

Bylaws of
FoxGate
Property Owners Association

Whereas, Robert P. Henderson, Jr. and Ann B. Henderson (hereinafter referred to as “Developer”) are owners of a certain real property in Fox Township, Sullivan County, Pennsylvania; and

Whereas, Developer is subdividing the property for the purpose of selling the lots thereby created, said subdivision to be known as FoxGate; and

Whereas, Developer desires to establish the FoxGate Property Owners Association for the purpose of assuring the roadways, utilities, easements, and common areas, if any, are properly established and maintained; and

Whereas, Developer intends to incorporate certain covenants and restrictions in the deeds of lots sold which in part provide that all lot owners shall be members of the FoxGate Property Owners Association for the subdivision and be governed by the bylaws of such association;

Now, therefore, the undersigned, being the owners of the aforesaid real estate hereby adopt the following bylaws:

Article I – Definitions

1.01 “Association” shall mean and refer to the FoxGate Property Owners Association, its successors and assigns.

1.02 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot now existing or in the future established in the FoxGate Subdivision, excluding those having such interests merely as security for the performance of an obligation.

1.03 “Roadway” shall mean any private right-of-way shown upon any map of the FoxGate subdivision recorded in the Sullivan County Records Office, regardless of ownership of said roadway.

1.04 “Lot” shall mean and refer to any plot of land or parcel shown on any recorded subdivision map of the premises.

Article II – Board of Directors

2.01 The affairs of this Association shall be managed by a board of no less than three (3) directors who need not be members of the Association. The number of directors may be increased as determined by the Board of Directors but may not exceed seven (7).

2.02 At the first annual meeting the members shall elect one (1) director for a term of three (3) years, one (1) director for a term of two (2) years and one (1) director

for a term of one (1) year. At each annual meeting thereafter the members shall elect one (1) director for a term of three (3) years.

2.03 Any vacancy occurring in the Board of Directors may be filled by affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall serve until the next annual meeting of the members, at which the membership shall elect a director to the remainder of the unexpired term, if any.

2.04 A majority of the remaining directors may remove from the Board of Directors any director who has been absent from two (2) consecutive meetings of the Board of Directors.

2.05 The Board of Directors shall hold an annual reorganizational meeting immediately following the annual membership meeting. The purpose of this meeting shall be to elect a President, a Secretary, and a Treasurer.

2.06 The Board of Directors shall hold regular meetings as necessary for the transaction of Association business.

Article III – Membership and Voting Rights

3.01 Every owner of a lot in the FoxGate Subdivision shall be a member of the Association. A membership fee of One Thousand Five Hundred Dollars (\$1500.00) per lot shall be paid to join and is payable before closing. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Developer shall be a member of the Association but shall not be subject to a membership fee.

3.02 Each member shall be entitled to one (1) vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Article IV – Meetings of Members

4.01 The first meeting of the members shall be held the first Saturday of April, 2005 and shall be called by the Developer. Subsequent regular annual meetings of the members shall be held at a date, time, and location as determined by the members at the first annual meeting.

4.02 Special meetings may be called at any time by the Board of Directors or on written request of the members who are entitled to vote one-fourth (1/4) of all votes.

4.03 Written notice of each meeting of the members shall be given by a representative of the Board of Directors by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote at such meeting, addressed to the address last appearing on the books of the Association for that member, or supplied by such member to the Association for the purpose of the notice. Such notice shall specify the place, date, and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

4.04 The presence at the meeting of members entitled to cast, or of proxies entitled to cast twenty (20%) percent of the votes shall constitute a quorum for any

action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting for a period not to exceed ninety (90) days with notice to the membership of the new time and there shall be no quorum requirement at the time of the rescheduled meeting.

4.05 At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease on conveyance of their lot by the member.

Article V – Maintenance Assessments

5.01 The Association shall have the right to charge reasonable fees for maintenance, repair or replacement of private roadways, easements, and common areas, if any, within the subdivision. The Association shall have the right to suspend voting rights of any member while an assessment against their lot remains unpaid.

5.02 Assessments may be annual assessments or charges or special assessments for capital improvements, with such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees shall be a charge on the lot thereby assessed and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to their successors in title unless expressly assumed by them.

