

**REVISED AND RESTATED RESOLUTION  
OF THE BOARD OF DIRECTORS OF THE  
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1  
AND  
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2  
REGARDING THE ADOPTION OF CERTAIN DISTRICT FEES AND CHARGES AND  
RULES AND REGULATIONS PERTAINING TO THE COLLECTION AND  
ENFORCEMENT OF FEES AND CHARGES**

**WHEREAS**, the Buckhorn Valley Metropolitan District No. 1 (“District No. 1”) and Buckhorn Valley Metropolitan District No. 2 (“District No. 2”) (District No. 1 and District No. 2 are collectively be referred to herein as the “Districts”) are organized and exist as a metropolitan districts pursuant to the provisions of § 32-1-101, *et seq.*, C.R.S.; and

**WHEREAS**, the Districts are authorized, among other things, to provide non-potable water services, improvements and facilities and all other facilities necessary, incidental and appurtenant thereto, which include, but are not limited to, water facilities, water lines, detention ponds and retention ponds (collectively referred to herein as the “Irrigation Improvements”); and

**WHEREAS**, the Districts are currently providing the Irrigation Improvements to the residents of District No. 2 and have constructed significant infrastructure which must be operated and maintained by the Districts; and

**WHEREAS**, the Irrigation Improvements provided by the Districts are a benefit to the Districts and the Districts’ residents and taxpayers; and

**WHEREAS**, pursuant to §§ 32-1-1001(1)(j) and (k), C.R.S., the Districts are authorized to impose and, from time to time, to increase or decrease fees, rates, tolls, penalties or charges for services, programs or facilities furnished by the Districts; and

**WHEREAS**, § 32-1-1001(1)(j)(I), C.R.S., also provides that, until paid, all such fees, rates, tolls, penalties or charges shall constitute a perpetual lien on and against the property served, which lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanics’ liens; and

**WHEREAS**, the water use fees currently imposed by the Districts are insufficient to defray the costs of providing the Irrigation Improvements, including costs of the operation, maintenance, repair and replacement thereof; and

**WHEREAS**, because the Districts’ current fee structure is insufficient to defray the actual costs of water services and facilities provided to residents and taxpayers by the Districts, the Districts are operating at a loss and require substantial subsidies to operate; and

**WHEREAS**, the Districts have determined that it is necessary to adopt a revised fee schedule wherein all parties pay the costs of the Irrigation Improvements provided to the benefit of their properties, and which will provide sufficient revenue to cover the cost of operating and

maintaining the Irrigation Improvements, acquiring and maintaining the water rights necessary to serve the Districts' residents and taxpayers and provide funds for future maintenance, repair or replacement of the Irrigation Improvements; and

**WHEREAS**, the Districts currently assesses a fee only on those properties within the Districts that receive irrigation water service; and

**WHEREAS**, the Districts have determined that those developed properties within the Districts that receive irrigation water service should not subsidize non-developed properties within the Districts which also benefit from the Irrigation Improvements; and

**WHEREAS**, the Districts have determined to adopt a revised fee schedule which includes, among other things, a "Water System Fee" to be imposed upon non-developed property located within the Districts' boundaries and a "Water Service Fee" to be imposed on property located within the Districts' boundaries and receiving water service from the Districts; and

**WHEREAS**, pursuant to § 32-1-1001(1)(m), C.R.S., the Districts are permitted to adopt, amend, and enforce rules and regulations; and

**WHEREAS**, the Districts wish to adopt rules and regulations pertaining to the collection and enforcement of fees and charges of the Districts.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1 AND BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2 AS FOLLOWS:**

1. Adoption of Schedule of Fees and Charges. The Districts hereby adopt the "Schedule of Fees and Charges" attached hereto as **Exhibit A** and incorporated herein by this reference.

2. Adoption of Rules and Regulations pertaining to collection and enforcement of fees. The Districts hereby adopt the rules and regulations pertaining to collection and enforcement of fees attached hereto as **Exhibit B** and incorporated herein by this reference.

3. Interest and Penalties Imposed for Nonpayment. The Districts may impose such penalties for non-compliance herewith as may be permitted by law. Without limiting the foregoing, a late charge on any past-due amounts at the rate of one and one percent (1%) per month shall accrue from the date the fees are due to the District.

