CONCLUSION

The enforcement of the Association's rules and policies regarding owner and guest deportment has been an important Association and Administration issue for a number of years. During the period of 2016-2019 the Board passed several policies governing the use of property (see CC&R Article VII Use Restrictions), golf course trespassing, and use of amenities. All of these policies have been combined into the proposed *BHHA Rules, Procedures & Fines* document, which describes an enforcement mechanism, a single fine schedule, and increased fines.

The Board of Directors reviewed and approved the distribution to Association Members the attached proposed Rules, Procedure & Fines draft document at their meeting of November 20, 2021. These BHHA Rules are designed to consolidate existing authority and methods for policy violation, enforcement, and fines to create a streamlined process for Owners to use and the Administration to follow.

Association Members are requested to:

- Review the proposed BHHA Rules, Procedures & Fines document
- Written comments to be submitted by January 14, 2022. This is an extended period due to the holidays. Comments should be submitted to [bhadmin@KemperSports.com](mailto:bhadmin@KemperSports.com) with the subject line of "Comments on Rules Proposal"
- These draft BHHA Rules, Procedures & Fines are posted online at BHHA.org > "Members" > "Documents"

## BODEGA HARBOUR HOMEOWNERS ASSOCIATION RULES, PROCEDURES & FINES

### INTRODUCTION.

All owners, guests and tenants have the reasonable expectation of residing in a safe, quiet and peaceful residential community. The Bodega Harbour Homeowners Association (BHHA) has adopted Rules to assure that expectation is met.

- **Section I** of this document identifies the BHHA Rules;
- **Section II** identifies Enforcement Procedures; and
- **Section III** identifies potential Discipline, fines and penalties for violation of rules.

Enforcement of BHHA Landscape and Construction Rules are not governed by this document but rather by separate *BHHA Design Guidelines and Construction Regulations* and the *BHHA Landscape Guidelines* which can be found on the BHHA Website, BHHA.org

### IMPORTANT

**Emergency:** If a potential rules violation is an urgent threat to life or public safety call “911.”

**Contract Information.** For safety, emergency response and complaint resolution it is important that BHHA Administration know if homes are occupied or not. (This information is private and not subject to BHHA disclosure to third parties.)

- Owners must provide the BHHA with a 24-hour working phone number of the property owner, property manager or other designated representative who can respond to on-site emergencies, issues or complaints.
- Owners must also provide the BHHA with up-to-date information on whether a residence is occupied by an owner (permanent or second home), or long-or short-term tenants or lessees.
- Owners of short-term rentals should provide their Transient Occupancy Tax (TOT) number.
- Owners are encouraged to notify BHHA Administration of the use of residence by other than the owner. Notification may be written or emailed and must contain the address, the name of a contact, a phone number and dates of use.

**Neighborly Communication:** Neighborly communication is the preferred and usually the most effective approach to resolving disputes. Please politely try it first, where practical.

NOTE: This document consolidates, modifies and supercedes:

- The BHHA Community Rules Guidelines and Rules for Compliance with The Bodega Harbour Homeowners’ Association (BHHA) Covenants, Conditions & Restrictions (CC&Rs) (Adopted 10-2019)
- The BHHA Amenity Use Policy. (Adopted 5-18-2019)
- Bodega Harbour Homeowners Association Golf Course Trespassing Policy and Fine Schedule. (Adopted 8-20-16)

The authority for these Rules, Procedures & Fines is indicated at sentence end. (e.g., See CCR X.X)

## SECTION I - ASSOCIATION RULES

The purpose of these Association Rules, Procedures and Fines is to achieve a safe, quiet and peaceful residential community. These Association Rules reflect our CC&R and policy. Compliance with the Governing Documents and BHHA Rules is the responsibility of each BHHA Member (hereafter referred to as “Owner”). Each BHHA Owner is also responsible for violations of the Governing Documents and Rules by his or her licensees, invitees, contractors, guests, tenants, renters or lessees (hereafter referred to as “Guest” or “Guests”). Owners should provide Guests when the Owner is not present the “BHHA Rules Notice” contained in Attachment “A”. (See CC&R 7.11, CC&R 8.1, CC&R 8.9)

BHHA Owners are subject to the enforcement provisions of the BHHA Bylaws, Articles of Incorporation, Declaration of Restrictions (CC&Rs), collectively referred to as the “Governing Documents”. The Governing Documents authorize the Board of Directors to adopt and enforce Association Rules (“Rules”). (See CC&R 5.2D., Bylaw 7.1H.)

