

**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, maintained, repaired, and, in time, replaced 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 contracted with Yarnell Consulting and Civil Design, LLC to review the Districts' revenues relative to its operation expenses and to make recommendations regarding certain changes in the fee structure that would facilitate the Districts' ability to defray costs without subsidies; and

**WHEREAS**, Yarnell Consulting and Civil Design, LLC performed such a review and produced the report attached hereto as **Exhibit A** which is incorporated herein by this reference (the "Report"); 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 all developed but unimproved and all undeveloped properties located within the Districts' boundaries and a "Water Service Charge" to be imposed on all developed property located within the Districts' boundaries and receiving water service from the Districts; and

**WHEREAS**, based on the recommendations in the Report and a review of the Districts' current and projected future expenses related to the Irrigation Improvements the Board has determined that the cost differential to the District related to developed but unimproved and undeveloped properties as compared to developed property receiving water service is negligible and therefore all property owners should be treated the same and the Water System Fee and the Water Service Charge should be equivalent; and

**WHEREAS**, pursuant to Section 32-1-1001(2)(a), C.R.S. the governing body of any special district furnishing domestic water or sanitary sewer services directly to residents and property owners within or outside the special district's boundaries may only fix or increase fees, rates, tolls, penalties or charges for such services after consideration of the action at a public meeting held at least thirty (30) days after providing notice as specified in Section 32-1-1001(2)(a), C.R.S.; and

**WHEREAS**, in accordance with Section 32-1-1001(2)(a)(IV), C.R.S. such notice was posted on a publically accessible section of the Special District Association of Colorado's website on June 23, 2015, which is at least thirty (30) days before the public meeting at which the action was considered;

**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 B** and incorporated herein by this reference.

2. Adoption of Rules and Regulations pertaining to collection and enforcement of fees. The Districts previously adopted the rules and regulations pertaining to collection and enforcement of fees attached hereto as **Exhibit C** and incorporated herein by this reference via resolution of the Boards dated November 22, 2010.

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. District Expenses of Collection. The Districts’ shall be entitled to charge property owners for all costs and expenses associated with collecting an unpaid Water System Improvement Fee, including attorneys’ fees.

5. Status as Lien/Foreclosure. Pursuant to § 32-1-1001(I)(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.

6. Actions to Effectuate Resolution. Districts’ management and legal counsel are authorized and directed to take all actions necessary and appropriate to effectuate this Resolution and the imposition of the Water System Improvement Fee contemplated hereunder. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Boards of Directors, Districts’ management, Districts’ legal counsel and the officers, agents and employees of the Districts and directed toward effectuating the purposes stated herein are hereby ratified, approved and confirmed.

7. Repealer. All prior acts, orders or resolutions, or parts thereof, by the Districts in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

8. Severability. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

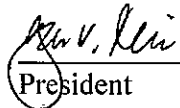
9. Effective Date. This Resolution is declared effective as of the date of its adoption.

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

ADOPTED AND APPROVED this 24<sup>th</sup> day of July, 2015.

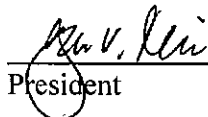
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1

  
\_\_\_\_\_  
President


ATTEST:

  
\_\_\_\_\_  
Assistant Secretary

BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Assistant Secretary

**EXHIBIT A**

2015 Raw Water Rate Study

Mr. John Hill  
Buckhorn Valley Metropolitan District #1  
P.O. Box 5127  
Gypsum, Colorado 81637  
Jvhill.co@gmail.com

Subject: Buckhorn Valley Metropolitan District #1  
2015 Raw Water Rate Study

Mr. Hill:

Yarnell Consulting & Civil Design, LLC (YCCD) has been contracted by the Buckhorn Valley Metropolitan District #1 (BVMD) to review the district's revenues relative to its operating expenditures and make recommendations regarding fee changes for irrigation water.

### Background

One primary purpose of the BVMD is to provide raw water for use in irrigating an approved planned unit development (PUD) consisting of 899 residential lots within the town of Gypsum, Colorado. Presently, approximately 679 of the lots are "unimproved", meaning that they are vacant and do not contain dwelling units. The remaining approximately 220 "improved" lots contain either single- or multi-family dwellings.

