

**AMENDED AND RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF
FOXHILL METROPOLITAN DISTRICT NOS. 1-2
CONCERNING THE IMPOSITION
OF DISTRICT SERVICE FEE INCLUDING OPERATIONS AND MAINTENANCE,
COVENANT ENFORCEMENT, ARCHITECTURAL REVIEW**

THIS AMENDED AND RESTATED RESOLUTION CONCERNING THE IMPOSITION OF DISTRICT SERVICE FEES INCLUDING OPERATIONS AND MAINTENANCE, COVENANT ENFORCEMENT, AND ARCHITECTURAL REVIEW (the "Resolution") is made and entered into by the Foxhill Metropolitan District Nos. 1-2 (collectively, the "District") to be effective as of the 26th day of April, 2019.

WHEREAS, at the special meeting of the Board of Directors of the District, duly held on December 6, 2017, the Board of Directors of the District approved the Resolution Concerning Imposition of District Service Fee Including Operations, and Maintenance, Covenant Enforcement, Architectural Review and District Service Fees ("Original Fee Resolution"); and

WHEREAS, since the approval of the Original Fee Resolution, the Board of Directors of the District has determined that certain changes are reasonable and warranted, all as reflected in this Resolution; and

WHEREAS, the District is authorized pursuant to §32-1-1001(1)(j)(I) of the Colorado Revised Statutes ("C.R.S."), to fix and impose fees, rates, tolls, charges and penalties for services, programs or facilities provided by the District which, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the Service Plan for Foxhill Metropolitan District (the "Service Plan") similarly empowers the District to impose fees, rates, tolls, charges and penalties for services and facilities provided by the District; and

WHEREAS, pursuant to §32-1-1004(8), C.R.S., the District is authorized and empowered to provide covenant enforcement and design review services within the District and to take over most or all of the functions of a property owners association or similar entity as law permits so long as the revenues used to provide such services are derived from the area in which the services are furnished; and

WHEREAS, the District has decided to authorize and implement the establishment of an annual fee that would encompass District Services including operations and administration fees, covenant enforcement, architectural review and district maintenance fees for provision of services and handling of all District Facilities and Services type costs, expenses and services as permitted by statute to be performed by the District, which would include use and service fees for facilities and amenities within the District for District Facilities and Services (collectively referred to hereinafter as the "Service Fees"). The Service Fees will be calculated on an annual basis during the District's annual budget process taking into consideration those funds traditionally and reasonably assessed for District Facilities and Services for operations and maintenance, capital reserves. The Service Fees will eliminate the need to assess a separate

homeowners association or property owners association (collectively referred to as “HOA”) fee. The Service Fees will be charged on an annual basis against all residential dwelling units that have the necessary utilities in place to provide all required services to qualify for a certificate of occupancy within the boundaries of the District as reflected in the attached **Exhibit A**, which may be amended from time to time; and

WHEREAS, the District incurs certain direct and indirect costs associated with the provision of Services in order that the Services may be properly provided, the property within the District maintained, and that the health, safety and welfare of the District and its inhabitants may be safeguarded (collectively, the “Service Costs”); and

WHEREAS, the establishment and continuation of a fair and equitable fee, to provide a source of funding to pay for the Service Costs (the “Operations Fee”), which Service Costs are generally attributable to the persons and/or properties subject to such Operations Fees, is necessary to provide for the common good and for the prosperity and general welfare of the District and its inhabitants for the orderly and uniform administration of the Districts’ affairs; and

WHEREAS, the Service Fees will be used to pay for the District’s costs and expenses related to services and facilities provided by the District, including, but not limited to the landscaping, parks, open space, greenbelts, and recreation facilities, improvements, and services along with the assumption of most or all of the functions traditionally handled by a HOA; and

WHEREAS, the District has decided to apply the District Service Fees to residential and multi-family dwelling units within the District as that revenue will be used to offset amenities, services, facilities and costs that benefit residents and property owners. The Service Fee revenue will also serve to increase the District’s revenue stream at an earlier point in time to the benefit to the District’s future residents, property owners and taxpayers, by using the Service Fees rather than mill levies to help pay for these contemplated costs in the operations and administration and provision of services within or benefiting the constituents of the District who use its facilities and services; and