The Association or any Owner has the right to enforce the CC&Rs and Rules. Nothing in these Rules shall be deemed to limit any other rights and remedies that BHHA, Board of Directors or a BHHA Owner may have under BHHA Governing Documents or applicable law. (See CC&R 8.1)

Owners who violate these Association Rules are subject to notice, warning, and possibly a hearing and fine if the violation is unresolved or repeated. Owners are encouraged to review these Rules & Procedures and ensure their Guests are aware of the importance of abiding by them in a residential community.

### 1. Emergency Contact Information.

Owners must provide the BHHA with a 24-hour working phone number of the property owner, property manager or other designated representative who can respond to on-site emergencies, issues or complaints. Owners must also provide the BHHA with up-to-date information on whether a residence is occupied by an owner (permanent or second home), or long-or short-term tenants or lessees. Owners of short-term rentals are requested to provide their Transient Occupancy Tax (TOT) number.

Owners are encouraged to notify BHHA Administration of the use of their residence by other than the owner. Notification may be written or emailed and must contain the address, the name of a contact, a phone number and dates of use.

(BHHA Administration should know whether residences are occupied or not for safety, emergencies and complaint resolution. This information is private and not subject to BHHA disclosure to third parties.)

### 2. Use of Lot/Residence.

Lots shall be used for residential purposes by the occupants (Owners, or Guests). Residences must not be used for commercial or other non-residential uses, except that an owner may use the home as a combined residence and executive or professional office. (See CC&R 7.1)

### 3. Vehicle Restrictions/Parking.

No trailer, detached camper, mobile home, commercial vehicle, truck (other than standard size pickup truck or standard size van), boat, inoperable automobile or similar equipment shall be

permitted to remain upon any lot, other than on a temporary basis, unless it is parked within an enclosed garage. (See CC&R 7.3)

Campers, trailers or motor homes cannot be used as living quarters within Bodega Harbour. (See CC&R 7.1)

Recreational vehicles may be parked on a homeowner’s lot subject to these restrictions:

- No overnight occupancy of recreational vehicles
- Not more than 96 total hours on the property owner’s lot in any one calendar month
- Not more than four “stays” on the property owner lot in one calendar month
- No stay will be more than 48 hours in duration
- There will be a minimum of 24 hours between any two stays. (See CC&R 7.4)

Vehicles should be kept or parked overnight in the driveway or garage, where feasible. Street parking is allowed consistent with the Rules, county and state laws.

Required garage space may not be converted into any use (such as a recreational room or storage) that would prevent its use as parking space. (See CC&R 7.4)

#### **4. Common Areas.**

The Common Areas are for the use of Owners for any recreational activity that does not injure or scar the area or cause unreasonable embarrassment, disturbance, or annoyance to any other owner. Nothing shall be stored in the Common Area without the prior consent of the Board of Directors. No camping, fires, or animals not on a leash shall be permitted in the Common Areas. (See CC&R 7.6)

Owners’ family members and accompanied guests (in accordance with “Use of Amenities” section 10 below) may use some Common Areas. Common Areas are not open to the public or short-term renters.

“Common Area(s)” shall refer to that portion of the property (and all improvements thereon) owned and/or leased by the Association for the common use and enjoyment of the owners, and when required by law, the public. (See CC&R 1.6)

(See the BHHA Map in Attachment “B” for common areas where access is allowed by Owners, their family members and guests; the location of Shorttail Gulch Trail and Pinnacle Gulch Trail and related parking for beach access are open to the public.)

#### **5. Trespass to Common Area.**

The common area shall be held by the Association for the benefit of the members. (See CC&R 2.4)

#### **6. Signs.**

No commercial signs shall be displayed to public view. (See CC&R 7.7 for exceptions.)

#### **7. Garbage and Refuse Disposal.**

All rubbish, trash and garbage shall be regularly removed from lots, and shall not be allowed to accumulate thereon. Trash, garbage, and other waste shall be kept in sanitary containers, kept in a clean and sanitary condition, and shall be screened from view of neighboring lots, common areas and

streets. (CC&R 7.9) Garbage and recycling should be on curb no more than 24 hours before and after pickup.

**8. Pets.**

Dogs shall be on a leash when in common areas and in private lots (other than the pet owner’s lot). Pet owners are responsible for cleaning up after their pets and are responsible for any damages to property. (CC&R 7.8) Continuous barking by pets constitutes a nuisance. Pet owners are cautioned to not leave pets outdoors overnight. (See CC&R 7.8)

**9. Use of Amenities.**

Amenities (pool, sauna, tennis courts, exercise facility) are for the use of Owners, and in some instances their guests, Owners’ family with access cards, and tenants (long-term rentals) with a rental lease of six months or longer. Access by long-term tenants is obtained by filing a copy of the lease with the Administration office.

