

**Foxfield Community Association, Inc.**

**Resolution No. 114  
Electric Vehicle Charging Stations**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements of Foxfield Community Association, Inc. (“Declaration”), as amended, the Bylaws of Foxfield Community Association, Inc. (“Bylaws”), as amended, and the Articles of Incorporation of Foxfield Community Association, Inc. (“Articles of Incorporation”), as amended, collectively known as the Governing Documents of Foxfield Community Association, Inc. (“Association”), provide that the Lots, including single-family and townhouse dwellings, are subject to the Governing Documents and the rules and regulations of the Association; and

WHEREAS, Article I, Section 1.8 of the Declaration provides that the Community Facilities means all property and improvements, which may include any common areas, public, neighborhood or community buildings, open space land, pedestrian facilities, and community streets hereafter acquired by the Association for the common use and enjoyment of the Owners of the Association; and

WHEREAS, Article I, Section 1.28 of the Declaration provides that a Structure shall mean any thing or object (other than trees, shrubbery, landscaping, and hedges less than two feet high), the placement of which upon any Lot may affect the appearance of such Lot, including any permanent or temporary improvement on such Lot, and that Structures shall be regulated by the Board and/or Covenants Committee, pursuant to Article VI, Section 6.03 of the Declaration; and

WHEREAS, Article VI, Section 6.15 of the Declaration provides that no facility, including but not limited to, poles, wires and conduits for transmission of electricity and the like shall be placed and maintained above the surface of the ground on any Lot without approval of the Board and/or Covenants Committee; and

WHEREAS, Article II, Section 2.01 of the Declaration provides that every Owner shall have a right and easement of enjoyment in and to the Community Facilities, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot; and

WHEREAS, the Articles of Incorporation of the Association provide that the Association was formed as nonstock corporation under Chapter 10, Title 13.1 of the Code of Virginia (the “Virginia Nonstock Corporation Act” or the “Act”) and shall have all the powers, rights, and privileges under the Act, including the right to own, improve, maintain, and preserve the Community Facilities; and

WHEREAS, Section 13.1-826.A (3) and (4) of the Act provides that the Association shall have the power to own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, and to convey or lease all or any part of its property; and

WHEREAS, Article II, Section 2.01 (a) of the Declaration provides that the Board of Directors of the Association (“Board”) is authorized to adopt such rules and regulations pertaining to the use of the Community Facilities which shall enhance the preservation of such Facilities and the safety and convenience of the users thereof; and

WHEREAS, Article II, Section 2.01 (j) of the Declaration provides that the Board has the right to regulate parking on Community Facilities through the granting of easements, licenses, or promulgation of rules and regulations, including the right to reserve one parking space per Lot for the exclusive use of the Owner of that Lot; and

WHEREAS, Section 55.1-1823.1.B of the Virginia Property Owners’ Association Act (the “POAA”) provides that an association may prohibit or restrict the personal installation of electric vehicle charging stations and related electrical wires and connections to the vehicles (“EVCS”) on the Common Area and may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of EVCS on the Common Area; and

WHEREAS, Section 55.1-1823.1.C of the POAA provides that any lot owner installing an EVCS shall indemnify and hold the association harmless from all liability, including reasonable attorney fees incurred by the association resulting from a claim, arising out of the installation, maintenance, operation, or use of an EVCS; and

WHEREAS, Section 55.1-1823.1.C of the POAA also provides that an association may require the lot owner to obtain and maintain insurance covering claims and defenses of claims relating to the installation, maintenance, operation, or use of an EVCS and require the association be included as a named insured on such policy; and

WHEREAS, the Board desires to adopt certain rules and regulations regarding EVCS;

IT IS THEREFORE HEREBY RESOLVED THAT the Board adopts the following rules and regulations:

**1. Application and Approval Required**

**1.1 APPROVAL OF THE INSTALLATION OF ANY PORTION OF AN EVCS ON OR UNDER THE COMMUNITY FACILITIES BY THE BOARD SHALL CONSTITUTE A REVOCABLE LICENSE—WHICH SAID PERMISSION MAY BE REVOKED, WITH OR WITHOUT CAUSE, BY THE BOARD IN ITS SOLE DISCRETION.**

In such case, notice of revocation of the license shall be hand delivered or sent by certified mail, return receipt requested, at least fourteen (14) days prior to the date of revocation of the license to the Owners.

