

RESOLUTION NO. 2018-01-03

**RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
FALCON HIGHLANDS METROPOLITAN DISTRICT**

AMENDED AND RESTATED DISTRICT COLLECTIONS POLICY

WHEREAS, the Falcon Highlands Metropolitan District (the “District”) is a special district in El Paso County, Colorado, organized pursuant to Article 1 of Title 32, Colorado Revised Statutes, known as the Special District Act; and

WHEREAS, pursuant to the Special District Act and its Service Plan, the District provides water service to its customers and is empowered to adopt, amend and enforce regulations and policies related to this service; and

WHEREAS, the District is entitled to impose fees, rates, tolls, charges and penalties related to its provision of water services to its customers (each a “Fee” and collectively, the “Fees”); and

WHEREAS, until paid, District Fees shall constitute a perpetual lien on and against the property served; and

WHEREAS, the District previously adopted a collections policy related to the payment of District Fees, determination of delinquent accounts, imposition of late fees, and disconnection of services via Resolution No. 02-13-2017-001 (the “2017 Collections Policy”); and

WHEREAS, by this Resolution of the District, the Board desires to amend and restate its collections policy setting forth policies and procedures for the fair and timely collection of Fees imposed by and owed to the District;

NOW THEREFORE, the Board of Directors of Falcon Highlands Metropolitan District resolves as follows:


1. Collections Policy. The District hereby adopts the collections policy and procedures as described in the “Collections Policy” attached hereto as Exhibit A, related to the payment of District Fees, determination of delinquent accounts, imposition of late fees, and disconnection of services.

2. Supersedes 2017 Collections Policy. The Collections Policy attached hereto as Exhibit A replaces and supersedes the 2017 Collection Policy for all Fees due on January 15, 2018 and thereafter.

3. Legislative Measure. This resolution is a legislative measure of the District, which may be modified only by formal resolution of the Board of Directors of the District.

Adopted this 16th day of January, 2018.

FALCON HIGHLANDS METROPOLITAN
DISTRICT



President, Board of Directors of the Falcon
Highlands Metropolitan District

Attest:



Secretary or Assistant Secretary

EXHIBIT A
Collections Policy

FALCON HIGHLANDS METROPOLITAN DISTRICT
COLLECTIONS POLICY

Regarding
Imposition of Late Fees
and
Disconnection of Service Policy for Delinquent Accounts

(Effective JANUARY 16, 2018)

A. AUTHORITY

The Falcon Highlands Metropolitan District Board of Directors has adopted the following rules and policies regarding the imposition of late fees and the disconnection or shut off of water services in accordance with the statutory authority vested in it by Title 32, Article 1, Part 10, Colorado Revised Statutes, as amended.

B. PERPETUAL LIEN

Pursuant to § 32-1-1001(1)(j)(I), C.R.S., all fees, rates, tolls, penalties or charges of the District, until paid, shall constitute a perpetual lien on and against the property to be served by the District, and any such lien may be foreclosed as authorized by law.

C. PAYMENT DUE DATE / DETERMINATION OF DELINQUENT ACCOUNT

The District bills its customers on a monthly basis for water service. The monthly water service Fees are always due on the fifteenth (15th) day of the following month (“Due Date”). Any Fee that is not paid in full by its Due Date will be determined delinquent and subject to the District’s late fee and disconnection policy as described herein. A customer account with one or more delinquent Fees shall be considered delinquent.

D. LATE FEES ASSESSED ON DELINQUENT FEES

1. Delinquent Fees shall be subject to the District’s late fee. A five (5) day grace period exists between a Fee’s Due Date and when the first late fee is applied. The first late fee for a delinquent Fee shall first be applied on the sixth (6th) day after the Due Date, with a recurring late fee imposed the fifteenth (15th) day of each subsequent month that the Fee remains delinquent. A delinquent Fee shall remain delinquent until the Fee amount due and any corresponding late fees are paid in full.