In 2011, RG & Associates, Inc. completed a water rate study for the BVMD. The report reviewed the district's financials from 2009 and 2010, as well as anticipated capital improvements to make recommendations on changes to the BVMD raw water fee structure. The Board recognized, however, that the study omitted from consideration the fact that most aspects of irrigation from the BVMD's perspective are equally shared between lots, no matter whether they are improved or not. This will be further discussed under the "Raw Water Fee Structure" section of this letter.

Ultimately, the BVMD Board opted not to adopt the recommendations because they felt the nearly 100% increase in fees would be an excessive burden on property owners during difficult economic times.

### Costs

Table 1 below summarizes BVMD's operation, maintenance, and administration expenditures for the past five (5) fiscal years.

Table 1

<i>Year</i>	<i>Expenditures</i>
2010	\$220,000
2011	\$340,000
2012	\$228,000
2013	\$360,000
2014	\$275,000

Omitted from the costs is annual maintenance of critical infrastructure that is being deferred due to a lack of available funds.

### Revenue

The BVMD receives revenue from two (2) sources:

1. Property tax revenues
2. Raw water service fees

Approximately 10% of property tax revenue is directed toward the BVMD to help with operation expenditures.

Presently, each improved lot within the PUD pays a flat monthly Water Service Charge of \$39 for raw water while each unimproved lot pays a flat monthly Water System Fee of \$13.

Table 2 below summarizes the revenue from property taxes and Water Service Charges and Water System Fees that have been collected by the BVMD over the past five (5) years.

Table 2

<i>Year</i>	<i>Tax Revenue (General Fund)</i>	<i>Charge/Fee Revenue (Enterprise Fund)</i>	<i>Total Revenue</i>
2010	\$120,000	\$39,000	\$159,000
2011	\$130,000	\$206,000	\$336,000
2012	\$54,000	\$227,000	\$281,000
2013	\$58,000	\$197,000	\$255,000
2014	\$36,000	\$206,000	\$242,000

### Financial Shortfall

Table 3 below compares the annual expenditures of operating the BVMD relative to the revenues.

Table 3

<i>Year</i>	<i>Revenue</i>	<i>Expenditures</i>	<i>Surplus / (Deficit)</i>
2010	\$159,000	\$220,000	(\$61,000)
2011	\$336,000	\$340,000	(\$4,000)
2012	\$281,000	\$228,000	\$53,000
2013	\$255,000	\$360,000	(\$105,000)
2014	\$242,000	\$275,000	(\$33,000)
<i>Average</i>	<i>\$255,000</i>	<i>\$285,000</i>	<i>(\$30,000)</i>

As is evident by the comparison, the BVMD has been operating at a loss for four (4) of the past five (5) years. To date, the loss has been offset by cash advances from the developer which have since stopped.

As shown in Appendix A, the BVMD owns and operates infrastructure valued at nearly \$5M (\$3.1M + \$1.9M). Of that, approximately \$3.1M worth of infrastructure is shared equally by each lot within the District, regardless of whether the lot is improved or unimproved. The remaining approximately \$1.9M is used exclusively by Buckhorn Valley Phases 1 through 4 and Aspen Ridge lots, this infrastructure is also used regardless of whether the lots are improved or unimproved. Without considering inflation and optimistically assuming a useful life of 30 years (10 of which have passed), the District should also be saving approximately \$250,000 per year into a fund for replacement of capital improvements and replacement of the infrastructure at the end of its life -- 20 years from now. The figure is 1/20 (or 5%) of the replacement cost of the infrastructure. It is recognized that this funding goal is likely to be unrealistic today but should be a long-term goal for the District to remain solvent and be prepared for future costs. In the short-term, a goal of 3% per year is recommended to begin building a fund for capital improvements. Appendix A contains a detailed breakdown of this analysis.

Coupling the need to cover the annual shortfall in operational expenditures, while building a capital improvement replacement fund yields a total annual shortfall of an estimated \$468,250 (\$275,000 + \$137,150 + \$56,100) for the district. The Board is seeking measures for generating sufficient revenue to cover the shortfall.

