

# **JACOBS CREEK COMMUNITY ASSOCIATION, INC.**

## **ARCHITECTURAL AND ACTIVITY POLICIES**

Revised May 2, 2024

Pursuant to the Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended on the Plat and all Sections of Jacobs Creek (hereafter, the Covenants), the following Architectural and Activity Policies have been adopted as amendments to the Bylaws of Jacobs Creek Community Association, Inc. (hereafter, the Association) by its Board of Directors and are meant to ensure the long-term value, appearance, and desirability of Jacobs Creek. These policies are binding on all homeowners, lot owners, residents, and guests in Jacobs Creek. These policies are subject to changes or additions, from time to time, by the Board of Directors of the Association. Timely compliance with these policies is the responsibility of each homeowner, lot owner, resident, and guest in Jacobs Creek.

**ENFORCEMENT:** The Association, the Developer, HOA contracted Management Company, and any Owner (individually or collectively) shall have the right to enforce, by any proceeding or law or in equity, all restrictions, conditions, covenants, reservations, Architectural and Activity Policies, liens and charges now or subsequently imposed. Failure by the Association, the Developer, or any Owner to enforce any provisions shall in no event be deemed a waiver of the right to do so later. Where the language and provisions of the Architectural and Activity Policies differ from those of the recorded Covenants of Jacobs Creek, the more stringent language and provisions shall apply. The decision of the Board of Directors shall be final regarding the interpretation of either the meaning or the intent of any of the language in these policies.

**INVALIDATIONS:** Invalidation of any language or provisions of these Architectural and Activity Policies by judgment or court order shall not affect any remaining language or provisions and such remaining language and provisions shall remain in full force and effect. No invalidation of any language or provisions of the Architectural and Activity Policies shall affect any of the language or provisions of the recorded Covenants of Jacobs Creek.

### **GENERAL**

Pursuant to Section 5 of the Covenants, no building, fence, deck, wall, swimming pool, solar panel, or any other structure, whether temporary or permanent, shall be commenced, erected, or maintained upon a Lot, nor shall any exterior addition, change,

or alteration be made to a structure on a Lot until plans and specifications showing the structure's nature, kind, shape, height, materials, and location are submitted to and approved by the Board in writing as to the structure's harmony of external design and location in relation to surrounding structures and topography in Jacobs Creek.

A request for Architectural Change Form is available from our contracted management company (Above & Beyond Community Management) on their website <https://abcmangement.org>. Completed forms with supporting documentation and sketches including any information needed for a full description of the proposed project must be submitted to the contracted management company's community manager who will forward the HOA Architectural Committee. Additional information may include, but is not limited to:

- A drawing or detailed sketch with dimensions
- Material type(s) and color(s)
- Proposed location in compliance with City ordinances
- Party(ties) doing any required construction and/or installation
- Permits required per City and County ordinances
- Time frame required

In the event that the Board of Directors and/or the HOA Architectural Committee of the Association fails either to approved or disapprove the design or location of a proposed structure or project as properly submitted on a Request for Architectural Change Form (with any necessary supporting information) within thirty (30) days after receipt by the Board from the contracted management company, then approval of such project or structure will be deemed to have been given. A request for additional information by the Board shall be considered disapproval and a 90-day time frame begins with receipt by the Board of the additional information requested. This "default" approval provision only applies to permissible projects and/or structures. Prohibited projects and/or structures shall not be deemed approved as a result of any passage of time or lack of action by the Board.

The Board and/or HOA Architectural Committee will notify the contracted community management company's community manager who will mail the decision to the applicant within five (5) days of receipt from the Board and/or HOA Architectural Committee.

### **POLICIES INVOLVING ACTION BY OR APPROVAL FROM THE BOARD**

1. **FENCES:** Fences must be commercial-grade wood or appropriate PVC (vinyl) not to exceed six (6) feet in height for any lot not located on a pond and not to exceed four (4) feet for any located on a pond along the pond side of the fence. Chain-link and other metal or wire fences are specifically prohibited. The Board will not approve construction of or modification of any fence that, in the Board's

sole opinion, would create a sight obstruction and, therefore, safety hazard on any street. Fence finish must be paint, stain, white, or natural earth tone and must conform aesthetically both to the home and the neighboring homes. Fence posts must either be integral with the fence or face the exterior of the fence; external fence posts are prohibited. Fences shall not extend past the midpoint of the side of the house, that is fences are limited to backyards. Fences must be maintained in a high state of repair. Replacement fences do not need Board approval only if the replacement fence adheres to the fence requirements herein and will replace the existing fence in the exact same location and height. Fences require a permit from the City-County for both new and replacement fences. 811 buried utility locates are required prior to any approved fence installation project.

