

**RULES AND REGULATIONS  
AND  
PENALTY SCHEDULE**

**BERRYESSA HOMEOWNERS ASSOCIATION**

**I. PURPOSE:** To provide rules and regulations to govern the use of Berryessa common and private property, facilities and the personal conduct of the members of the Association, their guests and lessees; and to establish procedures and penalty schedules for infractions to the Rules and Regulations and/or the Conditions, Covenants and Restrictions (CC&R's) and/or By-laws; to provide for the residents the use of quiet enjoyment and to preserve property values. These Rules and Regulations serve only to supplement the intent of the CC&R's and the By-laws and are not intended to replace either.

**II. FINANCIAL:**

- A. REGULAR ASSESSMENTS** are determined annually by the Board based upon the needs of the operating budget and cash reserve requirements.
- B. CAPITAL IMPROVEMENT ASSESSMENTS** may be levied by the Board in any fiscal year to defray in whole or in part the cost of any construction, replacement, or improvement. Capital Improvement assessments will not exceed twenty five percent of the annual expenses and will be administered in accordance with the CC&R's. Thirty (30) days notice will be given prior to imposing such assessments.
- C. LATE CHARGES:** Will be \$15 after the 15<sup>th</sup> of the month.
- D. UNPAID ASSESSMENTS** and penalties will incur three quarters of one percent (3/4 of 1%) interest compounded monthly.
- E. LEGAL ACTION:** Assessments and/or penalties that accumulate for a period of 90 days and/or exceed \$250, and remain unpaid, and no arrangement has been made to pay, will automatically proceed to legal action to lien the property, and if non-payment persists, to foreclosure.
- F. REASONABLE NOTICE** and the opportunity to be heard by the Board will be provided before imposition of any monetary penalties for violations of these Rules and Regulations as follows:
- One (1) letter of notification to correct violation (warning letter) will be sent to the property owner or designated agent.
- If within seven (7) days from the date of the warning letter the Board or its Property Manager receives a written request for a Board hearing such hearing shall be promptly convened on a date to be promptly advised to the property owner or agent, which date may be sooner, but in no event shall be later, than the next regular Board Meeting.
- If within fifteen (15) days from the date of the warning letter no request for a hearing has been received, or the property owner fails to show up for the hearing meeting, and the

violation has not been corrected, a fine shall automatically, and without further notice, be levied.

Lessees have no standing before the Board. Owners are responsible for informing lessees of the Rules and Regulations of the community and for any violations on the part of their lessees. The Board is under no obligation to grant lessees a hearing.

Request for or scheduling of a Board Hearing Meeting does not indemnify against additional fines. If, meanwhile, the violation persists additional fines may be levied.

Payment of a fine is not license to continue the violation. Continued violation leaves the violator open to repeat fines until corrected.

While the Board and it's designated Property Manager will attempt to resolve violations without recourse to fines it remains the property owner's responsibility to respond to allegations of violations in the manner and within the timeframes defined herein to avoid monetary penalties.

### **III. DWELLING/PROPERTY**

**A. NON-RESIDENTIAL ACTIVITY**-Dwellings are to be used strictly as residence. No resident property may be used to conduct a trade or business activity of any kind whatsoever, nor any other activity which uses the property or common areas of the community in effect as a club or group meeting hall. This shall exclude persons who work from their home in a manner that does not involve clients coming to and fro, any signage, or any other visual or noise making disturbance to the community. Under no circumstances may any business place a sign within the Association property. Violations, upon notice, will be subject to a fine of \$500.00 per violation, or \$500 per month as long as the violation remains.

**B. TEMPORARY DWELLINGS:** No tent, shack, shed, garage, barn or other temporary building shall be erected on any property within the Association except during the course of construction. Violators, upon notice, will be fined \$100.00 for each 30 days the violation remains.

**C. MAINTENANCE:** All property owners and/or their lessees or renters shall maintain their property in good repair, adequately painted and maintained and finished and consistent with the surrounding structures and with the Architectural Control Committee's view as being maintained. Violators, upon notice, will be fined \$50 per violation until the problem is corrected to the satisfaction of the Board. When infractions are recurring without response from the homeowner, a fine of \$50-\$100 will be assessed weekly.

**D. WINDOW TREATMENTS** will not include foil or any other fixtures or material inconsistent with traditional and acceptable window treatments and visible from the exterior. Corrective measures will be determined on an individual basis by the Board or the Architectural Control Committee.

