

**RESOLUTION OF THE BOARD OF DIRECTORS OF
MULBERRY METROPOLITAN DISTRICT NO. 1**

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

WHEREAS, Mulberry Metropolitan District No. 1 (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 Declaration of Covenants, Conditions and Restrictions of Bloom recorded in the real property records of the Clerk and Recorder of Larimer County, Colorado at Reception No. 20230006494, on February 17, 2023 (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 Governing 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, the District was organized in together with Mulberry Metropolitan District Nos. 2-6 (together with the District, the “**Districts**”); and

WHEREAS, pursuant to that certain Coordinating Services Agreement among the Districts, dated August 2, 2022, the District is responsible for all administrative and operational services within the Districts; and

WHEREAS, the District is authorized pursuant to § 32-1-1001(1)(j)(I), C.R.S., to fix and from time to time increase or decrease, fees, rates, tolls, charges and penalties for services, programs or facilities provided by the District, which, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the Service Plan for the Districts, as may be amended from time to time, similarly empowers the District to impose fees, rates, tolls, charges, and penalties for services and facilities provided by the District; and

WHEREAS, pursuant to §32-1-1004(8), C.R.S., the District is authorized and empowered to provide covenant enforcement and design review services within the Districts; and

WHEREAS, the Board desires to establish 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 “**Governing Documents**”).

NOW THEREFORE, the Board hereby resolves as follows:

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 Districts, 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.

a. While many violations are resolved through a courtesy/warning notice (see below), there are instances when further action is required. Fines are intended to bring properties into conformance with the Governing Documents in a timely manner while providing due notice and appeal rights to Owners, as described in Exhibit B, attached hereto and incorporated herein by reference.

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. The submitter of the complaint shall have observed the alleged violation and shall identify themselves, the alleged violator, if known, the date on which the violation exists or occurred, and a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, if known, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the District.

4. Enforcement Process

a. Notices of Violation.

i. Courtesy/Warning Letter: If the District Representative determines that a violation of the Governing Documents (a **“Violation”**) exists, either through the investigative process, as set forth above, or through independent inspections or observations of the District Representative, the District Representative shall mail a written Courtesy/Warning Letter to the Owner at the property address or such other address that the Owner has provided to the District Representative through the online portal (the **“Mailing Address”**) to allow the Owner the right to cure said violation within ten (10) days of the date of the Courtesy/Warning Letter.

ii. Notice of Violation: If the District Representative determines that the Violation was not cured within ten (10) days of the date of the Courtesy/Warning Letter, a

Notice of the Violation shall be mailed to the Owner at the Mailing Address and contain, at a minimum, the following information:

- (1) The alleged Violation and the nature of the Violation.
- (2) The date of the Violation or the date the Violation was observed.
- (3) A statement that the Violation must be cured within ten (10) days of the date of the Notice, and failure by the Owner to cure the Violation within ten (10) days may result in a fine in accordance with the schedule of fines, attached hereto as Exhibit A, as amended from time to time (the “**Schedule of Fines**”) in effect at the time of the violation. If, in the discretion of the District Representative, the Violation requires more than ten (10) days to cure, the District Representative may extend the cure period or require the Owner to commence such cure within ten (10) days of the date of the Notice and diligently prosecute the same to completion.
- (4) That the Owner has the opportunity for a hearing before the Board or its designee, provided that such hearing is requested in writing by the Owner within 15 days of the date of the Notice.

iii. Notice of Imposition of Fine: If the Owner fails to cure the violation within ten (10) days of the date of the Notice of Violation and fails to request or attend a hearing; or, if the Owner fails to cure the violation within ten (10) days of the date of the Notice of Violation, requests and attends a hearing, and the Board or its designee determines a violation is present or has occurred, the District shall mail the Owner a Notice of Imposition of Fine to the Mailing Address, which Notice of Imposition of Fine shall state that the Owner has been found in violation of the Governing Documents and will be assessed a fine for the violation in accordance with the Schedule of Fines, and that failure by Owner to cure the violation within the period stated in the Notice of Imposition of Fine may result in additional fines to the Owner.

