

**BUENA VISTA COMMUNITY CLUB  
NOTICE AND ENFORCEMENT  
POLICY AND PROCEDURES**

The following procedures have been adopted by Buena Vista Community Club ("Buena Vista") pursuant to Buena Vista Bylaws and Washington law, at a regular meeting of the Board of Directors.

NOW, THEREFORE, IT IS RESOLVED that Buena Vista does hereby adopt the following policies and procedures for the enforcement of Buena Vista's restrictive covenants and By-Laws:

**1. Power.** The Board of Directors shall have the power and duty to hear and make decisions regarding violations and written Complaints filed with the Board and impose fines or other sanctions, pursuant to these Policies and Procedures. The Board may determine enforcement action on a case by case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Restrictive Covenants of Buena Vista Divisions 1, 2, 3, and 4, recorded under Island County Auditors File Nos. 4154764, 4154763, 4154762, and 4154765, and as hereafter amended ("Restrictive Covenants"), Buena Vista's Articles of Incorporation, Bylaws, and rules and regulations promulgated thereunder, and to create a safe and harmonious living environment.

These enforcement provisions may be in addition to other specific provisions outlined in Buena Vista's Restrictive Covenants, Articles of Incorporation, Bylaws, or Rules and Regulations ("Documents"), and Buena Vista is not required to follow these enforcement provisions before seeking such other remedies. Buena Vista may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

**2. Prior Procedure:** Before filing a complaint with the BVCC board, regarding a violation of the BVCC by-laws and/or restrictive covenants, it is the responsibility of the concerned individual(s) to make direct contact and discuss the situation in an attempt to resolve the possible area of conflict. If a suitable solution is not reached, a written form of communication should be sent to the person(s) detailing the area of conflict along with suggestions that would resolve the situation. Only after these two steps have been taken without an acceptable resolution, should a letter should be sent to the BVCC board of directors.

**3. Complaint.** A complaint to the board, after Prior Procedures have been taken, may be initiated by filing a written notice with the Buena Vista Board. The notice should state as clearly as possible the specific provision(s) of the Documents alleged to be violated, detailing date, location and persons involved. The written complaint will initiate a proceeding to determine if the Documents were violated and any enforcement measures or remedies that may apply.

**4. Notice of Complaint and Right to a Formal Meeting.** Upon receipt of a Complaint, if the Board determines that the allegations in the Complaint are sufficient to constitute a violation of the Documents and that action is warranted, Buena Vista shall send a notice to the person(s) (the "Respondent") alleged to have violated the Documents, by prepaid, first class United States mail, addressed to the mailing address of the Respondent appearing on the records of Buena Vista. The notice shall advise the Respondent of the following (1) the details of the Complaint or include a copy of the Complaint; (2) the action that may be taken; (3) his or her right to be heard, either orally or in writing, by the Board or committee appointed by the Board at the next meeting of the Board which is



at least fifteen days after the date of the notice; (4) the date on which the formal meeting will be scheduled; and (5) the Board's right to proceed with or without a formal meeting, at its discretion, to make its determination of the allegations contained in the Complaint based on all relevant facts and circumstances, if the Respondent fails to appear at the specified date and time or otherwise respond to the Complaint. **The Board may determine that the Respondent's failure to respond or appear at the formal meeting constitutes a no-contest plea to the Complaint and enforce the provisions of the Documents.**

**5. A Formal Meeting.** Each formal meeting shall be held at the scheduled time, place and date, unless the Respondent has failed to respond or appear at the hearing. The Board may at its discretion grant continuance(s) for good cause. The Board may: (a) exercise its discretion as to the specific manner in which a formal meeting shall be conducted; (b) question witnesses and review evidence; and (c) act as it may deem appropriate or desirable to permit the Board to reach a just decision.

Neither the Complainant nor the Respondent is required to be in attendance at the formal meeting, but both are encouraged to attend. Any party may elect not to present evidence at the formal meeting. Action taken by the Board shall be fair and reasonable taking into consideration all of the relevant facts and circumstances.

**6. Decision.** If the Respondent does not appear but a written response is filed, the Board shall render its decision based on the information contained in the Complaint and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a formal meeting or make any further findings except that it may determine that the Respondent's failure to appear or respond constitutes a no-contest plea to the Complaint, and impose the sanctions provided for herein or enforce the provisions of the Documents, or both. If an appearance is made, after all testimony and other evidence has been presented to the Board at a formal meeting, the Board shall render its decision(s), taking into consideration all of the relevant facts and circumstances. Except as provided herein, the Board's decision shall have an effective date no sooner than five (5) days after the formal meeting. If the Board does not inform the Respondent of its decision at the time of the formal meeting, or if no formal meeting is held, the Board will provide a written decision to the Respondent's address of record via regular U.S. Mail within five (5) days after the formal meeting.

**7. Enforcement. Attorney's Fees and Fines/Sanctions.** The provisions of these Policies and Procedures shall not limit, or be a condition precedent to, Buena Vista's right to enforce the Documents by any means available to Buena Vista, including, but not limited to, commencement of a lawsuit to force compliance or seeking injunctive relief or damages. Buena Vista shall be entitled to reimbursement of all reasonable attorneys fees and costs incurred by Buena Vista in connection with any enforcement action, including any proceeding under these Policies and Procedures. Without limiting Buena Vista's remedies under the Documents, on behalf of Buena Vista, the board may assess fines and take corrective actions such as clearing brush, weeds, or lawn mowing, etc. using professional services at the owner's expense. If the violation involves damage to Buena Vista property, the violator shall pay the costs of repair or replacement.

a. Fines may be levied for violations of the Documents as follows:

**Number of violations in a 12 month period & Fine Amount**

First violation: Warning  
Second violation: \$50  
Third violation: \$100

A member or guest who accumulates more than three (3) violations within a 12 month period will be deemed to be a habitual offender. Without limiting the Board's ability to fine in accordance with these Policies and Procedures, habitual offenders, continuing violations, or violations which have an indefinite commencement or termination date, shall all be subject to a fine of \$100 per month until the violation is corrected, as determined by the Board. Further, in the event of a determination by the Board of a willful, wanton or flagrant disregard for the provisions of the Documents, or based on the severity of the violation, the Board may impose such additional fines as are deemed reasonable by the Board without regard to the schedule set forth above.

b. The record Owner of real estate subject to the Restrictive Covenants shall have the primary obligation to pay fines imposed for their actions and actions of their tenants, family members, and guests. Fines imposed pursuant to these enforcement policies and procedures shall become an Assessment imposed against the record Owner's real estate and enforceable as provided in the Restrictive Covenants.

**8. Violations or Offenses that Constitute a Present Danger.** If, in its sole discretion, the Board deems that any violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board may impose any appropriate sanction as necessary to abate the threat to health, safety or welfare of the community or individual without prior compliance with Sections 1 through 6 above.

**9. Miscellaneous.**

a. Failure by Buena Vista to enforce any provision of these Policies and Procedures shall in no event be deemed to be a waiver of the right to do so thereafter.

b. The provisions of these Policies and Procedures shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

c. As used herein, the term Board shall include any tribunal or committee appointed by the Board consistent with the Documents or consistent with applicable Washington law.

**10. Effect.** These policies and procedures supersede any previous policies and procedures adopted by Buena Vista on the subject matter hereof.

This Notice and Enforcement Policy and Procedures was adopted by the Board of Directors on the 27<sup>th</sup> day of October, 2007 and approved by the membership on the 27<sup>th</sup> day of October, 2007, and is attested to by the Secretary of Buena Vista.

Attest:

Marie Mark Secretary