

CODE OF CONDUCT OF BIG BEAR LAKE PROPERTY OWNERS ASSOCIATION, INC.

On April 4th, 2009, at the April Board of Directors Meeting, the Board of Directors of the Big Bear Lake Property Owner's Association unanimously adopted the following Rules and Regulations with a schedule of fines for the safety and welfare of all property owners and their guests.

A violation that is over one year old cannot be a basis in establishing a subsequent violation resulting in new fine, provided that no other violations existed against that same individual or property within that one year period.

Payment of Fines

- Any and all fines incurred by any and all property owner(s) not paid and/or satisfied within thirty (30) days from the date that said fine is levied shall be added to the owner or owner's account, in addition to any other fees owed to the Property Owner's Association by the individual property owner(s). Any amount of money received by the Property Owner's Association shall first be applied to any and all fines and then to any other fees or charges of the Association. In the event that a property owner requests a hearing before the Judicial Conduct Board following the issuance of a fine, said fine shall then be due and payable within thirty (30) days from the date of the issuance of a written decision from the Judicial Conduct Board.
- Any and all fines incurred by any and all guests of any and all property owner are the responsibility of the property owner.
- Any property owner or owners who fail to pay any and all fines shall not be considered a member in good standing of the Association and shall be subject to all other remedial actions as set forth in the By-Laws of the Big Bear Property Owner's Association, any and other rules and /or regulations adopted by the Board of Directors of the Big Bear Lake Property Owner's Association.
- All unpaid fines shall accrue interest at the rate of, an annual interest rate of eighteen percent (18%), per annum until paid in full.

BIG BEAR LAKE POA SCHEDULE OF FINES

A. Disorderly Conduct.

Offense defined.—A person is guilty of **disorderly conduct** if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) engages in fighting or threatening, or in violent, tumultuous behavior or drunken behavior;
- (2) makes unreasonable noise;
- (3) uses obscene language, or makes an obscene gesture;
- (4) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor;

- (5) any conduct that would be a misdemeanor or felony under the laws of the State of West Virginia; or
- (6) any conduct that would sustain a cause of action under the laws of the State of West Virginia

Definitions.— As used in this section the word “public” means affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are roadways or trails within the Big Bear Lake Camplands, buildings, recreation centers or activities located within Big Bear Lake Campland, lots of individual owners, places of business within the Big Bear Lake Camplands or amusement, any Territory or Territory Building, Big Bear Lake, any lands leased by the Big Bear Lake Property Owner’s Association or the developed or undeveloped adjoining acreage owned by Alyeska, Inc., or any premises within the Big Bear Lake Camplands which are open to the public. “Drunken Behavior” shall mean the excessive use of intoxicating beverages or chemical substance abuse of any kind and those persons who appear to be under the influence of intoxicating beverages or illegal chemical or drug substances. Any reference herein to the phrase or term of “lots of individual owners” as being “public”, as defined herein shall not be used in any way to expand the rights of any individual lot owner or guest as having the ability to utilize or enter upon property or a premises of which that individual is not the record title owner of said property. Nothing herein shall prohibit the security of Big Bear Lake and/or its agents or staff from entering upon the lands of another to enforce all rules and regulations of the Big Bear Lake Property Owner’s Association.

- 1. 1st offense – \$100 fine
- 2. 2nd offense – \$300 fine
- 3. 3rd offense – a fine equal to the higher of \$400.00 or that amount equal to the annual assessment fee levied by the Big Bear Lake Property Owner’s Association, and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner’s Association wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.

B. Criminal Mischief and/or Vandalism.

Offense defined.—A person is guilty of criminal mischief or vandalism if he:

- (1) damages tangible property of another intentionally, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means;
- (2) intentionally or recklessly tampers with tangible property of another so as to endanger person or property;
- (3) intentionally or recklessly causes another to suffer pecuniary loss by deception or threat;
- (4) intentionally defaces or otherwise damages tangible public property or tangible property of another with graffiti by use of any aerosol spray-paint can, broad-tipped indelible marker or similar marking device;
- (5) intentionally damages real or personal property of another;
- (6) any conduct that would be a misdemeanor or felony under the laws of the State of West Virginia; or

- (7) any conduct that would sustain a cause of action under the laws of the State of West Virginia.

Definition.—As used in this section, the term “graffiti” means an unauthorized inscription, word, figure, mark or design which is written, marked, etched, scratched, drawn or painted.

1. 1st offense – immediate restitution, together with a mandatory fine of \$75.
2. 2nd offense – immediate restitution, together with a mandatory \$150 fine and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner’s Association wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.
3. 3rd offense – immediate restitution, \$300 fine plus an immediate hearing before the board to consider expulsion from Campland or prosecution by West Virginia state law.