**E. BASKETBALL HOOPS** attached to dwellings in any way are not permitted. Free standing basketball structures are an exception to the CC&R's free standing structure policy but must be kept in good repair and kept out of all public thoroughfares, including the street and sidewalk. Violators, upon notice, will be fined \$100 per violation until the structure is removed.

#### **IV. LANDSCAPING:**

**A. FRONT YARDS AND GREENBELT AREA** are maintained by the association.

The greenbelt area, (not front lawns), may be used for parties, but only with prior written approval for the Association's Property Manager.

Property owners must have landscaping changes to the front yard (excluding flower pots) pre-approved. Installation of structures such as wall extensions, fountains or statues or installation or removal of trees, shrubs, hedges, or bushes by the property owner requires prior written approval of the Board.

Violators, upon notice, will be subject to a fine to be determined by the Board or the Architectural Control Committee on an individual basis.

Complaints or request for change to front yard landscaping must be communicated to the Property Manager for transmittal to the landscaping contractor. Landscaping crews are strictly forbidden to take orders directly from property owners.

**B. BACKYARDS AND SIDEYARDS:** are to be maintained free from weeds, trash, litter, trees too close to or overhanging common walls, and health hazards such as dog feces. Back yard trees must be kept in good condition and properly trimmed. Violations, upon notice, will be fined \$100 per month, with fines increasing to \$250, until the problem is corrected to the satisfaction of the Board or Architectural Control Committee.

**C. COMMON WALLS:** The outside of common walls are maintained by the Association, but repair of damage done to such walls by tree roots and/or watering systems abutting backyards will be charged to property owners of the violating back yard. Failure to remove such sources of common wall damage upon request shall constitute a violation subject to, upon notice, a fine to be determined by the Board on an individual basis.

#### **V. ANTENNAS AND RADIO RECEIVERS:**

No antenna that exceeds the height of the roof will be allowed. A satellite dish may not exceed 1 meter (39") in diameter. Violators, upon notice, will be fined \$100 per month until compliance is met.

#### **VI. VEHICLES:**

- A. **INOPERABLE VEHICLES:** No car or other vehicle that is inoperable shall be stored or kept on any property visible to the community.
- B. **BOATS, TRAILERS, CAMPERs, MOTOR HOMES, BUSES, TRUCKS** or similar large vehicles shall not be parked, kept, stored, maintained, constructed or repaired on any lot or street or within the property so as to be visible to the community; except for moving or delivery vans, and then not for more than 24 hours.
- C. **OVERNIGHT PARKING:** No vehicle of any kind shall be allowed to park on any street overnight within the Association property, (except for temporary visitors, see next paragraph).
- D. **TEMPORARY VISITORS** may park recreational vehicles or boats in a residential driveway for a period not to exceed 24 hours. Such vehicles may park on the street overnight only with prior written approval of a Board member or the Association Property Manager.
- E. **VEHICLE VIOLATIONS** to any of the above are subject to a fine of \$50.00 per offense upon notice. Fines shall be assessed daily as long as the violation remains.

#### VII. TRASH:

- A. **TRASH AND DEBRIS:** Properties are to be kept free of trash, debris, equipment and other litter. Violators, upon notice, will be fined \$50.00 per offense until the problem is resolved.
- B. **TRASH CONTAINERS** may not be placed or maintained so as to be visible to the community except from the evening before pick up by the city until the evening of the day of pick up. At all other times trash containers must be stored out of sight in a garage or behind a gate. Violators, upon notice, will be fined \$50.00 per offense.

#### VIII. SIGNS

- A. Professional Real Estate signs are permitted for purposes of sales/lease/rent of homes within the community.
- B. Temporary Garage Sale signs are permitted for a period not to exceed 48 hours.
- C. **PROPERTY WALLS:** No signs of any sort are permitted to be fastened to any property wall.
- D. **SIGN VIOLATORS:** Upon notice, will be fined \$50 per offense. For Sale or Rent signs are permitted in the yard of the homeowner only, not the common area. Political signs are prohibited earlier than 71 days before the day of an election and are allowed no later than 3 days after an election day.
- E. **FLAGS:** The following flags are allowed for outside display: American flag, or an official flag of the United States Army, Navy, Air Force, Marine Corps, Coast Guard if the American or military flag is displayed in a manner consistent with the Federal Flag Code. Also allowed is a POW/MIA flag, Arizona State flag, Arizona Indian Nations flag and the Gadsden flag. Only 2(two) flags may be displayed at once and the height of a flagpole cannot be more than the

height of the rooftop of the member's home. Sport and school flags may be displayed on a temporary basis during game day.