WHEREAS, the District and the Developer have determined that it is not economical or desirable to have a property owners association and the District provide concurrent services. Rather, it would be advantageous to have the District provide HOA functions, including design review and covenant enforcement, and provide for recreation-related facilities, services and other amenities. Policies and procedures will be implemented on a periodic basis through public meetings held to approve any changes to those rules and regulations of the District. A copy of those current policies adopted and implemented will be attached to this Resolution as **Exhibit B** and incorporated, ratified and approved by reference; and

WHEREAS, the District believes that imposing the Service Fees on each of the residential dwelling unit and property granted a certificate of occupancy within the District, the elimination of the need to have another entity perform the same or similar services and impose any additional fees, as well as the benefits and efficiencies in having the District undertake and perform traditional association functions to the extent allowed by law, shall serve to increase the District's revenue stream, reduce the number and amount of fees assessed against property owners, and shall be a

benefit to the District's residents, property owners and taxpayers, and

WHEREAS, the District desires to continue to impose the Service Fees against the residential dwelling units, to be collected in full at closing to a homeowner and then billed subsequently thereafter by the District on a semi-annual basis.

NOW THEREFORE, the Board of Directors of the District hereby RESOLVES as follows:

1. The Service Fees shall be One Hundred Fifty Dollars (\$150.00) per month (or \$1,800 per year) and shall be due and payable on a quarterly basis, beginning at the time of closing with a homeowner, and thereafter shall be assessed against all residential dwelling units on an annual basis beginning on January 1 of each year. Service Fees will be due and owing from the owner of a residential dwelling unit beginning at the time of closing with a homeowner and shall be prorated for that portion of the calendar year from the date of the closing, for each quarter, if needed. The Service Fees may be adjusted in the future based upon the District's annual budget.

2. The Service Fees shall primarily be used for the provision of District Services and to own, operate and maintain District infrastructure, for common area and public improvement and service functions, covenant enforcement, district administrative and maintenance service expenses in conjunction with services for the users, etc. Those costs of the District include, but are not limited to, operations and maintenance of landscaping and common areas, operations and maintenance of the park and recreation facilities and improvements, and other district operations and maintenance costs associated with maintaining the amenities, public improvements and the costs associated with the District assuming the ownership and operation of all facilities, improvements and services traditionally provided by a property owners association as permitted by Colorado law. The primary purpose of the fee is to defray the cost of services to those charged. The Service Fees shall be due and owing to Foxhill Metropolitan District.

3. Any Service Fees contemplated herein that are not paid in full within fifteen (15) days after the scheduled due date shall be assessed a late fee of fifteen dollars (\$15.00), per §29-1-1102(3), C.R.S. Pursuant to §29-1-1102(7), C.R.S., interest will also accrue on any outstanding Service Fees, exclusive of assessed late fees, at the rate of eighteen percent (18%) per annum.

4. All Service Fees shall be due, owing and payable to the District, in cash or an equivalent form made payable to "Foxhill Metropolitan District." In the event that any Service Fees established hereunder remains unpaid thirty-one (31) days after its respective due date, the District's General Counsel shall undertake collection efforts for any and all outstanding amounts. All collections efforts shall be made pursuant to, and in accordance with, applicable state and federal laws. The District's General Counsel shall be entitled to charge reasonable legal fees and any related costs and expenses to the owners of any such real property for said collection efforts.

5. Notwithstanding anything contained in this Resolution to the contrary, no Service Fees shall be due from, or with respect to, any real property within the District for: (a) any school site dedicated to a school district, provided that the acreage of said site does not exceed eleven

(11) acres; (b) any property dedicated or conveyed to the District or association serving property within the Districts, which does not exceed ten (10) acres; and/or (c) any property required by the Douglas County to be dedicated to the Douglas County, the public, or any other governmental entity for public rights-of-way, or that is required to be conveyed to another special district for the operation of public facilities including, but not limited to, streets, trails, sidewalks, landscape areas and similar facilities.

6. In addition, the District shall be entitled to impose an administrative fee as necessary to cover additional expenses associated with the design review and covenant enforcement services assumed by the District to ensure that such costs are the responsibility of the benefitted District residents. All such fees shall be based upon the District's determination that such fees do not exceed reasonable annual market fee for users of such facilities.

