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FIRST AMENDMENT TO THE BY-LAWS
OF FOXTAIL PINES OWNERS ASSOCIATION

RESOLVED, that the Association's By-Laws be amended in substantially the form attached hereto as Exhibit A to reflect (i) grammatical and typographical corrections, (ii) establish notice and quorum requirements, (iii) delete references to declarant.

EXHIBIT A

FIRST AMENDMENT TO THE BY-LAWS
OF
FOXTAIL PINES OWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is Foxtail Pines Owners Association, hereinafter referred to as the "Association". The principal office of the corporation shall be identified in the Operating Procedures of the Association. Meetings of the members and Directors may be held at such places within the State of Colorado as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

All of the terms used in these By-Laws shall have the same meaning as set forth in the Declaration of Covenants, Restrictions, Easements, Charges and Liens for Foxtail Pines ("Declaration") recorded June 9, 1980 in book 311 at Page 669, and was amended by an Annexation Statement recorded June 23, 1981 in Book 327 at Page 83, and as further amended by a document recorded August 4, 1981 in Book 328 at Page 985; all of said documents having been recorded in the Books and Records of the Clerk and Recorder of Park County, Colorado.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

As provided in Article IV of the Articles of Incorporation of the Association (the "Articles"), every person or entity who is the fee owner of a lot in the Foxtail Pines Subdivision, or who is subject to assessment, either present or future, by the Association pursuant to the provisions of any recorded instrument relating to such assessment, shall be a member of the association.



ARTICLE IV MEETING OF MEMBERS

Section 1. Annual Meetings. The first Annual meeting of members shall be held within one year from the date of incorporation of the Association, and each subsequent regular Annual meeting of the members shall be held on that day of the same month each year thereafter, and that hour, as designated by the Board of Directors of the Association (the "Board") in a written notice thereof. The Annual Meeting shall be held on the 1st Saturday of August. If the day for the Annual Meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the members may be called at any time by the President or by the Board or upon written request of members who are entitled to vote one-fourth (1/4) of all the votes of the Association.

Section 3. Notice of Meetings Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least thirty (30) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the Books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. For the purpose of issuing such notices, the Board may establish a record date for determination of membership in accordance with the laws of Colorado. This section shall also apply to notice requirements of any vote by mail as outlined in the covenants, conditions and restrictions of Foxtail Pines Owners Association.

Section 4. Quorum The presence at the meeting of members entitled to cast, or of members holding proxies and entitled to cast, one-fifth (1/5) of the votes of members shall constitute a quorum for any action. If, however, such quorum is not present or represented at any meeting, the members entitled to vote thereat shall have to adjourn the meeting, from time to time, without notice other than announcement at the meeting. At any subsequent meeting the quorum for that meeting shall be one-half (1/2) of the original quorum. This also applies to vote by mail quorums.

Section 5. Proxies At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the designated person prior to the commencement of the meeting of members at which such proxy is sought or other deadline as set forth in the announcement of the meeting or vote for which the proxy may be used. Proxies shall not be directed. If the proxy holder is not in attendance at the meeting the proxy shall default to the Board of Directors. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot, and shall also cease upon attendance in person by the member who previously gave a proxy. No proxy shall be valid after the expiration of twenty-six (26) months from the date of its execution unless others specifically provide in the proxy or otherwise revoked in writing.

Section 6. Majority Vote. At any meeting of members at which a quorum is present, the affirmative vote of members representing one (1) vote more than fifty percent (50%) of the votes present in person or by proxy and entitled to be voted shall be the act of the members, unless the vote of a greater number is required by law, the Declaration, the Articles, or these By-Laws.

Section 7. Voting by mail. The Board of Directors may decide that voting of the membership shall be by mail with respect to any properly noticed matter or with respect to adoption of any proposed budget, or amendment to the Articles of Incorporation, By-Laws, Covenants, conditions and restrictions, or adoption of a proposed plan of merger, consolidation, or dissolution except for election of Directors.

In the case of a vote by mail of the members relating to any properly noticed matter or to any proposed amendment to the Articles of Incorporation, By-Laws, covenants, conditions, and restrictions, or adopting a proposed plan of merger, consolidation, or dissolution, the Association shall give notice to all owners which shall include a proposed written resolution setting forth the description of the proposed action, and shall state that such persons are entitled to vote by mail for or against such proposal and stating a date by which all votes must be received and stating that they must be sent to the specified address of the principal office of the Association. Votes received after that date shall not be effective. Any proposal shall be adopted if approved by the affirmative vote of 51% of the quorum which shall be 35% of all of eligible votes.

ARTICLE V BOARD OF DIRECTORS: ELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of Five (5) Directors who shall be members of the Association.



Section 2. Term of Office. At the first Annual meeting of the members three (3) years after the first lot is sold by Declarant, or upon the sale or other conveyance by the Declarant of thirty percent (30%) of the lots then presently platted, whichever occurs first, the members shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years, and one (1) Director for a term of three (3) years; and at Annual Meetings thereafter, the members shall elect Directors for terms of three (3) years each.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. Every Director whose removal is voted upon by the members shall be entitled to speak and be heard prior to the vote for removal.