E. DISCONNECTION OF SERVICE; NOTICE AND PROCEDURE

1. When the sum of delinquent Fees for a customer’s account has a past due balance of one-hundred dollars (\$100.00) or more and one or more delinquent Fees is sixty (60) or more days past due, the District may initiate disconnection of service procedures consistent with this

policy. The District may allow a payment arrangement when requested prior to the service being disconnected for non-payment.

2. The District shall mail a written notice (the “Disconnection Notice”) to the address of record for a customer account that meets the threshold requirements stated in E-1, above. The Disconnection Notice shall contain the following information:

- a. The amount of water Fees past due;
- b. The current amount of water Fees due;
- c. The amount of all late fees assessed;
- d. The sum of the amounts listed in E(2)(a) through (c) (the “Total Amount” owed to the District);
- e. A statement that if the Total Amount is not paid in full within thirty (30) calendar days of the Disconnection Notice, discontinuation of service may be initiated without further notice;
- f. A statement that a written request for a hearing must be received within thirty (30) calendar days of the Disconnection Notice or the right to a hearing will be deemed waived;
- g. A statement that, unless a hearing is duly requested, service may be disconnected at any time not less than thirty-five (35) calendar days after the Disconnection Notice;
- h. A statement of all additional disconnection and reconnection charges that will be assessed and added to the Total Amount, which must be paid before disconnected service will be reconnected.

3. The District may disconnect service to a property no less than thirty-five (35) calendar days after the Disconnection Notice.

F. HEARING PROCEDURES

1. In the event a customer timely requests a hearing after receiving a Disconnection Notice, a hearing shall be held at a Board meeting of the District. Written confirmation of the meeting date, time, and location shall be provided to the customer.

2. If a hearing is timely requested, the District shall not disconnect service until after the hearing has been held and a decision by the Board of Directors issued.

3. Failure by the customer to appear at the scheduled hearing shall be deemed a waiver of the right to a hearing. In the event of such waiver, the District may immediately proceed with disconnection of service to the property.

4. The customer shall appear at the hearing's designated time and place to present any and all evidence or arguments as to why relief should be granted from any of the Total Amount owed, the disconnection of service, or both. The Board of Directors shall be entitled to make reasonable inquiry of the customer to address any concerns as to the cause of a delinquent Fee(s), the amount of the delinquency, or why service should not be disconnected. The Board of Directors shall be entitled to consult with the District Manager or other District consultants, employees or contractors responsible for the calculation of bills, mailing, collection of water and sewer bills, and any records contained in the District files pertaining to the customer's account.

5. Following the hearing, the Board of Directors shall make a determination based on the information contained in the District's files, the evidence presented at the hearing, and any testimony given at the hearing. The Board shall have discretion to: adjust the Total Amount by waiving the payment of some or all of the delinquent Fee(s) owed; adjust the Total Amount by waiving some or all of the late fees assessed to the account; waive some or all of any applicable disconnection or reconnection charges that may be assessed and added to the Total Amount; approve a payment plan for the Total Amount owed; and/or, determine the time in which the Total Amount owed must be paid to avoid a disconnection of service.

6. The Board of Directors shall confirm its decision in writing and deliver such written confirmation to the delinquent customer.

G. IMPOSITION OF LATE FEES.

The late fee for delinquent service Fees is the greater of \$15 or 5% of the amount owed per month; whichever is greater. The total amount of late fee shall not exceed 25% of the total amount owed.

H. IMPOSITION OF RECONNECTION FEES.

The District charges a fee to reconnect service to a property in the amount of one-hundred dollars (\$100). The reconnection fee and all other outstanding amounts due must be paid prior to reconnection of service to a property.

I. RETURNED CHECK FEES

The District charges a fee for returned checks for insufficient funds, or reversed automated clearing house (ACH) or electronic funds transfer (EFT) in the amount of \$30 per item or transaction.