

**BUENA VISTA ASSOCIATION, 1993**  
**AMENDED COVENANTS AND RESTRICTIONS FOR THE PLAT OF**  
**BUENA VISTA PARK AND ANY ADDITIONS THERETO**

All lots in Buena Vista Park and any additions thereto shall be subject to and impressed with the covenants, agreements, easements, restrictions, limitations, and charges hereinafter set forth; said terms shall be considered a part of and a condition of the conveyance of any lot in said addition, without being written therein. Provisions contained herein are for the mutual benefit and protection of all owners, present and future, of any and all real property in said addition, and said provisions shall run with the land and inure to the benefit of and be enforceable by the owner or owners of any land or lots included in said addition, or the legal representatives, heirs, successors, grantees, and assigns thereof; said provisions shall also be enforceable by the Buena Vista Association itself. Any provisions contained herein may be enforced by appropriate action at law or in equity, under the laws of the United States or the State of Indiana. All provisions contained herein are declared to be severable, i.e. any provision found to be in conflict with State or Federal Law or otherwise unenforceable shall not invalidate any other provision, and any other terms contained herein shall remain in effect to the extent not in conflict with such laws.

**1. Use**

- a. Only single family homes shall be erected.
- b. With the exception of mobile homes already legally in place in compliance with all state and local laws and regulations, and in use as dwellings as of June 1, 1993 or as permitted by Paragraph 2, below, no mobile homes, campers, or tents will be placed or occupied on any of said lots for use as a human habitation.
- c. No commercial or industrial use will be permitted on any lot in Buena Vista or any additions thereto; no stable or building for the quartering of dogs or other animals shall be permitted on the premises, with the exception of domestic pets.
- d. Areas designated as common areas are for the common usage of all owners of all lots in the Association, and shall not be utilized for the parking of vehicles for camping purposes or in any other way in violation of any rules or regulations adopted or imposed by the Association for the use of said areas.
- e. No pets are to be kept for breeding purposes; no pets are to be allowed to run at large unattended. The laws of the State of Indiana and applicable ordinances of Steuben County shall be obeyed with regard to the keeping, use, and control of such animals.
- f. Due to the residential nature of Buena Vista Park, there shall be no hunting in or upon any land contained within Buena Vista Park or any additions thereto.

**2. Building**

- a. No dwelling shall be constructed upon any parcel of ground within Buena Vista unless said parcel shall contain at least 12,000 square feet of area.
- b. All buildings shall be constructed in a substantial and good and workmanlike manner; sheds must be made of wood, except that metal buildings or sheds shall be allowed if they are placed on a concrete slab.
- c. The minimum size of any new dwelling to be constructed shall be at least 800 square feet of living area, excluding porches, breezeways, and garages.

d. Each dwelling shall have a private, inside bathroom facility, and no outside toilets will be permitted.

e. Mobile homes may be placed and used for dwelling purposes, in the Second Addition to Buena Vista Park, so long as they are otherwise in compliance with local zoning requirements, **and** not less than 14 feet by 70 feet in size or at least 1,100 square feet in living area, **and** either (1) installed on a permanent foundation, or (2) in complete compliance with local code requirements. Elsewhere in Buena Vista Park or the First Addition thereto, all homes shall henceforth be "modular" ~~or~~ constructed on-site.

f. A survey must be completed before any permanent building is erected or fence erected or installed; any setback or other restrictions of Steuben County, Indiana, shall be followed.

g. None of the restrictions contained herein shall be construed to require the demolition or removal of any mobile home, dwelling or structure in existence as of April 1, 1993 and otherwise in compliance with State law and County ordinance; however, if a dwelling or structure not in compliance with the requirements set forth herein is removed or destroyed, it may not be replaced except in compliance with the requirements herein set forth; reasonable repairs to such non-conforming dwelling or structure shall be allowed, but no expansion of the living area of said dwelling or structure in either height or area shall be allowed, unless said expansion is for the purpose of bringing said structure into compliance, and is not otherwise a violation of minimum lot size or setback requirements.