2. **SHEDS:** Sheds must either be constructed of commercial-grade wood or PVC (vinyl). The finish of the shed must be paint, stain, or natural earth tone and must conform aesthetically both to the home and the neighboring homes. Shingles or metal roof should match the house. Vinyl sheds should be aesthetically pleasing since colors do not always match the house. No shed shall be larger than 10' x 10'.
3. **SWIMMING POOLS and HOT TUBS:** Swimming pools (above ground or in-ground) are permissible, subject to approval by the Board, and must be fully enclosed by a fence of approved construction which generally must be six (6) feet high or an automatic lockable cover per Indiana State law. Any exterior gate to the fence enclosing a pool must have childproof latches. Hot tubs located exterior to a home generally must be integral with an aesthetically appealing wooden deck, locking cover, and are subject to approval by the Board.
4. **PLAYGROUND SETS:** Playground sets require Board approval and are permitted only in backyards and at a location approved by the Board. Playground sets must not be located on a common ground outside Lot boundaries. Maximum height permitted is eight (8) feet; while maximum length permitted is twenty (20) feet. Playground sets must be of heavy, wood construction, earth tone in color, and must be maintained in a high state of repair. Although some plastic or metal accessory parts – a slide, for instance – may be approved, any playground equipment made either exclusively or primarily from plastic, vinyl or metal material is prohibited for exterior use.
5. **FREESTANDING POLES:** No clotheslines or clothes poles, or any other free standing semi-permanent or permanent poles, rigs, or devices, regardless of purpose, shall be constructed, erected, located, or used on any Lot. However, one in-ground flagpole may be erected subject to approval by the Board and with 811 buried utility locates done prior to digging.

6. **BASKETBALL POSTS and GOALS:** Plans for permanently installed basketball posts and goals are subject to review and approval by the Board. Basketball posts and goals must be freestanding (not attached to the house, garage, or roof), constructed of commercial-grade materials, and located no more than twenty (20) feet from the dwelling. If located at the driveway, the backboard must be perpendicular to the street. Portable basketball goals should be stored (preferably in the garage) when not in use and not be left in plain view from the street.
7. **ANTENNAS, COMMUNICATIONS EQUIPMENT, and SOLAR PANELS:** No radio or television antenna with more than twenty-four (24) square feet of grid area, or one that attains a height in excess of six (6) feet above the highest point of the roof of a residence, shall be attached to a residence on a Lot. Solar panels (attached only) are permitted so long as they match the roof and do not extend above the top of the roof. Freestanding radio or television antennas are prohibited as are freestanding satellite receiving dishes or disks. No satellite receiving disk or dish in excess of twenty (20) inches in diameter shall be permitted on any home. However, one (1) satellite dish or disc of less than twenty (20) inches in diameter may be attached to a home (free-standing) in a manner and position approved by the Board.
8. **DWELLING EXTERIOR:** Within sixty (60) days of original occupancy of a new dwelling, the exterior of the dwelling shall be finished, including, but not limited to siding, masonry, driveway, concrete flatwork, sidewalks, and required deck(s) (weather permitting). Exterior additions, changes or alterations to any dwelling shall not be commenced, erected, or maintained until plans and specifications showing the nature, kind, shape, height, materials, and location are properly submitted to and approved by the Board in writing as to the structure's harmony of external design and location in relation to surrounding structures and topography in Jacobs Creek. Roof replacement for an existing dwelling on a Lot does not need the approval of the Board so long as the material (wood or metal) color matches aesthetically with the home, original home roof, and the neighboring homes.
9. **BEAUTIFICATION:** The Board encourages both landscaping and the planting of trees and shrubs beyond the minimum. In the event that either landscaping or the planting of trees and shrubs might block pond views or cause traffic hazards, the Board's approval will be required.
10. **LIGHTING:** No lighting attached to a dwelling shall be located above the roof eave line. External lighting attached to a dwelling or located on any Lot shall not utilize mercury-vapor or similar lighting mechanisms. Street lighting or ornamental yard lighting serviced by underground wires or cables are permitted; however unusual or extensive lighting designs require approval by the Board.