Section 4. Resignations. Vacancies. Any Director may resign at any time by giving written notice to the President or to the Secretary of the Association. Each resignation shall become effective at the time specified therein, and acceptance of the resignation shall not be necessary to make the resignation effective. Any vacancy occurring in the Board owing to resignation or death shall be filled by the affirmative vote of a majority of the Directors then in office, even through less than a quorum. A Director so elected to fill a vacancy shall serve until the next Annual meeting of members.

Section 5. Compensation. No Director shall receive for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 6. Meetings by Telephone or Electronic Mail. The Directors may hold meetings via a telephone conference call or electronic mail, and any action taken by the Board at such a telephone conference call meeting or as a result of electronic mail shall have the same force and effect as such action taken at a meeting at which a quorum of the Board was physically present.

Section 7. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 8. Election. Election to the Board shall be by secret written ballot for a term of three years. At such election, the members present may cast, in respect to each vacancy, as many votes as they are entitled to exercise via ownership of a lot. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.



ARTICLE VI
MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board shall be held, from time to time, as the Board, by vote, may determine without written notice and at such place and hour as may be fixed, from time to time, by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two (2) Directors, after not less than seventy-two (72) hours notice to each Director.

Section 3. Quorum, Majority Vote the presence, in person or by proxy, at the meeting of the Board, of three of the Directors shall constitute a quorum and the vote of a majority of those present and entitled to vote shall be an act of the Board. Votes may also be taken via electronic mail meeting the same quorum and voting requirements a stated above. If, however, such quorum shall not be present or represented at any meeting, the Director entitled to vote thereat shall have to adjourn the meeting, from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

Section 4. Waiver of Notice. Before, at, or after any meeting of the Board of Directors, any Director may waive in writing notice of such meeting and such waiver shall be deemed equivalent to giving and receipt of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him, except when a Director attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have the power to:

- (a) adopt and publish rules and regulations governing the use of common areas and facilities owned by the Association, and the personal conduct of members, their tenant and their guests thereon, and to establish penalties for the infraction thereof;

- (b) suspend the voting rights, and right to use of any common recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association; such rights may also be suspended after notice and hearing before the Board, for a period not to exceed thirty (30) days, for infraction of published rules and regulations, provided the denial of any service provided by the Association does not present an immediate danger to the member or his property;
- (c) exercise for the Association of all powers, duties and authority vested in or delegated to this Association by these By-Laws, the Articles, the Declaration, or by law, and not reserved to the membership by other provisions of said documents or the law;
- (d) declare the office of a member of the Board to be vacant in the event such Director shall be absent from three (3) consecutive regular meetings of the Board; and
- (e) employ a Director, independent contractors, or such other employees as it deems necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the Annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - (1) fix the amount of the Annual assessments and prepare a roster of the lots and the assessments applicable thereto;
 - (2) send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each Annual assessment period, and;
 - (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to the same;

- (d) issue, or to cause an appropriate officer to issue, upon demand by any owner, first mortgagee of a lot, prospective owner, or prospective first mortgagee, a certificate setting forth whether or not any assessment has been paid; a reasonable charge may be made by the Board for the issuance of these certificates states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the common properties to be maintained;
- (h) cause the payment of taxes on the common properties owned by the Association;
- (i) regulate and enforce the terms and conditions of that certain decree issued by the District Court in and for Water Division No. 1, State of Colorado, Case No. W-8480-77, in the Matter of the Application for Water Rights or Fairplay-Four Mile Creek, Ltd., a Colorado limited partnership, in the Middle Fork of the South Platte River or its Tributaries in Park County, entitled "Findings of Fact, Conclusions of Law, Judgment and Decree";
- (j) assume ownership and control of, and maintain, common areas and equipment within the properties, and;
- (k) administer and enforce the provisions of the Declaration.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumerating of Officers. The officers of this Association shall be a President, who shall at all times be a member of the Board of Directors, a Vice-President, a Secretary, and a Treasurer, and such other officers as the Board may, from time to time, by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each Annual meeting of members.

Section 3. Term. The officers of this Association shall be elected Annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. A person may hold more than one office simultaneously, except that no person shall simultaneously hold the offices of President and Secretary.

Section 8. Duties. The duties of the officers are as follows.

President

- (a) The President shall preside at all meeting of the Board and of the members; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments; shall co-sign all checks and promissory notes; and shall be the chief executive officer of the association and general supervision of its officers, agents, and employees, subject to any management agreement authorized by the Board.

Vice-President

- (b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or the President.



Secretary

- (c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board, its Executive Committee, and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve proper notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and the names and addresses of their mortgagees, if any, and shall perform such other duties as required by the Board.

Treasurer

- (d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an Annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an Annual budget and a statement of income and expenditures to be presented to the membership at its regular Annual meeting, and deliver a copy of each to the members. He shall perform all other duties incident to the office of treasurer, and upon request of the Board, shall post a bond satisfactory to the Board conditioned upon faithful performance of his duties. The cost of such bond shall be paid by the Association.