7. All Service Fees and all other fees, rates, tolls, charges and penalties contemplated herein shall, until paid, constitute a perpetual lien on and against the property served or to be served by any improvements provided by the District or to be provided by the District within a reasonable amount of time. All such liens shall be in a senior position as against all other liens of record affecting the property served or benefited, or to be served or benefited by improvements of the District and shall run with the Property as defined in the Covenants and Restrictions of Foxhill Metropolitan District (as may be amended from time to time) and remain in effect as to any portion of such property on which the appropriate fee has not been paid. All liens contemplated herein may be foreclosed in any manner authorized by law at such time as the District may determine that fees hereunder have not been paid as required.

8. If any clause or provision of this Resolution is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Resolution as a whole but shall be severed here from, leaving the remaining clauses or provisions in full force and effect.

9. This Resolution supersedes any and all prior Resolutions approved and adopted by the District concerning Service Fees. All such prior Resolutions are hereby null and void, being superseded in their entirety by this Resolution.

ADOPTED AND APPROVED to be effective as of the 26th day of April, 2019.

**FOXHILL
METROPOLITAN DISTRICT NOS. 1-2**

President

ATTEST:

Secretary

EXHIBIT A

**Description of Property Subject to District Service Fees Including Covenant Enforcement,
Administration, Operations and Maintenance Fees
(Foxhill Metropolitan Districts)**

General Description: Foxhill Subdivision, Lots 1-94, Tracts A-G and I-O, inclusive, Fox Hill Filing No. 1, County of Douglas, State of Colorado (see attached)

EXHIBIT B

Fine and Enforcement Policies of Foxhill Metropolitan Districts

FINE POLICY and SCHEDULE

Section 1. INTENT

- A. In accordance with the Declaration of Covenants, the Board of Directors (the “Board”) has adopted Rules to promote the health, safety, and welfare of the Members and the maintenance and aesthetic appearance of the community for the preservation of property values and the assets of the District.
- B. While many violations are resolved through a courtesy/warning notice (see below), there are instances when further action is required. Fines are intended to bring properties into conformance with the Declaration of Covenants, Architectural Guidelines, and other rules and regulations set forth by the District (collectively, the “Governing Documents”) in a timely manner while providing due notice and appeal rights to property owners, as described in Exhibit “A” – Violation and Fine Appeal Process attached hereto and incorporated herein by reference.
- C. In order to gain compliance, the Board intends to impose and collect monetary penalties as authorized by the Declaration of Covenants and reserves the right to enforce the community’s restrictions in any other legal manner.

Section 2. NOTICE OF VIOLATION

- A. Notice Required: Upon a unit/lot owner’s first violation of any provision of the Governing Documents, the District shall provide a written Courtesy/Warning Notice to the unit/lot owner to allow the unit/lot owner the right to cure said violation as stated in the Notice.
- B. Courtesy/Warning Notice: A Courtesy/Warning Notice of the first violation shall be mailed via certified mail to the unit/lot owner and contain, at a minimum, the following information:
 - 1. The alleged violation of the Governing Documents;
 - 2. The date of the violation or the date the violation was observed;
 - 3. The first and last name of the person who observed the violation or the name of the management person confirming the violation;
 - 4. A statement that the violation must be cured within ten (10) days of the date of the Notice, and failure by the unit/lot owner to cure the violation within ten (10) shall result in a fine in accordance with the Fine Policy and Schedule of Fines in effect at the time of the violation; and
 - 5. The unit/lot owner’s right to appeal the violation.
- C. Right of Appeal: A unit/lot owner who receives a Courtesy/Warning Notice regarding a violation may appeal the violation by sending a written notice via certified mail to the District’s address (as listed on the notice of contact form recorded with the county recorder) within ten (10) days of the date of the Courtesy/Warning Notice. The process for appealing the violation is set forth in Exhibit “A”.