Flood lighting not attached to a dwelling shall not exceed seven (7) feet in height.

### **POLICIES NOT DIRECTLY INVOLVING THE BOARD**

1. **NUISANCE:** No noxious or offensive activity shall be carried out on any Lot, nor shall anything be done which either may be or may become an annoyance or nuisance to any resident(s) or guest(s) in Jacobs Creek. Noxious or offensive activities include: loud music, repetitive dog barking, obtrusive lighting, and any other disruptive activities, which are or may be inconsiderate of neighbors. The use of common ground must include respect for families whose homes adjoin such ground. For example, access to ponds should be via the common ground or walkways as opposed to along backyards of neighbors.
2. **STRUCTURES:** No structure of a temporary character, trailer, boat trailer, camper or camping trailer, recreational vehicle, motor home, basement, tent, shack, garage, shed, tool barn, dog run, burn barrel or any other outbuilding or structure, shall be constructed, erected, located, or used on any Lot for any purpose (including use as a residence), either temporarily or permanently. Basements, however, may be constructed in conjunction with an approved single-family residence on a Lot.
3. **OUTSIDE STORAGE:** No boat, boat trailer, recreational vehicle, motor home, camper, camping trailer, truck, or any other wheeled vehicle shall be permitted to be parked ungaraged on any Lot, or any street, for periods in excess of forty-eight (48) hours or for a period which, in the aggregate, exceeds eight (8) calendar days per calendar year. The term "truck" as used in this section means every motor vehicle designed, used, or maintained primarily for the transportation of property and rated one-ton or greater. It is strongly recommended – both for the sake of safety and for neighborhood appearance – that all moto vehicles to garaged when not in use. Lawn and garden tools and equipment are to be stored inside when not in use.
4. **SIGNS:** No sign of any kind shall be displayed to the public view on a Lot except one (1) professional sign (for instance: state that a dwelling is protected by an alarm monitoring company like ADT, Simplx, and/or Sonitrol) of not more than one (1) square foot, or one (1) sign of not more than five (5) square feet advertising a Lot or home for sale or rent, or signs used by a builder to advertise a Lot during the construction sales or home improvement period. Signs are not to be placed in the right of way (grass area between the sidewalk and street), or no closer than eleven (11) feet from the street per City ordinance. During election time, it is Indiana State Ordinance to allow political signs to be displayed

on properties no earlier than 30 days prior to election day, and no later than 5 days after.

5. **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, and other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. All approved pets must be controlled in accordance with Allen County Ordinances, including leash laws. Pet owners must clean up ("poop scoop") any feces deposited on common ground, neighbors' yard, or easements. In the interest of both sanitation and appearance, pet owners must regularly remove feces from yards. Feeding wild animals is discouraged.
6. **DUMPING and TRASH DISPOSAL:** No Lot shall be used as a dumping ground for rubbish, scrap, concrete, and the like. Trash, garbage, and other waste shall not be kept in the yard or at the curb before noon on Tuesday (one-day day before our scheduled pickup) and must be in closed sanitary containers – closed plastic bags may be used after sanitary containers are full. Trash must not be allowed to blow onto the streets, other Lots, common ground, or into the pond. Grass clippings must not be left on the street at any time. Incinerators (external or internal) are prohibited as are composting piles and containers. Trash, garage, lumber, and the like shall not be deposited into and/or onto the woods on the north side of our community along Beckett's Run. Trash and recycle bins must be moved from the curb no later than noon on Thursday (one-half day after our scheduled pickup), and are to be stored inside the garage or at least ten (10) feet back from the front of the dwelling along the side of the home.
7. **YARDS and LANDSCAPING:** Within sixty (60) days of original occupancy of a new dwelling (weather permitting), the yard shall be either seeded or sodded and landscaping consisting of a minimum of four (4) well-developed shrubs shall be completed. Yards must be free from weeds, trash, and other debris. Grass must be mown on a regular basis and maintained at a height not to exceed nine (9) inches.
8. **VACANT LOTS and DWELLINGS:** Except for construction periods, all yards, home exteriors, and vacant Lots must be neat, clean, and be free from weeds, trash, and other debris. Bare areas must be seeded to control weeds and erosion. Grass must be mowed on a regular basis and maintained at a height not to exceed nine (9) inches. During construction or home improvement all construction materials, scrap, and trash must be contained and not be allowed to blow onto any street, other Lots, common ground, or into the pond.
9. **TRAFFIC and PARKING:** No motorized vehicles (mopeds, scooters, motorcycles, minibikes, go-carts, motorized three-or-four wheelers, ATVs, or the