1.2 The Owner shall provide detailed plans and drawings for installation of the EVCS prepared by a licensed and registered electrical contractor or engineer familiar with the

installation and core requirements of an EVCS, along with a copy of the license under which the contractor or engineer is authorized to perform such installation. The plans and specifications, including the nature, kind, shape, height, external design, topography, materials, and location of all improvements, shall be submitted in an application to the Board and Covenants Committee.

1.3 As a condition of approving installation of an EVCS, the Owner shall comply with the rules and regulations set forth below and such rules and regulations as may be further adopted and stated on any application and/or license submitted to the Board and Covenants Committee.

## **2. Indemnity and Hold Harmless**

2.1 The Owner shall indemnify and hold the Association and its Board, officers, employees, agents, Members, residents, and contractors harmless from and against all liability, including reasonable attorney fees (whether or not a lawsuit is initiated) incurred by the Association, resulting from any liability, claim, injury, or damages, direct or indirect, arising out of the installation, maintenance, operation, or use of such EVCS, including, but not limited to, any claim made by a contractor or supplier pursuant to Title 43 of the Code of Virginia.

## **3. Insurance**

3.1 The Owner shall obtain and maintain insurance of not less than \$1,000,000 covering claims and defenses of claims relating to the installation, maintenance, operation, and use of the EVCS and require the Association be included as a named insured on such policy. The Owner must submit a copy of his or her certificate of insurance to the Association within fourteen (14) days after receiving the Association's approval to install such EVCS, and has a continuing obligation to provide updated certificates of insurance to the Association upon renewal of coverage or change in carrier.

## **4. Installation**

4.1 The Owner shall pay the cost of installation of the EVCS, including any additional cost of installation, removal, or reinstallation related to the Board decision, in its sole discretion, to relocate the Owner's reserved parking space. The Owner shall be responsible for any actual and incidental damage to the Common Area arising from the installation of the EVCS and any damage to the Common Areas shall be restored at the expense of the Owner to the satisfaction of the Board.

4.2 The Owner shall engage the services of a licensed electrician or engineer familiar with the installation and core requirements of an EVCS to install the EVCS.

4.3 The Owner shall provide information or documents required under this Resolution to the Management Agent. As to townhouse dwellings, the Owner shall arrange with the Management Agent for any installation of an EVCS on or under any portion of the Common Area or under the sidewalk owned and maintained by the Association. The Owner shall be responsible for any damage to the sidewalk caused by the installation or operation of the EVCS.

4.4 In addition to compliance with the rules and regulations of the Association, the Owner shall comply with the applicable building codes or recognized safety standards, the Fairfax County Zoning Ordinance and its regulations, and any other relevant County or Virginia laws which regulate the installation and use of the EVCS. Compliance with this Resolution does not equate to compliance with the applicable building codes or recognized safety standards, the Fairfax County Zoning Ordinance and its regulations, or any other relevant County or Virginia law.

4.5 Extension cords, hoses, or any portion of the EVCS shall not extend *over* the Common Area sidewalks, regardless of whether such cord, hose, or portion of the EVCS is enclosed in or covered by a safety mat.

4.6 An EVCS shall be installed in the center and front of the individual parking space. An Owner shall not charge two vehicles from the same EVCS simultaneously, as such operation extending the connection to the farthest located vehicle would present a safety hazard to pedestrians.

4.7 An EVCS shall be protected from vehicle damage by the installation, for example, of bollards or such buffers as are required by the Fairfax County Zoning Ordinance and its regulations and any other relevant County or Virginia law.