### **3. Maintenance of Premises**

a. All lots shall be mowed at least once per month during the months of May through September, inclusive. All lots shall be kept clean of obnoxious materials or junk and all buildings shall be in good repair and sightly appearance. Leaves or other vegetative matter may be composted properly or bagged or burned if such may be done in compliance with State and County laws, and no materials, including leaves, shall be dumped on roadways or in the lake. An owner failing to comply with the provisions of this paragraph for a continuous period of 15 days after mailing of a written notice of non-compliance impliedly consents to the performance by the Association or agents of the Association of mowing or clean up of the neglected property, and an additional assessment against said property shall be made by the Association in the amount of the actual costs of said mowing or clean up; said assessment may be enforced by the Association as elsewhere provided herein for the assessment of yearly fees, and the Association or the agents performing the work shall also be entitled to the benefit of Indiana's Mechanic's Lien statutes.

b. As to any premises used as residential rental property, both the tenants of said property and the owners of record of said property shall be jointly and severally responsible for any and all upkeep or maintenance of said property in compliance with the provisions of this document, and the Association shall have the right to enforce a claim for injunction, or money damages against owner, or tenant, or both, in the discretion of the Association.

c. There shall not be maintained on any lot any inoperable or unlicensed cars, trucks, buses, or other vehicles except within an enclosed garage. Any such vehicle visible on any lot in Buena Vista shall be tagged, in a conspicuous location, with written notice that it is to be removed or brought into compliance with these rules; a copy shall be kept of said notice,



and said notice shall display conspicuously thereon the day and time of the posting of said notice; if said vehicle has not been removed or otherwise brought within compliance by noon of the 3rd business day following the posting of said notice, the Association shall have the right to cause the vehicle to be towed and stored, at the expense of the owner of said vehicle. As to towing and storage, Indiana's "mechanic's lien" or similar statutes shall apply and be enforceable by the Association or the agency or person performing the removal or storage.

d. There shall be no unauthorized grading or plowing of the roads; permission for such work shall be given by the Board of Trustees only. Snowmobiles, all terrain vehicles, and "mo-peds", operated upon the common areas or the platted streets and roadways of Buena Vista and any additions thereto shall be restricted to a speed limit of 10 miles per hour and shall not be operated by any person under the age of 12 years of age or in violation of any State law or County ordinance. Any snowmobile, all terrain vehicle, or other device for which State or County registration is required before operation upon public property or roadways, must be so registered before it may be operated upon the streets, roads, or public areas of Buena Vista Park or any additions thereto.

e. The speed limit for automobiles shall be 15 miles per hour on all roads within Buena Vista or any addition thereto, except on the "causeway", due to heavy pedestrian traffic and the number of children generally present, the speed limit shall be 10 miles per hour.

f. No unoccupied, used mobile home shall be stored or parked on any lot in Buena Vista Park or any addition thereto. Notwithstanding the provisions of Paragraph 2(g), above, any mobile home (1) not in compliance with the requirements of Paragraph 2(e), above, and (2) which has not been occupied or used for human habitation for a continuous period of twenty-four (24) months, and (3) which has not been removed by its owner within ninety days of the posting of notice requesting removal on the main entrance to said mobile home and mailing of said notice by certified mail to the owner of record of the lot upon which said mobile home is parked, is declared a nuisance, and the owner of any adjacent lot or the Trustees of the Association may file an action in a Court of competent jurisdiction to compel removal or for authorization to effect said removal, and the Association shall also be entitled to recover its reasonable expenses, including but not limited to attorney fees, mileage, appraisal fees, court costs, and the actual costs of removal or disposal of the mobile home. Such costs may be assessed against the lot owner, and are enforceable as otherwise provided herein, including the applicable "Mechanic's Lien" statute, against said owner, the mobile home, and the real property itself.

#### **4. Signs and Fences**

a. There shall be no "for sale" signs or other advertising signs larger than 2 feet in height by 3 feet in width placed on any lot, except for signs identifying Buena Vista Park itself, which may, in the discretion of the Association and its Trustees, be larger.

b. Solid fences shall not exceed 4 feet in height, and may not extend closer to the road or street right-of-way than twenty-five feet on the "front" of a lot, and must be constructed well and maintained at all times. Chain link or wire fences shall not be restricted, except they must otherwise comply with any setback standards of the County, may not exceed six



feet in height, and must be kept clear of vines or other vegetation for a distance of at least twenty-five feet from any intersection, to allow for visibility of oncoming traffic.