### Raw Water Fee Structure

Since revenue generated from property taxes is tied to property values and cannot be modified by the Board, the alternative option for generating the required \$468,250 in additional revenue is to review the raw water fee structure.



A closer review of the BVMD's costs of operation reveal that the difference in fees between lot types is not warranted for the following reasons:

1. Water resource legal and engineering must continue for both improved and unimproved lots.
2. Water sources such as JPO ditch system and Eagle River pump station must be operated and maintained at full capacity to insure the continuing physical and legally-approved supply is available for full development.
3. Buckhorn Reservoir maintenance is applicable to irrigation for both improved and unimproved lots
4. Irrigation infrastructure must be maintained regardless of the status if improvement of lots.

Additionally, the District recognizes the disparity in charging all lot owners the same fees even though the lot size (i.e. irrigated area or future irrigated area), and therefore the resources, water and infrastructure, varies so dramatically between regions within the District. As such, it is recommended to instead base the fees off of area lot size. As shown in Appendix A, the 2015 base rates are being revised based upon the average lot size per region.

It is recommended that the Water Service Charge and the Water System Fee be the same amount and that BVMD begin building a capital improvement replacement fund ("CIRF") by phasing in increased fees over the next two years. Since the future single-family lots are so large, the monthly base rate fee is increasing substantially from \$13 to \$31.92. As such, it is recommended to defer the additional fee for the capital improvement replacement fund until 2016. In 2015, the total fees (base rates plus fees for capital improvement replacement fund) by region are recommended as follows in Table 4.

Table 4: 2015 Rates (for immediate implementation)

<i>Region</i>	<i>Fee</i>
Buckhorn Valley Phases 1-4	\$39.00
Aspen Ridge	\$24.77
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$31.92

If the Board supports a phased approach for fee increases, the recommended rates for 2016 are as follows in Table 5.

Table 5: 2016 Rates

<i>Region</i>	<i>Fee</i>
Buckhorn Valley Phases 1-4	\$50.99
Aspen Ridge	\$24.77
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$38.28

Once fully-implemented in 2017, the monthly fees by region are recommended to be as follows in Table 6.

Table 6: 2017 Rates

<i>Region</i>	<i>Fee</i>
Buckhorn Valley Phases 1-4	\$64.60
Aspen Ridge	\$38.38
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$44.63

The total annualized fees generated in 2017 will be approximately \$470,000.

It is recommended that the Board review these fees relative to its operations expenditures and tax revenue on an annual basis, and make adjustments as necessary.

### Summary

The BVMD is experiencing an estimated \$468,250 shortfall in its budget – the combination of operation expenditures and establishment of a capital improvement replacement fund.

The approach being recommended is to increase the monthly fee for all 899 lots by varying amounts based on lot size. In total, this will generate approximately \$470,000 of additional annual revenue by 2017 and help the BVMD balance its budget. Refer to Appendix A.

#### Notes:

1. YCCD did not consider inflation with this analysis.

APPENDIX A

<i>DISTRICT FINANCIAL SUMMARY</i>	
2015 Forecast Annual Expenditures <sup>1</sup> =	\$ 285,000.00
Reserve for Electric Cost Increase <sup>2</sup> =	\$ 20,000.00
2015 Tax Revenue <sup>2</sup> =	-\$ 30,000.00
<b>2015 BUDGET SHORTFALL =</b>	<b>\$ 275,000.00</b>

Notes:

1. Forecast expenditures were provided by District Management and do not include contributions to capital improvement replacement fund (CIRF).
2. Estimated by District Management.

