

**RESOLUTION  
OF THE BOARD OF DIRECTORS OF  
MIDTOWN AT CLEAR CREEK METROPOLITAN DISTRICT**

**REGARDING POLICIES, PROCEDURES AND PENALTIES FOR THE  
ENFORCEMENT OF THE GOVERNING DOCUMENTS**

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WHEREAS, Clear Creek Station Metropolitan Districts Nos. 1-3 (the “**Prior Districts**”), were consolidated into one single metropolitan district, Midtown at Clear Creek Metropolitan District (the “**Consolidated District**”), pursuant to the provisions of Part 6 of Article I of Title 32, C.R.S., as evidenced by Court Order dated June 25, 2018 issued under Case 2007CV1315; and

WHEREAS, the Consolidated District is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Consolidated District succeeded to all rights, authority and obligations assigned or delegated to the Prior Districts; and

WHEREAS, pursuant to the terms and conditions of the Declaration of Easements and Master Architectural and Maintenance Standards for Midtown recorded in the real property records of the Clerk and Recorder of Adams County, Colorado at Reception No. 2013000055284, on June 27, 2013 (the “**Covenants**”), the Consolidated District is permitted to send demand letters and notices, levy and collect fines and interest, impose liens, and negotiate, settle and take any other actions with respect to any violations or alleged violations of the Governing Documents (as defined below); and

WHEREAS, the Board of Directors (the “**Board**”) of the Consolidated District is authorized to promulgate adopt, enact, modify, amend, repeal, and re-enact rules and regulations concerning and governing the Property (as that term is defined in the Covenants) (the “**Rules and Regulations**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Board is authorized to fix and from time to time increase or decrease, fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the Consolidated District; and

WHEREAS, such fees, rates, tolls, penalties, or charges, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the Board desires to set establishing policies, procedures and penalties for violations of the Covenants, any guidelines, rules and regulations, and other policies and procedures of the Consolidated District, as the same may be adopted, amended and supplemented from time to time (collectively, the “**Governing Documents**”).

WHEREAS, on September 9, 2015, the Board adopted the Resolution of the Clear Creek Station Metropolitan District #1 Regarding Policies and Procedures for Covenant and Rule

Enforcement (the “**Prior Policy**”), and the Board desires to adopt this Resolution to amend and restate the Prior Policy in its entirety.

NOW THEREFORE, the Board hereby adopts this Resolution and the following policies and procedures:

1. Intent of Consolidated District. This Resolution is adopted to ensure the protection of the health, safety and welfare of the residents and property owners of the Consolidated District, to preserve property values, enhance the quality of life for all Consolidated District residents, and provide a fair and consistent enforcement process of the Governing Documents.

2. Enforcement Policy. The Consolidated District may enforce the Governing Documents through administrative proceedings or judicial action, and any non-compliance with the Governing Documents by any owner, renter or guest will be the responsibility of the owner of the respective property subject to this Resolution (“the “**Owner**”). This Resolution is intended to serve as guidance to the Board and the Consolidated District’s authorized representative(s) (the “**District Representative**”), and does not limit or restrict the authority of the Board. The Board may intervene at any time with respect to any authority granted to or action undertaken by the District Representative. In addition, this Resolution shall not supersede the procedures for approval, disapproval, or notice of noncompliance related to improvements as set forth in the Governing Documents.

3. Investigative Procedure. Upon receipt of a written complaint alleging a violation of the Governing Documents, the District Representative will conduct an investigation to determine whether a violation of the Governing Documents has occurred.

4. Enforcement Process for Continuous Violations Upon determining that a “**Continuous Violation**” (defined as a violation that is ongoing, uninterrupted by time and may take time to cure) has occurred, the District Representative and the Board shall take the following steps, with all letters referenced within this Resolution being mailed to the Owner both by first-class United States mail and by certified mail:

a. Advisory Letter. If the District Representative determines that a Continuous Violation of the Governing Documents exists, either through the investigative process as set forth above, or through independent inspections or observations of the District Representative, the District Representative will mail an “Advisory Letter” to the Owner at the address of the Owner on record according to the records of the County Assessor (“**Owner’s Address**”), notifying the Owner of: (i) the restriction violated and the nature of the violation, (ii) that the Owner must have the Continuous Violation corrected within 15 calendar days of the date of the Advisory Letter, and (iii) that failure to timely cure the Continuous Violation may result in potential fines or other sanctions. If, in the discretion of the District Representative, the Continuous Violation requires more than 15 days to cure, the District Representative may extend the cure period or require the Owner to commence such cure within 15 days of the date of the Advisory Letter and diligently prosecute the same to completion.