Owners and family members with access cards and their guests are welcome to use the amenities, with the exception of the exercise facility. That amenity is available to Owners and family members with access cards.

Owners and long- and short-term tenants may use the playground, basketball, bocce, and have clubhouse beach access. (See CC&R 2.4)

**Amenity Use Chart:**

Category/Amenity	Pool, Locker Room & Sauna	Exercise Room	Tennis/Pickle Ball	Playground, Basketball & Bocce	Clubhouse Beach Access (d)
Owners & Accompanied Guests (a)	Yes	Yes (No Guests)	Yes	Yes	Yes
Owners & residents with cards & Accompanied Guests (b)	Yes	Yes (No Guests)	Yes	Yes	Yes
Long-Term Renter/Tenants & Accompanied Guests (c)	Yes	No	Yes	Yes	Yes
Short-Term Renters	No	No	No	Yes	Yes

- a. A BHHA Owner is an Owner of record as shown on the Grant Deed for a lot(s) in Bodega Harbour.
- b. Family of BHHA Owners as defined in (a), provided that no more than six access cards may be issued per lot. The first four cards, including Owners’, are free, additional cards are \$25 each. The Owner of Record must approve in writing the issuance of all additional cards.
- c. If your access card is lost or stolen you may request a replacement card, however there will be a charge of \$25 for each replacement card issued. If you lose your access card, or sell your home, or no longer need an access card, it is imperative that you contact the Administration office immediately so that it can be deactivated.
- d. A long-term renter/tenant who is renting a home in Bodega Harbour for a minimum of six months and is listed on a current rental agreement/lease on file with the BHHA administration office.
- e. Beach access refers to the path south of the tennis courts.



## **10. Maximum Overnight Occupancy.**

Maximum overnight occupancy for Bodega Harbour homes shall be up to a maximum of two (2) persons per sleeping room or guestroom, plus two (2) additional persons per property, for a maximum of twelve (12) persons, excluding children under three (3) years of age.

## **11. Maximum Number of Guests and Daytime Visitors.**

The maximum number of total guests and visitors allowed at any time in a single Bodega Harbour home (except during recognized special events) should not exceed the maximum overnight occupancy plus six (6) additional persons per property during the daytime, or eighteen (18) persons, whichever is less, excluding children under three (3) years of age.

Daytime visitors shall not be on the property during quiet hours (10pm to 7am).

**Special Events.** Special events exceeding 18 persons are permitted between 7am and 10pm. Owners must provide at least a 24-hour notice to the BHHA Administration (during office hours) and provide estimates of the number of guests and event start/end times, and are encouraged to inform their neighbors. Commercial seminars or group events are prohibited.

The maximum guest limits may be exceeded on the following national holidays: Easter, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving, Christmas Eve and Christmas, so long as the holiday event and guest numbers are reasonable and do not impose on neighbors.

## **12. Outdoor Fire.**

Outdoor fire areas, when not prohibited by state or local fire bans, may be allowed on an Owner’s lot but shall be limited to 3 feet in diameter, shall be located on a non-combustible surface, and shall be extinguished as soon as it is no longer in use or by 10:00 pm, whichever is earlier. Wood or charcoal fire areas covered by a fire screen and that meet the above requirements are allowed. No unenclosed fires shall be located within 25 feet of a structure or combustible material. Fire pits approved by the BHHA and BBQs used in accordance with manufacturer’s directions are allowed.

## **13. Noise and Nuisance.**

No noxious, illegal, or seriously offensive activities shall be carried on upon any lot, or any part of the property, nor shall anything be done thereon which may be or may become an unreasonable annoyance or an unreasonable nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective lot. Special consideration is to be given between the quiet hours of 10pm to 7am. No noxious or offensive activities (for example, the operation of drones, or loud sounds) shall be carried out in residences or in the common area. (See CCR 7.2)

### **a. Nuisance Noise**

Nuisance Noise is any unusually loud or unnecessary noise within Bodega Harbour that unreasonably interferes with the quiet enjoyment of any neighborhood or causes an unreasonable and out-of-the-ordinary disturbance to any Owner or Guest of normal sensitivity (“Nuisance Noise”). Nuisance Noise is prohibited at all times, including during or outside of quiet hours. Repeated Nuisance Noise, even if temporarily resolved, is a violation of Association Rules.

