

**RESOLUTION NO. 2018-08-08**

**TALON POINTE METROPOLITAN DISTRICT  
REGARDING POLICIES AND PROCEDURES FOR  
COVENANT ENFORCEMENT**

WHEREAS, Talon Pointe 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 Covenants and Restrictions of Talon View, recorded in the real property records of the Clerk and Recorder of Adams County, Colorado, at Reception No. 2013000074580, on August 26, 2013 (the “**Covenants**”), the 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 Documents (as defined below); and

WHEREAS, the Board of Directors (the “**Board**”) of the 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 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 District, as the same may be adopted, amended and supplemented from time to time (collectively, the “**Documents**”).

**NOW, THEREFORE, IT IS RESOLVED** that the Board does hereby adopt the following policies and procedures for the enforcement of the Documents:

1. Power. The Board shall have the power and duty to hear and make decisions regarding violations and written complaints filed with the Board and to impose fines or other sanctions, pursuant to this Resolution. The Board may determine enforcement action on a case by case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Documents, and to create a safe and harmonious living environment.

This Resolution is intended to serve as guidance to the Board and the District's authorized representative(s), which at the time of the adoption of this Resolution is the District's manager (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 Documents.

These enforcement provisions may be in addition to other specific provisions outlined in the Documents, and the District is not required to follow these enforcement provisions before seeking such other remedies. The District may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

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

3. Notice of Complaint and Warning Letter. Upon determining that a violation of the Documents has occurred, the District Representative shall send a warning letter (a "**Warning Letter**") to the Owner alleged to have violated the Documents or who is responsible for the same (the "**Respondent**"), by prepaid, first class United States mail addressed to the mailing address of the Respondent appearing on the records of the District. The Warning Letter shall advise the Respondent of the following: (1) the details of the complaint, or include a copy of the complaint; (2) that the District Representative has reason to believe that the Respondent has violated the Document; and (3) that the Respondent will have fourteen (14) days from the date of the Warning Letter to come into compliance if the violation is one that is ongoing, uninterrupted by time and may take time to cure (a "**Continuous Violation**"); and (3) that failure to cure a Continuous Violation within the fourteen (14) days or that a second or subsequent of violation of a "**Repetitious Violation**" (defined as a violation that occurs at a set point in time and does not take time to cure, such as noise violations or leaving trash cans out beyond the time allowed) within twelve (12) months of the date of the Warning Letter will result in further enforcement action being taken, including the imposition of fines.

4. Continued Violation After Warning Letter and Right to Hearing. If, following the Warning Letter having been sent to the Respondent, the Respondent has not corrected the violation within the time period set forth in the Warning Letter or there is a second instance of the same Repetitious Violation within twelve (12) months of the date of the Warning Letter, either shall be considered a second violation for which a fine may be imposed. The District Representative shall send a second notice (a "**Hearing Notice**") to the Respondent, by prepaid, first class United States mail addressed to the mailing address of the Respondent appearing on the records of the District. The Hearing Notice shall advise the Respondent of the following: (1) the details of the complaint, or include a copy of the complaint; (2) the action that may be taken, including the fines that may be imposed as set forth in Section 9 of this Resolution; (3) The Respondent's right to be heard at a meeting of the Board provided that such hearing is requested in writing by the Respondent within fourteen (14) days of the date of the Hearing Notice; and (5) the Board's right, at its discretion, to make its determination based on the allegations contained in the complaint and any other

information available to the Board, if the Respondent fails to request a hearing or otherwise respond the Complaint.

5. Notices of Ongoing or Subsequent Violations.

a. In relation Continuous Violations, if the Respondent has not requested a hearing or cured the Continuous Violation within fourteen (14) days of the Hearing Notice, the first fine set forth in Section 9 of this Resolution shall be imposed. This shall also be considered a third violation for which an additional fine is being imposed. The District Representative shall send a notice of ongoing violation (“**Ongoing Violation Notice**”) to the Respondent demanding that the Respondent cure the ongoing Continuous Violation and that an additional fine has been imposed on the Respondent’s account pursuant to the fine schedule set forth in Section 9 below. If the Continuous Violation remains uncured fourteen (14) days after the date of the first Ongoing Notice Violation, this shall be considered a fourth violation for which an additional fine may be imposed. A second Ongoing Violation Notice shall be sent to the Respondent and shall advise the Respondent of the imposition of an additional fine, pursuant to the fine schedule set forth in Section 9 of this Resolution. In the event that a Continuing Violation continues to exist uninterrupted fourteen (14) days after the date of the second Ongoing Violation Notice, the District may in its discretion, in addition to any other remedy, send the Respondent 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. The District may impose additional fines with each Ongoing Violation Notice and any Daily Fine Notice sent after the Hearing Notice without the necessity of providing the Respondent with the opportunity for a hearing thereafter.

b. In relation to Repetitious Violations, if a Respondent subsequently violates the same covenant or rule within twelve (12) months of date of the Warning Letter, each such instance shall constitute a separate Repetitious Violation for which fines may be imposed pursuant to the fine schedule set forth in Section 9. Upon the occurrence of each subsequent Repetitious Violation within twelve (12) months of the date of the Hearing Notice, the District Representative shall send the Respondent a notice advising the Respondent of the Repetitious Violation and of the fine to be imposed (“**Repetitious Violation Notice**”). The District may impose additional fines with each Repetitious Violation Notice sent after the Hearing Notice without the necessity of providing the Respondent with the opportunity for a hearing thereafter.