ARTICLE IX
ARCHITECTURAL CONTROL

Section 1. Review of Plans. No building, fence, wall, canopy, awning, structure or improvement, or change in landscaping, shall be commenced, erected, altered, moved, removed or maintained upon properties, nor shall any exterior addition to, or change or alteration thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to compliance with the Declaration, and as to harmony of external design and location in relation to surrounding structures and topography by an Architectural Control Committee composed of representative appointed by the Developer or elected as set forth in Paragraph 19 of the Declaration.

Section 2. Architectural Control Committee. The Architectural Control Committee ("Committee") shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the properties conform to and harmonize with existing surroundings and structures. The Committee shall consist of three (3) persons.



Section 3. Procedures. The Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Committee fails to take any action with thirty (30) days after requests have been submitted, approval will not be required, and this article IX will be deemed to have been fully complied with.

Section 4. Majority Vote. Designated Representative. A majority vote of the Committee is required for approval or disapproval of proposed plans and specifications. A majority of the Committee may designate, in writing, a representative to act.

Section 5. Written Records. The Committee shall maintain written records of all application submitted to it and of all actions it may have taken.

Section 6. No Liability. The Committee shall not be liable in damages to any person submitting requests for approval or to any owner within the properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

ARTICLE X
WATER RIGHTS AND CONSERVATION

Section 1. Decree Approving Plan of Augmentation. Pursuant to the "Findings and Ruling of the Referee and Interlocutory Decree Approving Change of Water Rights and Plan for Augmentation" of April 28, 1980, issued in the District Court in and for Water Division No. 1, State of Colorado, Case No. W-8480-77, entitled In the Matter of the Application of Fairplay-Four Mile Creek, Ltd., a Colorado limited partnership, for Water Rights in Park County, (the "Decree"), the Association has certain rights and obligations with respect to the usage of water by owners. The purpose of this Article X is to set forth such rights and obligations, provided, however, in the event of any conflict between the provisions of this Article X and the Decree, the provisions of the Decree, or any authorized modification thereto approved by the Court, shall control. All owners and the Association are bound by and subject to the provisions of the Decree, and any authorized modifications thereto approved by the Court.

Section 2. Well Water. Water shall be withdrawn from the single unit wells within the properties drilled under authorized permits. All such water must be used solely for in-house purposes. The phrase "in-house use" precludes any use of water for any purpose outside the house, such as car washing, filling swimming or wading pools, watering livestock, or for irrigation of trees, shrubs, or lawns.

Section 3. Waste Water. All domestic sewage and waste water from owners in the properties must be disposed of through septic tanks and sewage disposal systems of the soil absorption field type, and other non-evapotranspiration systems.



Section 4. Consumptive Use of Water. The consumptive use of water by owners in the properties is subject to the plan of augmentation decreed by the Water Court, the basis of which is the replacement to the stream system during times of need from storage water rights, of an amount equal to the depletion of the stream system caused by the development's use of water. The total Annual future depletion of the South Platte River and its tributaries which will result from the development of the properties is 13.97 acre feet per year. It is estimated that 0.64 c. f. s. from the Guiraud 3T Ditch will be adequate. The plan of the Court is based on this estimate. Such plan requires the Declarant to cease the diversion of 0.64 c. f. s. of the Guiraud 3T Ditch; cease the irrigation of all the acres of the hay meadow historically irrigated; abandon 0.24 c. f. s. of water right to the Middle Fork of the South Platte River; store 8.73 acre feet per year, an amount equal to the historic consumptive use of 0.40 c. f. s. of the said Guiraud 3T water right, in the Lower Sacramento Creek Reservoir; release from said storage to the South Platte River and its tributaries, at such times and in such amounts as the Division Engineer of Water District No. 1 may direct, such amounts of water as are required in addition to the said 0.24 c. f. s. of the said Guiraud 3T water right left in the stream to compensate for Annual depletions caused by the development, and to prevent material injury to owners or users of vested water rights, but in no case shall such compensation total more than 13.97 acre feet per year including reservoir evaporation.

The Colorado State Engineer may curtail diversion of water through the wells located on the properties if they, or the other features of the plan for augmentation, are being operated or used in violation of the terms of the Decree.

Section 5. Reports. The Association shall report to the Division Engineer of Water District No. 1 ("Division Engineer") any known violations of the conditions of the Decree. Additionally, each year, as provided by the Decree, the Association shall report to the Division Engineer the name and address of its President and the number of residences then constructed and available for occupancy.

Section 6. Insufficient Water for Depletion Replacements. In the event that an extreme period of dry weather results in insufficient water being available for depletion replacements pursuant to the Decree, the water users in the Applicant's development, through the Association, shall terminate well diversions, shall acquire additional water by emergency lease, or shall reduce their consumptive use in order that the development's consumptive use will not exceed the limits of water made available for replacement pursuant to the Decree's plan of augmentation.