Nuisance Noise does not arise from:

- Authorized, routine, or customary BHHA or private-party construction, maintenance, yard care, management, delivery, or refuse collection activities between 7am and 7pm;
- An emergency or emergency response, including power outages and restoration of utility service, rescue and medical services, and work necessary to protect persons or property from imminent threat or hazard;
- Otherwise lawful activities of law enforcement, firefighting, and other public safety or government agency personnel.
- The occasional cry of a baby or the faint sound of conversation, music, a radio or television.<sup>1</sup>

### **b. Prohibition of Drones**

A “Drone” is defined as any powered, pilotless aerial vehicle. Drone operation over Bodega Harbour is permitted only by

- Activities of law enforcement, firefighting, and other public safety or government agency personnel.
- Bodega Harbour programs approved by the Board of Directors, as implemented and supervised by the BHHA Administration, with notice to the Owners. Owners shall inform the BHHA Administration of the limited professional use of drones for real estate marketing purposes, with Administration notice to the membership.

## **14. Golf Course Trespass.**

Trespassing on to Bodega Harbour Golf Course is prohibited. Golf course trespassing is any unauthorized entry on the Bodega Harbour Golf Course by an Owner or Guests. The Golf Course is defined as the tee boxes, the fairways, the greens, the paved cart paths, and the rough which typically extends to the rear property lines of abutting private lots within the Bodega Harbour subdivision. Golf course boundaries area marked by white stakes. Authorized entry to the golf course is afforded

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<sup>1</sup> The courts have noted that a certain amount of "nuisance" must be tolerated: [E]very annoyance or disturbance of a landowner from the use made of property by a neighbor does not constitute a nuisance. The question is not whether the plaintiffs have been annoyed or disturbed ... but whether there has been an injury to their legal rights. People who live in organized communities must of necessity suffer some inconvenience and annoyance from their neighbors and must submit to annoyances consequent upon the reasonable use of property by others. (Schild v. Rubin (1991) 232 Cal.App.3d 755, 764.)

Life in organized society and especially in populous communities involves an unavoidable clash of individual interests. Practically all human activities unless carried on in a wilderness interfere to some extent with others or involve some risk of interference, and these interferences range from mere trifling annoyances to serious harms. It is an obvious truth that each individual in a community must put up with a certain amount of annoyance, inconvenience and interference and must take a certain amount of risk in order that all may get on together. The very existence of organized society depends upon the principle of "give and take, live and let live," and therefore the law of torts does not attempt to impose liability or shift the loss in every case in which one person's conduct has some detrimental effect on another. Liability for damages is imposed in those cases in which the harm or risk to one is greater than he ought to be required to bear under the circumstances, at least without compensation. (San Diego Gas and Electric Co. v. Superior Court (1996) 13 Cal.4th 893, 937-938.)

maintenance employees during the course of their duties, Administrative personnel, and for golfers during play on the course only after registering and paying golf fees at the Pro Shop.

Walking on the cart path leading from Gull Drive to the Clubhouse parking lot is allowed. This cart path is shared by golfers traveling from the 9<sup>th</sup> to the 10<sup>th</sup> holes. Walking on the cart path leading from the Clubhouse parking lot to the beach access is also allowed. This cart path is shared by golfers traveling from the 18<sup>th</sup> green to the Clubhouse and homeowners headed to the beach. Walking on any other portions of the cart path system is prohibited.

### **15. Harassment Prohibited.**

Owners and other residents shall not engage in any abusive or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other owners, residents, guests, occupants, invitees, or directed at management, its agents, its employees, or vendors.

## **SECTION II – ENFORCEMENT PROCEDURES**

### **1. Introduction.**

Compliance with the Governing Documents is a responsibility of each Owner. Each Owner is also responsible for violations of the Governing Documents and Rules by his or her Guests. Owners may receive fines or suspension or termination of privileges for violating these requirements. (See CC&R 7.11, CC&R 8.1, CC&R 8.9)

### **2. Rule Violation Reporting Process.**

If an Owner or Guest or the Administration observes a violation of these Rules, the Owner, Guest or the Administration should take the following actions:

- a. **Emergency:** If the matter is an emergency the Owner should call “911”. The Association cannot guarantee the safety of any resident, owner, or guest.
- b. **Neighborly Communication:** Whenever practical, neighborly communication is the preferred approach to resolving disputes. In the absence of such communication or a successful resolution, a violation may be abated by the BHHA Administration.
- c. **Security:**
  - **Trespass on Common Areas:** Call security if there are current trespassers on Association property (common areas, golf course and paths). Security personnel are tasked to monitor the common areas and BHHA property, and may engage golf marshals. Golf course trespass can also be reported to the Bodega Harbour Pro Shop.
  - **Active Violation:** Security should be called to report a current, ongoing violation of Association Rules involving an unreasonable nuisance or other violations involving risk in safety and security, or unreasonable noise. Responding security personnel should be given information as to who may have violated the Association Rules and in which property the violator resides. At their discretion, Security may approach the alleged violators if there is no risk to persons or property; they may contact the alleged violation property owner, and/or

their property management agent, and conduct an interview with the Owner, his or her agent, and/or the Owner’s guest concerning the alleged violation. If an alleged violation requires immediate attention because it threatens the health, safety or welfare of BHHA, its Owners, or Guests, the Administration may take prompt remedial action before, during or after investigating the matter, as appropriate. Security personnel may not trespass on any private lot. Security personnel will file a Complaint Response Resolution Form and Incident Report with BHHA Administration.

- d. **File a Complaint:** To report an alleged violation of Association Rules, a written complaint is required. Use of the complaint form (“Request for Review”, in Attachment “C”) available at the BHHA Administration Office, and on BHHA’s website, is recommended, but not required. The Request for Review Form or written complaint should be filed with the Administration via email or another method.

### 3. Investigation of Complaints.

Upon receipt of a Request for Review or other written communication that an Owner is violating or has violated a requirement or policy that could result in a fine or suspension of privileges, the Administration shall promptly investigate the matter, and if the Administration finds that a violation appears to exist, inform the alleged violator of the complaint, investigate the matter, and resolve the matter informally.

Serious, unresolved, or repeated violations are subject to a Board hearing and potential fine. There is no fine if a complaint is resolved before a Board hearing.

The Administration, in the General Manager’s discretion, may conduct such investigation as is necessary or appropriate to resolve the matter, and may engage legal counsel in the consideration and evaluation of the alleged violation.

#### a. First Notice of Complaint, Investigation and Informal Resolution.

Once an alleged violation comes to the attention of the Administration with a written complaint, the Administration shall promptly notify (First Notice of Complaint) the alleged violator they have 30 days to remedy the allegation, and investigate the matter to the extent deemed necessary and appropriate by the Administration to resolve the matter. The “First Notice of Complaint” date is put on record to determine if repeat written complaints on the same rule violation occur within 6 months, even if the matter is informally resolved.

In evaluating complaints, Administration may consider:

- i. Credible witness reports, any photographic evidence or video or audio recording, as well as Administration’s own field observations;
- ii. The character, timing, and duration of the condition, act, or activity;
- iii. The proximity of the condition, act, or activity to other persons, residences, recreation areas, or facilities;
- iv. Whether the condition, act, or activity is consistent or inconsistent with prevailing norms at Bodega Harbour of respectful, orderly, healthful, aesthetically consistent, or environmentally responsible behavior;
- v. Whether the condition, act, or activity may have adversely impacted an Owner’s or BHHA’s property, lands, resources, or wildlife;

- vi. Whether the condition, act, or activity results from an Owner’s disregard or failure to supervise (e.g. animals, rentals, parties or social gatherings, false home or vehicle alarms, etc.);
- vii. Whether any component of the condition, act, or activity was authorized by BHHA’s permits or approvals; and
- viii. Any extenuating circumstances, or emergency or hazardous conditions, that reasonably required, resulted in, or justified the condition, act, or activity.

Additional factors Administration shall consider for Nuisance Noise complaints:

- ix. Whether the noise events occurred during Quiet Hours, which events are to be more strictly evaluated;
- x. The duration of the noise, and whether the noise is recurrent, intermittent, or constant; and
- xi. The loudness, intensity, and character of the noise compared to the natural background soundscape at the time. No decibel measurements are required for an Administration determination of Nuisance Noise.
- xii. Penalties imposed and satisfied through the enforcement of public regulations.

These review factors create no rights nor guarantee a particular outcome; they serve to facilitate a fair consideration and balancing of the interest of BHHA Complaining Party and Accused Owner interests and concerns.

The Administration may engage legal counsel in the consideration and evaluation of the alleged violation at any time.

The Administration shall keep a record of evidence in support of and in opposition to the alleged violation.

**b. Threat to Public Health, Safety or Welfare.**

If an alleged violation requires immediate attention because it threatens the health, safety or welfare of BHHA, its Owners or Guests, the Administration may take prompt remedial action before, during or after investigating the matter, as appropriate.

**4. Administration Finds No Violation**

If the Administration determines the conduct alleged is not a Rules violation, or the investigation does not support the finding of a Rules violation, the Administration shall terminate the inquiry and notify the complaining party, if the Administration deems that appropriate.