4. Status as Lien/Foreclosure. Pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Districts' fees do and shall, until paid, constitute a perpetual lien against the property within the Districts, and subject to fees which lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanics' liens.

5. Effective Date. This Resolution is declared effective as of the 1<sup>st</sup> day of January 2011.

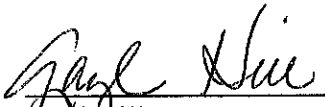
Whereupon, a motion was made and seconded, and upon a majority vote this Revised and Restated Resolution was approved by the Board of Directors.

ADOPTED AND APPROVED this 21<sup>st</sup> day of December, 2010.

BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1

  
\_\_\_\_\_  
Samantha Gale, President

ATTEST:

  
\_\_\_\_\_  
Gayl Hill, Secretary

BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2

  
\_\_\_\_\_  
Samantha Gale, President

ATTEST:

  
\_\_\_\_\_  
Gayl Hill, Secretary

**EXHIBIT A**

**Schedule of Fees and Charges**

**BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1  
AND  
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2  
SCHEDULE OF FEES AND CHARGES  
Effective  
January 1, 2011**

**A-1 TAP FEES. (RESERVED FOR FUTURE ADOPTION)**

**A-2 INSPECTION FEE.**

This fee covers the estimated cost to the Districts of inspecting water service connection before service commences.

<u>Irrigation Water Inspection Fee</u>	\$ 100.00 for the 1 <sup>st</sup> hour \$ 90.00 per hour after 1 <sup>st</sup> hour
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**A-3 WATER SERVICE CHARGES.** Billed monthly based on irrigation water services provided.

**RESIDENTIAL RATES**

<u>Irrigation Water Charges</u>	\$ 39.00 per month
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**RATES FOR COMMERCIAL AND OTHER NON-RESIDENTIAL LAND USES**

<u>Irrigation Water Charges</u>	\$ 39.00 per month per 5,000 square feet or part thereof
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**A-4 WATER METER CHARGES.**

Irrigation Connection

3/4" to 1" connection	\$ 1,025
2" SRII ECR Meter, Touch Pad with MXU	\$ 1,525

Actual cost may vary for special connection conditions. Please call District at time of installation for actual cost.

Inspections fees to set water meters will be charged at the rate specified in A-2 above.

**A-6 WATER SYSTEM FEES** – imposed on all developed but unimproved and undeveloped property within the Districts which are not paying Water Service Charges:

<u>Platted Lots</u>	\$ 13.00 per month/per lot
<u>Unplatted Lots</u>	\$ 13.00 per preliminary plan lot or Multifamily density unit per month based on the most current approved Preliminary Plan approved by Town of Gypsum

**A-7 MISCELLANEOUS FEES.**

<u>Maintenance Service Fee</u>	\$ 90.00 per personnel hour
<u>Turn-On/Turn-Off Fee</u>	\$ 100.00
<u>Penalty for Late Payments</u>	Greater of \$10 or 5% of outstanding bill
<u>Interest on Delinquent Balances</u>	1% per month
<u>Administrative Fee for Collections &amp; NSF Checks</u>	\$ 30.00
<u>Foreclosure Fee</u>	\$1,000 or actual cost, whichever is greater
<u>Copies</u>	\$ 00.25 per page
<u>CORA (Colorado Open Records Act)</u>	\$ 1.25 per copy plus \$30 per hour of personnel time

**A-8 MAJOR INFRASTRUCTURE DEVELOPMENT FEES.**

Plan Review Fee:

3. Internal District Staff Review \$ 90.00 per hour
4. District Engineer or Attorney Review Cost plus 5%

(review process shall be at the discretion of the District)

<u>Permit Fee</u>	\$ 500.00 per project
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**EXHIBIT B**

Rules and Regulations  
Pertaining to Collection and Enforcement of Fees

**RULES AND REGULATIONS OF  
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1  
AND  
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2  
PERTAINING TO THE COLLECTION AND ENFORCEMENT OF FEES**

**1. GENERAL**

**1.1. Purpose.** The Boards of Directors of the Buckhorn Valley Metropolitan District No. 1 or Buckhorn Valley Metropolitan District No. 2 (collectively referred to herein as the "Districts" or singularly each may be referred to as a "District") hereby declare that the following rules and regulations have been prepared and adopted to provide for the collection and enforcement of the fees charged by the Districts (the "Rules and Regulations").