iv. Further Failure to Comply: Additional Notices of Imposition of Fine citing Owner’s failure to cure the violation shall be mailed to the Owner at the frequency and fine rate stated in the Schedule of Fines. Each Notice of Imposition of Fine shall indicate the current fine, past due fines and late fees, if any, the date that the violation must be cured to avoid additional fines. The District may impose additional fines with each additional notice sent after the Notice of Imposition of Fine without the necessity of providing the Owner with the opportunity for a hearing thereafter. The District may record a Notice of Violation against the unit/lot where the Violation exists.

b. Continuing Violations. In the case of repeat or persistent Violations, this system of fines may ultimately lead to prosecution of non-responsive Owners. Fines will not take the place of legal action but will be used as an additional remedy. Fines shall not exceed the level, if any, established by state law.

i. To ensure that the Board is aware of continuing Violations, the District Representative may provide the Board with a confidential list of Owners with outstanding Violations where a fourth Notice of Imposition of Fine has been sent to the Owner, when accrued fines equal or exceed \$250 for an Owner, or whenever the District Representative believes immediate action by the Board is necessary to preserve the health, safety and welfare of District residents. The Board may discuss this list at a meeting and, at such time, the Board may consider whether to take other appropriate action against the Owner.

c. Recurrence of Violation. Any recurrence of the same Violation by an Owner within six (6) months of the original Violation, as noted in the Notice of Violation, shall make the Owner subject to the imposition of a fine. Such fine shall be levied at the current rate of a 2nd violation in accordance with the Schedule of Fines then in effect. Such Violations shall be considered continuing violations and no Courtesy/Warning Letter or Notice of Violation shall be provided to the Owner.

d. 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.

i. 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. In addition, the Board shall have the right, but not the obligation, to remedy the violation and seek reimbursement from the Owner for the actual costs of remedying the violation, collection costs, and reasonable attorney fees incurred as a result of such failure to comply with the Governing Documents without the necessity of legal proceedings.

5. Hearing Process. The process for requesting, scheduling, and conducting a hearing on a Violation is set forth in Exhibit B.

6. Legal Action. Any violation of the Governing Documents may, at the discretion of the Board, be turned over to legal counsel engaged for covenant enforcement matters (“**Covenant Enforcement 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. Owners shall be responsible for all attorneys’ fees and costs incurred in enforcing this Resolution and in collecting amounts due and owing the District. The Board may take legal action against the Owner at any time after a fourth Notice has been sent to the Owner for a Violation, when accrued fines equal or exceed \$250, or sooner, if the Board determines, in its sole discretion, that immediate legal action is necessary to preserve the health, safety, and welfare of District residents. Pursuant to state law, in any legal action pursued hereunder, the court shall award reasonable attorney fees, costs, and costs of collection to the prevailing party.

7. 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 District shall not proceed with a foreclosure action unless such action is authorized by the Board. 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.

8. Payment of Fines.

a. Payment Instructions. Payment for all fines shall be made through the online portal available through the District's website or by check delivered to the address listed on the payment coupon, or equivalent form acceptable to the District, made payable to "Mulberry Metropolitan District No. 1." Fines shall be due and payable within 30 days of the Violation Notice. Fines not paid within 30 days may be charged a late fee.

b. Collection of Unpaid Fines. In the event that any Fine established hereunder remains unpaid thirty-one (31) days after its respective due date, the District Representative may undertake collection efforts for any and all outstanding amounts, in accordance with the District's Resolution Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges, as may be amended from time to time. All rights and remedies of the District are cumulative, not exclusive, and the District shall have all rights and remedies to levy and collect fines which may be available to it under the Governing Documents and applicable law.

c. Fees for Violations

i. Late Fees. A late fee may be assessed on any Fines, penalties, or assessments that are not paid in full within thirty (30) days after the payment due date. Pursuant to §29-1-1102(3), C.R.S., such late fees may be assessed by either of the following methods:

(1) Fifteen dollars (\$15.00), per each fee not fully paid prior to the thirtieth (30) calendar day following the payment due date; or

(2) A late fee of Five Percent (5%) per each fee not fully paid prior to the thirtieth (30) calendar day following the payment due date, and each month thereafter, until the Late Fee equals twenty-five percent (25%) of all outstanding Fines.

