

**Fox View Estates Land and Homeowners' Association**  
**Compliance Procedure**  
**to the**  
**Declaration of Amended Covenants, Conditions and Restrictions (2018)**  
**Approved by Board of Directors, June 26, 2015**

**Phase I**

**First time contact of nonconformance of the covenants, Conditions, and/or restrictions.**

- 1.1. Upon receipt of a written complaint of a violation of the 2018 Declaration of the Amended Covenants, Conditions and Restrictions (hereafter called "Declaration") of Fox View Estates Land & Homeowners' Association (HOA) by a lot owner, or by an observation of a noncompliant use of a lot by a board member, the board, shall use reasonable efforts to investigate and determine the nature and validity of the complaint within 10 days.
- 1.2. If the Board makes the determination that there is a nonconforming use of the property, the board shall use reasonable efforts to contact the owner of the lot via Certified Mail to inform him/her of the complaint, within 10 days. The board will consider the nature of the noncompliance and make suggestions to the owner for remedial action. If the lot owner consents to cure the violation, the owner must give such consent to the board in writing. The board may allow 10 days for the lot owner to correct the situation. If there are legitimate circumstances that would delay the 10 day correction period, then the board, in its sole discretion, may allow a reasonable timeframe to correct the noncompliant use of the lot, but no longer than a total of 30 days.
- 1.3. If the lot owner agrees to comply in a timely fashion, the board will notify the complainant and state the planned resolution. If the board decides that there is no valid complaint issue, then the board shall, in writing, notify the complainant of its decision. The board shall also inform the complainant of his/her right to individually enforce compliance with the Declaration if they disagree with the decision. *(See items 21 and 22 of the Declaration.)*

## Phase II

### Challenges to the Covenants, Conditions, and Restrictions

- 2.1 If the lot owner disagrees and challenges the board's claim of noncompliance the Board shall mail a certified letter with a signed receipt requested, informing the dissenting property owner, of his/her right and the rights of others, to petition the HOA membership to amend, revise, change, or delete any portion of the Declaration. *(See item 18 of the Declaration)*. This item reads in part: *The covenants and restrictions of the Declaration may be amended at any time by an instrument signed by two-thirds (2/3) of the owners of the parcels or lots*. Additionally, the letter will inform the noncompliant lot owner that the board or any lot owner does not have the authority or right to unilaterally grant material variances or material changes to the Declaration, without the approval of two-thirds (2/3) votes of the qualified voters in the HOA. *(See item 20 of the Declaration)*.
- 2.2 If the noncompliant lot owner decides to personally petition all the lot owners to collect the required signatures to effect an Amendment to the Declaration, he/she must notify the board in writing of his/her intent within 7 days of receipt of the board's certified letter, beginning with the day the noncompliant lot owner signs for the letter. If there is more than one requested amendment or change, each request for amending/changing a Covenant, Condition and/or Restriction shall be separate, i.e., "stand alone petition" and each petition shall require the necessary signatures of 2/3 of the qualified lot owners. Note that each petition will be considered on its own merits. The petition, at minimum, should specify a rationale for the amendment/change and suggest language for the amendment/change. Time is of the essence and the Board will allow the noncompliant lot owner a reasonable amount of time to prepare the petition(s) and secure the necessary signatures, but not to exceed 30 days. The lot owner shall be responsible for preparation and all costs of the petition(s) to change or amend any part of the Declaration and shall forward a copy/copies to the Board within the timeframe stated above. The Board shall, in writing, notify all property owners in Fox View Estates Subdivision that specific named petitioners in the HOA are proposing a change/amendment to the Declaration. If a petition is approved in a

timely manner by the required majority, the Board will notify all the lot owners that there will be an amendment or change to the Declaration of Covenants, Conditions, and/or Restrictions. The HOA will pay the associated costs of writing and recording the Amended Declaration of Covenants, Conditions and Restrictions for Fox View Estates Land and Homeowners' Association.

2.3 If the noncompliant lot owner chooses to not petition the lot owners to amend or change any portion of the Declaration or fails to secure the required signatures to amend the Covenants, Conditions and/or Restrictions and continues to challenge the Board's request to comply with the Covenants, Conditions and Restrictions as written, the Board shall send the lot owner a "Final Demand Letter" via Certified mail. The Demand Letter shall state:

2.3.1 the nonconforming use/uses of the property

2.3.2 that either the noncompliant lot owner has chosen to not petition the lot owners to amend the Declaration or the majority of the lot owners have rejected the petition to amend or change the Covenants, Conditions and/or Restrictions as currently written.

2.3.3 the nonconforming use/uses of the lot shall cease and desist.

The demand letter shall give the noncompliant lot owner 7 days to bring his/her lot into compliance with the Declaration as currently written. The time begins on the date the lot owner signs for, refuses delivery, or receives notice from the postal service that the letter is available for pick-up at the post office. The letter will so state the Board's intent to seek relief in the form of a judgment in a court of law or in equity as provided for in items 21 and 22 of the Declaration. A copy of the Demand Letter shall be sent to every lot owner in the subdivision. If the noncompliant lot owner refuses to correct the violations, and the noncompliance continues, then the Board shall take further action as provided in paragraph 3.1 of this policy.

## **Phase III**

### **Demand Letter**

- 3.1 If the nonconforming lot owner fails to bring his/her property into compliance with the Declaration within 7 days of his/her receipt, as specified above, of the Final Demand Letter. The Board will obtain the assistance of an Attorney at Law for further legal action. If at anytime, the lot owner chooses to comply and bring his/her property into compliance with the Declaration as currently written, and with the approval of the majority of the HOA lot owners, the Board may seek appropriate relief from the Court including dismissal of the case with payment by the noncompliant lot owner of the HOA's legal proceedings costs and fees. Lot owners should note that the prevailing party to the action would be entitled to reasonable attorney's fees and costs as fixed by the Court.