4.8 Owners shall install the EVCS at their own risk. Accordingly, the Association shall not be liable or responsible for any damage to a vehicle or any other property that may arise from the installation of the EVCS, nor shall the Association be liable for any damage to the EVCS or its components under any circumstances, including, but not limited to, any damage that may arise from performance of services on the Association's property.

## **5. Maintenance and Operation**

5.1 The Owner shall pay the cost of maintenance, operation, and use of the EVCS and shall keep the EVCS in good operating condition. Any damage to the EVCS shall be repaired promptly.

5.2 The Owner shall be responsible for any actual and incidental damage to the Common Area arising from the maintenance, operation, and use of the EVCS, and any damage to the Common Areas shall be restored at the expense of the Owner to the satisfaction of the Board.

5.3 The Association, its Board, officers, employees, committee members, and agents shall not be considered a bailee of any personal property stored on the Common Areas, including the EVCS. Neither the Association, its Board, officers, employees, committee members, agents, nor any other owner is responsible for the security or physical condition of the EVCS or any vehicle parked in the vicinity of the EVCS or for any loss or damage thereto.

5.4 When not in use, all plugs, cords, cables, etc., shall be removed or neatly stored so they do not create any hazards.

5.5 The Owner shall pay the cost of metering, electricity, and other associated utilities of the EVCS.

5.6 In addition to compliance with the rules and regulations of the Association, the Owner shall comply with the applicable building codes or recognized safety standards, the Fairfax County Zoning Ordinance and its regulations, and all other relevant County or Virginia laws in maintaining, operating, and using the EVCS. Compliance with this Resolution does not equate to compliance with the applicable building codes or recognized safety standards, the Fairfax County Zoning Ordinance and its regulations, or any other relevant County or Virginia law.

5.7 The Owner shall reimburse the Association for any increase in common expenses specifically attributable to the EVCS, including the cost of any increased insurance premium amount, within fourteen (14) days' notice from the Association.

5.8 Owners shall maintain, operate, and use the EVCS at their own risk. Accordingly, the Association shall not be liable or responsible for any damage to a vehicle or any other property that may arise from the maintenance, operation, or use of the EVCS, nor shall the Association be liable for any damage to the EVCS or its components under any circumstances, including, but not limited to, any damage that may arise from performance of services on the Association's property.

## **6. Removal**

6.1 The Owner shall pay the cost of removal of the EVCS and restoration of the Community Facilities and/or sidewalk maintained by the Association if the Board revokes its license for the installation of any portion of an EVCS on or under the Community Facilities. The Owner may choose to convey the EVCS to a future purchaser of the Lot; however, the new Owner will be required to make a separate application to the Board and Covenants Committee within thirty days of the recordation of the deed or instrument transferring title to the Lot and obtain approval from the Board and Covenants Committee.

## **7. Enforcement**

7.1 The Association has the right to enforce this Resolution through the following:

a. If for any reason the Board revokes its license for the installation of any portion of an EVCS on or under the Community Facilities after notice under these rules and regulations, the presence of any portion of an EVCS on or under the Community Facilities shall be deemed a trespass and may be removed by the Board, and the cost of so doing shall be assessed to the Owner.

b. File a lawsuit in the Circuit Court of Fairfax County against the Owner to obtain

injunctive relief to comply with the Declaration, the POAA and this Resolution pursuant to Article XIII, Section 13.03 of the Declaration and § 55.1-1819 and § 55.1-1828 of the POAA, after notice and hearing as required by § 55.1-1819. The prevailing party will be entitled to recover the costs of such proceeding and reasonable attorney fees, pursuant to § 55.1-1819 and § 55.1-1828 of the POAA.

This Resolution shall be effective May 15, 2022.

The Board directs that this Resolution shall be reasonably published or distributed to the Members of the Association.

ADOPTED as action without a meeting of the Board of Directors on May 15, 2022.

Foxfield Community Association, Inc.

By: Scott Eumel  
President

Attest: [Signature]  
Secretary