C. Reckless Endangerment.

A person is responsible for a violation of this section if he recklessly engages in conduct or operates a vehicle and/or golf cart in manner which places or may place another person in danger of death or serious bodily injury, such that he demonstrates behavior that constitutes a conscious disregard of a known risk of death or bodily harm to another person.

- Penalty – a fine of up to \$400 or that amount equal to the annual assessment fee levied by the Big Bear Lake Property Owner’s Association, and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner’s Association, wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.

D. Quiet Hours

Quiet hours shall be 12:00 AM (midnight) through 7:00 AM. Does not apply to necessary Campland operations.

- 1st offense – \$50 fine
- 2nd offense – \$100 fine
- 3rd offense – a fine equal to the higher of \$400 or that amount equal to the annual assessment fee levied by the Big Bear Lake Property Owner’s Association, and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner’s Association, wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.

Definition.—A violation of quiet hours shall include, but certainly not be limited to any noise, disturbance or any loud occurrence which would typically under normal circumstances constitute a disturbance or an annoyance to a reasonable person under the same or similar circumstances, by virtue of any person(s) voice, mechanical device, vehicle, machinery, animal or such other means used by an individual as discovered by the Camplands which in the opinion of the Camplands constitutes a violation of this section.

E. Trespass

In accordance with West Virginia law, it shall not be necessary to give notice by posting on any enclosed land or place not exceeding five acres in area on which there is a dwelling house or property that by its nature and use is obviously private in order to obtain the benefits of West Virginia law prohibiting trespass. All lots in Big Bear Lake Camplands, by their nature and use, are hereby deemed obviously private and without necessity for posting which is in fact prohibited.

Any person who knowingly and without being authorized, licensed or invited, enters or remains on the land or lot of another property owner, shall be deemed a trespasser and shall be fined as follows:

1. 1st offense – immediate restitution, together with a mandatory fine of \$75.00.
2. 2nd offense – immediate restitution, together with a mandatory \$150.00 fine and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner’s Association wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.
3. 3rd offense – immediate restitution, \$300.00 fine plus an immediate hearing before the board to consider expulsion from Camplands or prosecution by West Virginia state law.

Any person who defies an order to leave, personally communicated to him by the owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate, or causes any damage to property by such trespassing on property other than a structure or conveyance, he shall deemed a willful trespasser and shall be fined as follows:

1. 1st offense – immediate restitution, together with a mandatory fine of \$150.00.
2. 2nd offense – immediate restitution, together with a mandatory \$300.00 fine and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner’s Association wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.
3. 3rd offense – immediate restitution, \$300.00 fine plus an immediate hearing before the board to consider expulsion from Camplands or prosecution by West Virginia state law.

This section shall not apply to the agent(s) or security personnel of the Camplands who shall at all times hereto be permitted to enter the lands of another within the Camplands to conduct business within the scope of the performance of the operations of the Camplands.

F. Other Violations.

1. Residency Violation

A violation of this section shall be defined as any owner of any lot or combination of lots, owned within the Big Bear Lake Camplands (excluding those properties designated as permanent home sites), who is physically present and/or occupying said lot(s) overnight during the winter season, between November 1st and March 31st for more than sixty (60) days total. During this time a person shall not occupy said lot or lots for more than a maximum of fourteen (14) consecutive overnight stays in any ninety (90) day period between November 1st and March 31st. All methods to be determined by the Board of Directors as to means of computing use and/or occupation of said lot or lots shall be valid.

Penalty – \$50 per day, together with any and all other sanctions that the Board of Directors deems appropriate.

2. **Solid Waste Facility Regulations**

Household Garbage: Most any refuse generated on your campsite may be put into the household trailer. Items that may not be put into this trailer include: appliances with Freon (refrigerators and air conditioners), tires, motor oil, free liquids (paint and stains), hazardous materials, batteries, LP tanks, gasoline tanks, and flammable liquids.

Construction and Demolition Debris: Most any material used in the construction of a building or in the demolition of a structure may be put in to the Construction & Debris trailer. This includes dimensional lumber, shingles, concrete blocks, windows, and doors. Items that may not be put into this trailer include: household refuse, appliances with Freon, tires, motor oil, free liquids (paint and stains), hazardous materials, batteries, LP tanks, gasoline tanks, and flammable liquids.

Refrigerators: Any refrigerator that is generated within the Camplands will be accepted in the junk metal bin. However, they must be red tagged and certified as Freon free. You may contact your preferred heating and cooling company to have this done or contact the POA business office to have this service preformed. A charge of \$40 is required for the removal of Freon from each refrigerator or appliance with Freon. Persons illegally dumping a non red tagged appliance will be assessed a \$100 service charge for the proper disposal of the appliance.

