

## **RESOLUTION 2020-10**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF TRIVIEW METROPOLITAN DISTRICT ADOPTING POLICY IN REGARDS TO PRE-PAID WATER AND SEWER TAP FEES**

WHEREAS, Triview Metropolitan District ("District") has determined that it is appropriate to adopt, amend and supplement portions of its existing rules and regulations concerning the District's policy in regards to "tap fees" paid by developers within the District for residential and/or commercial "water taps" and "sewer taps", or such taps for all other uses for which the District provides water and/or sewer service;

WHEREAS, by Resolution 05-2010, as amended by Resolution 08CW2016, the District resolved to place limitations upon the pre-purchase, duration, and use of "tap fees" purchased by developers well in advance of their actual use. This Resolution 2020-10 amends and replaces Resolution 08-2016, the terms of which hereafter shall be of no further affect;

WHEREAS, pursuant to C.R.S. §32-1-1001(1)(h),(j) and (k) and §32-1-1004(3) this Board has the authority on behalf of the District to fix and from time to time increase rates, charges and tap & impact fees for services or facilities furnished by the District within and outside District boundaries, and to assess reasonable penalties for delinquency in the payment of such rates, fees or charges;

WHEREAS, pursuant to C.R.S. §32-1-1001(m) and (n), this Board has the power to adopt, amend and enforce bylaws and rules and regulations for the District that are not in conflict with the constitution and laws of the State of Colorado, for the carrying on of the business of the District, and may exercise all rights and powers necessary or incident to or implied from its specific powers; and

WHEREAS, the District has reviewed its existing rate structure, rules and regulations, and has determined that it is appropriate to amend existing policies in regards to the pre-payment of "tap fees" for water taps and sewer taps, the duration of the validity of such pre-purchased taps, and the penalty for failing to complete a physical connection to the District's infrastructure during the period of such validity.

NOW, THEREFORE, pursuant to the District's authority and the power under C.R.S. §32-1-1001 and §32-1-1004, the following policy is adopted in regards to the District's rate structure forming a portion of the District's rules and regulations.

1. Pre-Payment of Tap Fees. The District shall continue to allow for the pre-payment of tap fees for either or both water and sewer service, with the following conditions:

a. "Tap Fee", as used herein, shall mean those fees paid to the District

consistent with the Rules and Regulations of the District, and consistent with any applicable agreement between the District and the party seeking to utilize District water and sewer services, which provides for such party's connection to District infrastructure, including but not limited to residential and commercial tap/impact fees.

b. All Tap Fee's paid to the District shall be at the current rates and fees as determined by the Board at the time of payment, and as fixed and amended from time to time, except and unless the party paying such Tap Fee(s) has a valid contractual agreement, annexation agreement, inclusion agreement or similar document properly executed by the District which provides for a fixed or lesser fee. In such instance, the contracted fee shall govern, subject to the terms and conditions of such agreement.

c. All pre-paid Tap Fees shall be valid for a period of ONE (1) year from payment to the District for the same. Should the party pre-paying for Tap Fees fail to complete infrastructure including a physical connection to the District's water delivery infrastructure and/or sewer infrastructure for each pre-paid tap within such 1-year period, said party shall either make payment to the District for the difference between the amount pre-paid and then current District Tap Fee rates (including all applicable impact fees), along with a reasonable administrative fee to be determined by the District in its discretion from time to time, and be provided another 1-year period to establish a physical connection, or shall forfeit all pre-payments to the District with no further entitlement to District taps.

d. As shall be applicable only to pre-paid Tap Fees at rates subject to specific contractual agreements, annexation agreements, or inclusion agreements, the contractual fee shall remain applicable and there shall be no additional payment at the end of the above referenced 1-year period to reflect increased tap fee rates, though the administrative fee referenced in Paragraph 1.c., above, shall apply, as shall the expiration of pre-paid Tap Fees at contractual rates following the extended 1-year period.

2. Non-Transferable. Taps purchased through a pre-paid Tap Fee shall be tied to a specific and particular property associated with such tap, and may not be traded, sold, bartered or otherwise transferred to 3<sup>rd</sup> parties except through the simultaneous purchase of the property to which said tap is appurtenant, related or tied.

3. Determination by the Board. It is the Board's determination that this policy and the fees discussed herein are reasonably related to the overall existing and future costs of operations and capital improvements for the services provided by the District, are necessary for the District to recover such costs and plan for future expense, and are uniformly made to apply to all of the District's customers.

4. Other Rates and Fees. All other rates and fee regulations and policies of the District not expressly revised by this Resolution shall remain in full force and effect.

5. Enterprise. This Resolution is taken by the District acting through its utility



enterprise.

6. Proper Action. This action is taken by the Board at its regular public meeting after all required public notices and postings of the meeting have been made, with a quorum of the Board in attendance and taking proper action thereon.

THEREFORE, the above policy and associated rate structure was established as the rules and regulations of the District and were enacted by the Board of Directors of the District on this 18 day of AUGUST, 2020, to be effective immediately.



Mark Melville, President



ATTEST: Marco Fiorito, Vice President