

**PROPOSED AMENDMENTS TO THE  
PLAT COVENANTS AND RESTRICTIONS  
OF FOXFIRE SECTIONS 1 AND 2**

The Board of Directors of the Foxfire Community Association, Inc. is proposing some changes to the Plat Covenants and Restrictions (“Plat Covenants”) of all Sections of Foxfire. For the amendments to be adopted, the owners representing seventy-five percent (75%) of all Lots in Foxfire must vote in favor.

Specifically, the Board proposes the following amendments:

**AMENDMENTS TO PLAT COVENANTS**

**AMENDMENT 1**

**Section 13 of the Plat Covenants shall be deleted in its entirety and replaced with the following:**

13. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, trash, junk, or other waste shall not be kept on any Lot except in sanitary, windproof containers, and such containers shall be kept clean, shall be stored in the garage of each respective home except for on trash pick-up days, and shall not otherwise be stored on any Lot in open public view. Notwithstanding anything to the contrary herein, trash and recycling containers may be stored on the exterior of a Lot within a fenced enclosure located not less than fifteen feet (15’) behind the front corner foundation of the home to shield same from visibility from roads and surrounding properties. Trash enclosures must be white or closely match the color of the home. Such trash enclosures must be approved, in writing, by the Architectural Review Committee prior to construction. The Architectural Review Committee may, in its discretion, adopt guidelines regulating the aesthetics of trash enclosures, including, but not limited to, size, location, color, style, and materials. In no event may trash and recycling containers be stored in any location on the exterior of a Lot other than within a trash enclosure as approved by the Architectural Review Committee, except on scheduled days of collection.

## AMENDMENT 2

**Section 17 of the Plat Covenants shall be deleted in its entirety and replaced with the following (specific changes in bold):**

17. DRIVEWAYS. Each driveway in the Subdivision shall be of concrete or asphalt material. **No driveway modification, change, replacement, addition, or improvement may be constructed, placed, installed, or maintained on any Lot, unless and until the plans and specifications therefore together with the site plans and drawings for such modifications have been approved in writing by the Architectural Review Committee.**

## AMENDMENT 3

**Section 20 of the Plat Covenants shall be deleted in its entirety and replaced with the following (specific changes struck-through and in bold):**

20. FENCING. No fence shall be erected on or along any Lot line, nor on any Lot, the purposes or result of which will be to obstruct reasonable vision, light or air. All fences shall be kept in good repair and erected so as to enclose the property and decorate the same without unreasonable hindrance or obstruction to any other property. ~~Any fencing permitted to be used in the Subdivision~~ Fences must be **(i) wooden, (ii) black or green vinyl coated chain link, or (iii) white vinyl,** and shall not be higher than six (6) feet. Uncoated chain link fencing is prohibited. No fencing shall extend into a yard, fronting onto a street, closer to the street than the front corner of the residence. All fencing style, color, location and height shall be generally consistent within the Subdivision and shall be subject to prior written approval of the Architectural Review Committee. Fences are allowed in easements but are erected at the Owner's risk as such fences may be partially or completely torn down by others if they interfere with the installation, operation, and/or maintenance of the facilities for which the easement has been reserved. **No fences may be erected, altered, replaced, or improved on a Lot unless approved in writing by the Architectural Review Committee prior to construction. The Architectural Review Committee may adopt criteria and design guidelines pertaining to fencing.**

#### **AMENDMENT 4**

**Section 25 of the Plat Covenants shall be deleted in its entirety and replaced with the following:**

25. VIOLATION. The Association and any Owner may enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Plat Covenants, the Association's By-Laws, the rules and regulations, and the Declaration, as each may be amended from time to time. In any proceeding arising because of failure of an Owner to make any payments required by the Declaration or to comply with any provision of these Plat Covenants, the Association's By-Laws, the rules and regulations, and the Declaration, the Association shall be entitled to recover from the violating Owner its attorneys' fees and costs incurred in connection with such default or failure. No delay or failure on the part of the Association or any other aggrieved party to enforce the Plat Covenants, By-Laws, rules, or Declaration shall be deemed to be a waiver of the right to do so thereafter, nor shall the doctrine of laches or any statute of limitations bar such enforcement.

#### **AMENDMENT 5**

**Section 26 of the Plat Covenants shall be deleted in its entirety and replaced with the following:**

26. AMENDMENTS. These Plat Covenants may be amended or changed, in whole or in part, at any time upon approval by the Owners of two-thirds (2/3) of the Lots who are in Good Standing. For the purpose of these Plat Covenants, "Good Standing" means an Owner who is not more than sixty (60) days delinquent on the payment of any assessments or other charges owed to the Association.

Approval may be obtained (i) at a meeting of the Owners duly called and held in accordance with the provisions of the By-Laws; or (ii) by written consents received from the Owners; or (iii) pursuant to any other procedure recognized under Indiana law, including, but not limited to, written ballots in lieu of a meeting pursuant to Ind. Code 23-17-10-8; or (iv) any combination of the foregoing.

The President and Secretary of the Association shall execute the amendment(s), certifying that two-thirds (2/3) of the Owners in Good Standing approved such amendment(s). Thereafter, the amendment(s) shall be filed with the Marion County Recorder.