5.03 The assessments levied by the Association shall be used exclusively for maintenance (including snowplowing), repair and replacement of the roadway, easements, and common areas, if any, insurance expense, and any other expenses which the membership or Board of Directors may agree to incur for the benefit of the Association.

5.04 The initial annual assessment shall be Two Hundred (\$200.00) Dollars per lot. For each lot purchased prior to the first meeting of the membership of the Association, the assessment shall be paid at the time of the annual meeting. Subsequent to the first meeting of the Association, purchasers of lots within the subdivision shall pay at closing an assessment which shall be an amount prorated for the time remaining until the next annual meeting of the Association. Lots owned by the Developer shall not be subject to annual assessments. Thereafter, the annual assessment shall be set by the Board of Directors prior to the annual meeting and shall be due upon the date of the annual meeting, providing however, that the maximum annual assessment may not increase more than 10% in any one year above the annual assessment for the previous year without the affirmative vote of the membership. The maximum annual assessment may be increased above 10% of the prior year's annual assessment only upon the affirmative vote of two-thirds (2/3) of members who are voting in person or by proxy at a meeting duly called for this purpose.

5.05 In addition to the annual assessment authorized above, the Association may levy in any assessment year a special assessment for that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the roadway, easements, and common areas,

if any, provided that any such assessment shall have been voted favorably upon by two-thirds (2/3) of members who are voting in person or by proxy at a meeting duly called for this purpose. Lots owned by Developer are not subject to special assessments. Special assessments in any year may not exceed four times the annual assessment for that year.

5.06 Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected at the discretion of the Board of Directors or on an annual or semi-annual basis.

5.07 Written notice of the annual assessment shall be sent to every owner subject thereto. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

5.08 Any assessment not paid within thirty (30) days after the due date shall be subject to a fifteen (\$15.00) dollar late fee and bear interest from the due date at the rate of 12% per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the roadway or abandonment of their lot. Owner will be responsible for any attorney fees incurred by the Association in collecting any assessment not paid within thirty (30) days of the due date.

5.09 The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

Article VI – General Provisions

6.01 The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of these Bylaws. Failure by the Association or by any owner to enforce any provision herein contained shall in no event be deemed a waiver of the right to do so thereafter.

6.02 Invalidation of any one of these provisions by judgment or Court order shall in no way affect any other provision which shall remain in full force and effect.

6.03 The Association may, upon the approval of three quarters (3/4) of the members, petition Fox Township, or its successors, for the making of a private roadway within the subdivision into a public road. The members covenant and agree that neither Fox Township nor any other government authority shall be required to act affirmatively on any petition seeking to have such road brought up to standards and specifications required of any public road of Fox Township. The cost of bringing the said private roadway up to such quality shall be the responsibility of the FoxGate Property Owners Association.

Article VII – Dissolution

7.01 The Association may be dissolved with the affirmative vote evidenced in writing of not less than three-fourths (3/4) of its members, providing alternative arrangements have been made for road maintenance and common areas, if any. On dissolution of the Association the assets of the Association shall be granted, conveyed or assigned to any public agency, non-profit corporation, association or trust, or other organization to be devoted to similar purposes. In the event of a dedication of the private roadways to an appropriate public agency, the Association without any further action required on behalf of its members shall forthwith be dissolved.

Article VIII – Amendment to the Bylaws

8.01 These bylaws may be amended at any regular or specially called meeting of the membership upon the affirmative vote of the majority of members who are voting in person or by proxy at such duly called meeting; providing however, that no provision requiring a vote of more than a majority of the members who are voting in person or by proxy shall be amended except by the affirmative vote of sufficient members prior to the amendment to take that action for which the voting requirement is to be amended.

Article IX – Indemnification Provision

9.01 A director of this Association shall not be personally liable for monetary damages as a director of this Association for any action taken, or any failure to take any action, unless such action taken, or failure to take action, constitutes self-dealing, willful misconduct or recklessness. This section shall not apply to any criminal statute. The Association may advance expenses incurred by a director in defending civil or criminal actions, suits, or proceedings, upon receipt of an understanding by or on behalf of such person to repay such amount if it is ultimately determined that the person is not entitled to indemnification.

ADOPTED this _____ day of _____, 2004.

BY:

Robert P. Henderson, Jr.

Ann B. Henderson