6. Failure to Request a Hearing. In the event a Respondent fails to request a hearing within fourteen (14) days of the date of a Hearing Notice, the same shall be deemed a waiver on the part of the Respondent to a hearing, and the first fine set forth in Section 9 of this Resolution may be imposed without the need to hold a hearing or any formal action on the part of the Board. Additional fines may thereafter be imposed pursuant to this Resolution without the necessity of providing the Respondent with the opportunity for a hearing thereafter.

7. Hearing. If a hearing is requested by a Respondent in response to a Hearing Notice, the District Representative shall notify the Respondent of the date, time and place of the hearing at least 10 days prior to the hearing. The Board may: (a) exercise its discretion as to the specific

manner in which a hearing shall be conducted; (b) question witnesses and review evidence; and (c) act as it may deem appropriate or desirable to permit it to reach a just decision. Neither the complainant nor the Respondent must be attendance at the hearing, but both are encouraged to attend. Any party may elect not to present evidence at the hearing. Any decision by the Board shall be fair and reasonable taking into consideration all of the relevant facts and circumstances. Each hearing shall be open to attendance by all members of the public.

8. Decision. If the Respondent does not appear at a requested hearing but a written response is filed, the Board may render its decision based on the information contained in the complaint and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a hearing and fines may be imposed as provided for herein. If an appearance is made, after all testimony and other evidence has been presented to the Board at the hearing, the Board shall render its decision, taking into consideration all of the relevant facts and circumstances. Except as provided herein, the Board's decision shall have an effective date no sooner than five (5) days after the hearing. If the Board does not inform the Respondent of its decision at the time of the hearing, the Board will provide a written notice of the decision to the Respondent's address of record via regular U.S. mail within five (5) days after the decision is made.

9. Fines. Fines may be levied by the Board for violations of the Documents as follows:

| <u>Continuous Violations</u>                        | <u>Fine Amount</u> |
|---|--------------------|
| First Violation                                     | Warning Letter     |
| Second Violation (Hearing Notice):                  | \$50.00            |
| Third Violation (First Ongoing Violation Notice):   | \$100.00           |
| Fourth Violation (Second Ongoing Violation Notice): | \$250.00           |
| Daily Fine Notice:                                  | Up to \$100.00/day |
| <br>  |                    |
| <u>Repetitious Violations in 12 Month Period</u>    | <u>Fine Amount</u> |
| First Violation                                     | Warning Letter     |
| First Violation                                     | \$50.00            |
| Second Violation                                    | \$100.00           |
| Third Violation                                     | \$250.00           |

10. Legal Action. Any violation of the 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. The District shall be entitled to reimbursement of all reasonable attorneys' fees and costs incurred by the District in connection with any enforcement action, including any proceeding under this Resolution, to the full extent allowed by law and the Declaration.

11. Responsibility for Actions of Tenant or Guest. Owners shall at all times be responsible for the actions of their tenants and guests. In the event that an Owner's tenant or guest violates the Documents and a fine is imposed, the fine shall be assessed against that Owner.

12. Violations or Offenses that Constitute a Present Danger. If the Board or the Manager deems that any alleged violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board and the Manager may take the appropriate action necessary to abate the threat to health, safety or welfare of the community or individual. The Manager shall be authorized to respond to immediate or substantial threats until such time as the Board is able to call a meeting to further address the situation.

13. Miscellaneous.

13.1 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 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 Respondent coming into and staying in compliance with the Governing Documents.

13.2 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.

13.3 Failure by the District to enforce any provision of this Resolution shall in no event be deemed to be a waiver of the right to do so thereafter.

13.4 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.

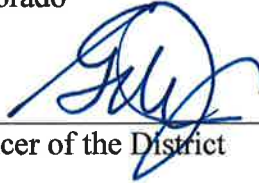
13.5 The District may deviate from the procedures set forth herein if, in its sole discretion, such deviation is reasonable under the circumstances.

13.6 The provisions of this Resolution shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

13.7 The provisions of this Resolution shall replace and supersede any other rules or regulations of the District addressing covenant enforcement pursuant to the District's Documents.

ADOPTED this 8<sup>th</sup> day of August, 2018.

TALON POINTE METROPOLITAN  
DISTRICT, a quasi-municipal corporation  
and political subdivision of the State of  
Colorado



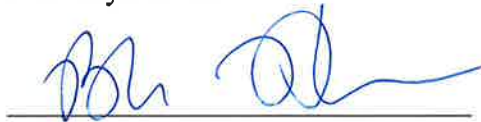
\_\_\_\_\_  
Officer of the District

ATTEST:



APPROVED AS TO FORM:

White Bear Ankele Tanaka & Waldron  
Attorneys at Law



\_\_\_\_\_  
General Counsel to the District