<i>2015 RAW WATER BASE FEE CALCULATION</i>					
<i>Region<sup>5</sup></i>	<i>Area (SF)</i>	<i>No. of Lots</i>	<i>Avg. Area Per Lot (SF)</i>	<i>2015 Monthly Base Rate<sup>3</sup></i>	<i>2015 Annualized Fee Generation<sup>4</sup></i>
Buckhorn Valley Phases 1-4	1,210,498	212	5,710	\$ 37.37	\$ 95,072.94
Aspen Ridge <sup>1</sup>	204,420	120	1,703	\$ 11.15	\$ 16,055.21
Hawk's Nest & Future Multi-Family	247,802	190	1,304	\$ 8.54	\$ 19,462.42
Future Single-Family	1,838,666	377	4,877	\$ 31.92	\$ 144,409.42
School, Parks, Open Space <sup>2</sup>	621,061				
<b>TOTAL</b>	<b>4,122,446</b>	<b>899</b>			<b>\$ 275,000.00</b>

Notes:

1. Area calculated based on amount allocated in water plan.
2. Schools, parks, and open space areas are irrigated by the District but do not generate fees.
3. Budget Shortfall / (Total Irrigated Region - Non Fee-Generating Area) / 12 Months \* Average Area Per Lot = Monthly Base Rate per Lot
4. Number of lots \* Monthly Rate \* 12 Months = Annualized Fee
5. Number of lots per region and irrigated areas were provided by District Management.

APPENDIX A

<i>CAPITAL IMPROVEMENT FUND ANALYSIS</i>						
<i>District-Wide</i>						
<i>Item Description</i>	<i>Quantity</i>	<i>Units</i>	<i>Cost / Unit</i>	<i>Extended Cost</i>	<i>CIRF Factor<sup>4</sup></i>	<i>CIRF Reserve</i>
Pump Stations (2) and Lake <sup>2</sup>	1	Lump Sum	\$ 2,275,000	\$ 2,275,000	5%	\$ 113,750
JPO Ditches and Headgates	26,000	Linear Feet	\$ 30	\$ 780,000	3%	\$ 23,400
<b><i>TOTAL</i></b>				<b>\$ 3,055,000</b>		<b>\$ 137,150</b>
<i>PER UNIT<sup>1</sup> =</i>						<b>\$ 12.71</b>
<i>Buckhorn Valley Phases 1-4 and Aspen Ridge Only</i>						
<i>Item Description</i>	<i>Quantity</i>	<i>Units</i>	<i>Cost / Unit</i>	<i>Extended Cost</i>	<i>CIRF Factor<sup>4</sup></i>	<i>CIRF Reserve</i>
Raw Water Main	20,000	Linear Feet	\$ 80	\$ 1,600,000	3%	\$ 48,000
Control Valves	9	Each	\$ 30,000	\$ 270,000	3%	\$ 8,100
<b><i>TOTAL</i></b>				<b>\$ 1,870,000</b>		<b>\$ 56,100</b>
<i>PER UNIT<sup>3</sup> =</i>						<b>\$ 14.52</b>

Notes:

1. Total cost divided among 899 total lots within the District.
2. Cost is based upon the 2006 installed cost and is likely inadequate in today's dollars.
3. Buckhorn Valley Phases 1-4 contain 212 lots and Aspen Ridge contains 110 lots for a total of 322 lots. Total cost is divided among the 322 lots within the region.
4. 5% capital improvement replacement fund (CIRF) factor assumes replacement in 20 years but does not account for inflation.
5. Extended Cost \* CIRF Factor = CIRF Reserve