like) are permitted either on common ground, easements in Jacobs Creek, and/or Beckett's Run Trail. The use of streets by any motorized vehicles must comply with Indiana State Law and Allen County Ordinances. Motor vehicle drivers and/or operators must observe all posted speed limits with Jacobs Creek (25 MPH). Snowmobiling is prohibited in Jacobs Creek and on the Beckett's Run Trail. No parking on the street within fifteen (15) feet from either side of a fire hydrant per City Ordinance. No parking on the street within fifteen (15) feet of the community mailboxes – if the approach is impeded mail service can be stopped by the United States Postal Service. Do not park on or over sidewalks so as to ensure pedestrian safety and accessibility. Sidewalk maintenance is the homeowners' responsibility, and homeowners can apply for replacement assistance with the City of Fort Wayne utilizing the Barrett Law 50/50 program through the Board of Public Works' Right of Way Department.

10. **HOUSEHOLD LAUNDRY:** Laundry wash items are not permitted to be aired or dried outside a home. No clothesline or either a temporary or permanent design may be erected or maintained on any Lot.
11. **POND:** No boating, skating, and/or swimming is permitted. Fishing (catch and release) is permitted. Please leave the ducks and geese alone especially in the Spring nesting season – they generally nest on the south side of the pond and in the brush in the northwest corner of the pond.
12. **HOMEOWNER REPORTS:** Once a month our contracted management company conducts a drive thru to check the condition of the community and dwellings per the contract. Homeowners are mailed a notice if a homeowner reports a concern and/or the contracted management company observes a concern.

## **REVISED BY THE BOARD OF DIRECTORS**

May 2, 2024

### **DOCUMENTS:**

- **Covenants:**
  - recorded legal document with the State of Indiana
  - takes 75% of the neighborhood homeowners to sign off on the change(s) which then is recorded with the State of Indiana by the community's attorney
- **Bylaws:**
  - serve as the governing document for the board of directors
  - can be changed at any meeting of the members (annual meeting) with the approval of the majority of the homeowners in attendance

- **Architectural Policies:**
  - serve to clarify and specify the Covenants
  - easier to change the policies rather than the Covenants as long as the policies are more lenient than the Covenants and consistently enforced
  - the Board can change the policies anytime they want by a majority of the Board approving
- **Architectural Change Request Form:**
  - form used by homeowners to submit a home improvement project for review by the Board

### **MAY 2, 2024 REVISIONS:**

- **General – added:**
  - contracted management company information
  - website address of form
  - decision notification process
- **Board Policies – added:**
  - Section 1 – Fences
    - added 811 locates required for approved fences
    - clarified replacement fence
  - Section 2 – sheds
    - clarified roofs
  - Section 3 – Swimming Pools and Hot Tubs
    - added above ground pool permitted
  - Section 5 – Freestanding Poles
    - clarified adding flag pole permitted
  - Section 7 – Antennas, Communications Equipment, and Solar Panels
    - added solar panels permitted
  - Section 8 – Dwelling Exterior
    - clarified replacement roofs
- **Not Involving Board Policies – added:**
  - Section 4 – Signs
    - clarified location per City sign ordinance
    - added political signs per Indiana State ordinance
  - Section 6 – Dumping and Trash Disposal
    - clarified garbage and recycle bins per City Ordinance
    - added disposal into/onto the woods
  - Section 9 – Traffic and Parking
    - added parking per City Ordinances
    - added no motorized vehicles on trail
    - added Indiana residential speed limit



- added fire hydrant parking per City Ordinances
  - added mailbox parking per Postal Service
  - added sidewalks per City Ordinances
- Section 11 – Pond
  - added new section
- Section 12 – Homeowner Reports
  - added new section