c. Notwithstanding the foregoing, a solid privacy fence on one side of a given property may extend to a height of 7 feet, but only if said fence is otherwise in compliance with the laws of the County and State, is not on the side of a property adjacent to a roadway, and does not extend within twenty-five feet of the right-of-way.

d. Notwithstanding any of the foregoing, fences shall not be constructed so as to obstruct any view at intersections. Hedges, trees, and other vegetation shall be trimmed by the lot owners to permit visibility at intersections, and hedges shall not exceed forty inches in height within twenty-five feet of any intersection.

e. For purposes of determining the "front" of a dwelling, the "front" of the dwelling shall be considered to be the side of the dwelling which faces the roadway; in the case of corner lots, the front shall be considered to be the side of the house upon which the house numbers are displayed.

#### **5. Easements**

It is to be understood by all lot owners that easements by necessity shall be granted for drainage of roads or culverts or ditches, telephone and utility lines, and other lines for necessary services, as may be required by law; lot owners may not build on any easements either express or implied, but must maintain the ground thereof in a sightly condition.

#### **6. Nuisances**

a. No obnoxious or offensive activities shall be conducted on or upon any property in Buena Vista Park or any additions thereto; no property therein shall be used for any illegal or unlawful purpose.

b. The parking of large commercial trucks or heavy machinery on streets of said Buena Vista Park or additions thereto in situations other than temporarily necessary for construction, improvement, or maintenance of buildings, streets, or parks, is also declared to be a nuisance, and may be enforced by any property owner or the Association, and in accordance with State and County laws.

c. There shall be a 10 ton limit in weight of vehicles allowed to use any of the streets or roadways in Buena Vista Park or any additions thereto; specific, temporary, and limited exceptions may be granted, for specific purposes of limited duration, by the Board of Directors, for construction purposes.

#### **7. Buena Vista Association**

The Buena Vista Association shall have the right and duty to enforce any covenants herein contained, and is specifically authorized to effect or contract for improvement and maintenance of any and all park or common areas and roadways within Buena Vista Park or any additions thereto for the benefit of the lot owners, as a body.

#### **8. Officers and Board of Trustees**

a. There shall be three Trustees of the Buena Vista Association, and their term of office shall be 2 years, from January 1st of each even numbered year through December 31st of the next year.



b. Candidates for Trustees shall be nominated at the August meeting of the Association in any odd numbered year, and elected at the September meeting of the same year.

c. The Trustees of the Association and the other officers of the Association shall be unpaid elected volunteers, and shall receive no compensation for performance of their duties as Trustees or officers of the Association.

d. The Association shall, whether incorporated or not, at all times conduct itself as a nonprofit organization.

e. The books and financial dealings of the Association shall be examined by at least two of the three Trustees each month, after the regular Association meeting, and the secretary and treasurer of the Association shall maintain a record of any and all addresses, assessments, and finances of the Association, which shall be available for inspection by any member upon reasonable notice.

f. All financial expenditures from funds of the Association must be authorized by the signatures of both the President and Treasurer, and an audit will be conducted by an independent auditor or accountant of Association financial records and dealings no less often than every two years.

g. The Trustees shall adopt rules and bylaws for management of the Association's business and affairs, including procedures for amendments thereof; a copy of the current bylaws and rules shall always be maintained by the Secretary of the Association, and shall always be available, upon written application, for examination and copying by any member.

h. The members of the Association shall elect the President, Vice President, Secretary, and Treasurer of the Association, with nominations to be submitted or made at the August meeting of the Association and elections by majority vote at the September meeting each year for the succeeding calendar year. The duties of said officers shall be set forth in any bylaws or rules adopted by the Trustees, but in the absence of such specification, the President shall have the duty to preside over any and all meetings of the Association membership, and shall also have the right to attend any meetings of the Trustees as a representative of the Association membership; the Vice President shall, upon any occasion when the President is unable to attend for any reason, fulfill the duties of the President on a temporary basis, and upon the death or resignation of the President, shall automatically succeed to the office of President for the balance of any unexpired term of office; the Secretary shall maintain minutes of any and all Association meetings, and also of any and all meetings and actions of the Trustees, perform all correspondence and maintain records thereof, and shall be responsible for the maintenance of a current copy of the rules and bylaws and shall make a copy of such documents available for inspection as otherwise provided herein; the Treasurer shall be responsible for depositing any and all funds of the Association and for making payment from said funds for any amount authorized by the Association membership or the Board of Trustees as provided in bylaws otherwise adopted.