**1.2. Intent of Construction.** It is intended that these Rules and Regulations shall be construed and implemented to affect the general purposes set forth herein. No portion of these Rules and Regulations shall be construed as a waiver of any grant of power, duty or responsibility, or a limitation or restriction upon the rights and powers of the Boards of Directors by virtue of statutes now existing or subsequently amended, or under any contract or agreement existing between the Districts and any other governmental entity.

**1.3. Amendment.** It is specifically acknowledged that the District shall retain the power pursuant to Section 32-1-1001(1)(m), C.R.S., to amend these Rules and Regulations as it deems appropriate and such amendments shall be entered in the minutes of the District and periodically incorporated in printed copies of these Rules and Regulations. Prior notice of the proposed amendments shall not be required to be provided by the District.

**1.4. Severability.** If any provision of the Rules and Regulations, or its application to any person or circumstances is held invalid, the application of such provision to other persons or circumstances, and the remainder of the Rules and Regulations shall not be affected thereby.

**1.5. Modification, Waiver and Suspension.** The Boards or the Districts' manager, acting on instructions of the Boards, shall have the sole authority to waive, suspend or modify the application of these Rules and Regulations, and any such waiver, suspension or modification must be in writing, signed by the Boards or the Districts' manager and shall not be deemed an amendment of the Rules and Regulations. No waiver, suspension or modification of any one occasion shall constitute a waiver, suspension or modification on any subsequent or other occasion.

**2. FEES AND CHARGES**

**2.1. General.** The Districts shall impose and collect such fees, charges and penalties sufficient to operate, maintain and provide non-potable water services, improvements and facilities and all other facilities necessary, incidental and appurtenant thereto, which include, but are not limited to, water facilities, water lines, detention ponds and retention ponds. The Districts shall impose and utilize its fees and charges in accordance with applicable law for

protection of the health and welfare of residents and property owners of the Districts.

**2.2. Fees and Charges.** The “Schedule of Fees and Charges” attached hereto as **Appendix A** and incorporated herein by this reference sets forth the current fees and charges applicable to services provided by the Districts. Such fees and charges shall remain in effect until modified by the Boards of Directors of the Districts (the “Boards”) in accordance with applicable laws. Nothing contained herein shall limit the Boards from modifying fees and charges from time-to-time. Revised fees or charges adopted by the Districts will become a part of these Rules and Regulations.

**2.3. Adjustment of Fees or Charges.** In those situations where, in the Board’s sole discretion, the fees and charges shown on Appendix A do not represent a fair, reasonable and equitable charge for the intended use, the Board, in its sole discretion, may adjust said fees and charges.

**2.4. Payment of Fees and Charges.**

**2.4.1. Billing.** It is the policy of the Districts to bill all monthly service fees and charges in advance. The Districts shall issue one (1) billing statement for each property which is served by the Districts. The record owner of such property shall be responsible for all charges to the property.

**2.4.2. Due Date.** The property owner shall pay to the Districts within fifteen (15) days after the date shown on the statement the full amount of that statement. Where the Customer believes said statement is in error, the property owner must file within fifteen (15) days after the statement date, a written notice to the District of the presumed error and request a clarification from the District’s manager. Upon review by the District’s manager and re-submittal and/or revision of the statement, payment shall be due no later than fifteen (15) days from the date of the resubmitted statement.

**2.4.3. Penalty for Late Payments.** At any time the property owner is fifteen (15) days late in payment of any fees or charges due the Districts, the Districts shall have the right to assess a penalty of ten percent (10%) per month on the unpaid balance. The District shall further have the right, in its sole discretion, to terminate service to any property owner who becomes thirty (30) days or more past due in payment for amounts owed the District as set forth in Section 3 of these Rules and Regulations. The District also has the right to assess to any property owner who is late in payment of its account all legal, court, disconnection and other costs necessary to or incidental to the collection of said account.

