**RESOLUTION 14-2024**

**AMENDED AND RETATED**

**RESOLUTION OF THE BOARD OF DIRECTORS OF COLORADO CITY METROPOLITAN DISTRICT**

**SETTING FORTH THE RESPONSIBILITIES AND AUTHORITY OF THE**

**COLORADO CITY ARCHITECTURAL ADVISORY COMMITTEE (CCAAC)**

**AND ADOPTING A COVENANT ENFORCEMENT POLICY IN ACCORDANCE WITH HB 24-1267**

WHEREAS, Colorado City Metropolitan District (District) is a quasi-municipal corporation and political subdivision, duly organized and existing under the Constitution of the State of Colorado; and

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

WHEREAS, the District has assumed the duties of the Architectural Control Committee as set forth in covenants recorded against real property within the District, and has the power to enforce covenants and provide design review and approval for property in the District;

WHEREAS, pursuant to Resolution 16-2019, as amended from time to time, the CCMD Board established the Colorado City Architectural Advisory Committee (CCAAC) to review alleged covenant violations and design applications, and the CCMD Board delegated certain responsibilities and tasks to the CCAAC;

WHEREAS, HB 24-1267 was adopted by the state legislature and states that metropolitan districts which provide covenants enforcement and design review shall adopt a written policy governing the imposition of fines by January 1, 2025;

WHEREAS, public notice of a hearing on December 10, 2024 regarding proposed amendments to the District’s Rules and Regulations was published on November 28, 2024 in a local newspaper of general circulation; and

WHEREAS, the CCMD Board wishes to hereby update and set forth the responsibilities and authority delegated to the CCAAC and adopt a covenant enforcement and design review policy in accordance with HB 24-1267.

NOW, THEREFORE, be it resolved by the Board of Directors of the District as follows:

The Board hereby adopts the Colorado City Metropolitan District Policy on Colorado City Architectural Advisory Committee (CCAAC), Design Review, and Covenant Enforcement and Fines (the “Policy”), attached hereto. Effective upon adoption of this Resolution, the Policy shall be applicable to the CCAAC, shall govern enforcement and design review, and shall supersede Resolution 16-2019 and any other conflicting Resolutions.

Adopted and approved on December 10, 2024, by the Board of Directors of Colorado City Metropolitan District, Pueblo County, Colorado.

COLORADO CITY METROPOLITAN DISTRICT

By:

President

ATTEST:

Secretary

Colorado City Metropolitan District

Policy on Colorado City Architectural Advisory Committee (CCAAC),

Design Review, and Covenant Enforcement and Fines

1. **CCACC Committee Structure:**
	1. CCAAC shall be comprised of a minimum of three (3) volunteer residents of the District and the Colorado City Manager.
	2. CCAAC will acquire from Pueblo County Clerk and Recorder a true and correct copy of recorded Colorado City covenants and have the copy available for viewing at the CCMD office and posted on the CCMD website.
	3. The CCMD Board will appoint members to CCAAC and may remove any member from the committee, with or without cause at any time.
	4. The members of CCAAC will designate a chairman of the committee to present findings and recommendations to the CCMD Board and Manager, as needed, but not less than one time per month at a regularly scheduled Board meeting.
	5. CCAAC will establish a meeting schedule of not less than one meeting per month.
	6. CCAAC specific activities or costs shall be reimbursed to members by CCMD, within the budget and appropriations approved by the CCMD Board.
2. **Complaints and Investigation of Violations**
	1. CCAAC will generate a complaint form that will be approved by the CCMD Board and available at the CCMD office for use by the public for complaints alleging violations of covenants, Pueblo County / CCMD regulations, or Colorado Revised Statutes.
	2. The District Manager and any CCAAC member will accept all complaints, anonymous or otherwise, and will log and date such complaint.
	3. A complaint form generated by CCMD will be completed and attached to any and all correspondence to the property owner.
	4. All complaints will be forwarded to CCAAC for investigation.
	5. In the event of a large number of complaints, the CCACC may prioritize investigation of alleged violations that would pose a threat to public health, safety and welfare, as determined by the CCACC.
	6. Upon receipt of a complaint, CCAAC will review and make a determination of whether a violation of recorded covenants, Pueblo County Code or state law has occurred and whether a unit owner is responsible for the violation. As part of the review, the location of the complaint will be examined and pictures, if required, taken by a member(s) of the CCAAC committee.
		1. If determined to be a violation of an applicable Colorado City covenant, enforcement action will proceed.
		2. If determined to be Pueblo County Title 17 (zoning) or Title 8 (health) violation or Colorado Revised Statutes violation, the committee will request that the CCMD Board file a written complaint with Pueblo County Planning and Development for enforcement action.
		3. If determined no violations have occurred, correspondence of such will be provided claimant.
3. **Enforcement Procedure**
	1. If CCAAC determines that a Colorado City covenant violation has occurred, CCAAC will refer the complaint to the CCMD Board to solicit comments during an official meeting. If the CCMD Board concurs with the CCAAC recommendations to proceed with addressing the violation(s), the following will take place.
	2. First Letter. CCAAC will generate a “courtesy letter” to be sent by CCMD to the Property Owner (Owner) identifying the violation via USPS certified mail, return receipt requested, to the property (unit) owner of record with the Pueblo County Assessor:
		1. To ensure they are aware of the alleged covenant violation.
		2. To advise them of the action required to cure the violation
		3. To request that they address the violation and correct the issue within 10 days from the date on the letter.
		4. To require the offender to notify CCMD when they have corrected the issue or request a time extension at the pleasure of the CCMD Board.
		5. To provide information on where to locate copies of the covenants and this Resolution.
		6. Owner will have 10 days to make necessary corrections or present an acceptable plan to the CCAAC. All subsequent correspondence and action will incur administrative fees allowed by law, including attorney fees, mailing costs, service costs, and court costs. Any and all costs incurred for enforcement will be the responsibility of Owner and, if unpaid, could result in a lien against violating property.
	3. Second Letter. The owner will be sent a 2nd letter by USPS certified mail, return receipt requested, to the property (unit) owner of record with the Pueblo County Assessor if the violation(s) was not corrected in 15 days.
		1. Letting them know there will be a fine, pursuant to HB 24-1267 and as set by the Board of Directors from time to time, at 45 days from the date of the 1st letter if the violation has not been corrected.
		2. Letting them know the amount of the fine and any assessed costs to date.
		3. Letting them know they have an opportunity to be heard before an Impartial Decision-Maker before the 45-day deadline.
		4. Letting them know the CCMD may seek reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of the failure to comply in addition to the fine.
	4. Third Letter. The offender will be sent a 3rd letter by USPS certified mail, return receipt requested, to the property (unit) owner of record with the Pueblo County Assessor if the violation(s) was not corrected within the 45 days.
		1. Letting them know there will be an additional fine, in accordance with HB-24-1267 and as set by the Board of Directors from time to time, at the end of 75 days from the date of the 1st letter.
		2. Letting them know the amount of the fine and any assessed costs to date.
		3. Letting them know the CCMD may seek reimbursement for collection costs and reasonable attorney fees and cost incurred as a result of the failure to comply in addition to the fine.
	5. Additional Fine. An additional fine shall be imposed for violations that are still not corrected within 105 days of the date of the first letter.
4. **Conflicts of Interest**
	1. Any member of the CCACC or the Board which has a conflict of interest in connection with a complaint or alleged violation shall recuse him/herself from any investigation, discussions or decision-making in connection therewith. They will be considered to have a conflict for the purposes of this policy only if they have any direct personal or financial interest in the outcome of the matter being decided, in that they would receive a greater benefit or detriment than that of other unit owners subject to the same instrument.
5. **Right of Property Owner to Hearing**
	1. The subject Property Owner, or any other owner whose property is included in the same covenant as the subject property, will have the right to appeal a notice of violation (or denial of a design review application) to the CCMD Board, with a public hearing in front of the CCMD Board, provided that a written appeal is filed with the District Manager within 45 days of the date of the second letter regarding the violation (or within 45 days from a denial of a design application). If no appeal is filed within such timeframe, the decision of the CCAAC is final. Appeals will not negate the time limits, fees incurred, or other actions of the CCAAC, unless the CCMD Board reverses the decision of the CCAAC. Decisions of the CCMD Board following the public hearing will be final.
6. **Decisions**

The CCMD Board will make all decisions on any appeals or matters referred to the Board by the CCAAC by majority vote of the quorum present at the meeting, except for any Directors that have recused themselves due to conflicts.

