

RESOLUTION #06-2018

RULES REQUIRING AN IMPROVEMENT LOCATION SURVEY TO BE SUBMITTED TO THE DISTRICT WITHIN 90 (NINETY) DAYS OF BUYING/SELLING OR TRANSFERRING REAL ESTATE OWNERSHIP WITHIN THE METROPOLITAN DISTRICT; AND FOR EXISTING PROPERTY OWNERS WITHIN THE METROPOLITAN DISTRICT TO OBTAIN APPROVAL FOR EXTERIOR CONSTRUCTION, REPAIRS, LANDSCAPING, PARKING

WHEREAS, this provision is adopted in order to prevent future encroachments by either a present or future owner of property within the District from building outside the boundary lines of the property and to ensure compliance with any setback requirements; and.,

WHEREAS, this provision is required to assist residents with obtaining knowledge of property boundaries with existing improvements, and to identify utility access, snow plowing, drainage, landscaping, fences, and other items that may or may not impact individual projects.

WHEREAS, in the course of performing special and other maintenance operations, utility upgrades, and fire mitigation, the District has discovered numerous properties have expanded personal property such as fencing, sheds, gardens, utilities and other items above or below ground level outside of their respective individual lots and have sometimes fenced off easements preventing access; and

WHEREAS, it is critical for the District to maintain access for itself and other utility companies for repairs, upgrades, mitigation, drainage, and any other services or inspections, as well as to allow and maintain distance buffers between properties; and

WHEREAS, the Board of Directors of the Durango West Metropolitan District No. 1, La Plata County, Colorado, is authorized to adopt rules and regulations to serve the constituents of the District.

NOW THEREFORE, be it resolved that

1. An Improvement Location Certificate (ILC) performed by a Colorado licensed land surveyor shall be submitted to the District prior to performing exterior projects including, but not limited to, new construction, remodels, fences, landscaping, drainage, parking areas, sheds, garages, outbuildings, additions, or other property modifications above or below ground level that may affect boundaries, setbacks, and

Return to Anesi Law Firm
PO Box 2185
Durango, CO 81302

for projects that may require temporary encroachment access for things such as moving materials or equipment use. Exterior modifications to properties within the District must be pre-approved and the District shall determine at its sole discretion if an ILC is required. Any exceptions to this ILC requirement must be in writing by the District.

2. Each property transferred within the District, whether directly, including deeds made pursuant to a Will or Trust, or a long-term lease of 3 or more years, shall be required to submit an Improvement Location Certificate (ILC) for the property being transferred. In addition, any owner attempting to make exterior modifications to their property shall be required to submit an Improvement Location Certificate for the property prior to making said improvements. The parties may inquire if the District has an ILC on record, and the parties may present a previously prepared ILC to the District, and if so, the District shall have sole discretion whether to accept an older ILC in lieu of an updated ILC. Access to the property may be required to confirm older ILCs that may not show all improvements.
3. It shall be the obligation of the real estate transacting parties to have an ILC performed and to provide a copy of the ILC to the District within 90 days of closing, or within 90 days of recording a new deed changing the name(s) of ownership if a real estate title closing company is not used. When possible, the District recommends an ILC be performed and made available to the parties and District prior to closing.
4. In addition, owners wishing to make an exterior improvement must obtain prior District approval. The District may require an ILC be submitted at the property owner's expense prior to consideration of such approval and prior to commencing any construction. Whether or not the District will allow construction based upon the ILC is in the District's sole discretion.
5. Expense of performing the ILC shall be the responsibility of either transaction party, or shared, and shall be decided between them. If an ILC is not submitted within 90 days from the date of closing, the District will order and pay for the survey and shall bill the cost of the survey to the current owners. All costs incurred by the District subsequently assessed to the owners for the purposes of obtaining an ILC shall be

added to the monthly metro district bill, and this fee shall be collected in the same manner as allowed by law for metropolitan district fees and assessments.

6. Owners shall allow exterior property access to complete this ILC requirement if necessary. If access is denied preventing the District from obtaining an ILC, penalties may be assessed by the Board of Directors until permission is granted. Penalty assessments are added to the monthly metro district bill and collected as fees.

NOW THEREFORE, be it resolved that all prospective or future Buyers and Owners shall be made aware of the potential of existing encroachments, and that all exterior modifications made to properties within the District must be pre-approved. Modifications include, but are not limited to, decks, porches, stairs, outbuildings, storage, structures, retainage walls, dirt work, drainage, driveways, fences, parking spaces and any underground work made in conjunction with the property. Submittal of exterior improvement plans on properties without an ILC on record may or may not require an ILC at the District's sole discretion.

This Resolution shall go into effect immediately, and shall be recorded with the La Plata County Clerk and Recorder's Office.

I hereby certify this is a true and correct copy of the Resolution adopted by the Durango West Metropolitan District Board of Directors at a regular meeting held on June 20, 2018.

Janet Anderson, by Janet Anderson, District Manager

Adopted this 20th Day of June, 2018

BOARD OF DIRECTORS:

Acting President Mark

Attest: Melissa Shultz