i. The Trustees and Officers are specifically authorized to employ, where necessary for association purposes, such attorneys, engineers, accountants or other professional persons and to pay for their services from association funds.

j. The yearly fees and assessments provided for herein are for the purposes of construction and maintenance of common areas, roads and streets in Buena Vista Park and any additions thereto, and for the reasonable expenses (for example, typewriter ribbons, paper, envelopes, postage, and fees for professional services) of the Association itself; said fees and assessments shall not be used for social activities sponsored by the association, except that an announcement of such social activities may be included among other information in an association newsletter.

## **9. Meetings of the Association**

a. Unless otherwise specified by the bylaws adopted by vote of the Association membership, the meetings shall be held on a monthly basis, at the shelter house, or wherever specified by the Board of Trustees in a written notice either posted at the shelter house for 30 days prior to the date of said meeting, or mailed to each lot owner in the Association, and postmarked at least 7 days before the date of said meeting.

b. A special meeting may be called by the Board of Trustees, or by 10 members in good standing of the Association: In order to call a special meeting, the 10 members must comply with the notice requirements of the preceding paragraph, and shall in addition personally deliver notice of the date and time of said meeting to three of the four Association officers and at least 2 of the three Trustees.

c. Quorum: At any and all meetings of the Association membership, at least 12 members in good standing must be present to constitute a quorum for the transaction of business; members in good standing shall be determined by reference to the records of the Treasurer and Secretary as of the time at which the meeting is called to order. An owner not in good standing or other interested person may attend and observe meetings, but may not speak or otherwise participate unless this rule is suspended by a majority vote of the attending members in good standing, or in answer to a direct question from the person chairing the meeting.

d. Voting: Each owner of property shall have one vote, but each owner shall have only one vote, no matter how many parcels of property or lots he or she may own; any joint owners of a single parcel or multiple parcels shall be entitled to only one vote, except that, in the event a person is the sole owner of one parcel or multiple parcels, and is listed as joint owner of additional parcels, the other joint owners of said additional parcels shall be entitled to a vote, if they are not otherwise disqualified due to ownership of other parcels. Any person entitled to a vote may assign, by limited power of attorney, his right to vote at a specific meeting to any other adult not otherwise qualified to vote, and the Association shall have forms available for such assignment; however, no individual shall cast more than one vote.

## **10. Assessments and Fees: collection and enforcement**

a. The Association shall suspend the voting rights, and the right to use common areas and recreational facilities by an owner, or any one claiming under such owner, for any period during which an assessment against said owner's lot remains unpaid.

b. The Association shall have the right to bring civil action, in any court of competent jurisdiction, against any lot owner for the payment of any assessment or other fee of the Association. The procedure shall be as follows: (1) For any fee or assessment not received

by the Association within 5 working days after the due date of said fee or assessment, a warning letter will be mailed to the owner of said lot, and in name and at the address of record with the Treasurer and Auditor of the County of Steuben; (2) If payment for said fee or assessment has not been received by the Association within 30 days after the postmark (day of mailing) of said notice, said fee or assessment shall be referred to an attorney or collection agency, and the owner of said lot shall also be liable to the Association for the amount of fee or collection costs, including but not limited to attorney fees, service charges, postage, mileage, and court costs, for collection of the fee or assessment.

c. The Buena Vista Association shall have the right to assess each lot owner or owner of property within the subdivision or any additions thereto, whether said lot owner is a member of the Association or not, an annual sum, to be set by the Board of Directors of the Association; the amount of said assessment shall be set by the Board or Directors at a meeting held after the September meeting of the Buena Vista Association, and before December 31st of the year preceding the year for which the assessment is set.

d. In the absence of action to the contrary by the Board of Directors, said assessment shall be \$20.00 per lot owner or residence per year; an owner of multiple lots shall pay only one fee of \$20.00 per year, unless said owner owns more than one separate residence, in which case said owner shall be assessed \$20.00 per residence; an owner of a single lot or parcel with multiple residences situated thereon shall be assessed \$20.00 per residence.

e. The \$20.00 fee set herein shall not be increased beyond said amount prior to calendar year 1995.

f. The fees and assessments for any given year are due and payable by the April meeting of the Association. Notice of the amount of fees and assessments shall be mailed to each owner, at his or her address of record with the Auditor of Steuben County, or at such other address as such owner may designate in writing to the Secretary, by January 31 of such year.