Tires: Golf cart tires are the only tires that will be accepted, providing they are generated within the Camplands. NO automobile or truck tires should be generated within the Camplands and will NOT be accepted. Persons illegally dumping a tire will be assessed a \$20 service charge for the proper disposal of the tire.

Batteries: Golf cart batteries generated within the Camplands will be accepted. A separate storage area will be constructed to hold batteries and they will be recycled. Persons illegally disposing a battery into the trailers will be assessed a \$100 service charge for the removal and proper disposal of the battery.

3. **Golf Cart and Snowmobile Rules and Registration Violation**

All golf carts and snowmobiles must be registered and owners must sign a hold harmless statement that also includes the rules and regulations governing the use of those vehicles within Big Bear Lake Camplands. Each owner's lot number must be visibly displayed on the front and back or left and right sides of any golf cart, snowmobile, using a minimum of three 3" letters. An annual fee of \$5 plus tax is paid on golf carts. A fee of \$15 plus shall be paid for registration of all snowmobiles.

General Rules and Regulations

- * Safety First! ANYONE caught driving in an unsafe manner including speeding will lose his or her golf cart driving privilege in the campground.
- * Any person operating a Golf Cart must possess a valid motor vehicle operator's license that is issued by a proper state authority.
- * ALL riders MUST be seated, No more passengers than seating safely allows, no sitting in other peoples laps (other than infant children).
- * ABSOLUTELY NO STANDING ON GOLF CARTS!
- * Golf carts are required to follow all posted speed limits and drivers are expected to drive in a responsible way.

- * Golf Carts are required to drive on the roads and designated golf cart trails only. DO NOT cut across campsites or grass areas.
- * Pedestrians always have the right of way.
- * Golf Carts must have mounted lights to operate after dark. Flash lights are NOT permitted.

The Big Bear Lake Board of Directors shall be permitted to adjust the aforesaid fees by motion or resolution from time to time as it deems necessary.

- 1st offense – \$50 fine
- 2nd offense – \$100 fine
- 3rd offense – removal of unregistered vehicle from Camplands

4. **Boats**

Boats which are anchored at Big Bear Lake do not have to be registered or pay a permit fee. All boats must have the owner's lot number and section on the right and left sides of the boat. Boats must be removed each year no later than October 31. Boats can be anchored at Big Bear Lake starting April 15 each year. If not removed by October 31 they will be removed and stored. There will be a \$100.00 charge to the property owner for getting the boat released from storage.

5. **Upkeep and Maintenance Violations**

Pursuant to the Declarations of Restrictions and Covenants, the Board of Directors of the Big Bear Lake Property Owner's Association has the right to enter onto any vacant or unattended lot for the purposes of improving its general appearance without being classified as a trespasser, or being liable for property removed. Pursuant thereto, lot owners are expected to maintain their lots well kept and in a safe and sanitary condition. In the event that the Board of Directors of the Big Bear Lake Property Owner's Association determines, by majority vote of the Board, that any lot is not well kept, safe or otherwise sanitary, the lot owner may be subject to the following penalties.

- 1st offense – Letter warning detailing unkempt condition(s)
- 2nd offense – \$100 fine and second warning letter
- 3rd offense – \$200 fine, work completed by POA/Managing Company personnel and actual costs for work performed billed

G. **Required Building Permits and Violations.**

1. **Required Building Permits**

Copies of each of the following can be obtained at the office.

A building permit is required. If an approved permit is not obtained, you may be subject to the fines and/or legal action as determined by the Board of Directors of the POA.

4 Types of Building Permits:

- storage building, pavilion & fence
- standard (RV) trailer porch
- park model porch
- roof over RV and porch

2. **Permit Violations**

Building Permits:

Owners not obtaining a permit before beginning construction or those who have an approved permit and deviate from the permit are subject to the following fines. This fine schedule detailed below shall also apply to owners who do not open up their porch following winter closure by no later than April 15th of each year. Owners who refuse to comply with the building rules and regulations following the levy of a fine shall be subject to civil action filed against said Owner in the Preston County Circuit Court to compel compliance with this rule and regulation and shall be responsible for the cost of the legal action brought against said Owner(s). These remedies are cumulative

1st offense – \$100 fine

2nd offense – \$300 fine

3rd offense – a fine equal to the higher of \$400 or that amount equal to the annual assessment fee levied by the Big Bear Lake Property Owner's Association, and a mandatory hearing before the Board of Directors of the Big Bear Lake Property Owner's Association, wherein the Board may impose such additional sanctions which may include but certainly not limited to suspension of membership privileges and the use of the Big Bear Lake Camplands for such time as deemed appropriate by the Board and any other sanctions as deemed appropriate by the Board.