**3. REVOCATION OF SERVICE.** Service shall be revocable by the Districts upon non-payment of any fees or charges imposed by the Districts or upon any violation of these Rules and Regulations. In the event of a proposed revocation of service, the property owner shall be given not less than ten (10) days advance notice in writing of the revocation, which notice shall set forth the following:

- a. The reason for the revocation and the date service(s) shall be terminated;
- b. That the property owner has the right to contact the Districts and the manner in which the Districts may be contacted for the purpose of resolving the obligations; and
- c. That there exists an opportunity for a hearing in accordance with Section 4 of these Rules and Regulations.

If the obligations are not resolved or a request for a hearing, accompanied by a deposit equal to the amount of any fees and charges specified in the notice, is not received by the Districts within ten (10) days, the Districts shall terminate the service(s) and the property owner shall be assessed the cost of the disconnection. The property owner deposit for service, if any, shall be applied against the outstanding obligation.

#### **4. HEARING AND APPEAL PROCEDURES.**

**4.1. General.** If a property owner wishes to dispute a fee, charge imposed by or determination made by the Districts, the resident or property owner may appeal such fee, charge or determination by following the procedure set forth below (a property owner filing an appeal is referred to in the remainder of this section as the "Appellant"). Notwithstanding the filing of an appeal the Appellant is required to pay the fee or charge assessed by the Districts and such fee or charge shall be held by the Districts until such time as the appeal is final. The hearing and appeal procedures established below shall apply to all disputes concerning the interpretation, application or enforcement of the fees and charges of the Districts and application and enforcement of these Rules and Regulations, as they now exist or may hereafter be amended. In the event a proper and timely request for an appeal is not made as provided herein, the right to an appeal shall be deemed forever waived.

**4.2. Appeal to District Management.** The Appellant must first file a written request with the Districts' manager within ten (10) days of being notified of a proposed revocation of service or of the due date specified for a fee or charge of the Districts. Within thirty (30) days of receiving the request from the Appellant, the Districts' manager, after a full and complete review of the record, shall issue a written determination regarding the application or enforcement of the fees and charges of the Districts and/or application and enforcement of these Rules and Regulations, as may be applicable.

**4.3. Hearing Before Boards of Directors.** If the Appellant wishes to appeal the written determination of the Districts' manager, the Appellant must file a written request with the Boards for a hearing within fifteen (15) days of the date the written determination of the Districts' manager was mailed. The request for a hearing shall set forth with specificity the facts upon which the Appellant is relying and shall contain a brief statement of the Appellant's reasons for the complaint. The Boards shall hold a formal hearing on the appeal at the next regularly scheduled meeting held no earlier than ten (10) days after the filing of the Appellant's request for a hearing.

**4.3.1. Notice.** A notice shall be served on the Appellant, specifying the time and place of the hearing to be held by the Boards regarding the appeal, the application or

enforcement of the fees and charges of the Districts and/or application and enforcement of these Rules and Regulations in question, as may be applicable, and directing the Appellant to present evidence of why the determination regarding the application or enforcement of the fees and charges of the Districts and/or application and enforcement of these Rules and Regulations, as may be applicable, is not correct. The notice of the hearing shall be served personally or be certified mail return receipt requested or by any mail delivery service that is the equivalent to or superior to certified mail return receipt requested with receipt to receipt verification delivery speed and reliability, at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. When an Appellant is represented by an attorney, notice of any action, finding, determination, decision or order affecting the Appellant shall also be served upon the attorney.

**4.3.2. Hearing.** At the hearing, the Districts' manager and the Appellant shall be entitled to present all evidence that is relevant and material to the dispute, and to examine and cross-examine witnesses. The Boards may establish rules and procedures governing the hearing. A record of the hearing shall be maintained.

**4.3.3. Written Determination.** Based on the record established, the Boards shall issue a written decision concerning the disposition of the dispute presented to it and shall cause notice of the decision to be hand delivered or sent by certified mail to the Appellant within fifteen (15) days after the hearing. Such decision shall be final and binding upon the Districts and the complainant and shall constitute the final administrative action of the Districts. Any party to the hearing aggrieved or adversely affected by an order of the Boards may appeal such order to the District Court in and for the County of Eagle, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Appendix A  
to  
*Rules and Regulations*  
*Pertaining to Collection and Enforcement of Fees*

**BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1  
AND  
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2  
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**Effective  
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