

RESOLUTION 2021-04

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE FOREST CREEK COMMUNITY DEVELOPMENT DISTRICT ADOPTING A DISTRICT GATE FACILITY RULE; PROVIDING FOR PAYMENT OF CERTAIN FEES; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Forest Creek Community Development District was established pursuant to Chapter 190, Florida Statutes; and

WHEREAS, Pursuant to section 190.011(5), the District has the power to adopt rules and orders pursuant to the provisions of chapter 120 prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the District;

WHEREAS, Pursuant to section 190.011(10), the District has the power to raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the District activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law;

WHEREAS, section 190.035(1), Florida Statutes, authorizes the Forest Creek Community Development District to establish user fees for the facilities and services furnished by the District; and

WHEREAS, section 190.035(4), provides that the District may institute such fees and charges to produce revenues to provide for the expenses of operation and maintenance of such facilities and services; and

WHEREAS, section 190.036, authorizes the District to pursue legal action to recover payment of a fee;

WHEREAS, pursuant to Sections 190.011(5) and 190.035(2), Florida Statutes, the Forest Creek Community Development District Board of Supervisors held a Public Hearing on November 4, 2020 to consider adopting gate facility fees to recover costs incurred by the District to operate, maintain, and repair the gate facilities located throughout the community after damage by users;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF FOREST CREEK COMMUNITY DEVELOPMENT DISTRICT as follows:

Section 1. The District hereby establishes the following fees to repair the gates:

- A. A fee of \$150.00 to any user for intentionally striking, removing, pulling, or knocking off gate arm requiring re-attachment or any other maintenance or repair ("**Strike Fee**")
- B. A fee, in addition to the Strike Fee, in the amount of the cost to repair plus 10% to repair damage to gate arm or other facilities ("**Damage Fee**") where the act of striking, removing, pulling, or knocking off the gate arm results in additional damage to the gate arm or other Gate Facilities in addition to re-attachment of the gate arm and/or costing in excess of \$150.

Section 2. The foregoing Strike Fee and Damage Fee (collectively, the "**Fee**") will be assessed by the Board at a meeting of the Board based on evidence submitted to and/or reviewed by the Board at the meeting. The person to be assessed shall have the right to address the Board at the meeting to state any defenses, mitigating factors, or other matters the person to be assessed would like the Board to consider. The Board may limit the time and scope of the person's address to no less than three (3) minutes.

Section 3. Following assessment of a Fee by the Board, the District Manager shall send a notice ("**Fee Notice**") to the person assessed stating the amount of the Fee assessed, the due date for payment, and the right to appeal. All Fees shall be due within sixty (60) days of the date of the Fee Notice.

Section 4. Any person assessed as provided herein who did not address the Board at the meeting at which the Fee was assessed shall have the right to appeal the Fee to the Board. Such person shall notify the District Manager in writing within 90 days of the date of the Fee Notice that the person requests to appeal the Fee. The appeal shall be heard at the next scheduled meeting of the Board of Supervisors which is not less than fourteen (14) days from the date of the request for appeal.

Section 5. If the person assessed fails to pay the Fee by the due date, the District may suspend the right of the person assessed, as well as their tenants, household members, and/or guests, to use the District's recreational facilities, including the pool and clubhouse, until the Fee is paid in full. In addition to and not in lieu of the foregoing, the District may pursue legal action to recover payment of a Fee, including the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs.

EXHIBIT A
Gate Facilities Fees

<u>Strike Fee</u> : May be assessed for any act resulting in striking, removing, pulling, or knocking off the gate arm requiring re-attachment or any other maintenance or repair	\$150.00
<u>Damage Fee</u> : May be assessed in addition to the Strike Fee for any act resulting in striking, removing, pulling, or knocking off the gate arm requiring re-attachment and causing other damage to the Gate Arm or Other Gate Facilities and/or costing in excess of \$150	Actual cost to repair other damage plus 10%

This Resolution shall be effective immediately upon adoption.

ADOPTED this 2 day of December, 2020.

**FOREST CREEK COMMUNITY
DEVELOPMENT DISTRICT**



Chairman/ Vice Chairman



Assistant Secretary