

FoxCreek
Design Standards
(Revised August, 2009)

Amendment No. 1

Adopted July 12, 2011

Pursuant to Section 6.1 of the Declaration of Covenants, Restrictions, Rights, Affirmative Obligations and Conditions dated January 9, 2006, recorded in Deed Book 6947, page 704 of the Clerk's Office of the Circuit Court of Chesterfield County, Virginia, as amended from time to time (collectively, the "Declaration"), the Architectural Board is vested with the right and obligation to promulgate design and development guidelines and application and review procedures for development and construction within FoxCreek, and the "sole and full authority...to amend" the Guidelines. Capitalized terms used herein shall have the meanings ascribed to them in the Declaration.

1. The following provisions are added to section 1.3.1:

1.3.1.1 Submission for approval of Builder. In determining which homebuilders shall be permitted to construct homes in FoxCreek, the Declarant may take into consideration such information as the Declarant deems relevant in making such determination, including, without limitation, the financial stability of the builder, the builder's reputation, insurance coverages maintained by the builder, and the compatibility of the builder and its sub-contractors with other builders and their contractors constructing homes in FoxCreek, Each home builder seeking to construct one or more homes in FoxCreek shall submit the following information to the AB prior to commencing any work in FoxCreek:

- A. Audited Company financial statements for the previous 5 year period;
- B. Statement of qualifications;
- C. Credit references from five major material suppliers;
- D. Credit references from five major subcontractors;
- E. Evidence of appropriate Virginia contractor license;
- F. Evidence of capital source for construction;
- G. Evidence of satisfactory insurance coverage;
- H. All other information as required by the AB.

1.3.1.2 Construction Deposit.

Purpose. Damage to infrastructure and subdivision improvements (for example, roads, aprons, curbing, street signs, street lights, sidewalks, drainage improvements, utilities) may occur during construction of homes within the development. In addition, keeping streets free from mud, gravel and debris and keeping lots upon which homes are being

constructed free from unkempt material, unsightly trash and debris will help protect the value of the community.

Amount. Each Builder shall deposit with the AB the amount set forth below as a "Construction Deposit". The Construction Deposit shall be placed in an interest bearing account and all interest shall accrue to and become a part of the Construction Deposit. The AB shall have no responsibility for the interest rate earned on the Construction Deposit. The amount of the Construction Deposit shall be \$1,000 per lot.

Application of Deposit. The AB and the Declarant shall have the right to take such actions as they determine are necessary to bring any lot, home or other improvements into compliance with these Guidelines, and no entry by the AB, the Declarant or their respective contractors, agents or employees onto a lot or other property shall constitute a trespass. The AB in its sole discretion shall have the right to apply the Construction Deposit to reimburse the Declarant or the Association for the cost of repairing damage to infrastructure to the extent caused by Builder, its agents, employees, invitees, contractors, subcontractors or suppliers, removing from and/or containing trash and debris on lots, installing and/or maintaining erosion control devices, correcting drainage issues caused by conditions on the Lot, maintaining the lots upon which Builder is constructing improvements or storing material, cleaning streets adjoining lots upon which Builder is constructing improvements or storing material, and otherwise bringing the Lot into compliance with these Guidelines, all as determined by the AB. If the AB draws on the Construction Deposit, the Builder shall be responsible for restoring the Construction Deposit to the amount required by this section within ten (10) days after demand from the AB. The Construction Deposit, or any portion thereof remaining for a given Lot shall be refunded to Builder after the issuance of a Certificate of Compliance by the AB for the dwelling and landscaping on the Lot.

AB's Designee. The AB shall have the right to appoint, from time to time, a designee to collect, manage and enforce Section 1.3.1.2 of these Design Guidelines, and the AB hereby appoints the Declarant to act in such capacity until such designation is changed by the AB.

2. The paragraph entitled "Step 1" in Section 1.3.2 is hereby deleted and replaced with the following:

Step 1: Concept Model Home Review: Builders shall submit two copies of full floor plans, elevations (including all optional elevations), appropriate sections and details for proposed house models intended to be offered for construction in FoxCreek. Drawings shall be to scale (min. 1/8" = 1'-0"). Models will be reviewed by the AB and must be given

concept approval before they may be submitted for construction on individual lots. Except as provided below, once a model home design has been approved for FoxCreek, it may be submitted for construction on any builder's lot with the exception that "High Impact" lots, as defined below, may require modifications or additional detailing to approved model home elevations.

Multiple builders may construct homes within certain sections in FoxCreek. In order to ensure the architectural compatibility of homes built by different builders within such sections, and aesthetic harmony within FoxCreek, the AB may require a complete application submittal for the lots within such sections notwithstanding the AB's approval of model home plans, and the AB shall have the right, in its sole discretion, to approve or reject a proposed home for a lot. The following sections within FoxCreek shall be subject to this single lot review requirement: Foxfield, Heartquake Section 1, Heartquake Section 2, Heartquake Section 3 and Prescott's Level.

A New Home Review Fee of \$1,000.00 shall be submitted to the AB with each home application package as a condition to the AB commencing review of the application package. Reviews shall be conducted by licensed professionals and the cost for the reviews shall be billed to the Builders on an hourly basis at the published rates and invoices for this work shall be paid by the Builder to the AB within 30 days of date invoiced by the AB. The AB will terminate any in progress reviews by Builders which are delinquent in this payment and the Builder will then be required to submit a New Home Review Fee and application package.

3. Section 1.3.4 is hereby deleted and replaced with the following:

REVIEW TIMEFRAME: The AB will make every effort to complete the review of submitted house plans or home improvement applications within 30 days of each submittal. If deficiencies are found either in the initial submission, or in subsequent submissions, the AB will provide written notice to the Builder of the deficiency and the Builder will be required to satisfy the deficiencies before approval is given by the AB. Written approval is required for all improvements. If a written status memo indicating approval or other response has not been received from the AB within 30 days of each submittal, please contact the office listed on the application form, to obtain the response.