**5. Administration Finds a Violation**

If the Administration finds that a violation appears to exist, and informal resolution has not resolved the matter within 30 days, the Administration will proceed with a Second “Warning” letter to the violator as described below in Section 6, informing the Owner of the continued violation and the potential fine or suspension of privileges.

## 6. Second Notice for Violation of Rules; Board Hearing and Discipline.

### a. Second Notice of Complaint.

If the Owner does not comply with BHHA requirements as set out in the “First Notice of Complaint” to Owner, the Administration shall send a “Second Notice of Complaint” to Owner, and provide an additional 30 days for Owner to comply.

### b. Repeat Violations

If a complaint is made alleging a repeat violation of the same Association Rule within 6 months is made, the complaint notice process to the violator will begin with a “Second Notice of Complaint” (6.a. above). Repeat violations will be strictly monitored and an Owner is given 30 days from the complaint date to remedy the situation. Even if the matter is resolved, such as in noise nuisance situations, repeat violations, if egregious or flagrant, may be the subject of a hearing and potential fine. The 6-month time period for repeat violations will begin anew with the latest violation date.

### c. Owner’s Right to Hearing.

If a violation continues after the “Second Notice of Complaint” to Owner has been issued, or is a repeated violation within 6 months of the last violation, a Hearing Notice to Owner will be issued in writing, by either personal delivery or first-class mail, at least fifteen (15) days prior to the hearing.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes (a) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring owners; (b) a traffic or fire hazard; or (c) a threat of material damage to, or destruction of, the Common Area, the Board or its agents may contact the appropriate civil authorities and undertake immediate corrective action and conduct a hearing as soon thereafter as possible, if either (1) requested by the offending owner within five (5) days following the Association’s actions, or (2) on its own initiative.

If a monetary penalty (fine) shall be imposed, it shall be in accordance with a schedule previously adopted and distributed to each BHHA Owner by personal delivery or first-class mail.

The Hearing Notice shall provide the Owner written notice of any charges or potential discipline or fine, the reasons therefor, and of the date of a hearing at which the Board will consider the imposition of a fine or other discipline. The Owner shall be given an opportunity to be heard orally or in writing, concerning the charges and the potential discipline. (Bylaw 7.2D)

The Board is given the opportunity to discuss the issue to determine if the allegation is valid or not. A fine or suspension of privileges may be imposed if the Board makes a finding that a violation occurred. The Board may take other action available to it under the Governing Documents if deemed necessary and appropriate including, but not limited to:

- **Remediate:** directing the Administration to enter upon any private area to take enforcement or remedial action;
- **Continued Negotiation:** return the matter to the Administration for further efforts to resolve it;
- **Terminate:** terminating the enforcement process as to the alleged violation (If the Board terminates the enforcement process, it shall instruct the Administration to so notify the party filing the complaint in writing);

- **Negotiate:** directing the Administration to seek Internal Dispute Resolution (CC 5900).
- **Settle:** entering into a settlement mutually agreeable to the Board and the Owner.
- **Impose Discipline:** imposing discipline including a fine, suspension of privileges or any penalty authorized by the Association Rules and Governing Documents.
- **Impose and Waive/Toll Discipline:** holding the enforcement of a fine or another discipline in abeyance. If there is no repeat violation within specified time the discipline is automatically waived. If there is a repeat violation within specified time discipline becomes automatically enforceable.

**d. Delivery of Notice to Owner.**

Any notice permitted or required by the governing Documents may be delivered personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States Mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the lot of such person if no address has been given to the Secretary. (CC&R 8.10)