#### **11. Use of Roadways by Occupants of Adjacent Plats or Properties**

a. If any subdivision or addition is built adjacent to Buena Vista Park, and the residents or users of said subdivision have access to or use of Buena Vista Park roads, each owner of a residence of such adjacent subdivision must pay the Buena Vista membership and/or maintenance fee. In addition, a signs shall be posted along the common border of said adjacent subdivision with Buena Vista Park or any additions thereto, to place all persons on notice of the actual dividing line.

#### **12. Duration and Validation**

a. As stated above, these covenants shall run with the land and shall be binding upon the owners of said lots, their successors in interest, devisees, heirs, and assigns, for a period of 10 years from the adoption thereof, and shall automatically extend for successive 10 year periods, unless prior to the expiration of any such 10 year period, an instrument signed by a majority of the owners of record of property with Buena Vista Park and any additions thereto has been executed and recorded, changing or modifying the restrictions adopted herein in whole or in part.

b. For purposes of determining the number of owners and/or a majority thereof, the following procedure shall be established: (1) The most current records, according to the

transfer book of the Assessor and/or Auditor of Steuben County, Indiana, shall be utilized; (2) An "owner" shall be deemed to be any owner of a specified parcel of property, but each owner shall have only one vote, no matter how many parcels of property or lots he or she may own; (3) any multiple owners of a single parcel or multiple parcels shall be entitled to only one vote, except that, in the event a person is the sole owner of one parcel or multiple parcels, and is listed as joint owner of additional parcels, the other joint owners of said additional parcels shall be entitled to a vote.

c. No vote shall be allowed or accepted, to amend these provisions, from an owner of any parcel of property or lot unless any and all fees and assessments on all property subject to the terms of this document has been paid by or for the benefit of the owners of such lot, and any and all county and state taxes due and payable on said lot have been paid; further, such disqualified owner shall not be counted in determining the number from which a "majority" is required. A Statement by the Secretary of the Association shall be filed with the instrument described in 10(a), above, setting forth the names of any owners whose fees and assessments remain unpaid and delinquent as of the date of filing of said instrument.

### **13. Garbage and Other Services**

a. Only one garbage or refuse collection service shall be authorized at any given time to use the common roads of Buena Vista Park or any additions thereto for servicing the residents of properties located therein, and the contract of such garbage collection company shall include a specification that only lightweight trucks shall be used on Association roads.

b. The Association, by its Trustees, shall request the submission of bids from various providers of such services, and shall select the best price, and all residents of Buena Vista Park and any additions thereto shall contract with said supplier or carrier for any refuse collection services.

c. Residents may contract with other disposal services but the vehicles used by said services are restricted to the use of County Road 300 W or Nevada Mills Road, and may not enter into or upon the streets or roads of Buena Vista Park or any additions thereto for the purpose of providing disposal services; any disposal service violating this provision impliedly consents to the assessment against it of the costs of any road repair necessitated by its vehicles, and further shall be liable for Court costs and attorney fees incurred by the Association in collecting said assessment, or in obtaining an injunction or other Court order.

d. The owner or occupant of any property served by an unauthorized disposal service shall be jointly and severally liable for the assessments and other costs and fees specified in the foregoing paragraph, and such assessments and costs and fees shall be assessed and collected as provided in Paragraph 10b, above.

e. Notwithstanding the preceding paragraphs, an owner engaged in remodeling or construction may apply to the Trustees for permission to contract for the temporary use and removal of a dumpster or roll-off box from any disposal service, and said permission shall not be unreasonably withheld, but said owner shall remain financially liable for any repairs made necessary by said service's vehicles.



**16. Boat docks located on common areas and roadways**

The Trustees of the Association shall formulate and announce a policy concerning assignment and use and restrictions or conditions for the use of dock spaces and piers for any shoreline or common areas owned by the Association, and the users of any dock spaces on such common areas or Association-owned property may be required to pay an additional assessment to cover the cost of supplies or maintenance for said dock spaces. Notwithstanding the power granted to the Trustees herein, all boats docked on or at Association owned property or common areas shall be removed by October 1st of each calendar year, to allow for maintenance and other work.

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