## **IX. POOL /SPA**

- A. NO CHILDREN** under the age of 14 shall be allowed in the pool/spa without an adult age 21 or older. No older child alone shall be allowed to babysit a younger child in the pool/spa area. Violators who do not promptly leave upon request will subject the owner of the property they live in, claim to live in, or whose guest they claim to be to a fine of up to \$500 per violation at Board discretion.
- B. VISITORS/PARTIES:** No more than three (3) visitors per household shall be allowed in the pool/spa at any given time. Visitors must be accompanied by an adult member of the household or designated adult. Group parties require prior written Board approval. Violators who do not promptly leave upon request will subject the owner of the property they live in, claim to live in, or whose guest they claim to be to a fine of up to \$500 per violation at Board discretion.
- C. TRESPASSING:** Entrance to pool/spa area shall be by key only. Climbing over gates or walls to enter the pool/spa area is criminal trespassing, whether or not the violator(s) live in Berryessa. Violators will be subject to arrest and prosecuted to the full extent of the law, and the owner of the property they live in, claim to live in, or whose guest they claim to be will be fined up to \$1000.00 per violation plus damages at Board discretion.
- D. VANDALISM:** Damaging pool/spa area structures, equipment, or furnishings is a felony. Violators will be subject to arrest and prosecuted to the full extent of the law, and the owner of the property they live in, claim to live in, or whose guest they claim to be, will be fined up to \$1000.00 per violation at Board discretion, plus damages.
- E. CURFEW:** The pool/spa area shall be closed to all use on all nights at 10:30 PM. Violators who do not promptly leave upon request will subject the owner of the property they live in, claim to live in, or whose guest they claim to be to a fine of up to \$500 per violation at Board discretion.
- F. OTHER POOL/SPA RULES:** Violators of the following pool area usage rules will be fined, upon notice, \$100.00 per violation, plus damages:

Gates must be kept locked at all time.

No glassware. No pets.

Use at own risk. No lifeguard on duty.

Shower before entering water.

No soap, chemicals or foreign objects in water.

Wear swim attire. No street clothing in pool or spa.

No boisterous horseplay.

Lock restroom after each use.

No diving. No running.

No bikes, skateboards, or rollerblades on cool deck.

No smoking in water. Dispose in proper receptacles, not cool deck.  
Place all trash in receptacles provided.

#### **X. PETS:**

**A. ROAMING:** Neither dogs, cats, or any other pets shall be allowed to roam about within the community. Dogs are to be kept on a leash while outside in any area of the community. Owners who allow their pets to roam freely will be fined \$50.00 per occurrence.

**B. DROPPINGS:** Pet owners are responsible for immediate removal of pet droppings from all common areas, including front lawns. Violators, upon notice, will be fined \$50.00 per occurrence.

**C. BARKING:** Incessant dog barking shall not be tolerated, per City of Scottsdale ordinance Article II, Section 4-17, Code 1972. Violators failing to respond to requests not to leave their dogs in backyards to bark incessantly shall, upon notice, be fined \$100.00 per occurrence.

#### **XI. OFFENSIVE NOISE AND ACTIVITIES:**

**A. DISTURBANCES:** Loud music, loud conversations, constant barking dogs, and other such noise and/or activities which disturb the peace and quiet of the community shall not be allowed. Repeat violators who do not respond to polite requests to cease the disturbance shall, upon notice, be fined \$100.00 per occurrence.

#### **XII. ARCHITECTURAL CONTROL COMMITTEE:**

**A.** A minimum of three (3) and a maximum of five (5) homeowners selected by the Board annually, or alternately the Board itself, will serve as the Architectural Control Committee for the Association. Any and all alterations to property must be pre-approved by the Committee before commencement of any exterior construction, excavation, installation, or alteration including but not limited to landscaping, exterior lighting, (excluding holiday lights), awnings, walls, fences and basketball hoops.

**B.** Plans are to be submitted to the Committee with specifications showing height, color, location and other material attributes. The Committee will respond within 30 days of receipt of request with its decision.


C. Property owners who neglect to follow the above approval process may be required to alter or remove unauthorized changes or additions. Violators, upon notice, will be fined \$150.00 per month until compliance with Architectural Control Committee decisions.

APPROVED BY VOTE OF THE BOARD:


Date: 5/9/12

  
Jeff Brune, President

  
Alex Mendelson, Vice President

  
Carmine Serino, Treasurer

  
Megan Looney, Secretary

  
Michael Squier, Officer