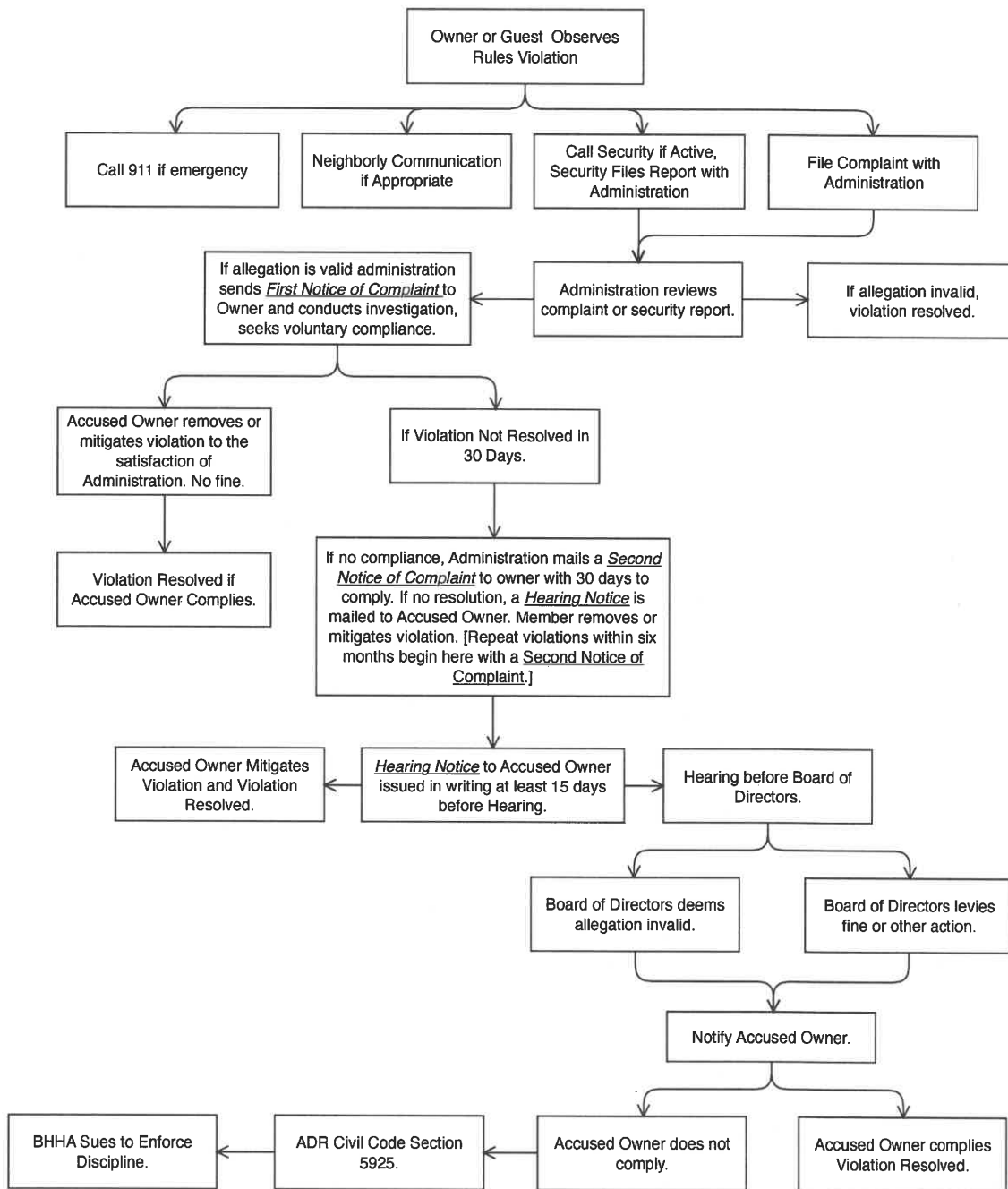
## **7. Alternative Dispute Resolution**

BHHA or an Owner may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to Civil Code Section 5925-5965 and CC&R Section 8.15. An enforcement action is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for money damages not in excess of the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure. This requirement does not apply to a small claims action.

## **8. Reservation of Other Rights and Remedies.**

Nothing in this enforcement policy and procedure shall be deemed to limit any other rights and remedies that the Board or a BHHA owner may have under BHHA governing documents or applicable law.

Attachment “D” Flow Chart of BHHA Enforcement Proceedings



This is a general description of a typical enforcement sequence but the Association is not required to follow this sequence if the Board deems such action inappropriate or unnecessary.



### SECTION III - DISCIPLINE FINES & PENALTIES

Compliance with the Governing Documents and Rules is the responsibility of each BHHA Owner, who is also responsible for violations by his or her Guests. Owners may receive fines or suspension or termination of privileges for violating these requirements. (See CC&R 7.11, CC&R 8.1, CC&R 8.9)

#### ATTACHMENT “E” – FINE SCHEDULE

These fines are assessed per action/inspection and subject to BHHA Administration and/or Board review and approval. There is no fine if an Owner corrects a violation at the “First Notice of Complaint”.

