

**AMENDED AND RESTATED RESOLUTION
OF THE BOARD OF DIRECTORS OF
HIGH PLAINS METROPOLITAN DISTRICT**

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

WHEREAS, High Plains Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to the terms and conditions of the “Protective Covenants for Blackstone and Mandatory Resident Social Memberships”, recorded at Reception No. B5158103, Arapahoe County, Colorado, on October 20, 2005, and amended by that First Amendment, recorded at Reception No. B6170752, Arapahoe County, Colorado, on December 5, 2006 and that Second Amendment, recorded at Reception No. B7135187, Arapahoe County, Colorado, on October 19, 2007, as may be further amended from time to time, and as assigned to the District in that certain Assignment of Rights Under Protective Covenants for Blackstone and Mandatory Resident Social Membership, recorded at Reception No. D0086092, Arapahoe County, Colorado on September 1, 2010 (collectively, the “**Covenants**”), the District is authorized to promulgate design and/or architectural standards, rules, regulations and/or guidelines (collectively, the “**Guidelines**”); and

WHEREAS, pursuant to the terms and conditions of the Covenants, the District is authorized to adopt, enact, amend, modify and re-enact rules and regulations concerning and governing the Property (as that term is defined in the Covenants) (the “**Rules and Regulations**” and, collectively with the Covenants and Guidelines, the “**Governing Documents**”), and to establish and enforce penalties for the infraction of the Rules and Regulations, including the levying and collection of fines; 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 District which, until such fees, rates, tolls, charges and penalties are paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, on September 17, 2014, the Board adopted the Resolution Regarding Policies, Procedures and Penalties for Enforcement of the Governing Documents, establishing policies, procedures and penalties for violations of the guidelines, rules and regulations and other policies and procedures of the District, as the same may be amended and supplemented from time to time (the “**Prior Resolution**”); and

WHEREAS, the Board desires to amend and restate the Prior Resolution to establish new policies, procedures and penalties for violations of the Governing Documents.

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

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

2. Enforcement Policy. The 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 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. Investigation. Upon receipt of a written complaint alleging a violation of the Governing Documents, if additional information is necessary, the District Representative may 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 Board shall take the following steps:

- 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 send an “Advisory Letter” to the Owner by first-class United States mail to 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 Continuous Violation, (ii) that the Owner must have the Continuous Violation corrected within 10 calendar days after 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 10 days to cure, the District Representative may extend the cure period or require the Owner to commence such cure within 10 days after the date of the Advisory Letter and diligently prosecute the same to completion. The District Representative may, in its sole discretion, determine that an Advisory Letter is not necessary or appropriate and may instead immediately send a Notice as provided in Paragraph 8 below.

- 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 10 days of the date of the Advisory Letter, or if the District Representative determines, in its sole discretion, an Advisory Letter is not necessary or appropriate, the District Representative shall send a notice of complaint and opportunity to be heard (“**Notice of Continuous Violation**”) 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 Notice of Continuous Violation 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 10 days of the date of the Notice of Continuous Violation.
- c. Notice of Ongoing Violation. If after 10 days of the date of the Notice of Continuous Violation, 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, the District Representative shall send a notice of ongoing violation (“**Notice of Ongoing Violation**”) 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 7 below. A second Notice of Ongoing Violation shall be sent 10 days thereafter if the Continuous Violation is not cured or arrangements to cure the Continuous Violation are not communicated to the District Representative in writing and the prior fine paid. The second Notice of Ongoing Violation shall advise the Owner of the imposition of an additional fine, pursuant to the fine schedule set forth in Paragraph 7 of this Resolution.
- d. Continuous Violation. In the event that a Continuous Violation continues to exist uninterrupted 10 days after the date of the second Notice of Ongoing Violation, the District may in its discretion, in addition to any other remedy, send the Owner a notice of daily fines (“**Daily Fine Notice**”) 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:

- 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 send an “Advisory Letter” to the Owner by first-class United States mail to 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 45 days of the date of the Advisory Letter may result in the imposition of fines. The District Representative may, in its sole discretion, determine that an Advisory Letter is not necessary or appropriate and may instead immediately send a Notice as provided in Paragraph 5b and/or 8 below.

- b. Notices of Repetitious Violations. If an Owner subsequently violates the same covenant or rule within 45 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 7. Upon the occurrence of each subsequent Repetitious Violation, the District Representative shall send the Owner 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 10 days of such first Repetitious Violation Notice. The 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. Hearings

- a. 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 District residents or other persons as selected by the Board.
- b. In the event an Owner fails to request a hearing within 10 days of the date of the Notice of Continuous Violation 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 Notice of Continuous Violation or the first Notice of Repetitious Violation, as applicable, regardless of whether the Owner then requests a hearing or not, the 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.
- c. Decision. If the Board or the tribunal or person designated by the Board to conduct the hearing has made a finding that an Owner is in violation of the Governing Documents, the District Representative shall send notice of violation

(“**Notice of Decision**”) to the Owner’s Address. The Notice of Decision shall set forth the fine imposed, if any, and any additional fines that may be imposed if the Continuous Violation remains uncured or if subsequent instances of Repetitious Violations occur. The 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. No hearing shall be required for the imposition of any such additional fines.

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

Continuous Violations:

Notice of Continuous Violation:	\$50.00
First Notice of Ongoing Violation:	\$75.00
Second Notice of Ongoing Violation:	\$100.00
Daily Fine Notice:	Up to \$100.00 per day

Repetitious Violations:

First Notice of Repetitious Violation:	\$25.00
Subsequent Notices of Repetitious Violations	\$50.00 per each offense

8. 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.

9. Waiver of Fines and Other Amounts. The 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 may, in its sole discretion, waive all or any portion of any fines and other amounts levied under this Resolution. Additionally, 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.

10. Other Enforcement Means. The provisions of this Resolution shall be in addition to all other enforcement means which are available to the District through the Governing Documents, or by law. Application of this Resolution does not preclude the 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 District.

11. 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 District.

12. 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 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.

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

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

15. Payment. Payment for all fines shall be by check or equivalent form acceptable to the District, made payable to "High Plains Metropolitan District" and sent to the District within 30 days of the date of the notice sent from the District to the Owner notifying the Owner of the imposition of the fine.

16. 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.

17. Prior Resolutions. This Resolution shall supersede and replace in its entirety the Prior Resolution addressing the enforcement of the Governing Documents adopted by the Board.

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

Signature page follows.

ADOPTED this 20th day of August, 2020.

HIGH PLAINS METROPOLITAN DISTRICT,
a quasi-municipal corporation and political
subdivision of the State of Colorado

DocuSigned by:

Shawn P. McGoff

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Officer of the District

ATTEST:

DocuSigned by:

Josie O'Neill

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APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

Signature Page to Resolution Concerning Enforcement Policies and Procedures