If a late fee is charged, the late fee charged shall be the greater of the two options listed above. Pursuant to §29-1-1102(7), C.R.S., interest may also accrue on any outstanding Fees, exclusive of assessed late fees, at the rate of eighteen percent (18%) per annum.

d. Administrative Fees.

i. Insufficient Funds Fee: For each check or other payment that for any reason is returned to the District unpaid, the Owner shall owe the District an Insufficient Funds Fee of \$25.00. The Insufficient Funds Fee may be amended from time to time by resolution of the Board.

ii. Collection Fees: The Owner shall be responsible for all collection and covenant enforcement costs incurred by the District as part of the covenant enforcement process, including, but not limited to, attorney fees, collection agent fees, and court costs.

9. 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 the 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.

[Signature Page Follows.]

ADOPTED AND APPROVED to be effective as of November 14, 2023.

DISTRICT:

**MULBERRY METROPOLITAN DISTRICT
NO. 1**, a quasi-municipal corporation and
political subdivision of the State of Colorado

By: DocuSigned by:
Patrick McMeekin
4C7041E3C716429...
Officer of the District

Attest:

By: DocuSigned by:
Landon Hoover
476397894890453...

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

DocuSigned by:
Eve Velasco
5582C930FFC44E4...
General Counsel to the District

EXHIBIT A

SCHEDULE OF FINES:

Amount of Fine				Assessment Frequency
1st	2nd	3rd	Thereafter	
Warning	\$25	\$50	\$100	Bi-weekly

EXHIBIT B

HEARING PROCESS

1. Request for Hearing. Any Owner who receives a Notice of Violation, as defined in Section 1.a.ii. of the Resolution, may request a hearing regarding such violation before the Board or its designee. The request for the hearing must be made in writing by the Owner within 15 days of the date of the Notice of Violation. Such hearing will be scheduled as set forth in the Notice of Violation. Fines related to the Violation may continue to accrue during the hearing process so that the process is not used to delay effective enforcement of the Governing Documents.
2. Notice of Hearing. The District Representative shall notify the Owner of the date, time, and place of the hearing at least 10 days prior to the hearing.
3. Conduct of the Hearing.
 - a. The hearing shall be held before the Board during a meeting in open session, or before the Board's designee (the "**Designee**") in an open forum. The purpose of the hearing shall be for the Board or Designee to determine whether the alleged Violation occurred.
 - b. The District Representative shall summarize the Violation to be heard, answer questions from the Board or Designee and introduce all parties.
 - c. The Owner shall be afforded 10 minutes to state his or her case and to present to the Board or Designee any evidence that is applicable to the Owner's position.
 - d. Each Board Member or the Designee shall have an opportunity to question the Owner regarding the Violation.
 - e. Any Board Member or the Designee may receive additional evidence to aid in the determination of the matter including, but not limited to, any relevant documentation and/or information from third parties.
 - f. Upon completion of the question and answer period, the Board President or the Designee will close the hearing and the Board will deliberate. If the hearing is held before the Board and the Board deems an executive session to be available under applicable law and necessary in the given circumstances, the Board may deliberate in executive session. In reaching a decision, the Board or Designee shall take into account the District Representative's presentation, the Owner's statements and evidence presented, the Owner's willingness to work towards compliance, and any other factors that may be pertinent as determined by the Board or Designee.
 - g. The Board or Designee may continue the hearing if it determines that additional information is required from the Owner or District Representative before making an informed decision. The Board or Designee shall notify the Owner in writing of the date and time of the continued hearing and the additional information that the Owner must present on the continued hearing date.

4. Failure to Attend or Request Hearing. In the event any Owner fails to request a hearing within 15 days of the date of the Notice of Violation, no hearing shall be required. If an Owner fails to appear at a requested hearing, the Board or Designee 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.

5. Determination at Hearing

a. After deliberation, the Board or Designee shall inform the Owner of its determination as to whether the alleged Violation occurred.

b. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The Owner shall be given written notice of the results of the hearing within five (5) days from the date of the hearing.

c. All decisions of the Board or Designee at the hearing are final and may not be further appealed.

d. If the Board or Designee find that a Violation occurred, the Owner must bring the property into compliance and pay all outstanding fines and charges accrued to date within the time period specified in the written notice received from the Board or Designee regarding the Board's or Designee's decision. Failure to cure the Violation within the designated time period stated therein shall constitute a continuing Violation and subject the Owner to subsequent fines at the rate and frequency noted in Fine Schedule, which additional fines shall not be subject to the hearing process.