### **AMENDMENT 6**

**A new Section 29 shall be added to the Plat Covenants, which shall read as follows:**

29. LEASING RESTRICTIONS. The following restrictions shall apply to the leasing of Lots.

(a) “Rental” and “Lease” Defined. For the purposes of this Section 29, “rented” or “leased” (or any derivative thereof, singular or plural), as used interchangeably herein, means leased or rented or occupied, whether or not for compensation of any kind, by anyone other than an Owner of the Lot together with members of his or her household. However, the “Waiting Period” will not apply to any situation where a Lot is occupied by members of the Owner’s immediate family. For purposes of this Section 29, “immediate family” means the Owner’s parents, children, stepparents, stepchildren, or significant other/spouse. Such “family” occupancies will not be considered rentals in the context of the Waiting Period; provided, however, the Owner and occupants will still be subject to the remaining provisions and requirements of this Section 29. Nothing herein shall prevent occupancy of a Lot by the Owner’s live-in caretaker or any temporary guests or house-sitters of the Owner, so long as the Owner also lives in the Lot as his or her primary place of residence.

Any Lot owned by a Trust, Fiduciary, or corporate entity, such as, but not limited to, a corporation or limited liability company (LLC), shall not be deemed to be a rental, provided that the resident is the Trustee, the Fiduciary of an Estate, a beneficiary of the Trust or Estate, or an owner of the corporate entity or LLC, and further provided that no rent, payment, service, or other consideration is paid or provided to the Owner or any other party or entity in exchange for or in connection with the right to occupy the Lot.

(b) Waiting Period. For a period of at least three (3) years after an Owner's acquisition of a Lot, said Owner cannot lease or rent such Lot (the "Waiting Period"). After such time, said Lot can be leased if all other conditions of this Section 29 are satisfied.

(c) Effective Date. These rental restrictions take effect on the date this Section 29 is filed with the Marion County Recorder's Office ("Recording Date"). The Waiting Period will apply to all Owners taking title to a Lot after the Recording Date. Any Owner who took title to a Lot before the Recording Date will not be subject to the Waiting Period with respect to the Lot(s) owned by such Owner as of the Recording Date, but will be subject to all other provisions of this Section 29.

(d) Hardship Exceptions and Waiver. An Owner may request the Board to waive the Waiting Period if he or she establishes to the Board's satisfaction that it will cause undue hardship. If the Board approves, in writing, of the request, the Owner may rent said Lot, subject to further conditions or limitations imposed by the Board in its discretion. Such decision is at the sole discretion of the Board. Examples of "undue hardship" include, but are not limited to:

- i. Temporary relocation of an Owner to a point outside of a fifty (50) mile radius of the community made necessary due to a change of employment or other employment circumstances;
- ii. Necessary relocation of the Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- iii. Military service of an Owner.

(e) General Lease Conditions. All leases, including renewals, shall be in writing. No portion of any Lot other than the entire Lot shall be leased for any period. No subleasing is permitted. All leases must be made expressly subject and subordinate in all respects to the terms of these Plat Covenants, the Declaration, the By-Laws, and the rules and regulations ("Governing Documents"), to the same extent as if the tenant were an Owner; and shall provide for direct action by the

Association against the tenant with or without joinder of the Owner. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall give copies of the Governing Documents to the tenants prior to the effective date of the lease. The Owner cannot be delinquent in the payment of any assessments or other charges to the Association. If at any time an Owner becomes delinquent, the Board may revoke said Owner's right to lease the Owner's Lot, even if during the term of a lease.

(f) Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors within fifteen (15) days after execution.

(g) Owner is Still Liable. No lease shall provide, or be deemed to provide, for a release of the Owner from his or her responsibility to the Association for compliance with the Governing Documents.

(h) Violations. Any lease or attempted lease in violation of the provisions of this Section 29 is voidable at the election of the Board. In the event of a violation of this Section 29, the Association may exercise all available remedies at law or equity, including, without limitation, bringing an action for injunctive relief to remove the tenant(s). The Association shall have the right to recover all costs associated with enforcement from the offending Owner, including, but not limited to, attorneys' fees and court costs.

(i) Burden of Proof. If at any time a Lot is not occupied by one of the Owners thereof, there shall be a conclusive presumption that the Lot is being leased and subject to the provisions of this Section 29, and the Owners shall have the burden of proving to the satisfaction of the Board that the occupancy is not in violation of this Section 29, including, but not limited to, providing a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of Section 29, any occupancy pursuant to a rent to buy contract or similar arrangement or pursuant to any option to purchase by anyone other than the Owner shall be deemed to be a lease subject to the restrictions of this Section 29. Any land contract or similar agreement must be recorded with the Marion County

Recorder's Office to be deemed valid. If such land contract is not recorded at the time of execution, it will be considered a lease for purposes of this Section 29.

(j) Short-Term Rental. Owners may not lease, rent, or otherwise operate their Lot on a hotel, transient or short-term rental basis. Short-term rental is defined as any term of less than one (1) year. This short-term rental prohibition includes, but is not limited to, the use of a short-term rental platform through which unaffiliated parties offer to rent a Lot or portion thereof to an occupant and collect consideration for the rental from the occupant (such as, but not limited to, Airbnb, Vrbo, and similar companies).