b. Notice of Complaint and Opportunity to Be Heard. If an Owner fails to cure (or provide adequate proof that he or she is diligently seeking to cure, if applicable) a Continuous Violation within 15 days of the date of the Advisory Letter this shall be considered a second violation for which a fine may be imposed. The District Representative shall mail a notice of complaint and opportunity to be heard (“**Hearing Notice**”) to the Owner at the Owner’s Address notifying the owner of the Continuous Violation and of the potential fines that may be imposed if the Continuous Violation is not cured. The Hearing Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 15 days of the date of the Hearing Notice.

c. Notices of Ongoing Violation. If the Owner has not requested a hearing, cured the Continuous Violation or made arrangements to cure the Continuous Violation and communicated such arrangements to the District Representative in writing within 15 days of the Hearing Notice, this shall be considered a third violation for which a fine may be imposed. The District Representative shall mail a notice of ongoing violation (“**Ongoing Violation Notice**”) to the Owner’s Address demanding that the Owner cure the ongoing Continuous Violation and that an additional fine has been imposed on the Owner’s account pursuant to the fine schedule set forth in Paragraph 9 below. If the Continuous Violation remains uncured 15 days after the date of the first Ongoing Notice Violation or the Owner has not made arrangements to cure the Continuous Violation and communicated such arrangements to the District Representative in writing within 15 days of the first Ongoing Violation Notice, this shall be considered a fourth violation for which an additional fine may be imposed. A second Ongoing Violation Notice shall be mailed to the Owner at the Owner’s Address and shall advise the Owner of the imposition of an additional fine, pursuant to the fine schedule set forth in Paragraph 9 of this Resolution.

d. Continuing Violation. In the event that a Continuing Violation continues to exist uninterrupted 15 days after the date of the second Ongoing Violation Notice, the Consolidated District may in its discretion, in addition to any other remedy, mail the Owner a notice of daily fines (“**Daily Fine Notice**”) to the Owner’s Address and thereafter impose a fine of up to \$100 for each day that a Continuous Violation so continues.

5. Enforcement Process for Repetitious Violations. Upon determining that a “**Repetitious Violation**” (defined as a violation that occurs at a set point in time and does not require time to cure, such as the parking of a restricted vehicle in the community or leaving trash cans out beyond the time allowed) has occurred, the District Representative and Board shall take the following steps, with all letters referenced within this Resolution being mailed to the Owner both by first-class United States mail and by certified mail:

a. Advisory Letter. If the District Representative determines that a Repetitious Violation of the Governing Documents has occurred, either through the investigative process as set forth above, or through independent inspections or observations of the District Representative, the District Representative will mail an “Advisory Letter” to the Owner at the Owner’s Address, notifying the Owner of: (i) the

restriction violated and the nature of the Repetitious Violation, and (iii) that any subsequent violations of the same restriction within 90 days of the date of the Advisory Letter may result in the imposition of fines.

b. Notices of Repetitious Violations. If an Owner subsequently violates the same covenant or rule within 90 days of date of the Advisory Letter, each such instance shall constitute a separate Repetitious Violation for which fines may be imposed pursuant to the fine schedule set forth in Paragraph 9. Upon the occurrence of each subsequent Repetitious Violation, the District Representative shall mail the Owner to the Owner's Address a notice advising the Owner of the Repetitious Violation and of the fine to be imposed ("**Repetitious Violation Notice**"). The first such Repetitious Violation Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 15 days of such first Repetitious Violation Notice. The Consolidated District may impose additional fines with each Repetitious Violation Notice sent after the first Repetitious Violation Notice without the necessity of providing the Owner with the opportunity for a hearing thereafter.

6. Hearing on Violation. If a hearing is requested by the Owner pursuant to Paragraph 4.b or 5.b above, the District Representative shall notify the Owner of the date, time and place of the hearing at least 10 days prior to the hearing. Hearings regarding violations of the Governing Documents shall be conducted by the Board, or a tribunal consisting of Consolidated District residents or other persons as selected by the Board.