Section 3. NOTICE AND IMPOSITION OF FINES

- A. Notice of Imposition of Fine: If the unit/lot owner fails to cure the violation within ten (10) days of the date of the Courtesy/Warning Notice, the District shall send the unit/lot owner a Notice of Imposition of Fine via certified mail, which Notice shall state that the unit/lot owner has been assessed a fine for the violation in accordance with the Schedule of Fines attached hereto, as amended from time to time, and that failure by unit/lot owner to cure the violation within the period stated in the Notice of Imposition of Fine shall result in additional fines to the unit/lot owner.
- B. Further Failure to Comply: Additional Notices of fines citing unit/lot owner's failure to cure the violation shall be mailed to the unit/lot owner at the frequency and fine rate stated in the Schedule of Fines attached hereto, as amended from time to time. Each Notice shall indicate the current fine, past due fines and late fees, if any, the date that the violation must be cured to avoid additional fines, and unit/lot owner's right to appeal.

Section 4. CONTINUING VIOLATIONS

- A. In the case of repeat and persistent violations, this system of fines may ultimately lead to prosecution of non-responsive violators. Fines will not take the place of legal action but will be used as an additional remedy. Fines shall not exceed the level, if any, established by state law.
- B. In addition, the Board shall have the right to remedy the violation and seek reimbursement from the unit/lot owner for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply with the Governing Documents without the necessity of legal proceedings.
- C. The Board may take legal action against the unit/lot owner at any time after a fourth Notice of Imposition of Fine has been sent to the unit/lot owner, when accrued fines equal or exceed \$250, or if the Board determines, in its sole discretion, that immediate legal action is necessary to preserve the health, safety, and welfare of its Members. Pursuant to State law, in any legal action pursued hereunder, the court shall award reasonable attorney fees, costs, and costs of collection to the prevailing party.
- D. To ensure that the Board is aware of continuing violations, the Management Company shall list the violating unit/lot owner on the Executive Session agenda when a fourth Notice of Imposition of Fine has been sent to the unit/lot owner, when accrued fines equal or exceed \$250, or when the Management Company believes immediate action by the Board is necessary to preserve the health, safety and welfare of its Members. At such time, the Board shall deliberate as to whether the Board should take other appropriate action against the unit/lot owner as provided herein.

Section 5. RECURRENCE OF VIOLATION

Any recurrence of the same violation within six (6) months of the original violation, as noted in the Courtesy/Warning Violation, shall make the unit/lot owner subject to the imposition of a fine. Such fine shall be levied at the current rate of a 2nd violation in accordance with the “Schedule of Violations and Fines” then in effect. Such violations shall be considered a continuing violation and no Courtesy/Warning Notice shall be provided to the unit/lot owner.

Section 6. FAILURE TO PAY

- A. Fines shall be due and payable within 30 days of the notice. Fines not paid within 30 days shall be charged a late fee.
- B. All rights and remedies of the District are cumulative and not exclusive, and the District shall have all rights and remedies to levy and collect fines which may be available to it under the Governing Documents and applicable law.
- C. Until paid by the unit/lot owner, all fines, fees, and charges assessed against the unit/lot owner pursuant to the Fine Policy and Schedule, as amended from time to time, including, but not limited to, the cost of collecting fines, fees, and charges such as collection agents and attorney fees, shall constitute a lien on and against the property in accordance with the Declaration of Covenants.
- D. Fee Schedule:
 - 1. Late Fee Charge: A late fee of \$15.00 will be assessed on every account that is not paid in full within the 30 days reference above. The late fee charge may be amended from time to time by resolution of the Board.
 - 2. Bad Check Charge: For each check that for any reason is returned to the District unpaid, the unit/lot owner shall owe the District a “bad check” charge of \$35.00. The bad check charge may be amended from time to time by resolution of the Board.
 - 3. Collection Fees: The unit/lot owner shall be responsible for all collection costs incurred by the District as part of the collection process, including, but not limited to, attorney fees, collection agent fees, and court costs.

Section 7. APPEAL PROCESS

Violations and fines may be appealed to the Board in accordance with the procedures set forth in Exhibit A, which procedures may be amended from time to time by a majority vote of the Board.

Section 8. SCHEDULE OF FINES

Fines may be levied as shown below. The Board may amend the Schedule of Fines from time to time as it deems necessary by a majority vote of the Board.