VIOLATIONS	FINE	
<b>Use of Lot</b> See Section I.2.	\$20.00 (twenty dollars) per day until compliance is achieved.	
<b>Vehicle Restrictions</b> See Section I.3.		
<b>Use of Common Area</b> See Section I.4.		
<b>Trespass to Common Area</b> See Section I.5.		
<b>Signs</b> See Section I.6.		
<b>Garbage and Refuse</b> See Section I.7.		
<b>Animals/Pets</b> Sees Section I.14. a., and Section I.9.	Fine - 1 <sup>st</sup> Violation	Fine - 2d or Repeat Violation
<b>Use of Amenities</b> See Section I.10.	\$200	\$200 and Loss of Privileges
<b>Maximum Overnight Occupancy</b> See Section I.11.	\$250	\$500
<b>Maximum Daytime Guest/Visitors</b> See Section I.12.	\$250	\$500
<b>Outdoor Fire</b> See Section I.13.	\$250	\$500
<b>Nuisances</b> See Section I.14.	\$250	\$500
<b>Nuisances - Noise:</b> See Section I.14. a.	\$500	\$1000
<b>Prohibition of Drones:</b> See Section I.14. b.	\$250	\$500
<b>Golf Course Trespass</b> See Section I.15.	\$250	\$500
<b>Harassment Prohibited</b> See Section I.16.	\$250	\$500
<b>Other Governing Document or CCR Violations</b>	\$250	\$500

## **ATTACHMENTS**

**ATTACHMENT A: GUEST RULES NOTICE**

**ATTACHMENT B: BHHA MAP**

**ATTACHMENT C: REQUEST FOR REVIEW/COMPLAINT FORM**

**ATTACHMENT D: FLOW CHART – ENFORCEMENT  
PROCEEDINGS** (within text above)

**ATTACHMENT E: FINE SCHEDULE** (within text above)

To be Provided to all Guests when Owner is not at the Home

## BHHA ASSOCIATION RULES - NOTICE TO GUESTS

This home is located in **Bodega Harbour**. All occupants are required to abide by the Policies of the Bodega Harbour Homeowners’ Association (BHHA). This is a residential neighborhood with permanent residents living here. Please respect their privacy & need for quiet enjoyment.

Anyone can make a complaint if they object to the behavior of residents or guests staying here. Security personnel may be called if guests are loud or create a nuisance.

**We ask that you follow our conduct rules for all guests or fines can be assessed:**

- The GOLF COURSE & PATHS are BHHA property and reserved for golfers only. Golf course boundaries are marked by white stakes. Do not walk or play on them at any time.
- Open areas in the Harbour are available to owners only.
- Always keep noise levels low in the home, spa, decks, parking areas, etc. so as to not bother neighbors.
- Quiet hours are 10 pm to 7 am. Daytime visitors are not allowed during quiet hours.
- The maximum overnight occupants allowed at this home: 2 persons per bedroom (up to 5 bedrooms) + 2, not counting children under 3 years of age.
- The maximum daytime guests (7am-10pm) allowed at this home: total occupants + 6 guests.
- Outside loud sounds or use of drones is not allowed at any time.
- Park vehicles in the garage and/or driveway. Please limit overnight on-street parking.
- Use garbage bins for garbage & recycling. Garbage shall be secured in garbage cans and not left in public view. Garbage should be on curb 24 hours before and after pickup.
- Public beach access trails are posted at the trailhead. Refer to information given by owner/agency for the most up-to-date access.
- Pets, if allowed, shall be secured on the property at all times. All pets shall be on a leash throughout the community.
- Continual barking by pets constitutes a nuisance.
- Outdoor fire areas are limited to 3 feet in diameter, shall be located on a non-combustible surface and shall be extinguished as soon as no longer in use or by 10 pm, whichever is earlier. BBQ wood or charcoal fire areas covered by a fire screen and built-in fire pits are allowed.
- Swimming pool, tennis courts, sauna, and exercise room are not available to short-term guests or visitors. Fines will be assessed for attempting to use and not leaving as instructed.

This home managed by \_\_\_\_\_ TOT Number: \_\_\_\_\_

Total Overnight Occupancy: \_\_\_\_\_

Total Number of Overnight Vehicles: \_\_\_\_\_

The daytime office number is: \_\_\_\_\_

The 24-hour number is: \_\_\_\_\_

If you have an emergency please dial “911”

Thank you!

ATTACHMENT B: BHHA MAP





**Request for Review Submittal**

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

**Reporting Parcel:**

Parcel #: \_\_\_\_\_ Harbour Address: \_\_\_\_\_

Homeowner: \_\_\_\_\_

Contact Information: \_\_\_\_\_

Contact Email: \_\_\_\_\_

Times available to meet for photos: \_\_\_\_\_

It is recommended you talk or write to your neighbor first. Have you tried reaching out to them? YES NO

**Parcel with Possible issue:**

Parcel #: \_\_\_\_\_ Harbour Address: \_\_\_\_\_

Issue: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
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