4. The following sections are added after Section 1.7.2 as new Sections 1.7.3 and 1.7.4:

1.7.3 PERMITS, APPROVALS AND RELEASES: The owner of the lot is responsible for promptly executing all permit applications and obtaining

all approvals and permits required by the AB or applicable governmental authority. In addition, the lot owner agrees to promptly take any and all action necessary to assist the AB or the Declarant in obtaining the release of any surety or escrow or associated agreement posted by the Declarant with a governmental authority, including, without limitation, repairing any damages caused by the lot owner or its agents, employees, contractors or employees.

1.7.4 INSURANCE AND BOND REQUIREMENTS:

1.7.4.1 Insurance During Construction. During any construction activities on a lot, the owner of the lot shall obtain and maintain, or cause its general contractor to obtain and maintain the following insurance policies:

(a) Builder's risk insurance providing coverage from the operations of the lot owner and/or its contractors with such protection extended to provide general liability insurance coverage for injuries to persons and property (including improvements to real property and goods and materials on the lot to be incorporated into the construction project at the replacement cost for the same), completed operations, explosion and collapse hazard and underground hazard. The minimum combined limit for personal injury and property damage shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate, with a deductible not to exceed \$10,000 per occurrence and provide umbrella liability coverage of not less than \$10,000,000 per occurrence for personal injury and property damage and \$10,000,000 in the aggregate. This general liability coverage shall include contractual liability.

(b) Worker's Compensation. Worker's compensation insurance as required by law.

(c) Vehicles. Third party liability claims arising from bodily injury and/or damage to property of others from the ownership, maintenance or use of any motor vehicle, both on-site and off-site with minimum combined limit for personal injury and property damage liability of \$1,000,000 combined single limit with a deductible not to exceed \$10,000 per occurrence.

1.7.4.2 Qualifications of Insurers; Proof of Insurance. All insurance shall be purchased and maintained with a company or companies lawfully authorized to do business in the Commonwealth of Virginia. Such insurance shall be obtained at limits specified in this Section 1.7.4 or as required by law, whichever is greater. All required insurance policies shall be endorsed to provide the AB or its designee(s) at least thirty (30) days prior written notice by certified mail of any material change,

cancellation or non-renewal. The AB, the Declarant, and the Association shall be named additional insured and/or beneficiaries under all such policies.

1.7.4.3 Indemnity and Waiver of Subrogation. The lot owner hereby releases the Association, the AB, and the Declarant, and their respective officers, agents, employees, and members (collectively, the "Indemnified Parties"), from liability for any loss or damage to any building, structure or tangible personal property, or any loss of income, or losses under worker's compensation laws and benefits, notwithstanding that such loss, damage or liability may arise out of the negligent acts or omissions of the Indemnified Parties to the extent such loss or damage is covered by the insurance policies required to be maintained pursuant to this Section 1.7.4. And the lot owner shall required its insurer(s) to include in its insurance policies a waiver of subrogation clause (providing that such waiver shall not impair the effectiveness of the policy or the insured's ability to recover thereunder), and shall promptly notify the AB in writing if such clause cannot be included in any such policy. If such waiver is not available, then the foregoing waiver of right of recovery shall be void. The lot owner agrees to indemnify, release and defend the Indemnified Parties from any loss, cost or liability arising out of the activities of the lot owner and/or its agents, employees, contractors and invitees.

5. The following provision is added at the end of Section 2.1.2(a) (Grading and Erosion Control):

The owner of a lot shall cause all temporary traps, ponds and sediment control facilities on the buildable area of the lot to be filled and compacted to 95% and certified by a licensed geotechnical engineer. A copy of such certification shall be provided to the AB as a condition to AB approval for construction of vertical improvements. The lot owner shall cause the installation and removal of all temporary traps, ponds and sediment control facilities on a lot removed

6. The following subsection is added as a new subsection after Section 2.1.2(b)(4):

(5) The lot owner shall be responsible for properly grading and constructing all drainage facilities on the owner's lot required in connection construction on the lot. All such work shall be completed in accordance with the AB approved plans for such work and the requirements of these Design Guidelines. The lot owner shall be responsible for posting any required surety for such work and for timely completion of the dedication process, if applicable.

7. The following provision are added as new subsections to Section 2.1.3:

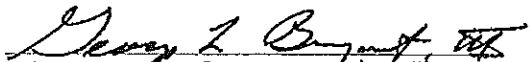
(i) MATERIAL: No material or equipment shall be stored in roads, sidewalks or other public access ways.

(j) DUST MITIGATION: The owner of the lot shall be responsible for implementing all dust mitigation controls required by the applicable governmental authority.

(k) DAMAGE: The owner of the lot shall take all reasonable and customary measures to avoid or minimize damage to adjacent roads (both public and private), any improvements already constructed, such as sidewalks, driveways, aprons, curbs, gutters, drainage facilities, utilities, landscaping and other infrastructure.

(l) DIRT, DEBRIS, SNOW REMOVAL: During construction the lot owner shall maintain, or cause to be maintained, its lot in an orderly fashion and shall remove all debris, trash receptacles, material and equipment in a timely manner. The owner of the lot shall remove all dirt mud, debris and snow on the streets and roads fronting the owner's lot where improvements are under construction by the owner, as well as any mud, dirt or debris from such lots carried by such owner or its agents, employees, invitees or contractors to and from the lot. All such debris shall be removed daily during construction.

The foregoing amendments to the Guidelines have been approved by all of the duly appointed members of the Architectural Board as evidenced by their signatures below:


Print Name George L. Bryant, II