SCHEDULE OF FINES:

Violation	Amount of Fine				Assess	
	1st	2nd	3rd	Thereafter		
Architectural Committee Review and Approval Required	Warning	\$100	\$200	\$200	Bi-weekly	
Architectural Review, Improvement not Conforming to Request/Approval	Warning	\$100	\$200	\$200	Bi-weekly	
Residential Use: Professional or Home Occupation	Warning	\$100	\$200	\$200	Bi-weekly	
Declaration of Covenants, Other Not Listed	Warning	\$100	\$200	\$200	Bi-weekly	
Drainage & Irrigation	Warning	\$100	\$200	\$200	Bi-weekly	
Household Pets	Warning	\$100	\$200	\$200	Bi-weekly	
Leases	Warning	\$100	\$200	\$200	Bi-weekly	
Vehicle Parking, Storage and Repairs	Warning	\$100	\$200	\$200	Bi-weekly	
Light, sound and Orders	Warning	\$100	\$200	\$200	Bi-weekly	
Nuisances	Warning	\$100	\$200	\$200	Bi-weekly	
Hazardous Activities	Warning	\$100	\$200	\$200	Bi-weekly	
Completion of Landscape	Warning	\$100	\$200	\$200	Bi-weekly	
Lot Maintenance	Warning	\$100	\$200	\$200	Bi-weekly	
Miscellaneous Requirement & Improvements including signage	Warning	\$100	\$200	\$200	Bi-weekly	
Temporary Structures	Warning	\$100	\$200	\$200	Bi-weekly	
Trash and Materials	Warning	\$100	\$200	\$200	Bi-weekly	

Exhibit "A"
VIOLATION and FINE APPEAL PROCESS

SECTION 1 - NOTICE

1. Any unit/lot owner who receives a notice of violation or imposition of fine may appeal such violation of fine to the Board of Directors of the District (the "Board") by providing the District, via certified mail, a written request for a hearing. Such request must be submitted to the District within 10 days of the date of the notice of violation or fine. Fines set forth in any notice from the District will continue to accrue during the appeal process so that the appeal process is not used to delay effective enforcement of the District's Governing Documents, as defined in the Fine Policy and Schedule noted above.
2. If a timely request for a hearing is submitted by the unit/lot owner, the Association shall set a date and time for the hearing and notify the unit/lot owner in writing of the date and time of the hearing.

SECTION 2 – APPEAL PROCESS

1. The hearing shall be held before the Board in executive session.
2. The Board President shall summarize the appeal request before the Board and introduce all parties.
3. The unit/lot owner shall be afforded 10 minutes to state his or her case and to present to the Board any evidence that is applicable to the unit/lot owner's appeal.
4. Each Board Member shall have an opportunity to question the unit/lot owner regarding the appeal.
5. Upon completion of the question and answer period, the Board President will state that the appeal has been heard and the Board will make their decision in closed session. In reaching a decision, the Board may take into account the unit/lot owner's statements and evidence presented, the unit/lot owner's willingness to work towards compliance, and any other factors that may be pertinent as determined by the Board.
6. The Board may continue the hearing if it determines that additional information is required from the unit/lot owner before making an informed decision. The Board shall notify the unit/lot owner in writing of the date and time of the continued hearing and the additional information that the unit/lot owner must present on the continued hearing date.
7. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The unit/lot owner shall be given written notice of the results of the hearing within 10 days from the date of the hearing.

SECTION 3 – DENIED APPEALS

1. All decisions of the Board are final and may not be further appealed through the District.
2. If the Board denies the unit/lot owner's appeal, the unit/lot owner must bring the violation into compliance and pay all outstanding fines and charges accrued to date within the time period specified in the written notice received from the Board regarding the Board's decision. Failure to cure the violation within the designated time period stated therein shall constitute a continuing violation and subject the unit/lot owner to subsequent fines at the rate and frequency noted in Fine Policy and Schedule noted above – Schedule of Fines, which additional fines shall not be subject to the appeal process.
3. The Board may, in its sole discretion, take legal action against the unit/lot owner at any time after a unit/lot owner's appeal has been denied and the unit/lot owner has accrued fines equal to or greater than \$250 or the Board determines that immediate legal action is necessary to preserve the health, safety, and welfare of its Members.