## APPENDIX A

<i>RECOMMENDATIONS</i>					
<i>Implementation Date: 8/1/2015</i>					
<i>Region</i>	<i>No. of Lots</i>	<i>2015 Base Rate</i>	<i>CIRF</i>	<i>2015 Total</i>	<i>2015 Annualized Fee Generation</i>
Buckhorn Valley Phases 1-4	212	\$ 37.37	\$ 1.63	\$ 39.00	\$ 99,216.00
Aspen Ridge	120	\$ 11.15	\$ 13.62	\$ 24.77	\$ 35,662.13
Hawk's Nest & Future Multi-Family	190	\$ 8.54	\$ 12.71	\$ 21.25	\$ 48,448.52
Future Single-Family	377	\$ 31.92	Defer	\$ 31.92	\$ 144,409.42
<i>TOTAL</i>					\$ 327,736.07
<i>Implementation Date: 3/1/2016</i>					
<i>Region</i>	<i>No. of Lots</i>	<i>2015 Base Rate</i>	<i>CIRF</i>	<i>2016 Total</i>	<i>2016 Annualized Fee Generation</i>
Buckhorn Valley Phases 1-4	212	\$ 37.37	\$ 13.62	\$ 50.99	\$ 129,711.84
Aspen Ridge	120	\$ 11.15	\$ 13.62	\$ 24.77	\$ 35,662.13
Hawk's Nest & Future Multi-Family	190	\$ 8.54	\$ 12.71	\$ 21.25	\$ 48,448.52
Future Single-Family	377	\$ 31.92	\$ 6.36	\$ 38.28	\$ 173,166.68
<i>TOTAL</i>					\$ 386,989.17
<i>Implementation Date: 3/1/2017</i>					
<i>Region</i>	<i>No. of Lots</i>	<i>2015 Base Rate</i>	<i>CIRF</i>	<i>2017 Total</i>	<i>2017 Annualized Fee Generation</i>
Buckhorn Valley Phases 1-4	212	\$ 37.37	\$ 27.23	\$ 64.60	\$ 164,350.73
Aspen Ridge	120	\$ 11.15	\$ 27.23	\$ 38.38	\$ 55,269.05
Hawk's Nest & Future Multi-Family	190	\$ 8.54	\$ 12.71	\$ 21.25	\$ 48,448.52
Future Single-Family	377	\$ 31.92	\$ 12.71	\$ 44.63	\$ 201,923.94
<i>TOTAL</i>					\$ 469,992.24

**EXHIBIT B**

**Schedule of Fees and Charges**



**A-4 WATER SYSTEM FEES** – imposed on all developed but unimproved and undeveloped property within the Districts which are not paying Water Service Charges:

Water System Fee Effective August 1, 2015:

<b>Region</b>	<b>Water Service Charge</b>
Buckhorn Valley Phases 1-4	\$39.00
Aspen Ridge	\$24.77
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$31.92

Water System Fee Effective March 1, 2016:

<b>Region</b>	<b>Water Service Charge</b>
Buckhorn Valley Phases 1-4	\$50.99
Aspen Ridge	\$24.77
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$38.28

Water System Fee Effective March 1, 2017:

<b>Region</b>	<b>Water Service Charge</b>
Buckhorn Valley Phases 1-4	\$64.60
Aspen Ridge	\$38.38
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$44.63

**A-5 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 standard page, or such other amount as



authorized by Section 24-72-205(5), C.R.S

CORA Research & Retrieval Fee

\$30.00 per hour of personnel time (after 1<sup>st</sup> hour which is free), or such other maximum hourly fee as may be adjusted from time to time pursuant to Section 24-72-205(6)(b), C.R.S.

**A-6 MAJOR INFRASTRUCTURE DEVELOPMENT FEES.**

Plan Review Fee:

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

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

Permit Fee

\$ 500.00 per project

**EXHIBIT C**

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*





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

**A-4 WATER SYSTEM FEES** – imposed on all developed but unimproved and undeveloped property within the Districts which are not paying Water Service Charges:

Water System Fee Effective August 1, 2015:

<b>Region</b>	<b>Water Service Charge</b>
Buckhorn Valley Phases 1-4	\$39.00
Aspen Ridge	\$24.77
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$31.92

Water System Fee Effective March 1, 2016:

<b>Region</b>	<b>Water Service Charge</b>
Buckhorn Valley Phases 1-4	\$50.99
Aspen Ridge	\$24.77
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$38.28

Water System Fee Effective March 1, 2017:

<b>Region</b>	<b>Water Service Charge</b>
Buckhorn Valley Phases 1-4	\$64.60
Aspen Ridge	\$38.38
Hawk's Nest & Future Multi-Family	\$21.25
Future Single-Family	\$44.63

**A-5 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

Copies \$ 00.25 per standard page, or such other amount as authorized by Section 24-72-205(5), C.R.S

CORA Research & Retrieval Fee \$30.00 per hour of personnel time (after 1<sup>st</sup> hour which is free), or such other maximum hourly fee as may be adjusted from time to time pursuant to Section 24-72-205(6)(b), C.R.S.

**A-6 MAJOR INFRASTRUCTURE DEVELOPMENT FEES.**

Plan Review Fee:

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

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

Permit Fee \$ 500.00 per project