3. **Winter Porch Close Up:**

Winter close up of porches from October 15 to April 15 on RV's is permitted. A permit is not required; however, a porch closed for the winter season must be opened by April 15 unless given a variance from the Big Bear Lake Board of Directors. If no variance is granted a fine of \$100.00 shall be assessed and a \$20 per day continuing fine shall be assessed until compliance is confirmed.

4. **Tree Cutting Permit:**

Owners not obtaining a permit before removing trees with trunkage over 8" in diameter shall be assessed a fine of \$200.00 per tree cut.

H. **Establishment of a Judicial Conduct Board**

1. The Judicial Conduct Board shall be comprised of three (3) permanent members and three (3) alternates who shall be "members" in good standing of the Big Bear Lake Property Owner's Association, and who shall be appointed by the Board of Directors of the Big Bear Lake Property Owner's Association. All members of the Judicial Conduct Board shall be appointed at April meeting of the Board of Directors and shall serve at the will of the Board of Directors for a term of one year. Any member of the Judicial Conduct Board may be removed for cause by the Board of Directors of the Big Bear Lake Property Owner's Association. Every member of the Board of Directors of the Big Bear Lake Property Owner's Association shall be an ex-officio member of the Judicial Conduct Board.
2. The Judicial Conduct Board shall have jurisdiction to hear appeals from Owner(s) aggrieved by fines and/or sanctions levied against them pursuant to Sections A through E, herein.
3. Whenever any fine is levied pursuant to Sections A through E, herein, the aggrieved Owner shall have the right to appeal the levy of said fine or sanction to the Judicial Conduct Board by providing a letter to the Project Manager of the Big Bear Lake Camplands at the offices of the Big Bear Lake Property Owner's Association, via certified mail return receipt requested, within five (5) business days from the date that said fine or sanction is levied against said Owner.

4. The Judicial Conduct Board shall conduct hearings on an as needed basis with the assistance of the Management of the Big Bear Lake Camplands. Attendance at all hearings of the Judicial Conduct Board shall be limited to "members" in good standing of the Association, unless the testimony of non-member witnesses is requested by either party. The Judicial Conduct Board shall designate a chairman who shall preside over all hearings. The Judicial Conduct Board must also designate a secretary for each hearing whose job it shall be to maintain a cursory record of said hearings and whose job it shall be to coordinate with the Management of Big Bear Lake Camplands the dissemination of any and all decisions of the Board following any and all hearings. A majority vote of the Judicial Conduct Board shall be required for all decisions. No member of the Board shall be permitted to abstain on any vote. All decisions of the Judicial Conduct shall constitute a determination on the merits of said appeal, and shall be conclusive and unappealable. All decisions rendered by the Judicial Conduct Board shall be rendered within ten (10) business days from the conclusion of any hearing, and a copy of said decision shall be forwarded to the Owner(s) and the Board of Directors of the Big Bear Lake Property Owner's Association via first class mail. Neither the Big Bear Lake Property Owner's Association nor any person(s) requesting a hearing before the Judicial Conduct Board shall be permitted to be represented by legal counsel or any other such representative at any hearing before the Board. No member of the Judicial Conduct Board shall be permitted to participate in any proceeding where a conflict of interest exists between the member and the Appellant, in such cases where said Board Member cannot reasonably act in an unbiased manner.

I. Choice of Law

All questions concerning the construction, validity and interpretation of these Rules and Regulations shall be governed by and construed and enforced in accordance with the laws of the State of West Virginia.

J. Forum Selection

Any and all litigation which may arise regarding the enforcement or interpretation of these Rules and Regulations shall be brought within Preston County, West Virginia, whether the same be mediation, litigation or any other purpose.

K. Severability

In case any one or more provisions set forth in these Rules and Regulations shall for any reason be held invalid, illegal or unenforceable in any respect, any such invalidity, illegality, or unenforceability shall not effect any other provision of these Rules and Regulations, and the Rules and Regulations shall be construed as if such invalid, illegal, or unenforceable provision had never been incorporated therein.

L. Remedies and Cumulative\Non-Waiver

The remedies hereby specified are cumulative, and this specification of them shall not be taken to preclude the Board of Directors from proceeding to any other remedy at law, in equity, or under any statute. No delay or failure on the part of the Board of Directors to invoke an available remedy in respect of a violation of these Rules and Regulation or a violation of the Declarations of Restrictions and Covenants shall be held to be a waiver of the Board of Directors of (or an estoppels of the Board of Directors to assert) any right available to the Board of Directors upon the recurrence or continuation of said violation or the occurrence of a different violation.

M. Attorney Fees

The Board of Directors may proceed at law or in equity to prevent the occurrence, continuation, or violation of any of these Rules and Regulations or the Declarations of Restrictions and Covenants and the court in any such action shall award the successful party reasonable expenses and costs in prosecuting such action, including attorney fees.