1. **Penalties,** In the event of a violation of Covenants, as determined by the CCAAC and Board pursuant to the procedure set forth herein, the owner of the property where the violation occurred may be subject to the following fines, in addition to all other rights and remedies in law or in equity:
	1. $150.00 dollars per violation if the violation(s) have not been corrected in 45 days after the date of the first letter with notice of violation.
	2. An additional $350.00 fine per violation if the violation has not been corrected in 75 days from the date of the first letter.
	3. An additional $750.00 fine per violation if the violation has not been corrected in 105 days from the date of the first letter.
	4. Unpaid fines: In accordance with HB 24-1267, and Sec. 32-1-1004.5 (3) (b) (I), C.R.S. Until paid, any fee, fine or penalty constitutes a perpetual lien on and against the unit the violation is on. Unpaid fees, fines or penalties may be certified to the Pueblo County Treasurer for collection as a property tax in accordance with Sec. 39-10-107, C.R.S.
2. **New Construction**
	1. CCAAC will review all applications for new construction (new building construction, re-roofing, fences, sheds, garages, carports, decks, etc.) in Colorado City to verify the compliance to covenants and receipt of appropriate fees.
	2. Upon review of all required items on routing slip CCAAC shall;
		1. Report deficiencies to the District Manager, if any,
		2. Make recommendations to District Manager for approval or disapproval;
		3. If unanimous agreement (including District Manager), the Board shall approve the construction application.
		4. If there is not unanimous approval by CCAAC, the CCAAC shall work with the applicant to resolve any concerns. If the concerns are not resolved with the applicant, the application shall be referred to the CCMD Board to make a determination.
	3. Property Owner Appeal Process is the same as paragraph 5 above.
	4. The CCMD Manager is hereby authorized to issue a Stop Work Order for any property within the District if the District Manager determines that construction has been commenced prior to obtaining architectural committee design approval that is required by the applicable covenants, after investigation of either the Manager or the CCACC. The Stop Work Order shall be mailed by USPS certified mail, return receipt requested, to the property owner of record with the Pueblo County Assessor and to the Pueblo County Department of Land Use and Development. A copy shall also be hand-delivered to the construction workers on site, if applicable.
	5. An owner may appeal any Stop Work Order to the District Board by written appeal filed with the District within 15 days following the date of the Order. Upon receipt of an appeal, the District shall schedule a public hearing at a regular or special meeting of the Board of Directors, at which time the owner and other owners subject to the same covenants shall have an opportunity to present testimony and evidence to the Board. Following said hearing, the Board’s decision shall be final.
3. **Unenforceable Covenants.**
	1. The District shall not enforce any covenants that are prohibited or cannot be enforced by a metropolitan district pursuant to Sec. 32-1-1004.5(6) & (7), C.R.S.
	2. The District shall not enforce any covenantsthat require the use of cedar shakes or other flammable roofing materials on a unit.
4. **Definitions / Policies for Covenant Enforcement.**
	1. The District shall interpret the following terms when used in the Covenants as set forth below, for purposes of review and approval/disapproval of architectural design applications and for purposes of review, investigation and enforcement of alleged violations of the Covenants.
		1. Commercial Use – any use permitted as a use by right or a use by review (after approval by Pueblo County), allowed by Pueblo County Code, Title 17 Division I Zoning, as amended from time to time, in the following zone districts:

a) 17.56 Neighborhood Office District (O-1) or

b) 17.60 Neighborhood Business District (B-1) or

c) 17.64 Community Business District (B-4)

* + 1. Refuse Can - any trash container which is one cubic yard in volume or smaller. For enforcement of covenants requiring that refuse cans be maintained in fenced service yards or enclosures, the District interprets “maintained” to mean kept in such enclosures, except when put on the curb up to 24 hours before scheduled trash collection and until 24 hours after trash collection.
		2. Continuous Violation: A violation that continues to be unresolved past 45 days from the date a first letter is sent to the violator.
		3. Offender: The fee title owner(s) of the property which contains a violation a CCMD Covenant, County Title 17 (zoning) code, County Title 8 (Health) code or Colorado Revised Statute, or other person determined to have violated such requirements.
	1. In accordance with business judgment rule, due to the limited resources of the District for enforcement and the difficulty of inspecting private backyards, at this time, the District shall not pursue enforcements actions against residents who own up to 6 chicken hens for generating food for the home. This shall not apply to those owning chickens for commercial purposes or owning roosters.
1. Nothing herein shall be construed to prevent future amendments to this Policy by the Board of Directors or to establish vested property rights or waive the right to enforce covenants in the future. Nothing herein shall prevent residents from privately enforcing covenants.