7. Failure to Attend or Request Hearing. In the event any Owner fails to request a hearing within 15 days of the date of the Hearing Notice or the first Notice of Repetitious Violation, as applicable, or fails to appear at a requested hearing, the Board or the tribunal or person designated by the Board to conduct the hearing may make a decision with respect to the violation based on the complaint, results of the investigation and any other available information without the necessity of holding a formal hearing. Failure to request a hearing or to appear at a requested hearing will result in the Owner being deemed to have admitted and acknowledged the violation and the Owner will thereafter be subject to all fines and penalties assessed in connection with the violation. After offering an Owner the opportunity for a hearing in the Hearing Notice or the first Notice of Repetitious Violation, as applicable, regardless of whether the Owner then requests a hearing or not, the Consolidated District need not offer the opportunity for a hearing for any additional fines to be imposed for failure to cure a Continuous Violation or for subsequent instances of a Repetitious Violation.

8. Decision. After the Consolidated District has taken the steps as outlined above, upon a finding that an Owner is in violation of the Governing Documents, the Consolidated District Representative shall mail the notice of violation ("**Notice of Violation**") to the Owner's Address. The Consolidated District may revoke or suspend the Owner's privileges, impose fines in accordance with the fine schedule set forth below and take such other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents.

9. Fine Schedule. The following fine schedule is adopted for any and all violations of the Governing Documents.

***Continuous Violations:***

First Violation	Advisory Letter
Second Violation (Hearing Notice):	\$ 50.00
Third Violation (First Ongoing Violation Notice	\$ 75.00
Fourth Violation (Second) Ongoing Violation Notice:	\$ 100.00
Daily Fine Notice:	Up to \$100.00 per day

***Repetitious Violations:***

First Violation	Advisory Letter
Second Violation within 90 days of the Advisory Letter:	\$75.00
Subsequent Violations within 90 days of the Advisory Letter:	\$100.00 per offense

10. Violations or Offenses that Constitute a Present Danger. If a violation concerns a serious or immediate risk to the health, safety, or welfare of person or property, the District Representative shall seek to obtain prompt action by the Owner to correct the violation and avoid any reoccurrence, and the procedural requirements under this Resolution may be waived by the Board and a hearing scheduled as soon as possible. The Board may impose sanctions as necessary to abate any threat to health, safety or welfare of any person or property.

11. Waiver of Fines and Other Amounts. The Consolidated District may determine enforcement actions on a case by case basis, and take other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents. The District Representative and/or the Board may, either in its sole discretion, waive all or any portion of any fines and other amounts levied under this Resolution. Additionally, the District Representative and/or the Board may condition waiver of any fine or other amount(s), upon the Owner coming into and staying in compliance with the Governing Documents.

12. Other Enforcement Means. The provisions of this Resolution shall be in addition to all other enforcement means which are available to the Consolidated District through the Governing Documents, or by law. Application of this Resolution does not preclude the Consolidated District from using any other enforcement means, including, but not limited to the recording of liens, foreclosure, and any other legal or equitable remedies available to the Consolidated District.

13. Legal Action. Any violation of the Governing Documents may, in the discretion of the Board, be turned over to legal counsel to take appropriate legal action either in lieu of, or in addition to, the imposition of any fines or other penalties under this Resolution, and Owners shall be responsible for all attorneys' fees and costs incurred in enforcing this Resolution and in collecting amounts due and owing the Consolidated District.

14. Foreclosure of Lien. All amounts imposed pursuant to this Resolution shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(j), C.R.S., such lien being a charge

imposed for the provision of services and facilities to the property. Said lien may be foreclosed at such time as the Consolidated District in its sole discretion may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land.

15. Deviations. The Consolidated District may deviate from the procedures set forth herein if, in its sole discretion, such deviation is reasonable under the circumstances.

16. Amendment. The policies, procedures and fine schedule set forth in this Resolution may be supplemented and/or amended from time to time by the Consolidated District, in its sole and absolute discretion.

17. Payment. Payment for all fines shall be by check or equivalent form acceptable to the Consolidated District, made payable to “Midtown at Clear Creek Metropolitan District” and sent to the following address, on or before the due date: Midtown at Clear Creek Metropolitan District c/o krMSI, LLC, 11002 Benton Street, Westminster, Colorado 80020. The Consolidated District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

18. Severability. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

19. Effective Date. This Resolution shall become effective immediately, and shall supersede in its entirety any prior resolution.

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APPROVED AND ADOPTED THIS THE 25<sup>TH</sup> DAY OF JULY, 2018.

**MIDTOWN AT CLEAR CREEK  
METROPOLITAN DISTRICT**, a quasi-  
municipal corporation and political subdivision of  
the State of Colorado

Matthew S. Fielouski  
Officer of the District

ATTEST:

Stephen B. Clark

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

[Signature]  
General Counsel to the District